VOICE OF REASON

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Court Upholds "Ceremonial" Prayers at Council Meetings

Prayer before government meetings does not violate the Constitution, the U.S. Supreme Court ruled on May 5. Justice Anthony Kennedy, writing for a sharply-divided court in a 5-4 decision, said, "Absent a pattern of prayers that over time denigrate, proselytize, or betray an impermissible government purpose, a challenge based solely on the content of a particular prayer will not likely establish a constitutional violation." The decision in *Town of Greece v. Galloway* overturned a federal appeals court (Second Circuit) ruling that held the practice unconstitutional, largely because it routinely involved Christian clergy and Christian prayers.

Kennedy held that the practice followed in the town of Greece, New York, a suburb of Rochester, was "compatible with the Establishment Clause" as defined in the 1983 *Marsh v. Chambers* case, in which the High Court upheld legislative chaplaincies and prayers in the Nebraska legislature.

He also held that bland prayer was not required because "It is doubtful that consensus could be reached as to what qualifies as a generic or nonsectarian prayer."

The majority opinion held that "ceremonial" prayer's purpose is "to lend gravity to public proceedings and to acknowledge the place religion holds in the lives of many private citizens." Justice Kennedy did not say that all types of legislative prayers are acceptable constitutionally. Those prayers that habitually seek to proselytize the audience or disparage other faith traditions could run afoul of the Establishment Clause. "Courts remain free to review the pattern of prayers over time to determine whether they comport with the tradition of solemn, respectful prayer approved in *Marsh*, or whether coercion is a real and substantial likelihood."

While courts cannot scrutinize the content of prayers, lest they fall into an "entanglement" problem, the preference enunciated by the majority is for a "brief, solemn and respectful" prayer that adds "gravity" to the legislative gathering and "invokes universal themes." He added, "These ceremonial prayers strive for the idea that people of many faiths may be united in a community of tolerance and devotion."

Kennedy stressed two other themes: "Our Government is prohibited from prescribing prayers to be recited in our public institutions in order to promote a preferred system of belief or code of moral behavior." And, "Government may not mandate a civic religion that stifles any but the most generic reference to the sacred any more than it may prescribe a religious orthodoxy."

Justice Elena Kagan, writing the dissent joined by Stephen Breyer, Sonia Sotomayor, and Ruth Bader Ginsburg, vigorously disagreed with the majority ruling. Kagan argued that the "Town of Greece's prayer practices violate the norm of religious equality" mandated by the Constitution. "By authorizing and overseeing prayers associated with a single religion – to the exclusion of all others – the government officials…have embarked on a course of religious favoritism anathema to the First Amendment."

She stressed the principle of religious neutrality. "The government (whether federal, state, or local) may not favor, or align itself with, any particular creed." These practices led to the exclusion of many members of the community and divided the citizenry along religious lines. "No one can fairly read the prayers from Greece's Town meetings as anything other than explicitly Christian – constantly and exclusively so….Many prayers contained elaborations of Christian doctrine or recitations of scripture." And worse, "The prayers betray no understanding that the American community is today, as it long has been, a rich mosaic of religious faiths."

She concluded, "When the citizens of this country approach their government, they do so only as Americans, not as members of one faith or another. And that means that even in a partly legislative body, they should not confront government-sponsored worship that divides them along religious lines."

Kagan may have weakened the dissent's impact by repeatedly invoking her support for the 1983 *Marsh v. Chambers* ruling that upheld legislative prayer in Nebraska. That decision was (and is) not supported by most church-state separationists, and while Kagan tried to differentiate the facts in the two cases, it is not clear that she succeeded.

Justice Stephen Breyer filed an additional dissent which emphasized that the town "failed to make reasonable efforts to include prayer givers of minority faiths, with the result that, although it is a community of several faiths, its prayer givers were almost exclusively persons of a single faith." (Only four of the 120 prayers given from 1999 to 2010 were delivered by non-Christians.)

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Abortion Availability Diminishes

Federal courts in Arizona and Texas continue to whittle away at access to and availability of abortion. The U.S. Court of Appeals for the Fifth Circuit upheld a Texas law that places restrictions on abortion, holding that a provision requiring doctors to have admitting privileges at nearby hospitals was reasonable. The court held on March 27 that the regulation did not pose an "undue burden" on women seeking abortions. The appeals court ignored the fact that a third of all abortion providers in Texas have closed during the past five months when the regulation went into effect. There are no abortion clinics in the Rio Grande Valley that meet these requirements. Only 19 clinics now exist in a state that has 26 million people.

Health clinics offering abortions promptly filed a federal lawsuit on April 2, claiming that the law requiring costly building standards for ambulatory surgery centers would cause most existing clinics to close by September 1.

In Arizona, U.S. District Judge David Bury refused to block an Arizona law banning women from taking the abortion-inducing drug, RU-486, after the seventh week of pregnancy. He also denied that the new law would "qualify as irreparable harm." Similar laws have been overturned in North Dakota and Oklahoma. Cecile Richards, president of the Planned Parenthood Federation of America, said her group would fight the Arizona ruling. "It is outrageous that politicians are interfering in a doctor's ability to provide the highest quality medical care for women in Arizona."

Oklahoma passed another law, prohibiting the use of RU-486 after seven weeks of pregnancy. It was signed by Gov. Mary Fallin on April 22 and will take effect November 1. Nancy Northup, president of the Center for Reproductive Rights, angrily retorted, "Oklahoma politicians have yet again proven they are all hell-bent on restricting women's access to a safe and proven method of ending a pregnancy at its earlier stages, substituting their own ideologies for years of scientific research and the expertise of medical professionals worldwide. Courts time and again have found these restrictions unconstitutional, and yet Oklahoma politicians refuse to give up their costly crusade of choking off access to safe, legal abortion care."

In Alabama, U.S. District Judge Myron Thompson announced on April 1 that he will hold a trial on whether Alabama's law requiring doctors to have hospital admitting privileges would "create a substantial obstacle" to women seeking abortions.

A ban on abortion after 20 weeks is gathering steam in some states. *The Economist* reported on March 8: "Bills in Mississippi, South Carolina and West Virginia have been hurtling through state legislatures and are likely to become law. These bans, which do not include exceptions for rape or incest, would join 13 others in Republican states, mostly in the South and Midwest. Another 20-week ban will soon be introduced in Florida."

Mississippi's law banning abortions after 20 weeks was signed on April 24 by Gov. Phil Bryant and will go into effect July 1. It includes exceptions "if a woman's life is in danger or if the fetus suffers from fetal abnormalities so great that life outside the womb is not viable." There is no exception for rape or incest. According to Reuters, Alabama, Arkansas, Indiana, Oklahoma and Texas have passed similar laws.

Other states are considering various measures to discourage or slow down the procedure. In Missouri a bill to triple the mandatory waiting period from 24 hours to 72 hours was advancing in March. Reporter Marie French noted in the *St. Louis Post-Dispatch* on March 10: "While 26 states have a waiting period before an abortion, only Utah and South Dakota require a woman to wait 72 hours. The Alabama House approved a 48-hour waiting period last week. Another bill the Missouri House has debated would require notifying both custodial parents before a minor has an abortion."

Arizona's legislature, noted for passing extreme measures, approved a bill on March 4 that would allow state health department officials to conduct unannounced inspections of abortion clinics. The bill was drafted by the Center for Arizona Policy, a Christian Right organization with growing clout in the state.

There were a few victories for the prochoice side. U.S. District Judge Daniel Hovland struck down a North Dakota law on April 16 that banned abortions when a "fetal heartbeat can be detected, i.e., as early as six weeks. Hovland said the law is "invalid and unconstitutional" and "cannot withstand a constitutional challenge." Maryland's legislature rejected a ban on abortion at 20 weeks and refused to cut funding for state-paid abortions. The vote to uphold Medicaid-funded abortions was 29-16 in the Senate. The Senate also refused to limit stem cell research on a 31-15 vote.

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Court Ponders Religious Freedom, Contraception and Equality for Women

In what may be the most significant church-state case in years, the U.S. Supreme Court heard oral arguments on March 25 concerning the so-called contraceptive mandate in the Affordable Care Act.

Two cases were combined (*Hobby Lobby Stores v. Sebelius*, from the Tenth Circuit, and *Conestoga Wood Specialties v. Sebelius* from the Third Circuit) since the two appeals courts reached dramatically different conclusions. The owners of these two companies both argued that their religious freedom rights would be compromised if they were compelled to abide by the federal requirement to provide birth control coverage to their employees.

The Tenth Circuit agreed with Hobby Lobby, an arts and crafts chain that operates 500 stores and employs a workforce of 13,000, primarily because the U.S. Supreme Court's *Citizens United* decision held that corporations enjoyed free speech rights as do individuals. This court's reasoning was that corporations should also have "religious expression" rights. But the Third Circuit rejected the idea that a "for-profit, secular corporation – apart from its owners – can exercise religion," when it rejected the claims of a small Mennonite-owned company in Pennsylvania that employs 950 people. (Hobby Lobby's owners are Southern Baptists who have attracted widespread evangelical and Religious Right support.)

The justices seemed divided in their questioning of Solicitor General Donald Verrilli, Jr., representing the government, and Paul D. Clement, a Washington lawyer and former Solicitor General under George W. Bush, who represented the plaintiffs. The expected swing-vote, Justice Anthony Kennedy, expressed concern that employees would be denied coverage to which they were entitled because of their employer's religious convictions. Justices Sonia Sotomayor and Elena Kagan were concerned that employers could invoke a host of religious objections to other legal requirements.

The *Hobby Lobby* and *Conestoga* cases involve a number of issues. The narrow factual issues are whether a for-profit corporation enjoys religious liberty rights under the First Amendment that would allow an employer's religious beliefs to take precedence over those of the employees. A related question is whether the 1993 Religious Freedom Restoration Act (RFRA), passed by Congress with overwhelming bipartisan support, applies in this case. RFRA was designed to strengthen the free exercise clause after the U.S. Supreme Court weakened it considerably in a 1990 ruling written by Justice Antonin Scalia.

Essentially, RFRA bans any federal laws that impose a "substantial burden" on free exercise unless there is a "compelling governmental interest" that can be achieved by the "least restrictive means."

A corollary issue, according to Washington, D.C. attorney Walter Dellinger, is "equality of access to effective methods of family planning." Writing in *The Washington Post* a day before oral arguments were heard at the Supreme Court, Dellinger argued that "some methods of contraception are far more costly and far more effective than others" and that "denying practical access…can represent a serious incursion into individual moral autonomy."

Dellinger's view was echoed by editorials in major newspapers. *The Washington Post* opined that "assuring access to a range of birth control products to all women, not just those who could afford it, would convey major public health benefits." *The New York Times* said, "The claim that the contraception coverage rules put a 'substantial burden' on religious exercise is very weak. The real threat to religious liberty comes from the owners trying to impose their religious beliefs on thousands of employees."

Individuals and organizations across the spectrum of religious opinion weighed in. Americans for Religious Liberty joined 43 religious and secular allies in the Coalition for Liberty and Justice, which issued a declaration that proclaimed, in part, "We are united in our belief that public policies should both respect religious liberty and protect against the use of religious beliefs to discriminate or undermine equality. We believe that true religious liberty respects individuals, supports the common good and reflects the foundational principles of our nation. We therefore strongly support the rights of female workers and their dependents to follow their consciences, moral codes and beliefs when making a decision about contraception and oppose the plaintiffs' attempts to interfere in this personal decision-making." The Coalition added, "Corporations should not be permitted to impose religious views on their employees." Sara Hutchinson, domestic program director at Catholics for Choice, declared, "Conscience and religious liberty rights belong in the hands of individuals, not institutions."

The enormous interest in this case was symbolized by the unusual number of friends-of-the-court briefs filed. *Publishers Weekly* reported that 58 briefs supported Hobby Lobby, while 24 supported the government. The publishing trade journal noted that evangelical publisher Tyndale House, Deseret Books, the official publishing arm of the Church of Jesus Christ of Latter-day Saints, and an Orthodox Jewish publisher, Feldheim Publishers, filed amicus briefs supporting Hobby Lobby's position. Even state governments got into the act. Fourteen Democratic-led states filed a joint brief supporting the government, while 19 Republican states supported the Hobby Lobby position.

Many of the briefs used the case to advance their own points of view. A brief on behalf of church-state scholars supported the government and argued that it would be unconstitutional to force female employees or their insurers to pay for the employers' religious views. Brent Walker, executive director of the Baptist Joint Committee, said, "This argument has some merit since the Court in two previous cases, *Thornton v. Caldor* [1985] and *Cutter v. Wilkinson* [2005], reaffirmed a prohibition on forcing third parties to bear the burden or cost of someone else's religious choices."

One brief was designed to correct a medical misconception. The owners of Hobby Lobby said they objected to four of the 20 contraceptives approved by the Food and Drug Administration because these drugs were "abortion inducing." But in its brief defending the contraceptive requirement, the American College of Obstetricians and Gynecologists denied this claim. "Contraceptives that prevent fertilization from occurring, or even prevent implantation of a fertilized egg are simply not abortifacents regardless of an individual's personal or religious beliefs or mores."

A decision is expected by the end of June. ❑

Moving?

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Oklahoma School's Bible Curriculum Criticized

An Oklahoma public school district has chosen a high school Bible curriculum developed by Hobby Lobby founder Steve Green, an evangelical whose case challenging contraception in the federal Affordable Care Act is before the U.S. Supreme Court. Green's curriculum is purportedly designed to prove that the Bible is true in all of its claims, which has already led to concerns from religious liberty activists. "Green's outspoken belief in the Bible as literal truth could impact his ability to present a curriculum that is an objectively academic study of the Bible's role in history – which is exactly what it needs to do in order to be legal," wrote journalist Mary O'Hara. Ira Lupu, a law professor at George Washington University, told O'Hara, "If the curriculum intends to teach Bible as 'truth,' this is a non-starter. A public school cannot offer a course that affirms or denies religious truths."

Green's curriculum was approved on April 14 by the Mustang School District in the Oklahoma City suburbs, where Mustang school superintendent Sean McDaniel said the class has been selected by 170 students as an elective. The next step is for the curriculum to be released, so it can be analyzed. The program is expected to begin in the fall of 2014.

Green has an ambitious plan for his Bible curriculum. "In September 2016, he hopes to place it in at least 100 high schools; by the following year, thousands," according to Religion News Service correspondent David Van Biema. Green even hopes that Bible courses "would become mandatory." Eventually the course would be given in all four high school years.

Van Biema added, "In Mustang, Green could not have asked for a more sympathetic research partner. Religious observance in the Oklahoma City bedroom community is largely Christian, and the majority of Christians are, like Green, Southern Baptist. The nearest two synagogues are not in town – and are populated with Messianic Jews who believe in Jesus. In 2005, when a previous school superintendent canceled the schools' annual Christmas pageant because of concerns over the separation of church and state, voters rejected a proposed school bond."

Those who have examined the course say it raises red flags as to bias and simplistic assertions that do not meet the requirements of objective inquiry. Dr. Mark Chancey, a professor of religious studies at Southern Methodist University, reviewed the curriculum for Associated Press and reported that it lacked scholarly insight. "It's more of a very basic background book," he said, adding that he found the curriculum "full of land mines" and used scripture from only one tradition, evangelical Protestantism. AP reporter Elise Bailey added, "A high school curriculum supported by Hobby Lobby chain president Steve Green, billed as a way to teach archaeology, history and the arts through Bible stories, also tells students God is always there in times of trouble and that sinners must 'suffer the consequences' of disobeying."

The curriculum urges people to rest on Sundays, which reflects Green's decision to close Hobby Lobby stores on that day. While the course discusses the role of religion in arts, literature, and popular culture, that does not seem to be its main purpose. Even Mustang school superintendent Sean McDaniel is a bit wary. He told AP, "We're not asking kids to believe the stories. This is a purely academic endeavor. If it turns into something beyond that, either we will correct it or we will get rid of it." ❑

Ceremonial Prayers, *continued from page 1*

Breyer concluded, "The Constitution does not forbid opening prayers. But neither does the Constitution forbid efforts to explain to those who give the prayers the nature of the occasion and the audience." None of the justices, even the dissenters, thought there was anything wrong with legislative prayers as a concept.

Justices Samuel Alito and Clarence Thomas also filed concurring opinions, joined by Justice Antonin Scalia, which saw nothing unconstitutional in the practice of prayers prior to government meetings. Clarence Thomas reiterated his eccentric view that the First Amendment shouldn't even apply to the states.

Public reaction varied. ARL president Edd Doerr said, "While this is clearly another erosion of the wall of separation, it should be seen as a relatively minor setback. There are far more important issues relating to religious liberty, including the ongoing campaigns to compel taxpayers to support sectarian schools and to deny rights of conscience in reproductive health matters." The Anti-Defamation League expressed disappointment, saying, "The religiously divisive implications of this new rule are troubling."

The Baptist Joint Committee for Religious Liberty, which filed a brief urging the Supreme Court to uphold the Second Circuit ban on sectarian prayers, expressed "disappointment" at the decision. BJC's general counsel K. Hollyn Hollman wrote, "While the Court ruled for the town under the historic tradition of ceremonial prayer for lawmakers, local governments can – and should – take steps to ensure that citizens are not forced into religious acts at a government meeting. It is hard to square a government-led religious practice in a local municipal meeting with the Constitution's guarantee of equal rights of citizenship without regard to religion." She warned, "The decision does not create a new constitutional test for evaluating a prayer practice in a government forum."

Garrett Epps, author of several books about the Constitution, lamented in *TheAtlantic.com* that "the new growth of government-sponsored religion is distinctly invasive – the habitat of the majority moves relentlessly forward, while the sphere of solitary conscience retreats." A *New York Times* editorial called the ruling "a defeat for religious neutrality."

The immediate impact of the ruling is uncertain. Adam Liptak wrote in *The New York Times* on May 6, "The ruling cleared the way for sectarian prayers before meetings of local governments around the nation with only the lightest judicial supervision." But University of Notre Dame law professor Richard Garnett thought local legislative prayers would be limited. "It's not been a uniform practice always and everywhere. The practice has probably come and gone depending on who people were and the political climate."

Some observers wondered whether previous cases that disallowed sectarian or denominational prayers before government meetings in North Carolina, Virginia and Georgia would be reopened or whether prayer practices would be reinstated. Kennedy's insistence that prayer must not denigrate religious minorities or seek to proselytize the audience may lead to future litigation.

The Washington Post, in a May 11 editorial, called upon the town of Greece to "do away with legislative prayer" because "a town's official procedures should be as religiously neutral as possible." The paper criticized the High Court for forcing "minority religious or non-religious Americans" to "sit through government-sponsored sermons simply to petition their representatives." ❑

Taxpayer-Funded "Creationism" Grows

Nearly $1 billion in 14 states goes to schools that teach creationism or its variants in faith-based schools. This depressing fact is revealed in a major review of educational developments by *Politico.com.*

Politico's Stephanie Simon wrote that public money is flowing to "hundreds of religious schools that teach Earth is less than 10,000 years old, Adam and Eve strolled the garden with dinosaurs, and much of modern biology, geology and cosmology is a web of lies." She continues, "A *Politico* review of hundreds of pages of course outlines, textbooks and school websites found that many of these faith-based schools go beyond teaching the biblical story of the six days of creation as literal fact. Their course materials nurture disdain of the secular world, distrust of momentous discoveries and hostility toward mainstream scientists. They often distort basic facts about the scientific method – teaching, for instance, that theories such as evolution are by definition highly speculative because they haven't been elevated to the status of 'scientific law.'"

It's about to get worse, if powerful voucher advocates have their way. While 250,000 students currently "take advantage of vouchers and tax-credit scholarships," more will do so if compliant legislatures pass sympathetic laws. Already, 26 states are now considering enacting new voucher programs and expanding present ones, according to the National Conference of State Legislatures, despite the 27 statewide referenda between 1966 and 2012 that rejected vouchers or their variants.

Simon notes that "voucher supporters have skillfully strong networks of allies in many states." One group alone, the American Federation for Children, has spent $18 million on pro-voucher campaigns since 2007.

Some states provide public funds for home-schoolers, for tutors and even Bible study at home. Simon adds, "Perhaps the most novel program on the books is Arizona's Empowerment Scholarship Account. The state gives eligible families an average of $13,000 a year in public funds to spend on their children's education. They can use the money not just to pay private school tuition but also to hire personal tutors or buy home school curricula, including creationist material."

Private schools participating in voucher programs often receive preferential treatment from state laws. Simon reports, "Several of the states with the biggest programs – among them, Florida, Arizona and Pennsylvania – don't require participating private schools to give students the same standardized tests that public schools administer, so direct comparisons are difficult. Often, there's no provision to cut off the flow of state money to schools that perform poorly."

Advocates of public education, religious liberty and sound science education are fighting these moves in state legislatures and courts. State supreme courts in Colorado and New Hampshire are considering whether voucher or tax credit programs violate their state constitutions. ❑

Abortion Availability, *continued from page 2*

Courts and legislatures are not the only problem. (The Guttmacher Institute reported that 205 curbs on abortion were enacted between 2011 and 2013 in state legislatures, with the highest number coming from North Dakota, Kansas, Arizona and Indiana.) Vandalism has played a role. There is now a 1,200-mile zone stretching from western Idaho to eastern North and South Dakota with no abortion providers. Robin Marty explained on *The Daily Beast.com*: "Montana used to be an oasis in that abortion desert, with four clinics in four different cities offering both surgical and medication abortion options, but not anymore. Last month, an apparent pro-life vandal destroyed the abortion clinic in Kalispell, Montana. Now, the state has just two clinics providing surgical abortions, in Billings and Missoula. This crisis of access affects not just Montana residents but thousands of women in neighboring states, too."

Marty continued: "Closing abortion clinics has become a primary goal for anti-abortion activists, who have used bills requiring expensive clinic renovations or medically unnecessary transfer agreements to force clinics that can't meet to shut their doors. The reasoning is simple: If abortion can't be outlawed, closing off clinics is the next best thing." ❑

Church and State in the Courts

A Louisiana public school district must cease promotion of religious activities, a federal district court ruled on March 14. The case (*Lane v. Sabine Parish School Board*) arose after school officials ridiculed a sixth-grade student of Thai Buddhist descent and tried to force him to accept evangelical Protestantism. Heather Weaver, an official with the American Civil Liberties Union, noted that the student "was chastised by teachers and administrators at his Louisiana public school for his religious beliefs. School officials also repeatedly, and illegally, imposed their religious beliefs on students in a number of ways." ACLU filed suit on the student's behalf.

The court order, called a "consent decree," bans prayer in classes and school activities, as well as the teaching of creationism in science class. The decree ruled that "School officials shall not denigrate any particular faith or single out any student for disfavor or criticism because of his or her religious beliefs, or lack thereof." In addition, "Officials cannot promote their personal religious beliefs and they cannot lecture, proselytize, pray or preach at meetings or events of student religious clubs."

The U.S. Supreme Court ended a decade-long battle between the Episcopal Church and conservative breakaway congregations by refusing to hear an appeal from the last remaining holdout. The March 10 decision upheld lower court rulings that the national church owns the property and assets of parishes that decided to break ties with the national church. The last challenge came from The Falls Church Anglican congregation in Virginia, whose conservative members voted to sever ties while trying to keep the 300-year-old property. They lost in the Virginia Supreme Court, and the nation's highest court has, in effect, upheld that decision.

On the same day, the Supreme Court declined an appeal from a German couple, who sought asylum in the U.S. because they wanted to home-school their children. The practice is not allowed in Germany.

But the justices agreed to decide whether Arkansas prison officials can prohibit inmates from growing beards in accordance with their religious beliefs. While the U.S. Court of Appeals for the Eighth Circuit upheld Arkansas's ban, it was noted that 39 states and the federal government allow prisoners to grow beards.

New York City public school officials may ban church services in schools, after an appeals court held that prohibition of religious services on school property is constitutional. The U.S. Court of Appeals for the Second Circuit, by a two to one vote on April 3, held that using space for a "house of worship" violates the First Amendment, reversing a 2012 lower court decision allowing the Bronx Household of Faith to rent public school property for worship services.

The Second Circuit rejected the district court's conclusion that the Free Exercise Clause requires the city's Department of Education to rent space for worship. The majority wrote, "The Free Exercise Clause, however, has never been understood to require government to finance a subject's exercise of religion." The court held, rather, that the policy correctly avoids the risk of violating the Establishment Clause. Current New York City policy allows religious and secular organizations to use classrooms or other facilities for after-school programs, but disallows worship services. The church said it might appeal the decision to the entire Second Circuit bench.

A federal judge ruled on March 26 that Carroll County, Maryland, commissioners must cease opening meetings with prayers linked to a specific faith, in this case Christianity. U.S. District Judge William Quarles Jr. granted a preliminary injunction sought by several residents who said they felt excluded by constant reference to Jesus. "The record indicates that the prayers invoked by commissioners before board meetings advance one religion to the exclusion of others."

One of the plaintiffs, immigration attorney Bruce Hake, who said he is a Catholic, observed, "It's un-American to impose one flavor of religion on people." The controversy was exacerbated by the refusal of one commissioner, Robin Frazier, to abide by the ruling, insisting on praying in the name of Jesus at the next meeting and saying she would go to jail rather than accept the court's decision.

In light of the U.S. Supreme Court decision (see page 1), the court lifted the injunction on May 6. The case will continue, however. There is one distinction between the Carroll County case and the one decided by the Supreme Court. In Carroll those who offer the prayers are government officials, not clergy selected by elected officials. That could make a difference.

Carroll County commissioners lost no time in voting on May 8 to restore sectarian prayers, given by each commissioner in turn.

The Salvation Army's New York division settled a decade-long religious discrimination suit on March 18. U.S. District Judge Sidney Stein approved a settlement in which the evangelical charity will no longer require its employees in government-funded projects to profess adherence to the army's religious policies. The group will no longer ask about employee religious beliefs, church membership or attendance practices. The New York Civil Liberties Union (NYCLU) brought suit in 2004 on behalf of 19 current and former employees who worked for the organization's government-funded operations, including daycare centers and homeless shelters.

The Salvation Army agreed to pay $450,000 in damages and attorney fees. The New York division currently has $188 million in government contracts to provide social services. Nearly 300 employees are paid with public funds. NYCLU executive director Donna Lieberman expressed satisfaction at the outcome. "Our settlement makes certain that The Salvation Army retains the right to practice and promote its religion while ensuring that it will not use government money to discriminate or indoctrinate."

Courts continue to rule against the contraceptive mandate in the Affordable Care Act. The present count, according to *ReligionClause.com* is 56 victories for conservative plaintiffs and seven for the government. The most recent case came from a Colorado federal district court on April 17, holding that Religious Right leader James Dobson's Family Talk, a nonprofit religious group, should not be required to provide certain contraceptives. In *Dobson v. Sebelius*, the U.S. District Court for the District of Colorado, ruled, "There is a substantial likelihood that the plaintiffs can show that the pressure to execute the Exemption Form imposed on them by the ACA and the concomitant regulations constitutes impermissible pressure to act in violation of their religious beliefs."

In an unusual twist to the same-sex marriage controversy, a coalition of North Carolina clergy filed suit in federal court April 28, claiming that the state's ban violated their religious freedom. The lawsuit was filed in the Western District of North Carolina by a rabbi and by clergy representing United Church of Christ, Lutheran, and Unitarian Universalist churches. Emily Harris explained in Reuters, "North Carolina law bars same-sex couples from receiving marriage licenses and makes it a misdemeanor, with a $200 fine, to clergy who perform a marriage ceremony without the license." The constitutional ban was approved by voters in 2012. The defendants named in the case include the state's attorney general and the register of deeds, and district attorneys from several counties.

The Pledge of Allegiance, which includes the words "under God," may be recited in public schools in Massachusetts, the state's Supreme Judicial Court ruled on May 10. The state's highest court said the words are primarily patriotic even though they have a "religious tinge." The court ruled on a 2010 suit filed by an atheist family that claimed the pledge violated the equal protection guarantee of the state constitution. The U.S. Supreme Court has ruled that students cannot be compelled to recite the pledge nor can they be punished for refusing to recite it. But it is not unconstitutional for public schools to include it in daily practices. ❑

The Voucher Watch

• Standardized test scores for Wisconsin public schools are still higher than those of voucher schools. Test score results released on April 8 by the Wisconsin Department of Public Instruction showed that 19% of public school students were "proficient or advanced" in math, and 15% scored the same in reading. For Milwaukee voucher students comparable results were 16% in math and 12% in reading.

The actual situation could be more revealing. Milwaukee *Journal Sentinel* reporters Erin Richards and Kevin Crowe explained, "Another issue that has cropped up is an increasing number of voucher-school families opting their children out of taking the state exams altogether – a legal option, but one seemingly at odds with the statewide push toward more transparency for schools." They added, "A growing number of taxpayer-funded private schools posted little to no data at all – either because parents chose or were encouraged to opt their children out of taking the state tests."

Next year's results may be different. Gov. Scott Walker, generally a voucher supporter, "signed into law two bills that will bring more accountability to the private schools receiving taxpayer money."

All schools - public, charter and private - will soon be tested by a new computer-based assessment aligned to national standards. And new private schools will be subject to more rigorous financial oversight before they become eligible to participate in the voucher programs.

• While Tennessee's legislature appeared ready to enact some kind of voucher legislation, researchers at Vanderbilt University say the state does not have enough private schools to qualify. Claire Smrekar, a professor of public policy and education at Vanderbilt, said, in addition, that very few private schools would even want to participate. Holly Yettick of *Education Week* reported on Smrekar's findings: "Based on interviews with representatives from 30 of the 85 Memphis-area private schools enrolling at least 50 students, she found that most schools were not eager to participate in the voucher program. Representatives of Christian schools, which comprise the majority of Memphis-area private schools, expressed concerns that the vouchers would compromise their autonomy and religiosity. Representatives of college preparatory schools also expressed concerns about independence."

Still, the Memphis *Commercial Appeal* said, "The heavily Republican legislature is expected to pass a voucher bill, but the fight essentially is over how large of a program and how many students will be eligible." Tennessee's plan will probably provide $5,000 per student per year and would be limited to 5,000 students in the first year but would rise to 20,000 by the fourth year.

In a last-minute surprise, the Tennessee voucher bill died in the state House after passing in the state Senate. Several news sources reported that the bill died because "approximately $15 million would be shifted away from public schools to private schools." Opposition was strong in rural areas, where private schools are few.

• An Arizona program allowing vouchers for "special needs" students was approved by the Arizona Supreme Court on March 21. Arizona's highest court confirmed a Court of Appeals decision that held the program constitutional, though the high court made no comment on the merits of the case. About 5,000 students may participate yearly, but that number is expected to rise.

Arizona Capitol Times reporter Howard Fischer noted, "Friday's decision likely removes any legal hurdle from a legislative effort this year to vastly expand the program to perhaps three-fourths of all children."

The present aid package totals $5,300 a year per student, and there is little state supervision. "There have been efforts by some legislators to attach requirements, such as having the students educated with these public funds in private and parochial schools take the same standardized tests as youngsters in public schools. But those have been beaten back by supporters who say that parents are in the best position to know if their children are getting the education they need," writes Fischer.

Even worse, the original Court of Appeals decision ignored Arizona's constitutional ban on aid to religious schools or institutions. The appeals court concluded that there was no violation of the constitutional provision barring aid to religious schools because the voucher students "are not pursuing a course of religious study."

• "Arizona Republicans recently sided with Democrats to vote down an expansion of the state's voucher program, arguing that the program unfairly takes money from public schools and gives it to private institutions that cannot be held publicly accountable" according to the *Houston Chronicle. The Wire.com* added, "The thing is, Democrats *and* Republicans in rural areas oppose private school vouchers – which divert money from public schools to private schools – for the same reason: public schools need that money more." Rural Republicans in Kansas, North Carolina, Pennsylvania, and Wisconsin are often opposed to school vouchers, because their less prosperous areas will not benefit from these programs.

• On the last day of the legislative session, Florida lawmakers approved a controversial expansion of the school voucher program. Wrote Kathleen McGrory, of the Tallahassee Bureau for the *Tampa Bay Times* and the *Miami Herald*, "It would allow more students to take part in the program by creating partial scholarships for children from higher-income families, and removing some of the barriers to participating."

Republican House Speaker Will Weatherford had made private school vouchers a top priority for 2014.

Opposition had been mounted by the Florida School Board Association, the Florida PTA, and The League of Women Voters, which denounced proposals that "could drastically defund public schools and divert millions of taxpayer dollars to private institutions."

Joanne McCall, vice president of the Florida Education Association, expressed dismay. "The members of FEA are chagrined by the continued march to expand voucher schools that are largely unregulated, don't have to follow the state's academic standards, don't have to hire qualified teachers and don't have to prove to the state that they are using public money wisely." She added, "It was especially galling that the voucher expansion was tacked on to an unrelated bill on the final day of the session."

The largely party-line vote on May 2 represented a victory for powerful financial interests. McGrory wrote, "Those forces include the Florida Chamber of Commerce, Americans for Prosperity and influential think tanks like the conservative James Madison Institute and former Gov. Jeb Bush's Foundation for Florida's Future. All have thrown their considerable weight behind the expansion. And then there is the money. The voucher program's top supporter, Tampa venture capitalist John Kirtley, controls a political committee in Florida that spent nearly $2.4 million to influence races in 2010 and 2012. He plans to spend at least $1.5 million in 2014, he said." ❑

Updates

Charter Schools Faulted for Segregation

Charter schools may increase student segregation by race, ethnicity and income, suggests Iris Rotberg of George Washington University in the February 2014 issue of *Phi Delta Kappan*. In a review of scholarly literature, Rotberg says there is "a strong link between school choice programs and an increase in student segregation by race, ethnicity, and income." The risk of segregation is a direct reflection of the school choice program. She adds, "Even beyond race, ethnicity, and income, school choice programs result in increased segregation for special education and language-minority students, as well as in increased segregation of students based on religion and culture."

A report from Connecticut substantiates Rotberg's charges. Connecticut Voices for Children, an independent group, found that Connecticut charter schools are "hypersegregated" and "grossly underservice English Language Learners (ELL) and students with disabilities." The ELL students, whose native language is not English, are shortchanged because charter schools must pay for ELL programs and services. Charter schools with fewer than 20 ELL students are not required to provide any programs for them. This gives these schools "a financial incentive to exclude ELL students."

Another flaw in the system is described by Wendy Lecker, an attorney and columnist for Hearst Connecticut Media Group, in the *Stamford Advocate*: "ELL students and students with disabilities tend to score lower on standardized tests, therefore charter schools look higher performing when they do not have either subgroup. A traditional public school would never be able to get away with excluding any child in their district. Such a move would be illegal."

"Religious Freedom" Bills Falter, Except in Mississippi

Grossly misnamed "Religious Freedom" proposals that would allow religious people to refuse service to those they dislike for religious reasons continue to appear in several states. Even though Arizona's outgoing Gov. Jan Brewer vetoed a controversial bill that passed the Arizona legislature, similar legislation has been introduced in Ohio, Idaho, Missouri, South Dakota, Tennessee and Oklahoma. Other efforts have stalled in Kansas. The Ohio, Idaho and Tennessee bills have been withdrawn.

In Georgia HB 1023 and SB 377 would recognize the "right to act or refuse to act in a manner substantially motivated by a sincerely held religious tenet or belief whether or not the exercise is compulsory or a central part or requirement of the person's religious tenets or beliefs." Michael Smith, of the Georgia Democratic Party, told MSNBC, "What makes it so dangerous is that it's so broadly written, it's immeasurable in scope. Both of these bills could allow employers to discriminate against employees who enjoy protected legal status such as sexual orientation, pregnancy, sex, race, age, and even religion, all under the guise of protecting the employer's religious freedom."

After SB 377 failed, Religious Right zealots announced a boycott of Coca Cola, Delta Air Lines, Home Depot, InterContinental Hotels and UPS, which all publicly opposed the proposal.

Mississippi was the exception. Gov. Phil Bryant signed a bill on April 3 that claims to strengthen religious free exercise but could lead to widespread discrimination. The Republican governor signed the "Religious Freedom Restoration Act" that was approved 79-43 in the House and 37-14 in the Senate. It was similar to a bill vetoed by Arizona Gov. Jan Brewer the month before.

The bill, which becomes law on July 1, was signed by the governor during a private ceremony hours after it reached his desk. The signing ceremony was attended by Religious Right leader Tony Perkins, president of the Family Research Council, and influential Southern Baptist lobbyists.

According to AP reporter Emily Wagster Pettus, the bill "will assure unfettered practice of religion without government interference but that opponents worry could lead to state-sanctioned discrimination against gays and lesbians." She added, "The bill says government cannot put a substantial burden on the practice of religion. Though the bill is vaguely worded, supporters said an example would be a zoning law to limit the location of a church, mosque or synagogue but not limiting the location of a secular business." The bill also adds "In God We Trust" to the state seal.

Supporters were led by the Christian Action Commission of the state's Southern Baptist convention and the United Pentecostal Church. These conservative groups appealed to outright religious prejudice, telling the *Jackson Clarion-Ledger* that "Opponents of this bill, though numerous and loud, are primarily out-of-state, anti-religious special interest groups." They reminded legislators that Mississippi is "one of, if not the most, Bible-minded states in America." Pew researchers and Gallup polls show that the Magnolia State is the nation's most evangelical, most religious and most Baptist state.

Eunice Rho, advocacy and policy counsel with the state ACLU branch, said the law was "unnecessary."

Religious Hate Crimes Still On the Rise

Hate crimes motivated by religious bias increased from 25% of all such crimes in 2011 to 28% in 2012, the most recent year for which data are available. This figure is almost three times higher than the 10% recorded in 2004, according to a February 2014 report from the U.S. Department of Justice. The "Hate Crime Victimization, 2004-2012" report is now required by the *Hate Crime Statistics Act* of 1990 and the *Church Arson Prevention Act*, signed by President Bill Clinton in 1996. Hate crimes related to ethnicity and race are still more numerous than those motivated by religion.

Religious Discrimination Charges Decline

The number of alleged religious discrimination cases filed with the U.S. Equal Employment Opportunity Commission declined slightly in fiscal year 2013. There were 3,721 cases of religious bias filed that year compared to 3,811 in 2012 and 4,151 in 2011. However, the number of religion-based claims is more than double the number filed in the late 1990s. Many of the cases are based on disputes relating to religious garb and grooming in the workplace. The official EEOC policy says that "Title VII of the Civil Rights Act of 1964 protects all aspects of religious observance, practice and beliefs, and defines religion very broadly…Religious practices may be based on theistic beliefs or non-

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theistic moral or ethical beliefs as to what is right or wrong that are sincerely held with the strength of traditional religious views."

Religious Police Active Worldwide

Pew Research Center reported that 17 nations maintain "religious police" that enforce religious norms on all citizens and residents. "These actions are particularly common in the Middle East and North Africa, where roughly one-third of countries (35%) have police enforcing religious norms."

Pew reported on March 19 that Saudi Arabia's Mattawa (officially the Committee for the Promotion of Virtue and Prevention of Vice), "enforce strict segregation of the sexes, prohibition of the sale and consumption of alcohol, a ban on women driving and other social restrictions based on the government's interpretation of Islam." Most recently, the police monitored businesses that sold flowers or chocolates on Valentine's Day.

Pew research assistant Angelina Theodorou added, "And in Malaysia, state Islamic religious enforcement officers and police carried out raids to enforce sharia law against indecent dress, banned publications, alcohol consumption and khalwat (close proximity to a member of the opposite sex), according to the U.S. State Department."

Health Care Exemptions Available for Some Religions

Some religious groups may opt out of the Affordable Care Act for reasons that have nothing to do with birth control. Writes Kathleen O'Brien in the *Newark Star-Ledger*, "Nestled in the fine print of the Affordable Care Act is a clause that allows people of certain religions to seek an exemption from the requirement to carry health insurance or pay a fine. The clause applies only to denominations that run their own 'mutual aid' system of spreading the cost of health care across the community."

This includes Mennonites and Amish. The Amish do not pay into the Social Security system, having been granted a waiver from the IRS. In fact, only religions founded before 1950 can be exempt.

Oddly, Christian Scientists, who refuse medical care, do not "object to the notion of health insurance and are covered by the ACA and must buy insurance or pay the fine," writes O'Brien.

Congress is also getting into the act. The Republican House passed a bill, The Equitable Access to Care and Health Act, that would expand the religious exemption to anyone who claimed a "sincerely held religious belief" against the idea of health insurance. O'Brien explains, "Under the bill, anyone claiming an exemption on the grounds of religious beliefs would have to include a sworn affidavit on their annual tax return. In addition, they would lose the exemption if they sought and received medical care during that tax year." But, she says, "The bill is given little chance to pass the U.S. Senate, however, where Democrats have questioned why anyone would want to give the IRS more power to inquire into taxpayers' religious beliefs."

Millions for Kentucky Church Schools

Kentucky has spent $18 million for private school transportation during the past six years, according to a May 3 report in the Lexington *Herald-Leader*. About two dozen counties participate in the program. This came at a time when "the state of Kentucky shrank public education funding," the paper reported and added, "The state's spending is about to grow. In March, amid lobbying by the Catholic Conference of Kentucky, and other groups, the General Assembly voted to boost the private school bus subsidy to $3.5 million annually, up from $2.9 million, a 17% increase. Kentucky's constitution prohibits state funds from aiding 'any church, sectarian or denominational school,' which prompts a few state lawmakers to question the legality of the subsidy. But they say the subsidy is politically popular in many legislative districts and unlikely to be challenged."

The private school bus subsidy began in 1998 under Democratic Gov. Paul Patton and was upheld in a bitterly divided 4-3 Kentucky Supreme Court decision in 1999.

Prayers at Citizenship Ceremony Nixed

In what may be the first dispute resulting from the Supreme Court decision upholding legislative prayers, the town of Carteret, New Jersey, cancelled a naturalization ceremony at the city hall after immigration officials opposed including a prayer at the event. The May 10 ceremony was moved to the U.S. Citizenship and Immigration Services (CIS) office in Newark. The immigration agency said it has long been policy not to include "political, religious or commercial statements," according to CIS spokesperson Katie Kaplan. The agency said the court ruling does not require federal agencies to include prayer in official ceremonies.

International Updates

Brunei: Strict Islamic sharia law went into effect in oil-rich Brunei on May 1. The royal decree from the sultan, Hassanal Bolkiah, said the initial phase would include fines or jail terms for offences that include indecent behavior, failure to attend Friday prayers, and non-marital pregnancies. Later phases will include flogging, severing of limbs, and death by stoning for offenses such as adultery and sodomy. The small nation, which shares Borneo Island with Malaysia and Indonesia, already bans the sale of alcohol and restricts other religions. Brunei's legal system includes civil courts but allows sharia courts to regulate marriage and inheritance conflicts. Concerns about the new laws have been expressed by the U.N. human rights office and others. Phil Robertson, deputy Asia director for Human Rights Watch, warned, "It's a huge step back for human rights in Brunei and totally out of step with the 21st century."

Cairo: The Egyptian government is now regulating the content of Friday sermons in the nation's thousands of mosques in an attempt to dampen Islamic fundamentalism. *Christian Science Monitor* reporter Christa Case Bryant pointed out that "the government decreed that all imams must follow state-sanctioned themes each week – typically social issues like street children or drug addiction that steer well clear of politics." This has been accomplished through careful planning. "The government controls Friday sermons primarily through Al Azhar Univer-

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Updates, *continued from page 9*

sity, which trains imams, and the Ministry of Endowment, which oversees the country's 84,000 public mosques. The ministry employs 55,000 full-time imams, in addition to about 40,000 freelance preachers, known as khateebs, who are licensed to give Friday sermons on an ad-hoc basis."

Islamabad: Violence against religious minorities in heavily Muslim Pakistan has escalated during the past year, say human rights activists and independent observers. Reuters reported May 6, "March was the worst month for attacks on Hindus in 20 years with five temples attacked, up from nine during the whole of 2013, said Life for All, a Pakistani rights group. But it's not just Hindus who feel victimized. All of Pakistan's minorities – Hindus, Christians, Ahmadis and even Shiite Muslims – feel that the state fails to protect them, and even tolerates violence against them." Many blame Prime Minister Nawaz Sharif, who has close ties to Saudi Arabia, which recently gave Pakistan $1.5 billion.

London: Prime Minister David Cameron told a reception of Christian leaders at 10 Downing Street that "Christians are the most persecuted religion around the world" and that his government "should stand up against persecution of Christians and other faith groups wherever and whenever we can." He said he would raise Pakistan's blasphemy laws with Prime Minister Mian Nawaz Sharif. These laws have frequently been used to repress non-Muslims.

Cameron's April 9 address was extraordinary for a British politician. He said he was "proud to be a Christian myself and to have my children at a church school," and added, "We should be proud of the fact that we are a Christian country, and I am proud of the fact we're a Christian country and we shouldn't be ashamed to say so."

British politicians, unlike Americans, rarely discuss or describe their personal religious opinions.

Manila: The Philippine Supreme Court ruled that a national family planning law is constitutional. The April 8 decision represents the final approval of a law signed by President Benigno Aquino III in December 2012. The law directs government health centers to provide universal and free access to nearly all types of contraception, concentrating on the poor, who constitute a third of the nation's 96 million people. AP reported, "Aquino had certified the legislation as urgent, aiming to reduce maternal deaths and promote family planning in the impoverished country that has one of Asia's fastest-growing populations." The court decision was praised by the U.N. Population Fund, which declared, "The full and speedy implementation of the law will be critically important in reducing maternal mortality and ensuring universal access to reproductive health care."

Montreal: Quebec voters ousted the Parti Québécois (PQ) government by a landslide on April 7. The PQ and its premier Pauline Marois tried to implement a controversial charter that banned any religious symbols or religious dress in public, but voters were tired of the divisiveness. The PQ won only 30 seats in parliament while the Liberals swept 70 and other left-wing parties secured 25. The Liberals won by 16 percentage points in the popular vote. The premier even lost her own parliamentary seat (called ridings in Canada), and she promptly resigned as party leader. The *National Post* reported that "the PQ received its lowest share of the vote since its first election in 1970."

During the campaign some PQ candidates engaged in xenophobic, anti-Jewish and anti-Muslim rhetoric. Some denounced a so-called "Kosher Tax," accusing Jews of controlling the meat industry. Others warned that Muslims would close public and private swimming pools to allow only Muslim women to swim. Party leaders claimed that "foreign" students were registering to vote in order to "steal" the election. But the Quebec election office said the charge was patently untrue. Voters were apparently disgusted by the tactics, leaving the PQ with only a few seats in rural areas.

Liberal leader Philippe Couillard, a neurosurgeon who now becomes premier, told a victory rally, "We share the values of generosity, compassion, solidarity and equality of men and women with our Anglophone fellow citizens who also built Quebec and with our fellow citizens who came from all over the world to write the next chapter in our history with us. I want to tell them that the time of injury is over. Welcome, you are at home here."

Updates, *continued from page 10*

Paris: France's far-right National Front Party plans to ban faith-based school lunch options in the 11 towns where it won the mayor's office in local elections on March 30. Party leader Marine Le Pen told RTL radio, "We will not accept any religious demands in school menus. There is no reason for religion to enter the public sphere, that's the law."

The National Front, which appealed to anti-Jewish sentiment decades ago, now focuses on the five million Muslims in the nation. Le Pen told the Associated Press that public funds would be denied to any association with a religious character. AP reporter Elaine Ganley commented, "A strict application of the principle of secularism could mean removing halal food in school cafeterias, forbidding Muslim women in scarves to accompany children on class trips, and prevent Muslim women from renting public swimming pools after hours."

The National Front wants to curb immigration, abandon the euro currency, and leave the European Union. While it has no chance of forming a national government, it could tilt the country to the Right in a close election. The new posture of the party toward religion represents a reversal of history, since the French extreme right was once close to the conservative wing of the Catholic Church.

Simferopol, Crimea: Religious differences in Crimea, now a part of Russia, and Ukraine are simmering. Reuters reported on March 31 that "Ukrainian Orthodox Christians who are loyal to Kiev feel increasingly unsafe in Crimea after Russia's annexation of the Black Sea peninsula and some have already left." About 220,000 Crimeans (11% of the population) belong to the Kiev Patriarchate of the Ukrainian Orthodox Church, which is not recognized by Moscow or by the Ecumenical Patriarch in Istanbul. The Russian Orthodox Church, which is closely tied to the Putin regime, has accused Ukrainian Orthodox in Crimea of trying to remove "church property, including revered icons and other religious objects," says Reuters.

Crimea's Muslim Tatars (15% of the population) fear a new wave of repression, since their ancestors were expelled by Stalin in the 1940s. Reuters also reported, "In an unusual inter-faith gesture of solidarity, Crimea's Muslim Tatar minority has offered to allow Kiev-loyal Orthodox Christian worshippers to hold services in their mosques."

Ukrainian Catholics also fear a "new oppression," according to *America* magazine (March 31). Ukrainian Catholics, an Eastern Rite linked to

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Rome, represent 10% of Crimea's inhabitants. The Rev. Mykhailo Milchakovskyi told *America* editors, "Our church has no legal status in the Russian Federation, so it's uncertain which laws will be applied if Crimea is annexed. We fear our churches will be confiscated and our clergy arrested."

The Jewish community throughout Ukraine has become a pawn in the political conflict. Both sides have accused the other of fostering and harboring anti-Semitism.

Tokyo: The ancient Japanese religion of Shinto, stripped of its status as the national religion by the American occupation forces after World War II, is making a major comeback in politics. The parliamentary Shinto alliance, headed by Prime Minister Shinzo Abe, has grown from 152 parliamentary members in 2012 to 268 today. Sixteen of 19 cabinet ministers are members. Wrote *Time* correspondent Hannah Beech, "Last fall, Abe became the first sitting PM in more than eight decades to participate in one of Shinto's holiest festivals, in which the Emperor's ancestors, all the way up to sun deity Amaterasu, are honored. In a major speech this year, Abe used Shinto vocabulary to glorify his homeland." The trend, with a renewed emphasis on Japanese nationalism and particularity, has concerned several Asian countries, particularly China, South Korea, and the Philippines.

Toronto: Students attending the publicly-funded Catholic schools in Ontario will no longer be required to participate in religious programs, including courses, or participation in worship services. A panel of the Ontario divisional court ruled in April that a Toronto-area father could have his son exempted from all religious programs at Notre Dame Catholic Secondary School. The judges invoked a little-known provision of the *Education Act*, which allows exemptions. Andrew Philips wrote in the *National Post*, April 8, "The *Education Act* allows students of all faiths to attend Catholic schools, provided they also take religious courses. But parents can write to the relevant school board to ask that their child be exempted from 'any program or course of study in religious education.'"

Public funding was extended to Ontario Catholic high schools in 1985. ❑

Books and Culture

50 Myths and Lies That Threaten America's Public Schools: The Real Crisis in Education, by David C. Berliner, Gene V. Glass and Associates. Teachers College Press, 2014, 260 pp, $27.95.

In this goldmine of a book veteran educators David Berliner, Gene Glass and their 19 associates from major universities dissect the myths and lies being used to undermine the public schools that serve 90% of our kids and that are an essential part of our democracy. They unmask the hoaxes of charter schools, vouchers, neovouchers (tax credits), and other gimmicks used by pseudo-reformers, privateers, privatizers, theocrats, ultraconservatives, hedge fund managers, and others to divert public funds to private faith-based schools and charter schools removed from public control. They back what educator Diane Ravitch explained on Bill Moyers' program in late March that the pseudo-reformers will reduce our public schools to little more than dumping grounds for the kids not wanted by publicly funded but privately run charter and voucher schools.

The authors explore and refute the criticisms of our public schools, and show that the privatizers really do not know enough to run schools effectively, and that they have nothing but contempt for the public who supposedly control the schools they pay for and for current public school teachers. Their 50 wide-ranging chapters show that charter and voucher schools are no improvement over our underfunded and inequitably funded public schools, that any seeming private or charter school advantage is due to their selectivity, and that smaller classes are good for education (which is why affluent parents like elite private schools). They carve up the fads and fallacies of "abstinence only" sex ed, "zero tolerance" policies, school uniforms, retaining kids in grade (flunking), and the opposition to pre-K education. Importantly, they show how much public money is currently being siphoned into religion based private schools.

About the only things missing from this extraordinarily compre-

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ARL In Action

• ARL joined its partners in the National Coalition for Public Education in a letter sent in May to the U.S. Senate urging a cessation in funding for the D.C. voucher program. ARL and its allies said the program should not be funded at all but that, at a minimum, the program should adhere to basic accountability principles.

This position is based on the serious weaknesses in administration and oversight of the "District of Columbia Opportunity Scholarship Program" revealed by the U.S. Government Accountability Office (GAO) in September, 2013 (See VOR Issue 125, page 7). GAO investigators found that the program, which has cost taxpayers $152 million since 2004 and was reauthorized by Congress in 2011, does not have internal controls that insure accountability. Its oversight agencies have not performed their stated roles and responsibilities nor have they provided adequate information to families.

The primary oversight agency, known as the Trust, "provides incomplete and untimely information about participating schools." And its "internal controls do not ensure effective implementation and oversight." Most glaringly, "The Trust's policies and procedures do not include a process for verifying eligibility information that schools self-report. As a result, the Trust cannot ensure that schools are eligible to participate in the program and, therefore, risks providing federal dollars to students to attend schools that do not meet standards required by law."

The letter was sent to the Senate Appropriations Financial Services Subcommittee. Coalition members will also schedule visits with members of the full appropriations committee.

• ARL and its allies in The Coalition Against Religious Discrimination (CARD) urged the Department of Justice to review and rescind a policy granting blanket exemptions for faith-based organizations from federally-funding employment discrimination prohibitions. The Obama administration recently announced that this policy trumps the non-discrimination provision in the recently adopted Violence Against Women Act. CARD wants all groups, faith-based or not, to abide by nondiscrimination laws in federal hiring.

hensive book is mention of the 27 referendum elections from coast to coast between 1966 and 2012 in which millions of voters rejected all efforts to divert public funds to private schools by an average two to one and the annual Gallup/PDK polls of public opinion on public school issues.

This book ranks with such other "must reads" as Diane Ravitch's *Reign of Error: The Hoax of the Privatization Movement and the Dangers to America's Public Schools* (2013) and *The Death and Life of the Great American School System: How Testing and Choice are Undermining Education* (2010), Christopher and Sarah Lublenski's *The Public School Advantage: Why Public Schools Outperform Private Schools* (2014), Gary Orfield and Erica Frankenberg's *Educational Delusions: Why Choice Can Deepen Inequality and How to Make Schools Fair* (2013), and Michael Fabricant and Michelle Fine's *Charter Schools and the Corporate Makeover of Public Education*, all of which have been reviewed in past issues of *Voice of Reason*.

—Edd Doerr

Fear and Learning: Bad Data, Good Teachers, and the Attack on Public Education, by John Kuhn. Teachers College Press, 2014, 161 pp., $24.95.

John Kuhn is a veteran educator, former teacher and principal, and now superintendent of a rural school district in Texas. This book is his no-nonsense, hard-hitting, eloquent, reality-based response to the accelerating drive to sabotage public education in our country by so-called "reformers." He warns, "Our grim march toward the end of this fundamental American tradition – a free public education for all children – will only proceed if supporters of public education by their acquiescence allow it." He adds, "You won't hear the most prominent education reformers advocating for equitable school funding. Equality is simply too expensive for the funders backing reform; firing teachers and opening charter schools is their preference. They are all for saving poor Black children, as long as it can be done on the cheap."

Kuhn traces the attacks on public education to 1983's "A Nation at Risk" report, a "hysterical" and "clumsy" slap at public education that preceded the tsunami of conservative efforts to derail our public schools through vouchers, charters, and blaming all our problems on teachers while ignoring long-standing and growing economic disparities. Kuhn's proposed solutions are pretty common sense ideas shared by all serious educators: more adequate and more equitably distributed funding ("removing property worth as a factor in school funding"), smaller classes, universal pre-K programs, wraparound services for the more disadvantaged kids, using testing "for diagnostic, not punitive purposes," improved teacher training programs (as in Finland), allowing more policy input from teachers and students. He winds up: "Educators bring a perspective to reform that is sorely lacking nationwide. Reform should be done by educators, not to them."

The author concludes with lists of public education advocacy organizations, though not complete, and these words of wisdom: "Get involved in some way and be part of the struggle to save our public schools. Learn about the issues and use your teacher voice, parent voice or student voice. Write letters to the editor in your local paper. Post commentaries and links to relevant journalism on Twitter or Facebook. Tell your friends. Fight the reform wars in the comments sections of reform-friendly blogs. Challenge misconceptions and deliberate mendacity when you have the chance. Spread the news each time public schools do something well, and spread the news each time yet another reform initiative is proven fraudulent."

This book easily rates five stars.

—Edd Doerr

Transcendental Meditation in America: How a New Age Movement Remade a Small Town in Iowa, by Joseph Weber. University of Iowa Press, 2014, 221 pp., $18.00 paperback.

This concise and informative book by a seasoned journalist details how a religious or quasi-religious movement transformed a small Iowa town into a sectarian enclave. Beginning in the mid-1970s, the Transcendental Meditation (TM) movement founded by Maharishi Mahesh Yogi, an Indian guru with a wide celebrity following, established its U.S. headquarters in Fairfield, Iowa, opening a university called Maharishi International University, renamed the Maharishi University of Management (MUM). "The TM movement shook up the little town's economy, political structure, and entertainment scene."

Eventually, everything changed, from the architecture, which reflected the guru's principles, to local businesses and politics. Today three of the seven city council members are TM adherents, called "meditators," as is the mayor. The group also created the Natural Law Party, which competed in the 1992, 1996 and 2000 presidential elections.

The movement's religious bona fides were immediately controversial. "TM thrived as it did because the guru fused a meditative technique based on Hinduism….However, if TM were explicit about its religious nature, it would risk alienating more people than it would gain." However, "While publicly maintaining its nonreligious character, the TM movement in fact gradually deepened its connection with Hinduism over the years."

This can be seen in Maharishi's Science of Creative Intelligence, its "dogma," says the author, and its insistence that it alone can provide "Enlightenment" to its adherents. Followers were told they would learn a unique "Vedic Science" and could "defy gravity, and levitate through Yogic flying."

All of these claims, along with invocations of Hindu deities in the initiation ceremonies and mantras, led to an important federal court ruling in New Jersey in 1977 (*Malnak v. Yogi*), which held that TM "was religious in nature" and could not constitutionally be allowed to proselytize students in public schools, as it had been attempting. That decision, upheld by an appeals court, set the movement back considerably and forced it to reconsider any attempts to infiltrate public education. (However, filmmaker David Lynch, who heads a foundation promoting TM, is still trying to bootleg a supposedly secular version in public schools.)

[Full disclosure: Both my colleague Edd Doerr and I were advisors and supporters of the plaintiffs in the New Jersey case.]

MUM has attracted a declining number of students in the past decade, and most of them are older students from outside the U.S. who are pursuing master's degrees.

Though Maharishi died in 2008, his views permeate the educational curriculum. "Vedic Architecture" means that all buildings must face east, must be "in full harmony with cosmic life," and must "provide cosmic harmony" to bring about "individual peace, prosperity and good health." Since "the late guru was suspicious of electromagnetic radiation from devices such as cell phones," some aspects of modern technology are banned or limited. Classes are segregated by sex, and only seven of 36 MUM board members are women.

TM also founded a school, from preschool to grade 12, called the Maharishi School of the Age of Enlightenment (MSAE). Students study Sanskrit because the Maharishi taught that "the perfect orderliness of the Sanskrit language creates orderliness and balance in the brain physiology, expands the memory, and purifies the physiology." Weber added,

"Students also get a hefty dose of education in Ayurveda, the science of natural medicine that Maharishi encouraged." It is not surprising that the school "tends to attract the children of meditators but few others." Only 220 are in attendance now, and the high school graduating class in 2013 was 19.

TM's grandiose claims to reduce violence and promote world peace are questionable.The tragic murder of a student on campus in 2004 raised questions about university security and the admissions process, which allowed a deranged student to run amok. Two prominent suicides added to the dismay.

The author places TM in the category of Utopian religions, most of which have gradually faded away. Its celebrity appeal resembles Scientology and its skepticism of modern medicine resembles Christian Science.

Weber wonders whether TM will survive, even with its Fairfield-based infrastructure. "Without a guru with the charisma to inspire adherents anew, Fairfield's allure for meditators has declined." He also suggests, "Ironically, the claim to secularity could be the very thing that in the end does in the TM Movement, if it ultimately fades away as so many Utopian movements have."

—Al Menendez

What a Touchy Subject! Religious Liberty and Church-State Separation, by J. Brent Walker. Nurturing Faith, 2014, 65 pp., $13.00.

Church-state separation, to hear the demagogues of the religio-political far right tell it, is some sort of atheist/communist device for destroying religion. The truth, however, is that church-state separation is as American as apple pie and was designed by the U.S.' Founders to protect religious liberty for all. Not only was it locked into the U.S. Constitution and Bill of Rights by Madison, Jefferson and other Enlightenment deists, but the groundwork for it had been prepared even earlier by Baptists, Presbyterians, Quakers and other conservative religious people. The details are laid out in Nicholas Miller's superb 2012 book, *The Religious Roots of the First Amendment* (see VOR 126), and are summarized in Brent Walker's book, his presentations at the Shurden Lectures in April of 2013 at Stetson University in Florida.

Walker, a lawyer and minister, is executive director of the Baptist Joint Committee for Religious Liberty in Washington, which was founded in the mid-1930s to defend church-state separation.

As someone who has worked in this area of concern for decades, I know that religious freedom, church-state separation, religiously neutral public education, and other core values will survive and thrive only with broad support from across the religious spectrum, from staunch believers to the unaffiliated.

—Edd Doerr

The Next America: Boomers, Millennials, and the Looming Generational Showdown, by Paul Taylor and the Pew Research Center. Public Affairs, 2014, 278 pp., $26.99.

No organization has access to more original data than the Pew Research Center, and its executive vice president, Paul Taylor, shares the most significant findings in this fascinating book. He writes, "Using a generational frame, it [this book] aims to illuminate the demographic, economic, social, cultural, and technological changes that are remaking not just our politics but our families, livelihoods, relationships, and identities." That's a tall order, but it succeeds in every way.

Politics and religion, and the connections between the two, come in for a major overhaul. In short, "The young are the least religiously connected generation in modern American history; the old are the most devout believers in the industrialized world."

One illuminating chapter, "Nones on the Rise," looks at the trend toward religious disaffiliation. "The growth in the number of religiously unaffiliated Americans is driven largely by generational replacement, the gradual supplanting of older generations by newer ones. Young adults today are more likely than older adults to have no religious affiliation. And today's young adults (ages 18-29) are also much more likely to be unaffiliated than previous generations were when they were young." The author adds that "the percentage of Americans who were raised without any religious affiliation has been rising gradually, from about 3% in the early 1970s to about 8% in the past decade….about three-quarters of unaffiliated adults were raised with an affiliation (74%)."

Many of today's unaffiliated were "already at the low end of the religiosity spectrum. In the past many of them might have retained a connection to a religious tradition, even if it was only nominal. Now they identify as 'nones.'" Also, "disaffiliation has taken place across a wide variety of demographic groups."

This does not mean, however, that the unaffiliated are uniformity hostile to religion. Many consider themselves "spiritual" or "religious," and while they are critical of organized religion's "concern with money and power" and "involvement in politics," they believe that "religious institutions can be a force for good in society, particularly in helping the poor and needy."

These findings will make it difficult for any movement to organize the "seculars." But they do have a distinct political orientation. "They are heavily Democratic in their partisanship and liberal in their political ideology." They lean Democratic over Republican by 37 percentage points, compared to five points for all Americans, and they are twice as likely to be political liberals and half as likely to be conservatives as all voters. (Still, 38% call themselves moderates.) Their clout has grown within the Democratic coalition, where they represent 24% of Democratic voters. Only 11% of Republican voters are religiously unaffiliated.

Race, ethnicity, the clash of generations, the future of marriage and the impact of immigration all are subjected to rigorous analysis based on factual data in a book that should not be missed, especially by those who make policy decisions that affect all of us.

—Al Menendez

Uniquely Human: The Basis of Human Rights, by Gabriel Moran. Xlibris, 2013, 368 pp, $29.99, $19.99 softcover.

In this remarkably wide-ranging, sensitive new book, ethicist, philosopher and theologian Gabriel Moran, author of two dozen books, traces the complex, zigzag, often confusing history of thought and practice on human rights over the centuries, leading up to the 1948 UN Universal Declaration of Human Rights and beyond. It deals with rights as they apply to gender, youth, old age, and other variables.

Among its many gems is this: "How to humanely control population growth is one of the most urgent problems facing humanity for which there are no simple answers at present. But it is well known that the rate of population growth is directly tied to economic well-being. Unless economic improvements can be made in the poorest sections of the world, the human race will soon face insuperable problems." That dovetails with Alan Weisman's 2013 book *Countdown* (see *Voice of Reason* 126) and other warnings about overpopulation, climate change and environmental degradation. Moran touches only briefly on the controversy over abortion rights, but makes the point that "The earliest stage of life is infancy", and makes clear that the authors of the 1948 Declaration did not give in to those who wanted it to posit personhood prior to birth.

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Books and Culture, *continued from page 13*

Moran notes that the only two nations that have failed to approve the 1959 Convention on the Rights of the Child, at least on paper, are Somalia, a "failed state", and the United States, leading him to remark that the U.S. thus avoided being "forced to report regularly to the Committee on the Rights of the Child on what the country is doing about the disgraceful level of poverty among its own infants and young children."

The author notes that "If religion and religions can go either way in relation to human rights, then education for an understanding of religion is an imperative." But, "Religion as an academic subject should be postponed at least until senior high school and the university." That is sound advice, as there is virtually zero chance that proper teaching "about" religion can be instituted in this country; and, as he writes, "The sad fact is that in no part of the world can one find what could genuinely qualify as religious education."

This book is not perfect – what book is? – but it easily rates five stars.

—Edd Doerr

The Sixth Extinction: An Unnatural History, by Elizabeth Kolbert. Henry Holt, 2014, 319 pp., $28.00.

Virtually no one thought that biological species could become extinct until the 1790s when French scientist Georges Cuvier showed that mammoths and mastodons were indeed extinct animals and not merely odd sorts of long dead elephants. In the ensuing years the science of the matter caught on and even influenced Darwin's thinking. We now know that over the past 450 million years there have been five major extinctions, each one wiping out the vast majority of animal and plant species, the last event being the meteor strike in the Gulf of Mexico 66 million years ago that resulted in the end of the dinosaurs and subsequent rise of mammals and primates.

Science writer Elizabeth Kolbert relates this fascinating story in abundant, readable, scientific detail, showing how and why extinctions occur and explaining how geological, climate, and biological evolutions are inextricably intertwined. Finally, she shows convincingly that we are in the early stages of a sixth major extinction and that we humans are the main cause of it. She concludes that "we, too, will eventually be undone by our 'transformation of the ecological landscape.' . . . By disrupting these [biological and geochemical] systems – cutting down tropical rainforests, altering the composition of the atmosphere, acidifying the oceans – we're putting our own survival in danger." She leaves no doubt that we humans have been irresponsibly accelerating climate change, environmental degradation and essential biodiversity loss at an increasing rate.

Curiously, however, the author does not discuss human overpopulation, which is a major force driving our assault on our one and only environment. As I have often noted, scientists for at least 60 years or so have been calling attention to this problem, while world population has grown from 2.5 billion or so after World War II to over 7 billion today. And since she neglects to discuss overpopulation, she does not get around to pinning the tail on the donkeys responsible for our excessive population growth: the religious leaders and others who refuse to go along with or even acknowledge the recommendations of the Ford administration in 1975 (sic!) that access to contraception and abortion be universal.

Humanity's fate hangs on our willingness to recognize the problem and work on solving it by moving to clean energy, conservation, providing more education and freedom for women (which is not only right but also greatly lowers birth rates), and making contraception and abortion universally legal and available.

—Edd Doerr

The Party's Over: How the Extreme Right Hijacked the GOP and I Became a Democrat, by Charlie Crist and Ellis Henican. Dutton, 2014, 341 pp., $26.95.

This breezy memoir and campaign document by a former Republican governor of Florida, now running for the office again, but as a Democrat, details his growing unhappiness with the party's increasingly conservative posture. "The forces of intolerance and extremism threatened to wreck everything I treasured and believed in." As a result, Crist ran for the U.S. Senate as an Independent in 2010 before switching to the Democrats and speaking to the party's 2012 convention.

Essentially a moderate pragmatist, Crist doesn't deal much with specific social issues, except freedom of choice on abortion, the decision for which, he says, belongs to the woman, not the state. As a young state senator, he voted against a waiting period, and as governor he vetoed an ultrasound bill sought by his fellow Republicans. He explains, "Requiring unnecessary ultrasounds, I was learning, was the latest step down that twisted road. The game isn't hard to figure out: keep adding restrictions to this legal health procedure to make it more expensive, more invasive, more difficult, and more humiliating for any woman who dares to have an abortion."

In his veto message Crist wrote: "Individuals hold strong personal views on the issue of life, as do I. However, personal views should not result in laws that unwisely expand the role of government and coerce people to obtain medical tests or procedures that are not medically necessary. Such measures do not change hearts, which is the only true and effective way to ensure that a new life coming into the world is loved, cherished and receives the care that is deserved."

Crist is also a strong supporter of public education, though he still says nice things about his predecessor, Jeb Bush. And Crist notes that he was on John McCain's short list for vice president in 2008. His endorsement of the Arizona senator in the Florida primary was crucial.

This is not a particularly profound book, but those who follow politics, especially residents of the Sunshine State, will find it appealing, even if a bit clichéd.

—Al Menendez

The Pope and Mussolini: The Secret History of Pius XI and the Rise of Fascism in Europe, by David I. Kertzer. Random House, 2014, 549 pp., $29.95.

Brown University historian David Kertzer, long a critic of Vatican policies in Italy, explores the era of the 1920s and 1930s in this study. Using similar research from the Vatican Archives that Peter Eisner used in *The Pope's Last Crusade* (see VOR 122), Kertzer comes to very different conclusions. (Eisner praised Pius' efforts against Mussolini and Hitler.) While conceding that Pope Pius XI had turned against Mussolini by the late 1930s, he argues, "The Vatican played a central role both in making the Fascist regime possible and in keeping it in power." Furthermore, "The Vatican made a secret deal with Mussolini to refrain from any criticism of Italy's infamous anti-Semitic 'racial laws' in exchange for better treatment of Catholic organizations."

Kertzer argues that "the men of the pope's inner circle were more comfortable with authoritarian regimes than with democracies and fearful of losing the many privileges that Mussolini had granted the Church."

—Al Menendez

Teachers versus the Public: What Americans Think About Schools and How to Fix Them, by Paul E. Peterson, Michael Henderson and Martin R. West. Brookings Institution Press, 2014, 179 pp., $28.00.

From start to finish this book is a brazen, virulent, deceptive unreality-based, shameless, slashing attack on American public schools, teachers, and teacher unions. The authors offer no ideas whatever for improving public schools, demonstrate no comprehension of what education is all about, and make it clear that they strongly favor privatizing public education and diverting public funds to private schools through vouchers, tax credits (neo-vouchers), charters, and cyber schooling.

Through their own polls they claim that most Americans favor vouchers or tax credits for public funding of private schools. They carefully avoid discussing the 27 statewide referenda between 1966 and 2012 in which many millions of voters from Florida to Alaska and Massachusetts to California rejected vouchers, tax credits and all other devices for channeling public funds to private schools.

While the authors cite the respected annual Gallup/PDK polls showing that only about 20% of respondents give an A or B grade to public schools nationally and about 50% give an A or B to their community's public schools, they pointedly omit noting that the very same polls show that about 70% of respondents give an A or B to the public schools that are most familiar with, the ones their oldest children attend. And why the discrepancy? Probably because the Gallup respondents buy into the anti-public school propaganda in the media but not when it applies to the schools they know best.

Nowhere in this book is any discussion of the fact that between birth and age 18 kids spend only 10% of their time in school and that home and other non-school factors have more influence than even the best of teachers; or that a quarter of American kids live in poverty, a far higher percentage than in any other advanced democracy, and that SES strongly influences school performance. Nowhere do they mention the Stanford University CREDO studies of 2009 and 2013 showing that three fourths of charter schools are either worse or no better than regular public schools, despite their clear selectivity advantages and other flaws. Nowhere do they acknowledge that the vast majority of private schools are pervasively sectarian faith-based schools. Nowhere do they even hint that expanding voucher or tax credit programs would inevitably fragment the student population along religious, ideological, class, ethnic, ability level and other lines while increasing school and transportation costs. Nowhere do they discuss the legal barriers to diversion of public funds to private schools.

Nowhere do the authors discuss any of the common sense, educator-recommended ways of improving public education, such as more equitable distribution of school funding, universal pre-K education for all kids, wraparound social and medical services for the neediest kids, smaller classes, curricular enrichment, reducing excessive testing and teaching to tests, dealing with poverty and economic stagnation.

The authors refer often to schools or teachers being "below average." Well, half of all schools and teachers are "below average." Indeed, half of everything is "below average" and always will be.

Antidotes for this toxic brew would include David Berliner and Gene Glass's *50 Myths and Lies That Threaten America's Public Schools* (2014), John Kuhn's *Fear and Learning in America: Bad Data, Good Teachers and the Attack on Public Education* (2014), Diane Ravitch's *Reign of Error: The Hoax of the Privatization Movement and the Danger to America's Public Schools* (2013), Chris and Sarah Lubienski's *The Public School Advantage: Why Public Schools Outperform Private Schools* (2014), and Michael Fabricant and Michelle Fine's *Charter Schools and the Corporate Makeover of Public Education* (2012).

The book's cover features incestuous praises by Michelle Rhee and Jeb Bush, who are amply lauded inside the book, though it neglects to mention that Bush's school voucher plan was rejected by his state's voters in 2012 by a substantial margin.

Finally, it is puzzling that a respected think tank like Brookings would lend its good name to such an execrable screed as this.

— Edd Doerr

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Commentary

Beware of What You Pray For

By Burton Caine

The first provision of the First Amendment and the Bill of Rights to the Constitution provides that Congress shall make no law respecting an establishment of religion. It comes before freedom of religion and freedom of speech. The 14th Amendment extends the Bill of Rights to the states. The Supreme Court interpreted the establishment clause to erect "a wall of separation of between church and State" and barred government from aiding any and all religion, and of course, preferring one religion over another. Later illustrations of unlawful aid included government composing a "non-denominational prayer," or even starting the school day with a minute of silence for meditation or prayer.

Far from being hostile to religion, Justice Brennan - who attended church every day - explained that the separation principle was to be read together with the free exercise of religion guaranty because government aid is bad for both government and religion, for the hand that gives is the hand that can control. Religion has thrived and prospered more in America under the Constitution than in any other comparable society.

But religious zealots have never ceased seeking government aid, be it financial or otherwise, including prayer. Pennsylvania required Bible reading and the recitation of the Lord's Prayer - Jesus' prayer - at the beginning of the school day - until outlawed by the U.S. Supreme Court. Since the text used was predominantly the New Testament, Christians defended the practice on the ground that the bible is not religious, but moral and ethical teaching. So with the Ten Commandments - Christian version, excluding the fact that it is a covenant between God and the Jewish People for God's liberation of the Jews from Egyptian slavery.

Recently, the Supreme Court reversed course and a lower federal court by holding that the town of Greece in upstate New York may start official meetings with a prayer, even a Christian prayer which may offend other religions. The vote was 5-4 and even the dissenters, usually considered liberals, did not bar all prayer - as separationists would do - but only religious doctrine highly offensive to other religions. Of course, atheists or other non-theists who also have First Amendment rights, if not rites - were not even considered. The latter may have been discounted years ago when the Supreme Court reversed another federal appeals court which ruled that "under God," which was inserted in the Pledge of Allegiance of school children, violated the establishment clause. Technically, that reversal was based on the theory that the father of the child had no standing to bring the case, but concurring opinions were not so limited.

How much damage did the Greece decision do to the separation of church and state? Plenty. Basically, it "converted" - pun intended - the separation of church and state into a step-child of the 14th Amendment equal protection clause. That is, as long as all religions are permitted to get their prayers recited at government functions, even if minorities are not, that seems to pass the Constitutional religion test adopted in Greece. It is a Balkan bargain!

Perhaps even more injurious to constitutional principles, is the Thomas-Scalia concurring opinion that the separation of church and state does not even apply to the states, where most of us live, but only to the federal government, principally Washington, DC, and military bases. This geographical limiting principle of constitutional law may remind guardians of the Charter of Liberty that the feds invented the effort to deprive prisoners of all constitutional rights by warehousing them in Guantanamo, Cuba, on the premise that the Constitution does not apply outside the United States!

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