



VOICE OF REASON

The Journal of Americans for Religious Liberty

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Colorado Court Knocks Down Vouchers

For one state supreme court, at least, the state’s clear constitutional ban on tax aid to religious schools was clear enough. On June 29, a 4-3 majority of the Colorado Supreme Court held that an ambitious voucher plan in Douglas County violated the state constitution.

The majority opinion, written by Chief Justice Nancy Rice, said the Douglas County voucher program (the “Choice Scholarship Program,” or CSP), conflicts with the “broad, unequivocal language forbidding the state from using money to fund religious schools,” adding that “This constitutional provision (Article IX, Section 7) makes one thing clear: a school district may not aid religious schools.”

The Colorado Supreme Court in *Taxpayers for Public Education v. Douglas County School District* ruled that the voucher program “essentially functions as a recruitment program, teaming with various religious schools and encouraging students to attend those schools via the inducement of scholarships.” The program was enacted in 2011 and found unconstitutional by a district court and then upheld by the Colorado Court of Appeals in February, 2013. The Colorado Supreme Court “reverses the judgment of the court of appeals and remands the case to that court with instructions to return the case to the trial court so that the trial court may reinstate its order permanently enjoining the CSP.”

According to the *Denver Post* (June 29), “Douglas County school officials indicated they likely would ask the U.S. Supreme Court to take up the case for consideration. They also said they will immediately seek a legal way to proceed with vouchers.”

In its decision, the majority concluded that the terms “sectarian” used in the constitution and “religious” are synonymous, noting that “roughly 93% of scholarship recipients had enrolled in religious schools.”

The majority worried that the CSP’s “lack of vital safeguards only bolsters our conclusion that it is constitutionally infirm.” They cited the possibility that a private school might raise tuition or reduce financial aid to students, thus resulting “in the District channeling taxpayer money directly to a religious school.” CSP also allows “enrollment decisions based upon religious beliefs.”

Finally, the majority was adamant that “constitutional provisions must be declared and enforced as written whenever their language is plain and their meaning is clear.”

Public education and civil liberties groups praised the ruling. “We’re incredibly gratified that the state’s Supreme Court recognized that public dollars should stay in public schools,” said Kerrie Dallman, president of the Colorado Education Association. Mark Silverstein, legal director of ACLU of Colorado agreed. “Parents are free to send their children to private religious schools if they wish, but the Colorado Supreme Court affirmed today that taxpayers should not be forced to pay for it.”

(See box on page 2. For additional voucher news see “The Voucher Watch” on page 7.)

Americans Support Public Education, Oppose Vouchers

Americans oppose school vouchers by a whopping 57% to 31%, according to the highly respected 47th Annual PDK/Gallup Poll on public attitudes toward education. This is consistent with previous polls and the twenty eight state referendum elections coast-to-coast from 1966 to 2014.

There are political differences in attitudes toward vouchers. Democrats oppose vouchers 71% to 16%, and Independents by 63% to 29%. Even Republicans, whose congressional and state legislative members have enthusiastically embraced vouchers, are split evenly 46% to 46%. (Overall, about 12% of those polled are undecided, with higher percentages of Democrats and Hispanics being uncertain.)

There are almost no differences among race or ethnicity: 59% of whites, 56% of blacks and 50% of Hispanics oppose “allowing students and parents to choose a private school to attend at public expense,” as the poll question phrased it.

Americans expressed greater confidence in the local public schools, especially the one their oldest child attends, with 72% giving superior ratings (A or B), 51% to the schools in their community, but only 21% to the schools in the nation as a whole. The last figure may represent the unceasing criticism of public schools from special-interest privatizers and pro-voucher groups.

The authors of this report wrote: “Americans consistently give the highest grades to the schools that are closest to them and that they may have more experience with and the lowest grades to the schools farthest away, a pattern that has held across 40 years of the PDK/Gallup poll.”

For the tenth straight year, poll respondents say a lack of funding is the main problem facing their local public schools. They also believe that teacher quality is the most important factor in choosing a school, as well as academic standards, classroom discipline, and effective princi-

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Supreme Court Strengthens Religious Liberty

In a June 1 ruling, the nation's highest court said a Muslim woman who had been denied a job by Abercrombie & Fitch for wearing a headscarf during an interview was clearly a victim of religious discrimination forbidden by Title VII of the Civil Rights Act of 1964. The decision was by an overwhelming 8-1 margin. Justice Antonin Scalia wrote for the majority, including everyone except Justice Samuel Alito, who wrote a separate concurring opinion. The sole dissenter was Justice Clarence Thomas, and even he "concur[red] in part."

The case arose in 2008 when Samantha Elauf, a 17-year-old Muslim, applied for a job at an Abercrombie & Fitch store in Tulsa. She was turned down, allegedly for violating a dress code. Elauf, supported by the Equal Employment Opportunity Commission, a federal agency, won at the district court level. But the Tenth Circuit Court of Appeals reversed the decision, ruling that the clothing company was not liable because she never asked for a religious accommodation. The Supreme Court overruled the appeals court and returned the case to lower courts.

The majority opinion was unequivocal. "Title VII forbids adverse employment decisions made with a forbidden motive, whether this motive derives from actual knowledge, a well-founded suspicion or merely a hunch.... An employer may not make an applicant's religious practice, confirmed or otherwise, a factor in employment decisions."

Title VII, the majority concluded, requires employers to reasonably accommodate a "religious observance or practice without undue hardship on the conduct of the employer's business" the majority affirmed.

In addition, "accommodation to an applicant's religious observance and practice" overrules other considerations. "Title VII requires otherwise – neutral-policies to give way to the need for an accommodation."

Justice Thomas dissented, saying that Abercrombie & Fitch had not "intentionally discriminated" against Elauf.

Many civil liberties groups applauded the decision in *Equal Employment Opportunity Commission v. Abercrombie & Fitch Stores, Inc.*

Baptist Joint Committee General Counsel Holly Hollman said, "The Court today confirmed the fundamental principle in Title VII's ban on religious discrimination in employment. Neither a person's religion nor the potential need to accommodate a religious practice should be a basis for denying a prospective employee a job." ■

A Great Victory

The Colorado Supreme Court's ruling against the Douglas County school voucher plan was a great victory for public education and religious liberty, the right of taxpayers not to be compelled to support religious institutions. The ruling lined up nicely with the view of Colorado voters, who rejected vouchers at the polls in 1992 and 1998 by a landslide average margin of 63.5 percent to 36.5 percent.

In 28 state referendum elections from coast to coast between 1966 and 2014, millions of voters rejected vouchers or their variants by an almost identical margin, most recently in Hawaii in 2014 and in Florida in 2012.

Taxpayers for Public Education (one of the plaintiffs in the lawsuit against Douglas County schools) is to be commended for its efforts.

Edd Doerr
Denver Post, July 2, 2015

Vouchers, *continued from page 1*

pals. They cite measuring student achievement by standardized tests as one of the least important factors for improving public education.

Most Americans feel that standardized testing is excessive. They believe that state rather than federal authorities should be primary decision-makers in education. Their support of Common Core has decreased.

This year's poll included a larger sample than in the past, including 3,499 U.S. adults. Joshua P. Starr, CEO of PDK International, said the 2015 poll was able "to reach more people of our increasingly diverse society." He added that reporting poll opinion results by race and ethnicity "will allow us to understand and convey more deeply how different groups of Americans experience public education." ■

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Marriage Equality Decision: Problems Ahead?

Several Republican presidential candidates and their Religious Right legal allies have endorsed certain religious groups' claims that their religious liberty is threatened by *Obergefell v. Hodges*.

Mike Huckabee said, "I will not acquiesce to an imperial court" and "some cowardly politicians will wave the white flag," apparently referring to some of his GOP opponents. Scott Walker called for a constitutional amendment overruling the decision; Ted Cruz endorsed a constitutional amendment that would force "retention elections" for Supreme Court justices. Neither is given a remote chance of passage.

Job Bush, Marco Rubio, Chris Christie and Lindsey Graham urged caution and acceptance, though they, too, criticized the ruling. Bush said it was "crucial to protect religious freedom and also not to discriminate." Rubio observed, "We live in a Republic and must abide by the law."

Washington Post political analyst Karen Tumulty wrote on June 27 that the ruling has "split the GOP into two camps, the defiant and the resigned." She added, "The U.S. Supreme Court's decision Friday legalizing same-sex marriage across the country has confronted the Republican Party with a choice: to rally the base by continuing to fight, or take the loss and move on."

New York Times political reporter Jeremy Peters agreed in a column the same day. "Overheated language on gay rights may rally a socially conservative base but it ignores a reality on the ground in the states where the presidential contest will take shape next year. Same-sex marriage has been legal in both Iowa and New Hampshire since 2009, and resistance movements have had no success. Many conservatives appear to have moved on."

Some state legislatures and Congress have seen attempts to apply RFRA to protect religious entities and even civil servants from the ruling. Initial hostility from the governor of Louisiana and the attorney general of Texas encouraging county clerks to refuse marriage licenses to same-sex couples, has receded.

But a so-called "First Amendment Defense Act" has 115 Republican co-sponsors (and one lone Democrat, Dan Lipinski of Illinois) in the House. The bill, authored by Sen. Mike Lee of Utah and Rep. Raul Labrador of Idaho, both hard-right conservatives and Mormons, is broadly written. Scott Wong, a reporter for *The Hill* newspaper, wrote on July 12, "For example, the government could not revoke the tax-exempt status of churches that refuse to perform same-sex weddings because of their religious beliefs. And it could not deny federal grants, contracts or licenses to any individual or institution that doesn't believe in same-sex marriage."

The list of specific areas where gay rights and/or marriage may clash with religious sensibilities will almost certainly lead to new lawsuits. *The Atlantic* (July 27) listed the following as potential areas of conflict: workplace and hiring discrimination laws (found in 22 states and D.C. and absent in the other 28), spousal benefits, and small businesses that provide goods and services for same-sex functions (primarily photographers, florists and bakers). One of these disputes has reached the New Mexico Supreme Court.

UCLA law professor Douglas NeJamie cited healthcare-refusal laws. "In every state, there are laws that allow people to refuse to provide services in healthcare based on a religious or moral objection."

Issuing marriage licenses and performing wedding ceremonies should not be a problem, since no churches will be required to marry same-sex couples. But, *The Atlantic* noted, "North Carolina, for example, passed

a law in advance of the ruling stating that any judge who doesn't want to perform same-sex-marriage ceremonies can choose not to perform marriages of any kind for a period of six months."

Oklahoma has considered doing away with all marriage licenses, and Sen. Rand Paul of Kentucky, a GOP presidential candidate, said "government should get out of the marriage business," (which would surely dismay census takers, statisticians, and demographers who rely on such data).

Other issues could include sexual-conduct laws at church-related colleges. Could this lead to loss of tax-exemption or withdrawal of accreditation? Journalist Mark Oppenheimer, writing in *Time* June 28 proposed, "Rather than try to rescue tax-exempt status for organizations that dissent from settled public policy on matters of race or sexuality, we need to take a more radical step. It's time to abolish, or greatly diminish, their tax-exempt statuses."

He adds, tongue-in-cheek, "So yes, the logic of gay-marriage rights could lead to a reexamination of conservative churches' tax exemption (although as long as the IRS is afraid of challenging Scientology's exemption, everyone else is probably safe)."

Another view came from *religion and politics.org*, published by the John C. Danforth Center for Religion and Politics at Washington University in St. Louis. Three law professors, Micah Schwartzman, Richard Schragger, and Nelson Tebbe, wrote on June 29: "The most significant impact of the *Obergefell* decision for the relationship between religion and government is that it put an end to lawmaking solely on the basis of religious reasons.... What lawmakers can no longer do is burden basic rights for purely religious reasons. *Obergefell* puts an end to that campaign. Laws supported by religion can continue to be enacted, but only if they can be justified by concern for harm to others or some other public rationale."

These conflicts will not go away soon, and compromise will be difficult. As Emily Bazelon wrote in *The New York Times Magazine* on July 7 "When basic values and rights collide, usually somebody wins and somebody loses." ■

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Church and State in the Courts

The U.S. Supreme Court on June 18 struck down an Arizona town's law that treated directional signs to a church more stringently than it treated political or real estate signs. The unanimous decision concluded that the town's regulations are based on the content of the sign's message, thus violating a basic First Amendment freedom of speech guarantee. The Court concluded, "Ideological messages are given more favorable treatment than messages concerning a political candidate, which are themselves given more favorable treatment than messages announcing an assembly of like-minded individuals.... That is a paradigmatic example of content based discrimination." The case was *Reed v. Town of Gilbert*. It was brought by the Good News Community Church.



The U.S. Court of Appeals for the Fifth Circuit rejected claims by religious nonprofits that government accommodation on contraceptive services violates their religious rights. A three-judge panel ruled on June 22 that religious liberty for one party does not require a diminishment of the religious liberty of others. "The acts that violate their faith are the acts of the government, insurers, and third party administrators, but RFRA does not entitle them to block third parties from engaging in conduct with which they disagree."

Baptist Joint Committee legal affairs correspondent Don Byrd explained, "The Court held that the government's requirement that such organizations submit an accommodation form to HHS to certify their exemption from the mandate does not substantially burden plaintiffs' religious exercise because it does not require them to provide or facilitate access to contraceptives."

Byrd added that this issue might reach the Supreme Court but only if another appeals court reaches a different conclusion. "While the Su-

preme Court decided the contraceptive mandate issue for closely-held corporations in *Hobby Lobby*, they have yet to consider this separate issue regarding the accommodation process for religious nonprofits. So far, all appeals courts to decide the question have ruled this process does not substantially burden religious organizations under RFRA."

This case involved two Baptist universities in Texas and a conservative Presbyterian seminary in Pennsylvania. The three schools appealed the ruling to the U.S. Supreme Court and were supported by 16 mostly Republican state attorneys general in a brief filed on August 10.



A Ten Commandments monument on the Oklahoma Capitol grounds violates the state constitution's ban on using public property to benefit religion, the Oklahoma Supreme Court ruled on June 30 by 7-2. The judges held that the monument on public property was clearly a religious symbol, not a historical one as claimed by Attorney General Scott Pruitt. The six-foot tall granite monument, though funded by a Republican legislator, was "obviously religious in nature and an integral part of the Jewish and Christian faiths." Some angry Republican legislators, 83% of the state legislature, called for impeachment of the justices.

Republican Gov. Mary Fallin defied the ruling and said on July 7 that the monument would remain. Some legislators are considering an amendment to the state constitution to allow religious monuments on public property. The legislature reconvenes in February, 2016, and voters would approve or reject a proposed amendment in November of that year.

State Attorney General Scott Pruitt asked the state supreme court to rehear the case. On July 27 it denied a rehearing and reiterated its original ruling. Chief Justice John Reif said there were no substantive reasons for a retrial.

Oklahoma's constitution stipulates that "no public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such."



United Parcel Service (UPS), the nation's largest private delivery service, employing over 300,000 workers, has been hit with a religious discrimination lawsuit. The U.S. Equal Employment Opportunity Commission (EEOC) filed suit on July 15 in the U.S. District Court for the Eastern District of New York, charging UPS with refusing to hire applicants or promote employees whose religious dress practices conflict with the company's uniform requirements. At issue were beards worn by some Muslim workers in Rochester, New York, and Dallas, Texas. The original complaints date back to 2005 and 2007.

EEOC attorney Robert Rose issued a statement saying, "UPS has persistently enforced its appearance policy even when that policy conflicts with the religious beliefs of its applicants and employees. No

School Choice Letter Omits Research, Distorts Polling

Paul DiPerna's letter touting school vouchers and education savings accounts ("Governor's School Choice Essay Ignores Research, Critic Says," May 20, 2015) conveniently did not mention the research and published findings of University of Illinois education professors Christopher and Sarah Lubienski showing that the apparent private school advantage is due to those schools' selectivity (*The Public School Advantage: Why Public Schools Outperform Private Schools*, University of Chicago Press, 2013).

Further, the results of the Friedman Foundation for Educational Choice survey in Delaware that were mentioned in Mr. DiPerna's letter should be viewed with skepticism as, according to the group Americans for Religious Liberty, they run substantially counter to the results of 40 years of Gallup/Phi Delta Kappa education polls and 28 state referendums over the years, such as those in Hawaii in 2014 and in Florida in 2012.

Dennis Middlebrooks, Brooklyn, NY
Education Week, June 15, 2015

person should be forced to choose between their religion and a paycheck, and EEOC will seek to put an end to that long-standing practice at UPS.”

UPS spokesperson Steve Gaut retorted, “UPS respects religious differences and is confident in the legality of its employment practices. UPS is proud of the diversity of its workforce.”

The case could have far-reaching implications.



A federal appeals court ruled on July 14 that the Little Sisters of the Poor, a Catholic order of nuns, must comply with the Affordable Care Act’s birth control mandates. The U.S. Court of Appeals for the Tenth Circuit ruled that the Little Sisters cannot receive a full exemption from the third-party requirements because they “do not substantially burden plaintiffs’ religious exercise or violate the plaintiffs’ First Amendment rights.”

In *Little Sisters of the Poor v. Burwell*, the appeals court concluded, “Plaintiffs sincerely oppose contraception, but their religious objection cannot hamstring government efforts to ensure that plan participants and beneficiaries receive the coverage to which they are entitled.”

Linda Greenhouse, an eminent Supreme Court-watcher, wrote in *The New York Times* July 23: “This year marks the 50th anniversary of *Griswold v. Connecticut*, the case that identified a constitutional right to birth control. At issue now is not only the right of women who happen to work for a religious employer to receive, on par with other women, a benefit the government deems an essential part of health care. At stake is the health of civil society in an increasingly diverse country.”

The group received a temporary injunction from the U.S. Supreme Court in January 2014, allowing the appeals court to render a verdict.

Sarah Ferris wrote in *The Hill* July 15: “Under the Affordable Care Act, businesses with more than 50 employees must provide healthcare that covers services including all government-sponsored forms of contraception or face fines. But if religious businesses are given permission to opt out, the Obama administration has set up a system of third-party payments that allows women insured by those companies to continue receiving contraception coverage if they desire it. Those regulations were finalized by the Department of Health and Human Services earlier this week.”

The decision was appealed to the U.S. Supreme Court on July 22.



Americans who practice the Sikh faith must be allowed to join the Army’s ROTC program, a federal judge ruled on June 12. Judge Amy Berman Jackson of the U.S. District Court for the District of Columbia in *Singh v. McHugh* noted that the Religious Freedom Restoration Act required that religious exceptions must be made even for those whose religion requires them to wear long hair, beard and turban. The plaintiff in this case, Iknor Singh, a junior at Hofstra University, was rejected by the school’s ROTC in 2014 because his hair and turban did not conform to the Army’s grooming and uniform standards. Jackson noted that the pentagon had changed its rules for religious exemptions in 2014.

The Sikh Coalition’s general counsel praised the ruling. “No one should have to choose between their faith and service to their country....The court was clear that the U.S. Department of Defense does not have a blank check to discriminate, and that our nation’s

Ruth Duskin Feldman, James M. Dunn

Ruth Duskin Feldman, 80, died on May 18. Ruth and her husband of 61 years, Gilbert Feldman, were among the founders of Americans for Religious Liberty and long time supporters of the organization. A lifelong writer, Ruth published her first book at age 13 and for over 30 years edited *Humanistic Judaism* magazine, which was founded by Rabbi Sherwin Wine, the co-founder of ARL.

Ruth was a regular panelist on the NBC radio show, “The Quiz Kids”, for nine years, beginning when she was seven. She became a journalist in the Chicago area after graduating from Northwestern University.

James M. Dunn, a lifelong and zealous advocate of church-state separation and religious liberty, died at age 83 on July 4 at his home in Winston Salem, NC. He was executive director of the Baptist Joint Committee from 1981 to 1999, where he was involved in all of the major church-state issues on the national stage, including his opposition to the establishment of diplomatic relations between the U.S. and the Holy See. Though unsuccessful in that effort, Dunn was instrumental in blocking a proposal for a constitutional amendment allowing mandated “school prayer” in 1984.

After retirement, he taught church-state studies at the School of Divinity at Wake Forest University. Dunn was noted for pungent wit and wisdom. Calling theocracy “organized arrogance,” he also argued that “religious freedom and church-state separation are a package deal.” He warned that “when government claims to aid all religions, it never fails to play favorites.” Finally, he argued, “The best thing government can do for religion is to leave it alone.”

military must abide by the Religious Freedom Restoration Act.”



A teacher at a Colorado high school filed suit in federal court on May 26, charging the school district with promoting Christianity. Robert Basevitz, a former teacher at Florence High School in the Fremont School District, said the school condoned Christian prayer and Bible study and maintained a cozy connection with The Cowboy Church at Crossroads, an evangelical group. Basevitz’s suit claims the school made announcements of church events over the intercom and allowed distribution of Bibles and other religious materials on campus. The church’s minister, Randy Pfaff, rents space in the Florence cafeteria for Sunday worship and hosts regular prayer before school and a Bible study at lunch.

Rev. Pfaff told the *Denver Post* that there was no problem in his activities in a public school. “This nation was founded on Christianity,” he said. Basevitz’s attorney Paul Maxon retorted, “Public institutions are supposed to be equally welcoming and accepting of everybody...but Mr. Basevitz didn’t find a welcoming atmosphere. This is not one or two isolated incidents. On a single day, there were no less than five school-sponsored religious events....That is a pervasive involvement with religion, which is illegal.” The suit also urges the district to end its relationship with The Cowboy Church.

The suit, *Basevitz v. Fremont RE-2 School District et.al.*, was filed at the U.S. District Court for the District of Colorado in Denver.

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

An out-of-court settlement was reached on July 28. According to the Denver Post on July 30, prayers will not be permitted at any school-sponsored event, and student-led religious groups cannot have teachers or other employees involved except as observers. The school district will no longer allow the Cowboy Church to use school district facilities for worship services.



Pharmacists cannot invoke their personal religious beliefs to deny customers emergency contraception, according to a ruling on July 23 from the U.S. Circuit Court of Appeals for the Ninth Circuit. The appeals court overruled a lower court that said Washington State's law denying religious exemptions was unconstitutional. Reuters reported that "A unanimous three-judge Ninth Circuit panel decided that the rules are constitutional because they rationally further the state's interest in patient safety. Speed is particularly important considering the time-sensitive nature of emergency contraception, the court said." Reuters added, "In Washington, the state permits a religiously objecting individual pharmacist to deny medicine, as long as another pharmacist working at the location provides timely delivery. The rules require a pharmacy to deliver all medicine, even if the owner objects."

The losing group of pharmacists and their Religious Right legal backers, Alliance Defending Freedom, are expected to appeal the ruling to the full court.



Two Catholic high schools and two health care systems must allow employees access to contraception, a federal appeals court panel decided unanimously on August 7 in *Catholic Health Care System v. Burwell*. This is the seventh straight appellate court defeat for those religious nonprofits that refused to accept the administration's opt-out

provision.

Judge Rosemary Pooler wrote for the U.S. Court of Appeals for the Second Circuit, saying that the opt-out form was "a modicum of paperwork that relieves rather than imposes any substantial burden." She added, "Eligible organizations are provided the opportunity to freely express their religious objection to such coverage as well as to extricate themselves from its provision. At the same time, insured individuals are not deprived of the benefits of contraceptive coverage."



A teacher fired from her job as science instructor at Northwest Christian University in Eugene, Oregon, filed a \$600,000 suit in August against the evangelical school for firing her because of out-of-wedlock pregnancy. The school said her pregnancy "is incompatible with the college's mission and goals." The teacher, Coty Richardson, accused the college of discrimination, wrongful termination and breach of contract. UCLA law professor Eugene Volokh told *The Wall Street Journal* that the university's case was weak, because Richardson was not a chaplain or religious studies instructor.



A policy that limits invocations at government meetings to representatives of local churches was challenged in U.S. District Court in Orlando on July 7. A group of five plaintiffs representing mostly humanist and freethought groups claimed that the Brevard County Board of Commissioners violates the Constitution by allowing only members of the "faith-based community" to open board meetings with invocations. Three national civil liberties groups are representing the plaintiffs in *Williamson v. Brevard County*.

Daniel Mach, director of the ACLU Program on Freedom of Religion and Belief, said, "The government should never play favorites with belief. The county's discriminatory policy is unfair and unconstitutional." ■

Editorial: The Supreme Court Was Right But Problems Remain

The Supreme Court's epic decision on same-sex marriage was certainly an advance for human equality and justice that are at the heart of our constitutional framework. It is significant that early in the ruling the Court cites *Eisenstadt v. Baird*, the 1972 decision that set the stage for *Roe v. Wade* in its reference to the Fourteenth Amendment.

And while we certainly do not agree with the four dissenters, we recognize that some of their concerns will have to be addressed by Congress, state legislatures, and courts at all levels.

One is the question of church-related colleges that maintain housing for married students. Then there is the status of tax exemption for religious colleges and auxiliary groups that might be expected to raise religious liberty objections. Certainly, the Supreme Court's ruling in

Obergefell v. Hodges is the law of the land, and no state or local jurisdiction should be allowed to refuse adherence.

Other unresolved questions might be whether religious adoption agencies can participate in state programs when they refuse to place children with same-sex couples. (Many of the potential issues are also complicated by the extent of public funding.)

There is the only constitutionally-recognized method, which is to overrule the decision by passing a constitutional amendment that requires two-thirds approval of both houses of Congress and ratification by 38 state legislatures. This would be wrong, and has absolutely no chance of succeeding in a country where 60% of voters now approve of marriage equality. It would be destructive and wholly negative. So, too, would be a constitutional amendment, advocated by Sen. Ted Cruz (R-TX), which would require a national retention referendum for all Supreme Court Justices, a clear prescription for chaos and disruption.

One can only hope that calm and rational minds will prevail. The *New York Times* editorial on July 10 expresses our view: "The Constitution's protection of religious freedom does not include the right to discriminate against others in the public sphere." ■

Moving?

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The Voucher Watch

- Three voucher bills were defeated in Congress in July, despite the top-heavy Republican majorities.

Both the House and Senate rejected the so-called “A-Plus Amendment.” The House vote was 235-195, with 49 Republicans joining all Democrats on July 8. In the Senate on July 9, the same “A-Plus” scheme went down to a 54-44 defeat with nine Republicans joining all Democrats.

On July 8, Sen. Lamar Alexander’s pro-voucher “Scholarship for Kids Act Amendment” was rejected 52-45, with eight Republicans in opposition.

Sen. Tim Scott’s (R-SC) Title One “Portability” Amendment, which would have allowed public funds to be transferred to private schools, went down to a 51-45 defeat on July 14. Seven Republicans opposed the Scott amendment.

Three GOP Senators voted against all voucher bills: Susan Collins of Maine, Mark Kirk of Illinois, and Lisa Murkowski of Alaska.

- The proposed education tax credit bills supported by Gov. Andrew Cuomo failed to make it through the New York State legislature. It was a major defeat for private school interests, since neither the “Education Investment Incentives Act” nor the “Parental Choice in Education Act” even reached a floor vote.

Andrew Pallotta, executive vice president of the New York State United Teachers, told the *Legislative Gazette*, “It is clear that public dollars should support public schools, not reward billionaires with tax credits for donations to private schools.” Billy Easton, executive director of the Alliance for Quality Education, added, “We saw one of the most massive spending sprees in recent history funded by hedge fund billionaires who wanted a huge increase in the number of charter schools and a sweetheart tax credit deal for donations to private schools.... This campaign, which was championed by Gov. Cuomo as part of his ongoing attacks on public schools, was soundly defeated. This happened due to the leadership in the Assembly and grassroots organizing and mobilization all across the state.”

Private school interests were not without one victory when the legislature “opted to provide nonpublic and parochial schools \$250 million for mandated services reimbursements,” according to the *Legislative Gazette*. John Flanagan, the Republican Senate Majority Leader, claimed, “The money that’s in this agreement for nonpublic schools is a first-time, huge infusion of money that frankly they deserved and should’ve had a long time ago.”

The struggle over tax credits is not ended, however. New York Cardinal Timothy Dolan said, “We have come up short, but we will redouble our efforts next year.”

- One of the biggest victories for the voucher movement occurred in June in the generally off-the-radar state of Nevada. That state’s legislature passed, and Gov. Brian Sandoval signed on June 2, a sweeping program of tax-credits and universal education savings accounts (ESA).

The ESA is the newest thing in funding for private schools. Nevada joins Arizona, Florida, Mississippi and Tennessee, which also have passed ESAs. The ESA will give \$5,700 to students coming from families whose income is less than \$44,863 and \$5,100 for families with income above that amount. The program pays for tuition and fees, text-

books, tutoring, special instruction and examinations.

Nevada’s program is universal in scope and applies to all of the state’s 450,000 public school students. *Washington Post* reporters Lyndsey Layton and Emma Brown wrote, “Starting next school year, any parent in Nevada can pull a child from the state’s public schools and take tax dollars with them, giving families the option to use public money to pay for private or parochial school or even for home schooling.... Democrats, teachers unions, public school superintendents and administrators are alarmed, saying that the Nevada law to provide private school vouchers is the first step toward dismantling the nation’s public schools.”

The bills did not pass without opposition, winning 11-8 in the Senate and 25-17 in the Assembly. What is particularly interesting is that only 3.8% of Nevada children attend private schools, one of the lowest figures in the country. About 6% attend charter schools and 90% are in regular public schools. Nevada ranks in the bottom ten states in funding for public education (\$8,339 per student compared to \$10,700 nationally). Instead of expanding public school aid, the legislators opted for encouraging an exodus to the handful of private schools.

Educate Nevada Now (ENN), a public school advocacy group funded by the Rogers Foundation, warned that the state’s new Education Savings Account (ESA) law will be detrimental to public schools.

The new ESA law “is intended and designed to divert millions of taxpayer dollars from public schools to pay for private and religious schooling. Moreover, it could support an unlimited variety of other services, with little or no accountability for education outcomes and the use of those dollars.”

The group warned that ESA will “reduce public school funding and resources, increase student segregation and isolation in public schools, and has limited or no accountability for the private schools and other entities accepting ESA funds.”

There is other collateral damage implicit in the ESA law since “it does not require comparable tests for private and public schools, nor require that private school teachers be qualified or offer a curriculum based on Nevada common core standards.” There is also no provision for students with academic or physical disabilities. “ESAs, by design, will weaken Nevada’s public education system and undermine the efforts of public school teachers, administrators and parents to improve outcomes for all students, including at-risk children. Over half of Nevada public school students are economically disadvantaged. Nevada has the largest percentage of English language learner students in the nation.”

- North Carolina’s school voucher program was upheld in a 4-3 decision by the state Supreme Court on July 23. The majority held that the so-called “Opportunity Scholarship Program” did not clearly violate the state constitution, as a Superior Court had concluded in 2014. The challenged law, part of the 2013 state budget, allows more than \$10 million in public money, up to \$4,200 per student, for use in private and religious schools. (Ironically, for a conservative Protestant state, the largest recipient is an Islamic school in Greensboro).

The majority also held that a previous ruling spelling out the consti-

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Voucher Watch, *cont. from page 7*

tionally-required “sound basic education” clause applied only to public schools. Public funds may be spent on educational initiatives outside of the uniform system of free public schools, they ruled.

In a blistering dissent Justice Robin Hudson wrote for two colleagues: “Private schools are free to provide whatever education they deem fit within the governing statutes’ requirements. When parents send their children to any private school of their choosing on their own dime, as they are free to do, that education need not satisfy our constitutional demand that it be a for a public purpose. However, when public funds are spent to enable a private school education, that spending must satisfy the public purpose clause of our constitution by preparing students to contribute to society. Without meaningful standards meant to ensure that this or any minimum threshold is met, public funds cannot be spent constitutionally through this Opportunity Scholarship Program.”

- Montana’s new “tax credit” law will take effect in January. Passed by the legislature in May, it was allowed to become law without Gov. Steve Bullock’s signature. The Democratic governor had vetoed similar proposals, but said he did not veto this Republican-backed bill because, in his opinion, “it does not divert or reduce state funding for public schools.”

The law also allows tax credits for “innovative educational programs at public schools.” The pilot program provides income-tax credits for donations of up to \$150 for “scholarships” to private schools, which educate only 5% of the state’s students. It is capped at \$3 million per year but could increase by 10% annually. AP reporter Allison Noon commented, “Montana’s legislators instituted a new state law that reflects a national GOP initiative to boost private education options.”

- Rep. Mark Pocan (D-Wisconsin 2nd District) bluntly told readers of the Milwaukee *Sentinel Journal* on July 26 that “taxpayer-funded voucher schools are failing our children.” Pocan called Gov. Scott Walker’s

advocacy “a political poker chip.” Pocan wrote: “The latest taxpayer-funded voucher expansion proposal, included in Walker’s proposed budget, would cut almost \$50 million in funding for public school districts over the next two years and cost taxpayers \$800 million over the next 10 years.”

Pocan noted that most voucher students already attended private schools. Voucher schools are also “allowed to discriminate against students with disabilities in their admission policies.” The state’s voucher law “allows private schools to choose which students they want to educate and have little accountability or transparency.”

The Milwaukee-area congressman concluded, “We must stop the movement to privatize public education at the expense of taxpayers. Instead, we must look to reinvest in our public education system, which remains a cornerstone of our democratic society.”

- Arizona’s tax credit law that benefits private schools, begun 18 years ago, has mushroomed from \$4.5 million in 1997 to over \$140 million today, according to a report by the *Arizona Republic*. The *Republic* concluded, “Despite its explosive growth, the program has failed to keep its promise of primarily aiding special-needs and low-income students, and of expanding school choice. Meanwhile, as it grows, critics say, it is further depleting funding for public schools.”

The program now includes four private-school tax credits, two for individuals and two for corporations. The report found that “Only about 3% of the money is designated specifically for special-needs students. And 32% of the scholarship money given through the individual tax-credit programs goes to children of ‘low income’ families, defined as those earning 185% of the federal poverty level, or \$44,862 for a family of four.” The corporate tax credit for “low income” families can benefit those who earn as much as \$82,996 yearly. One of the program’s most enthusiastic supporters, Republican state senator Steve Yarbrough, serves as executive director of one of the non-profit tuition organizations that accept the donations and distribute them to private schools, a rather cozy arrangement. ■

Updates

Abortion Law News

Despite recent data showing abortion rates declining in both red states and blue states, red state legislatures continue to pass restrictive legislation, while courts scrutinize their impact. For example:

- The U.S. Court of Appeals for the Ninth Circuit struck down an Idaho law banning abortion after 20 weeks. The May 29 decision also struck down a law requiring all second-trimester abortions to be performed in a hospital.

- Two days earlier the U.S. Court of Appeals for the Eighth Circuit declared that an Arkansas law banning abortions after 12 weeks was unconstitutional under standards established by previous U.S. Supreme Court decisions. The ruling upholds a lower federal court ruling that the 2013 law was in violation of the Constitution.

- However, a June 9 ruling by the U.S. Court of Appeals for the Fifth Circuit upheld strict limitations on abortion adopted by Texas lawmakers. This ruling will almost certainly be appealed to the U.S. Supreme Court. *The Washington Post* on June 10 called the ruling a “Texas-size injustice” which “will deny access to abortion on a phony pretext of concern for women’s health.” Saying “the Fifth Circuit put

ideological preference ahead of constitutional dictates,” *Post* editors concluded, “Reasonable safety standards on medical procedures are warranted. Giving legal legitimacy to Texas’s assault on abortion rights is not.” The Supreme Court placed a stay on the Texas law on June 29, allowing ten abortion clinics to remain open.

- Arizona’s new law requiring doctors to tell women that drug-induced abortions can be reversed was challenged by Planned Parenthood in a federal court on June 4. The plaintiffs asked a federal judge to block the law. AP reported that plaintiffs believe “the new law violates abortion providers’ First Amendment rights by forcing them to repeat a state-mandated message against their medical judgment.”

AP noted that “The American Congress of Obstetricians and Gynecologists says there is no medically accepted evidence that a drug-induced abortion can be reversed.” Cecile Richards, president of Planned Parenthood, said, “This reckless law forces doctors to lie to their patients, and it puts women’s health at risk.”

- A Florida law requiring a 24-hour waiting period for abortions was challenged in court on June 11 by the ACLU and the Center for Reproductive Rights. Chief Judge Charles Francis of the North Florida Circuit ruled on June 30 that the law signed by Gov. Rick Scott could not take effect until it had been adjudicated.

- North Carolina enacted a 72-hour waiting period for abortion on

June 3. North Carolina joins Missouri, South Dakota and Utah with 72-hour waiting periods, while Oklahoma law goes into effect in November. AP writer Jonathan Drew reported, "The bill's sponsors hope the measure would lead to fewer abortions."

- On the same day, the High Court declined to take any action in an appeal from Mississippi, where a federal court allowed the state's only abortion clinic to remain open and rejected a state law requiring clinic doctors to have admitting privilege at nearby hospitals.

- A Kansas state judge delayed a new law that would have banned the most common method of abortion in the second trimester. The June 26 ruling by Judge Larry Hendricks of Shawnee County District Court in the state capital of Topeka, said the law could not be implemented while a suit challenging it proceeds. The law, challenged by the Center for Reproductive Rights, was to take effect on July 1. (A similar law was adopted in Oklahoma and goes into effect on November 1.)

- The Iowa Supreme Court, in a unanimous decision on June 19, upheld a law permitting physicians to prescribe abortion-inducing drugs via video. "Planned Parenthood clinics in Iowa have been using telemedicine to provide medication-induced, nonsurgical abortions since 2008, seeing it as a way to expand access to women living in the state's many rural areas," wrote Abby Goodnough in *The New York Times* June 20. Planned Parenthood president Cecile Richards expressed support. "This ruling sends a strong and clear message to politicians across the country. Restrictions and bans on abortion are unconstitutional and deeply unpopular, and we will continue to fight them in every state." The state's Right to Life executive director, Jennifer Bowen, said she was "devastated" by the ruling.

- Wisconsin Gov. Scott Walker, a candidate for the GOP presidential nomination, signed a bill into law on July 20 that bans abortion after 20 weeks of pregnancy and makes no exceptions for rape or incest. The law makes an exception only for medical emergencies. "Doctors who terminate pregnancies after 20 weeks in non-emergency situations could be charged with a felony and face up to three years in prison and a \$10,000 fine," wrote Molly Beck in the *Wisconsin State Journal*.

The law, which passed the legislature by a wide margin, was ostensibly based on research showing that fetuses feel pain at 20 weeks, though The American College of Obstetricians and Gynecologists concluded that there is no proof of pain until 29 weeks after fertilization.

Walker clearly had political reasons for his decision. Beck added, "Walker has long been a proponent of anti-abortion legislation, but during his re-election campaign last year he expressed support for leaving pregnancy decisions to women and their doctors. That stance has drawn criticism from religious conservatives in recent months, prompting Walker to request the 20-week abortion ban with no exceptions for rape and incest."

- A North Dakota law that banned abortions as early as six weeks after conception was permanently blocked by the U.S. Court of Appeals for the Eighth Circuit on July 22. The appeals court upheld a U.S. District Court ruling that blocked the 2013 law before it could take effect. The Eighth Circuit agreed that U.S. Supreme Court precedent held that states may not prohibit pre-viability abortions. The Center for Reproductive Rights represented the state's only abortion clinic, the Red River Women's Clinic in Fargo, and its president Nancy Northup said in a statement, "Today's decision reaffirms that the U.S. Constitution protects women from the legislative attacks of politicians who would deny them their right to safely and legally end a pregnancy."

- North Carolina's ultrasound law, struck down by an appeals court, is effectively dead after the U.S. Supreme Court on June 15 rejected an appeal from the state to revive the requirement that abortion providers

display and describe the ultrasound to women seeking abortions. Sarah Preston, representing the state ACLU, told AP, "North Carolinians should take comfort in knowing that this intrusive and unconstitutional law, which placed the ideological agenda of politicians above a doctor's ability to provide a patient with the specific care she needs, will never go into effect."

- An attempt by Republicans to cut off \$528 million in federal funds for Planned Parenthood failed on a procedural vote in the Senate on August 3. The 53-46 vote was seven votes shy of the 60 needed to bring the measure to a floor vote. It was almost a party line vote, as only two Democrats, Joe Donnelly of Indiana, and Joe Manchin of West Virginia, voted with the Republicans, and Republican Mark Kirk of Illinois voted with the Democrats against the cutoff. South Carolina Republican Lindsey Graham did not vote.

Defenders of Planned Parenthood argued that almost no federal funds pay for abortion, and that the organization is primarily involved in women's health issues, including birth control, cancer screening and preventive exams.

Republicans, however, see defunding as another wedge issue to use in the next election. Wrote Jackie Calmes in *The New York Times* on August 4: "Even so, there will be more such attempts when Congress returns from its summer recess in September. Some Republicans vow to oppose spending bills to keep the government open this fall unless funding for Planned Parenthood is purged. A House committee is investigating the organization. And Republican presidential candidates are also attacking. Gov. Bobby Jindal of Louisiana said on Monday that his state would no longer repay Planned Parenthood for health care provided to Medicaid beneficiaries, even though the organization's clinics in Louisiana do not perform abortions."

- Repeated attempts by the Oklahoma legislature to restrict or reduce access to abortion continue to lose in the courts. A law restricting medication abortions was declared unconstitutional on August 10 by Oklahoma County District Judge Patricia Parrish. Previous restrictive measures have been blocked by the state Supreme Court.

Religion in Politics: A New Twist

One Religious Right organization has come up with a new plan to Christianize the political realm: elect evangelical clergy to public office. The American Renewal Project, based in California and headed by David Lane, has been conducting training sessions to encourage clergy to run for local or statewide offices. He claims to have commitments from 90 clergy who attended events in Baton Rouge and Oklahoma City.

Lane encouraged the Baton Rouge attendees to recruit "300,000 grassroots, precinct-level conservatives who would change America," adding, "Somebody's values are going to reign supreme. Our values or somebody else's values. It's our goal to bring spiritual men and women into the civil government arena."

Lane told reporter Andrew Shain of *The State* newspaper in Columbia, South Carolina, that he expects to recruit 100 clergy candidates at a June rally in North Charleston. Shain noted, "Adding pastors to the ballot could bolster the already powerful influence of evangelical Christians in S.C. Republican politics. Nearly 60% of GOP voters in the Palmetto State identified themselves as born again or evangelical in an April poll by Winthrop University." He added, "Church leaders have a constituency to begin with – hundreds of parishioners who listen to their Sunday sermons and attend their Bible study classes. Some of those churchgoers will become campaign volunteers"

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But Shain also mentioned in his June 7 article that this effort could produce a backlash by some evangelicals. “Critics question whether pastors will jeopardize their churches’ nonprofit status by campaigning from the pulpit. They also wonder if parishioners really want their ministers’ attention diverted from serving the church.”

While these sessions are supposed to be nonpartisan, there is a clear preference for Republicans. Louisiana Gov. Bobby Jindal spoke to the North Charleston crowd, as did Chad Connelly, the “director of faith engagement” for the Republican National Committee.

Federal Funds for Charters Questioned

The U.S. Department of Education has proposed expansion of federal grants to charter schools, despite its own inspector general’s report that 26 charter schools received federal funds but never opened their doors or closed during the audit period.

Washington Post writer Lyndsey Layton reported on June 13, “The department has given \$1.7 billion in grants to charter schools since fiscal 2009, according to an agency spokeswoman. In its budget request for 2016, the Obama administration is seeking \$375 million for the program – a 48% increase over current funding levels.”

The inspector general’s report found “multiple weaknesses in the ways those states oversaw federal dollars sent to charter schools. In California and Florida no one seems to know where the money went.”

The Alliance to Reclaim Our Schools, which includes several teachers’ organizations, wrote to Education Secretary Arne Duncan, questioning the need for more federal funding “despite mounting evidence of significant fraud, waste and abuse within the charter sector, and despite the warnings of your own office of inspector general that federal charter start-up and expansion funds are not adequately monitored or accounted for.”

Evolution Opponents Weakened

Bills designed to restrict the teaching of evolution in public school science classes have failed in Alabama, Indiana, Iowa, Missouri, Montana, Oklahoma and South Dakota in 2015 so far.

But a creationist organization in Kansas, Citizens for Objective Public Education (COPE) filed an appeal with the U.S. Court of Appeals for the Tenth Circuit after their suit was dismissed by a federal district court. COPE claimed that the Next Generation Science Standards, adopted by the Kansas State Board of Education in June 2013, “will have the effect of causing Kansas public schools to establish and endorse a non-theistic religious worldview.” According to the *Topeka Capital-Journal* on June 8, the board of education’s brief says, “Contrary to Plaintiffs’ claims, the Science Standards do not address religious questions. . . . Plaintiff’s description of the Science Standards as ‘atheistic’ is a gross mischaracterization.”

Another Scandal in New York

Two *New York Times* investigative reporters, Merryl Tisch and David Sciarra, revealed on June 3 that public school students in a Rockland County community “are being denied their state constitutional right to a sound basic education by a board that has grossly mismanaged the district’s finances and educational programs.” The town is East Ramapo, about 30 miles north of Manhattan, where three-fourths of students attend Orthodox Jewish yeshivas and only one fourth attend local public schools. What makes this a scandal is that private-school interests

seized control of the public school board in 2005 and have systematically starved the public sector, which is 46% Latino and 43% African-American. Tisch and Sciarra wrote, “Since 2009, the board has eliminated hundreds of staff members, including over 100 teachers, dozens of teaching assistants, guidance counselors and social workers, and many key administrators. . . . Full-day kindergarten, and high school electives have been eliminated or scaled back. Music, athletics, professional development and extracurricular activities were cut.”

As a result, the graduation rate in East Ramapo is 64%, well below the state average of 76%. Nearly 83% of its public school students fall below the poverty line.

At the same time, the board has increased public spending on private school busing by 24% and on special education services for private schools by 33%.

The state education department appointed former federal prosecutor Henry Greenberg to investigate these practices, and his report proposed the appointment of a state fiscal monitor to oversee the board’s financial and educational decisions, with authority to override the board. Two bills (A.5355 and S.3821) to implement a monitor are languishing in the state legislature.

Ari Hart, a founder of Rockland County Clergy for Social Justice, criticized these actions for violating the spirit of the Talmud and “other Jewish values and teachings,” which require concern for “the stranger, the immigrant and the poor.” In *The Jewish Daily Forward* on June 15, Hart concluded that “the leadership of the school board to date has grossly violated both American and Jewish values” and is a “test case for the moral future of Jewish life in New York, perhaps even the whole country.”

Religion Blocks Adoptions in Michigan

Michigan Gov. Rick Snyder signed a law in June that allows private adoption agencies with state contracts to refuse to participate in adoptions that offend their religious beliefs. Critics say it represents government-sanctioned discrimination against gay couples. Virginia and North Dakota also allow private adoption agencies to refuse adoption placements for religious reasons.

North Carolina Magistrates Get Religious Exemption

A North Carolina measure became law in June that allows some employees to refuse to perform same-sex marriages if they have religious objections. It was passed by a heavily Republican legislature even though Republican Gov. Pat McCrory vetoed it. Both houses overrode his veto. The *Raleigh News-Observer* commented, “Senate Bill 2 would allow magistrates and register of deeds employees to be exempt from performing weddings if they have a religious objection. In his veto, McCrory said no public officials should be allowed to avoid upholding aspects of the law.”

A similar “sincerely held religious objection” law was enacted in Utah earlier this year.

California Governor Signs Bill Requiring Vaccinations

California Gov. Jerry Brown signed a bill on June 30 that will require all public school children to be vaccinated. No exceptions will be granted for “religious or personal” objections though some unspecified “medical” objections are allowed. Interestingly, two conservative states, Mississippi and West Virginia, also prohibit religious exemptions in the case of vaccinations.

Georgia School District Removes Religion in Athletics

The Hall County School District in North Georgia agreed on July 20 to provide First Amendment training to its staff, though it stopped short of admitting that it allowed prayer and religious activities in its athletic program.

A group of three anonymous plaintiffs had filed suit against the school district on December 1 last year. Superintendent Will Schofield said the new guidelines will insist that the federal Constitution be followed in regard to faculty involvement in religious activities.

The local newspaper, the *Gainesville Times*, praised the out-of-court settlement in a July 27 editorial. “The issue was whether school employees acting in their official capacities could lead students in organized prayer as part of school functions. . . . The issue isn’t whether prayer is allowed in school, but rather whether those in authority have the right to impose their personal beliefs upon students who look to them for guidance and leadership.”

The editorial concluded: “The expression of faith is a personal thing for most people. The courts have said that the government, including

its schools, should leave religious instruction and direction to parents, families and churches.”

White House Proposes Changes in Faith-Based Services

The Obama administration proposed new regulations on August 5 that will strengthen the religious freedom of individuals who receive social services from government-funded but faith-based programs. The rules will affect nine federal agencies that have faith-based offices. Adelle Banks explained in Religion News Service on August 5: “The rules include notifying social service beneficiaries that they cannot be discriminated against based on their religious beliefs and may request an alternative provider if they object to the religious nature of the current provider.”

Melissa Rogers, director of the White House Office of Faith-based and Neighborhood Partnerships, told Banks: “For example, if a faith-based provider offers a Bible study as well as a federally supported job training program, the Bible study must be privately funded and separated in time or location from the job training program.” ■

International Updates

Istanbul: With an astounding 86% turnout, voters in Turkey sharply rebuffed the growing Islamic-oriented authoritarianism of President Recep Tayyip Erdogan. His party, Justice and Development, received only 41% of the votes cast, a decline of 10%. Erdogan had hoped for a large majority so he could institute constitutional changes that would cement his power base. *The Economist* reported on June 1 that he played the Islamic card, openly brandishing the Koran at campaign rallies.

The Economist observed on June 8, “And for the first time in half a century, there is a decent sprinkling of newly elected parliamentarians who are open about the fact their heritage is neither Muslim nor Turkish.” A Kurdish party won enough votes to receive seats in parliament. At least four Christians and two Yazidis, members of often scorned and persecuted minorities, won seats. Women were elected to 18% of parliamentary seats – about the same percentage as in the U.S.

Christians and Jews have been shut out since 1950, when six Greek Orthodox and four Jews sat in parliament. In the 1908 election there were 147 Muslims, 40 Christians and four Jews elected, according to *Economist* researchers.

Jakarta: Religious intolerance continues to roil the world’s most populous Muslim nation. The latest victims are Ahmadiyya Muslims, who number 400,000 and whose mosques have been attacked repeatedly. *The Economist* reported on August 8: “Ahmadi Muslims believe in the separation of religion and the state, and they forswear jihad. Many other Muslims consider them to be heretics or non-Muslims.” Their An-Nur mosque in the southern part of the capital was closed, but Jakarta’s governor, a Christian of Chinese ancestry, promised it would be reopened.

Indonesia’s Constitution recognizes Islam, Catholicism, Protestantism, Buddhism, Hinduism and Confucianism. Atheism and other belief systems are forbidden, though the constitution guarantees Indonesians the right “to worship according to their own religion or belief.” However, restrictions have appeared since 2006, when all recognized groups had to obtain approval of the local religious affairs office and the signatures of 90 members of their faith and 60 members of other communities to build a house of worship. The Ahmadis were forbidden to do so and could be sentenced to five years in prison for “blas-

phemy.” *The Economist* noted that these decrees “have been enforced not just against Ahmadis, but also against Shia and Bahai believers.”

Local governors have blocked construction of Christian churches, despite a Supreme Court ruling in their favor. President Joko Widodo called for a “moderate, tolerant, peaceful and progressive Islam” and promised better treatment for religious minorities in an August speech to fellow Muslims. “But,” wrote *The Economist*, “he said nothing in support of personal religious freedom.”

Lisbon: Portugal’s center-right government passed some restrictive laws on abortion on July 22 in “a final, heated session of parliament that prompted jeers from opposition lawmakers.” AFP reported, “Portugal tightened its abortion laws, adopting a bill aimed at making women pay to end a pregnancy and requirements for more stringent tests before the procedure.”

Abortion has been legal, and paid for by the government up to ten weeks into pregnancy, since voters approved a referendum in 2007.

London: Prime Minister David Cameron has quietly abolished the position of “faith minister,” downgrading the role from the Cabinet to a parliamentary under-secretary. Isabelle Fraser explained in *The Telegraph* August 10: “The position was created in 2012 and given to Baroness Warsi. Her brief was to ‘work with religious and community leaders to promote faith, religious tolerance and stronger communities within the U.K.’”

The reduced position will be held by Baroness Williams of Trafford. Ironically, the usually secular Labour Party criticized the change through its spokesperson Stephen Timms.

Mexico City: Mexico’s Supreme Court has, in effect, legalized same-sex marriage in a series of court decisions. *The New York Times* reported on June 14: “In ruling after ruling, the court has said that state laws restricting marriage to heterosexuals are discriminatory. Though the decisions have been made to little public fanfare, they have had the effect of legalizing gay marriage in Mexico without enshrining it in law.”

Mexico has apparently joined Argentina, Brazil and Uruguay in permitting same-sex marriage. Civil unions are granted in Ecuador, as will Chile later this year. “Colombia grants same-sex couples many of the same rights extended to heterosexual married couples,” wrote *Times* reporters Randal Archibald and Paulina Villegas.

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The Supreme Court upheld Mexico City's legalization in 2010 and added that other states had to recognize same-sex marriages performed there. Gay unions or marriages are officially recognized in only two of Mexico's 31 states, but recent Supreme Court rulings are expected to speed up the process. "The ruling does not automatically strike down the state marriage laws. But it allows gay couples who are denied marriage rights in their states to seek injunctions from district judges, who are now obligated to grant them," the *Times* reported, and added, "The next step in the legal process was compiling enough injunctions in each state to reach a threshold under which the court could formally order state legislatures to rewrite their laws."

Rabat: Morocco is slowly moving toward legalization of abortion. Presently allowed only to save the life or health of the pregnant woman, the law will soon allow abortion in case of rape or incest. "King Mohammed VI ordered the change in March, and parliament is likely to approve the change within weeks," wrote *USA Today* reporter Jessica Morris on August 12. Opposition to legal changes regarding abortion is coming from a conservative Islamist group.

Reykjavik: Iceland's parliament has abolished its 1940 blasphemy law, under which anyone found guilty could have been sentenced to a fine or three months in jail. (It was apparently never enforced.) The bill was introduced by a minor party but received widespread support. The abolition was "essential in a free society that the public can express themselves without fear of punishment," the bill's sponsors proclaimed. The bill was supported by the State Lutheran Church, which claims allegiance of 80% of the citizens, though church attendance is among the lowest in Europe. The abolition of the blasphemy provision of the Criminal Code was hastened by criticism from the Council of Europe and the Organization for Security and Cooperation in Europe, which urged all European countries to abolish existing blasphemy laws.

Tunis: The massacre of 38 tourists on June 26 in the beach resort of Sousse has led the government to close 80 mosques, many of them associated with the fundamentalist Salafist movement. Habib Essid, who heads a secular government, said the battle to control Tunisia's 5,000 mosques is a "long-term fight." *New York Times* writer Carlotta Gall reported on July 23, "It was another sign that the divisions between secularists and Islamists that threatened to tear the country apart in the years after the 2011 Arab Spring uprising are still playing out." ■

Will Pope Francis Break the Church?

Ross Douhat's essay, "Will Pope Francis Break the Church?" contained not one word about Pope Francis's position on climate change, a most important threat to our planet that Francis could help solve by the simple expedient of reversing the Vatican's 1968 condemnation of contraception.

That mistaken ban has contributed enormously to the overpopulation that is driving climate change. Removing the ban would reduce the abortion rate, save the lives and health of countless women, and improve life for millions of children.

Edd Doerr
The Atlantic, July/August 2015



Books and Culture

Book Talk

"Religious extremists are killing religious minorities and dissenting members of their own faith, and they represent a clear and present danger to diversity of thought and belief. These violent groups will, for the foreseeable future, present a major challenge to the United States and its allies for reasons of national security, humanitarian concerns, and human rights.... The rise of violent religious extremism requires a new approach — one where governments recognize the problem, pivot quickly, and work in concert to meet this challenge."

So wrote Knox Thames, director of policy and research for the U.S. Commission on International Religious Freedom, in *Foreign Policy* on July 30.

Thames continued, "In response, governments need to develop fresh approaches. There is no single recipe for fighting religious bigotry. Violent religious extremism grows out of many factors and is often situation-specific. So the response must be flexible, comprehensive, and coordinated, not fragmented across different bureaus and agencies." He added, "This new reality presents a vexing challenge to the international community and its commitment to human rights and religious freedom. These groups are often outside the reach of normal diplomatic channels. They don't care what the world thinks, as they are actively trying to upend the international order."

Thames argues that nations that value freedom of thought and conscience must work together effectively. "Religious freedom is certainly not a cure-all. But it can make counter-terrorism efforts more durable by protecting civic space for diversity of thought and belief. But this cannot be the United States' fight alone. The challenges are transnational, with extremist groups linked across borders through ideology and criminality. To respond effectively, countries that value diversity of thought and belief must, too, work in coalition."

Thames concludes with a warning. "Concerns about religious freedom are interwoven with many of the greatest foreign-policy challenges facing the United States."

Inventing a Christian America: The Myth of the Religious Founding, by Steven K. Green. Oxford University Press, 2015, 295 pp., \$29.95.

This brilliant study of history argues convincingly that "the myth of America's religious founding was a consciously created myth... [that] emerged in the early nineteenth century in the quest for a national identity, an identity that needed proof of God's blessing." Green added, "The idea of America's religious origins is essentially a myth created and retold for the purpose of anointing the founding, and the nation, with a higher, transcendent meaning."

This misuse of history by many of today's religious and political conservatives is a danger because it prevents a rational solution to current church-state problems. "So long as proponents of America's Christian origins fail to see the narrative as a myth, they will be unable to appreciate the true import of America's religious heritage."

This leads directly to the belief in American exceptionalism, an attempt "to sanctify America's founding, to move its significance to a higher level." But a careful study of history suggests that "the idea of America's Christian origins appears less factual and more aspirational."

Stephen Green, a law professor and director of the Center for Reli-

gion, Law, and Democracy at Willamette University, is particularly good at challenging distortions and misinterpretations of our history by ideologues like David Barton. “This approach to history writing – one hesitates to call it scholarship – elevates the significance of isolated statements over context, rhetorical usage, or a lifetime of work. . . . A more fundamental problem with proof-texting is that it ignores the role that rhetoric and idioms play in popular political and religious discourse. Religionists rely heavily on the Founders’ occasional use of religious language, but they usually fail to place that practice within its broader or immediate contexts.”

All (or most) politicians employ religious language on occasion, and the early Founders “may have had mixed motivations for employing religious language and imagery in their public statements.” Taking isolated statements out of context skews the historical record. “Even individual Founders, such as John Adams, made seemingly contradictory statements about the role of religion in government throughout his life.”

Green attributes most of historical revisionism to the rise and increasing strength of evangelicalism even before the Civil War. Green is fair-minded, though, and says that while there is evidence of some constructive religious influences in the nation’s founding, that influ-

ence should not be exaggerated or placed into “some grand narrative.”
— *Al Menendez*

The Catholic Church in Ireland Today, edited by David Carroll Cochran and John C. Waldmeir. Lexington Books, 2015, 184 pp., \$80.00.

On May 22, 2015, Ireland voted 62% to 38% to approve same-sex marriage, the first country in the world to do so by popular referendum. The result was anticipated in opinion polls. In 2013 abortion was approved to save the life of a pregnant woman, admittedly a very tiny step forward for women’s rights. Divorce was legalized in 1996. And all of this in a country whose 1937 constitution states: “The State recognizes the special position of the Holy Catholic Apostolic and Roman Catholic Church as the guardian of the Faith professed by the great majority of the citizens.” What’s going on?

This important new book, all the more so because the authors of these ten papers are all Irish or American Catholics and because the book grew out of a symposium at a Catholic institution, Loras College in Iowa, explains it. Ireland’s clergy sexual abuse scandals laid out in three major government reports (the Ryan, Murphy and Cloyne reports of 2009 and 2011), church officials’ attempts to cover up the mess, and
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ARL in Action

• ARL board chair Burton Caine reminded readers of the *Philadelphia Inquirer* on August 13: “The visit of Pope Francis to Philadelphia is a cause for celebration. The pontiff has won the hearts of people around the world, and his time here will be a blessing for many reasons. This is also an opportunity to avoid the constitutional violations committed when Pope John Paul II visited in 1979.”

Caine was then general counsel for the American Civil Liberties Union in Philadelphia, which decided to sue the city for building a platform and supplying a cross for the pope’s visit, expenditures that properly should be borne by religious authorities. The case, *Gillfillan v. City of Philadelphia*, was filed in federal court and was successful. Caine notes, “The court ruled that the city violated the Constitution, and that was affirmed on appeal.”

Caine describes the “fascinating aspects” of the case, asserting, “There never was any doubt as to the constitutional righteousness of the ACLU’s lawsuit to affirm the principle that government must obey the Constitution even when the pope is involved.”

He expresses pride that the forthcoming visit of Pope Francis will be thoroughly constitutional. “It is well to recall this history even as the city promises not to repeat it. Mayor Nutter says that no city funds will finance the prayers of Pope Francis in Philadelphia. That will foreshadow a positive history of obeying the Constitution. . . . After a wrong turn, the city of Philadelphia vows to follow the constitutional path in the city where that charter of liberty was born.”

The full article can be read at www.philly.com/philly/opinion/20150812.

• Americans for Religious Liberty joined more than 50 education, civic, civil rights and religious organizations in a June 30 letter to the U.S. Senate, expressing opposition to vouchers. The organizations make up the National Coalition for Public Education (NCPE).

The issue was the possible inclusion of a portability provision in

S. 1177, the “Every Child Achieves Act,” to allow tax aid to faith-based private schools.

“We are concerned that Title 1 portability is a stepping-stone for an expansion of vouchers for private and religious schools using either federal or state funds, which our organizations vehemently oppose.”

Such a change to Title 1 of the 1965 Elementary and Secondary Act, which aids schools in low-income areas, “would have a negative impact on students and schools most in need.”

Finally, “Dismantling the Title 1 funding formula would allow the dollars to be more easily transferred to private schools to either create a voucher or to be combined with existing state voucher programs.”

• ARL joined its allies in the Coalition Against Religious Discrimination (CARD) in a July 25 letter to President Obama, urging him to “review and withdraw” a 2007 Bush administration Office of Legal Counsel memorandum that claims RFRA provides “a blanket override of a statutory non-discrimination provision.”

The CARD organizations told the president: “RFRA was intended to provide protection for free exercise rights, applying strict scrutiny, on a case-by-case basis, to federal laws that substantially burden religious exercise. RFRA was not intended to create blanket exemptions to laws that protect against discrimination.” Today groups are trying to misuse and misinterpret the 1993 Act to allow religious groups to practice various forms of discrimination. “RFRA should not be interpreted or employed as a tool to categorically override statutory protections against religious discrimination. Nor should it create an absolute free exercise right – without regard to countervailing compelling interests, as required by RFRA – to receive government grants without complying with applicable regulations that protect taxpayers and participants in federally funded programs.”

CARD members include religious, education, civil rights, labor, women’s, LGBT, and health organizations.

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public exposure of the many decades of abuse of large numbers of women by the Magdalen Laundries added to the building of resentment against church leaders, to the country's rapid secularization, and to a huge drop-off in church attendance.

Sociologist Michele Dillon explains Ireland's "compressed secularization," increasing liberalism, and the growth of numbers of people with no religious affiliation, a development long noted elsewhere in western Europe and increasing rapidly in the U.S. John Littleton, theologian and a past president of the National Conference of Priests in Ireland, writes in his chapter of the book: "It is no exaggeration to say that the Catholic Church in Ireland is in crisis . . . mostly because, since the 1980s, there have been recurring revelations of horrendous sexual and institutional abuses perpetrated by numerous clergy and religious . . . [which] have consolidated the quite understandable demands from many people for the separation of Church and State, especially regarding schools and education provision, in a country where, traditionally, the Catholic Church's influence dominated." (It is interesting to note that many evangelicals and political conservatives in the U.S. are assailing church-state separation.)

The chapter by historian Matthew O'Brien slams the obnoxious and "louder than life" William Donohue, head of the extremist Catholic League for Religious and Civil Rights in New York.

This five-star book would be a bestseller in a more reasonably priced paperback edition.

— Edd Doerr

A Democratic Constitution for Public Education, by Paul T. Hill and Ashley E. Jochim. University of Chicago Press, 2015, 152 pp., \$22.50.

This strange book, paradoxically, is at once mind-numbingly simplistic and almost infinitely complex. While purporting to "reform" American K-12 education inside-and-out, top-to-bottom, it actually makes anarchy look well organized by comparison. Fortunately, this vehicle is so Cloud-Nine Twilight-Zone weird that its proposal is unlikely to get off the ground, except maybe in places like Louisiana or Nevada. One clue to its far-out-ness is its paying respect to such as Chester Finn, Bruno Manno, Milton Friedman, Joel Klein, and Chubb and Moe while ignoring serious educators like Diane Ravitch, David Berliner, Mercedes Schneider, and the Lubienskis.

While the book does not overtly plug vouchers, charters, online teaching for children, and similar bad ideas, Hill is a long time avid promoter of such devices for undermining public education, the teaching profession and religious liberty, while blithely oblivious to state constitutions and well established laws and institutions. He has even gone so far as to propose coalitions of religious groups to start tax-supported schools. Nowhere in this awful opus do the authors demonstrate the slightest concern that their bizarre scheme would do other

than fragment our school population and society along religious, ideological, class, ethnic, linguistic, ability level, and other lines; create logistical, financial and traffic nightmares; and siphon public funds into rapacious private pockets while reducing teachers to the level of transient hamburger flippers.

— Edd Doerr

Election 2014: Why the Republicans Swept the Midterms, by Ed Kilgore. University of Pennsylvania Press, 2015, 106 pp., \$16.95.

The Surge: 2014's Big GOP Win and What It Means for the Next Presidential Election, edited by Larry J. Sabato, with Kyle Kondik and Geoffrey Skelley. Rowman & Littlefield, 2015, 241 pp., \$24.95.

Election 2014 is a journalistic overview of last year's midterms, stressing the statewide campaigns and the party strategies that resulted in a record GOP triumph, the greatest number of House seats since Herbert Hoover took office. The coverage is complete but more attention to exit polling data would have been helpful.

Kilgore, a political writer and policy analyst at the Democratic Leadership Council, argues that the abysmal 36% voter turnout in 2014, the lowest since the World War II midterm in 1942, was also "the most expensive nonpresidential election ever, with \$3.7 billion spent. . . ." He argues that 2014 saw "a continued shift in emphasis from persuading 'swing voters' to mobilizing 'base voters.'"

He concludes that there is "a structural Republican advantage in midterms and a Democratic advantage in presidential elections." Other trends that were reinforced in the last midterm were "the steady decline in ticket splitting, the ideological realignment of the two parties, and the erosion of regional differences within the parties."

The Surge is much the better of the two books, including as it does more than a dozen essays by topflight political analysts, journalists, and political scientists.

Editor Sabato needs no introduction. He is the savvy director of the Center for Politics at the University of Virginia and a professor of politics there.

The essays cover the gamut from campaign finance, the primaries, the history of midterm elections, the role of the president, and even the new technological challenges to the polling industry.

Sabato notes that "there is a 'surge and decline' quality to American elections . . . that has been visible throughout history" since "voters regularly seek to elevate one party in order to limit or replace the other." There are very different electorates for presidential and midterm elections. Also 2014 was notable for another reason. "The sixth-year election in a two-term presidency is usually an unhappy one for the party that holds the White House, and it heralds the start of diminished influence for the president in his final two years."

Political reporter Robert Costa says that "the Republican Party is entering a period of unknown," adding, "From foreign policy to the presidential field to the conservative movement, the Republican future is a complicated and roiling stew of lingering passions and new ambitions, past political headaches, and opportunities."

While Democrats are expected to have an edge in 2016 turnout due to demographic change, Sean Trende warns that most of the Democratic voters already reside in Democratic states. It is the Electoral College that matters. For example, Hispanics "exceed their share of the overall population in only nine states, only three of which could be considered swing states (Colorado, Florida, and Nevada)." And African Americans exceed their national share of the population in only a few swing states, such as Florida, North Carolina and Virginia.

Finally, Emory University professor Alan Abramowitz cautions, "It is easy to predict that voting patterns in the 2016 presidential election

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will closely resemble those seen in 2012, that the electorate will be sharply divided along party lines and that the outcome will be decided by a fairly small number of swing states, most of which were also swing states in 2008 and 2012.” This stability could, of course, be shattered by foreign or domestic events that are for now unforeseen, as well as by the quality of the candidates and the type of campaigns they wager.

My only disappointment with both of these books is the lack of attention paid to religious voting patterns, which are still important in many states.

— *Al Menendez*

Religion and the Struggle for European Union: Confessional Culture and the Limits of Integration, by Brent F. Nelsen and James L. Guth. Georgetown University Press, 2015, 368 pp., \$59.95 hardback, \$34.95 paperback.

Two Furman University political scientists have written an excellent and generally convincing book about the role of religious differences in the formation of the European Union and earlier efforts toward European federalism and integration.

The earliest move in this direction came from the Christian Democratic movement, which was largely Catholic-inspired but received considerable Protestant support in postwar West Germany. “Christian Democracy as an ideology, with its unapologetic defense of the rights of the Church and its centrist mix of support for private capital and concern for the laboring masses, gave Catholic political parties a coherent political map to guide them through domestic policy debates.”

The Christian Democrats were highly influential during the 1950s and 1960s because they “offered postwar Europe a comprehensive vision. . . . For postwar Christian Democrats, the solution to Europe’s spiritual crisis was to reestablish a Christian society directed not by the Church but by a set of values grounded in Christian principles.”

While Catholic confessional cultures were most sympathetic, others were not. “Protestant confessional culture helps us understand why Protestants and the Protestant majority EU member states lack enthusiasm for the European project that has been embraced by most continental elites. Their national identities were forged in the fires of the Reformation. . . . Moreover, Protestants may not be the only ones to feel this. Orthodox confessional culture gives rise to uneasiness among Greeks, Cypriots, Romanians, and Bulgarians about how well they fit into the EU.” Catholic cultures, and especially the Vatican, saw social and political benefits in a closer union of European states, but “The

Protestant majority countries, both inside and outside the EU, simply do not accept the federalist assumption behind an ‘ever-closer union’ – and they never have.”

In fact, Protestant extremists from Northern Ireland to Scandinavia were the most likely to form nationalist backlashes against the concept, though they have largely lost the war.

The authors conclude that European Union is a reality but caution, “It is time for the whole of Europe to recognize that culture matters to the process of integration.”

It is worth speculating whether these confessional differences will remain salient, since secularization has increased so markedly. Estonia and the Czech Republic, for example, have more people who say their religion is “none” than either Protestant or Catholic, according to recent Pew Research data.

— *Al Menendez*

Nations Under God: How Churches Use Moral Authority to Influence Policy, by Anna Grzymala-Busse. Princeton University Press, 2015, 421 pp., \$95.00.

This scholarly study explores why some religious groups are politically influential and others, even of the same faith in different countries, are not. Religion “molds individual and national identities, mobilizes votes and protests, and transforms the very policies and institutions believers and nonbelievers live by.”

The author studies six nations: Ireland, Italy, Croatia, Poland, Canada, and the United States. She notes, “In Ireland, Croatia, Poland, and the United States, the historical defense and support of the nation by religious authorities bonded together national and religious identities.”

Other critical factors include “moral authority” and “institutional access.” “Churches directly engage secular political actors and state institutions by investing their moral authority to influence policy.” The author sees a paradox in many church-state interactions. “Institutional access was largely covert and viewed as non-partisan, in stark contrast to openly politicking on behalf of specific parties. . . . The irony is that for churches to influence politics, they have to appear to be above them.”

On the other hand, “Yet even churches with high moral authority could squander it by behaving immorally. . . . The Irish church’s standing as the defender of national interests and morals was damaged by the abuse scandals that emerged in the 1990s.”

Churches established by law are less influential than expected. “With-
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out moral authority, they wield less policy influence than their historically privileged status would lead us to expect.”

This is true in Scandinavia and the United Kingdom and in South America where “the historical separation of church and state made the churches autonomous and able to oppose the state (Chile), while the failure to separate church from state made the churches dependent and compliant on the state (Argentina).” Similar conditions occur in Eastern Orthodox countries. “Orthodox churches are institutionally dependent on the state for material resources, in return for loyal and active support of the state by the church.”

The author, a professor at the University of Michigan, warns that “churches cannot count on a religious public to enact religious policies. Public piety and religious nationalism often conceal a diversity of private political views and decisions at odds with religious teachings.” This is true because “even very pious Christian electorates are unlikely to demand religious influence on politics.”

Her conclusion goes a long way toward understanding the religion-in-politics dilemma. “In short, churches influence politics and policy the most when they hold high stocks of moral authority – and that moral authority is conserved when churches appear apolitical, non-partisan, and genuinely working on behalf of the national common good.”

— *Al Menendez*

Clerical Sexual Abuse: How the Crisis Changed U.S. Catholic Church-State Relations, by Jo Renee Formicola. Palgrave Macmillan, 2014, 279 pp., \$105.00.

No Longer on Pedestals, by Carol A. Kuhnert. iUniverse, 2014, 385 pp., \$23.00.

By now the clergy sexual abuse scandals, worldwide and of long duration, are out in the open. In our last issue we reviewed Kieran Tapsell’s *Potiphar’s Wife: The Vatican’s Secret and Child Sexual Abuse*. The two reviewed now are just the latest in a long stream on the subject, many of them by Catholic authors, such as Mary Gail Frawley-O’Dea’s

Perversion of Power: Sexual Abuse in the Catholic Church (2007); Leon Podles’s *Sacrilege: Sexual Abuse in the Catholic Church* (2008); Lucinda Almond’s *Child Abuse* (2006), to which I contributed a chapter; and two in Spanish by Spanish psychologist Pepe Rodriguez, *Pederasty in the Catholic Church: Sex Crimes by the Clergy against Minors: A Drama Silenced and Covered Up by the Bishops* (2005) and *The Sex Life of the Clergy* (2002).

Jo Renee Formicola, a professor of political science at Seton Hall University, a Catholic institution, starts off noting that the abuse scandals in the U.S. alone have so far cost the Catholic Church over three billion dollars to settle abuse lawsuits. She makes clear that internal progress to deal with the abuse mess has been agonizingly slow, a matter of “too little and too late,” with church officials in the U.S. and the Vatican far more concerned about protecting their image and covering up the abuse than about the vast numbers of minors who have been victims of clergy sexual abuse.

Formicola’s well documented book details the legal and canon (church) law complications involved in dealing with the problem and concludes that church officials have consistently sought to shield the scandal from public scrutiny and civil law enforcement.

Carol Kuhnert is a devout Catholic woman in the St Louis area whose older brother was a priest who abused numerous minors. Her book is a courageous, detailed account of one abuser and the author’s years-long though fruitless efforts to get her church to clean up the mess. She makes clear that the cover-ups and indifference toward the abused are every bit as bad as the abuse itself.

Both books mention Cardinal Timothy Dolan, who, as a bishop in St Louis, seemingly impeded investigation. Later, as archbishop of Milwaukee, he moved church assets around to avoid their being used to compensate victims.

Both of these books merit five stars. Too bad the list price of the Formicola book is so unreasonably high.

— *Edd Doerr*