

LIBERTY

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Center for Adventist Research
Andrews University
Berrien Springs Michigan

The Gathering



We Be

EDITORIAL

THE TEMPLE OF LIBERTY

Well into the woods of a new year, we babes of the third millennium might well take note of the dried leaves already littering the landscape. Indeed, it was only a week into 2021 that a surging crowd broke down the doors of "the temple of democracy," to use Speaker Pelosi's term, and pillaged its contents.

Moments earlier a journalist had jokingly asked one demonstrator why he had a pitchfork with a flag attached. "It's symbolic" was the gist of his reply. The interviewer thought it clever to remark that in the movies he remembered, the crowd with the pitchforks were usually the bad guys. The ironic observation was not well taken! A crowd unleashing its fear/anger puts me to mind of an old painting showing peasants pitchforking a Montgolfier hot-air balloon that had come down in the French countryside. It was an event only 10 years before the cornerstone was laid to the U.S. Capitol; only five years before the ratification of the U.S. Constitution; and, ominously for the French, only six years before the French Revolution.

In the last years of the second

millennium, before the panic of September 11 changed the terms of access, I remember wandering around the lower level of the Capitol building in the time between a press conference and an appointment elsewhere and coming upon a glass case with artifacts clustered like those in an ark. There was the actual Masonic apron George Washington wore while laying the cornerstone! There was, as I remember it, also a little votive plate used to leave the offering for the occasion. There was also a contemporary newspaper account of the day, describing the lodge members standing behind the president/lodge master and singing hymns. Not the usual image of the early days of the republic, to be sure.

That moment popped into my head shortly after the events of January. Much footage has come out since that day; much of it taken by the participants themselves. In many ways the displays of the day were a pastiche of the icons of American history: flags of a nation and the lost cause that lingers; slogans of intolerance that speak as much of fear as hate; crosses and gallows; and military hardware, which

signals a lack of dialogue and recourse to force. Obviously, many saw the day as more than just a spontaneous eruption of electoral enthusiasm.

The sequence that most impressed me was taken about midpoint in the desecration. As members of an advance team combed through state papers in members' desks, a few gathered enthusiastically around the speaker's podium and prayed. It was heartfelt and joyous and introduced religion to the day's proceedings. Of course, there is often an ambiguity and self-justification when we mortals invoke God to our causes. To the Israelites watching from the heights as their enemies foundered, joyous prayer was certainly in order. But one can also conjure up a vision of the Crusaders having swathed their way through the streets of Jerusalem, kneeling on the red stones to praise God for it all. Were those prayers in the chamber any more "American" than the Masonic hymns and prayers at the building's dedication? And just what is this temple really dedicated to?

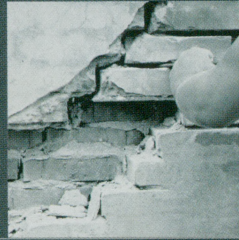
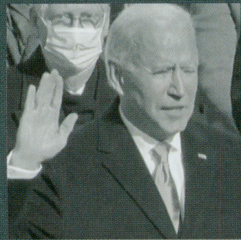
It's easy, visiting Washington, D.C., for the first time, to be overwhelmed



TYLER MERBIER/CC BY-NC 2.0

PEOPLE of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do hereby declare the independence of the United States of America.

IN THIS ISSUE



The only just and safe course to pursue is to keep the state and the church separate, and to allow men to exercise the fullest liberty in matter of religion. P19

4 | **EVANGELICAL COLLAPSE?**
When religion plays favorites

8 | **THE GATHERING**
America's right turn

12 | **TEARING DOWN THE WALL**
Changing views on church-state separation

17 | **THE THEOCRATIC THEORY**
20 | **THE NEXT TARGET**
24 | **MANDATORY BEHAVIOR**

by the theme park evocation of Greek and Roman icons. No doubt the captains of a new republic wanted to invoke those historic models. I sometimes wonder if Masonry did not play a big role in this tendency; certainly the yeoman soldier of the Revolution was more inclined to pioneering cabins than marble monuments. But the minds that framed the republic were versed in the philosophy of Greece and Rome. They were familiar with the Roman historians and knew the reasons for the downfall of Rome; and as inheritors of English Protestantism, they knew much about Rome's fall and its devolution to the force of religious compulsion. Greece attracted them by its proto-democratic ideals. But Greece was never fully democratic in the way we wish things now; property, class and varying human value qualified it too much.

I like the comment of Erin Shaler in a compilation "Thomas Jefferson, the Classical World, and Early America," printed by the University of Virginia's

press in 2011. "For Jefferson," she wrote, "the classics remained a venue of cultural escapism." Yes, why not? After all, this *novus ordo seclorum*, or new world order, envisioned by Jefferson and his peers in the new and old worlds had to rise above the old, not copy it.

To me and many who have studied these things, it is obvious the American republic owes much more to the Enlightenment/Protestant Reformation views that had already shaken Europe than to an old order of legend and chipped columns. They were simultaneously establishing an ideal of human self-determination that had been birthed in the Reformation and aiming at a governmental structure that would keep at arm's length humanity's tendency to use political power to enforce religious dogma. That risk was imminently obvious in France, even as the Constitution came together. And the fall of a Rome riven by factions was a lesson they had noted and debated vigorously.

Which brings me back to a

point that has long motivated this magazine: separation of church and state and the call to avoid the siren call of Christian nationalism. In calling for a separation of church and state, we are not against religion but desperate to protect it. In decrying the easy invocation of God in partisan squabble and crowd tumult, we warn against both the persecutions of pagan Rome and the zealous persecutions that followed an emperor's vision. And I would warn also to heed the final fall of Rome. Rome was indeed sacked by Germanic warriors; but they were not pagans—they were Christian allies of a different doctrinal view. And doubtless they prayed grateful prayers as they ransacked that city.

Lincoln E. Steed, Editor
Liberty magazine

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DECLARATION
of Principles

The God-given right of religious liberty is best exercised when church and state are separate.

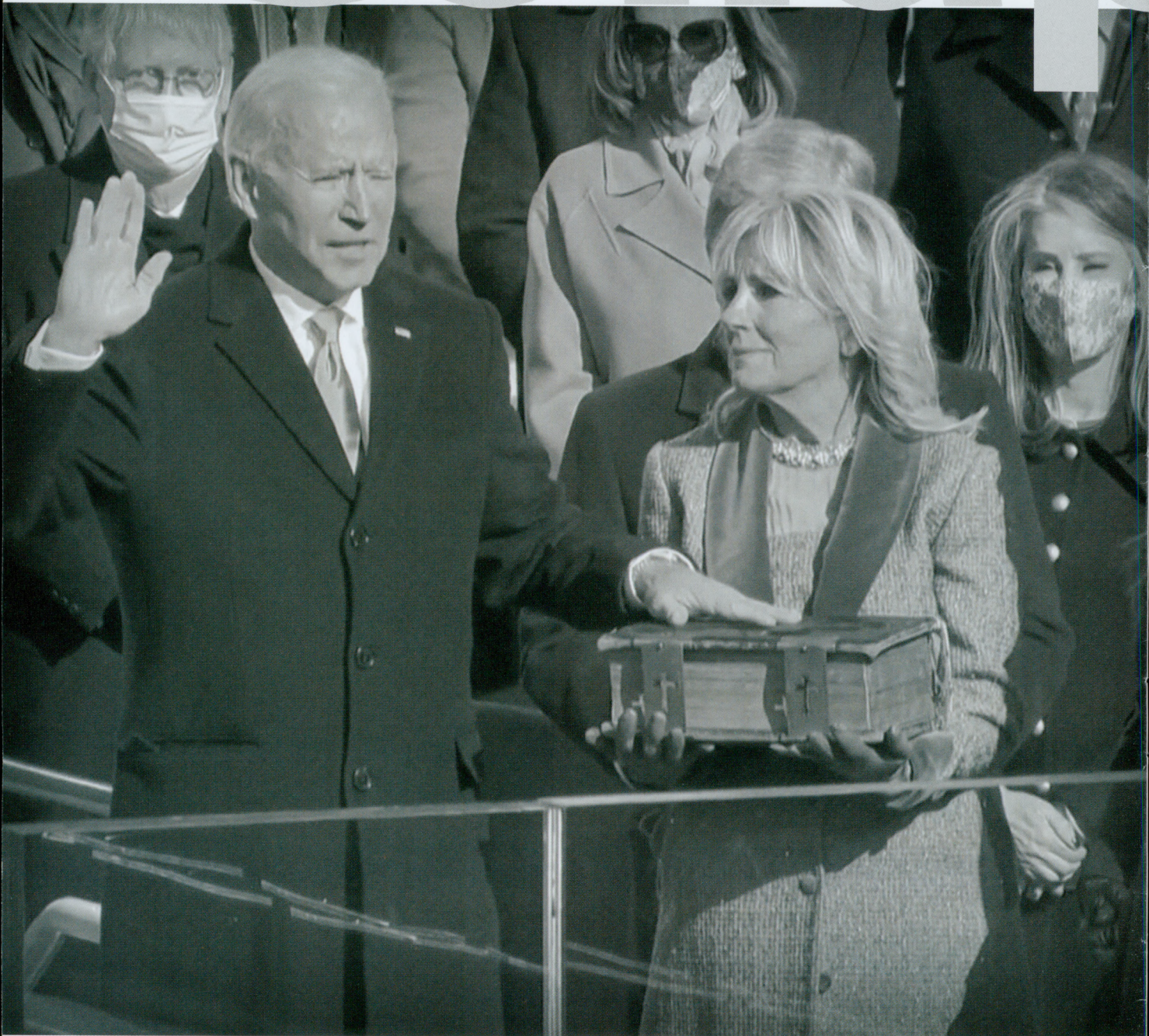
Government is God's agency to protect individual rights and to conduct civil affairs; in exercising these responsibilities, officials are entitled to respect and cooperation.

Religious liberty entails freedom of conscience: to worship or not to worship; to profess, practice, and promulgate religious beliefs, or to change them. In exercising these rights, however, one must respect the equivalent rights of all others.

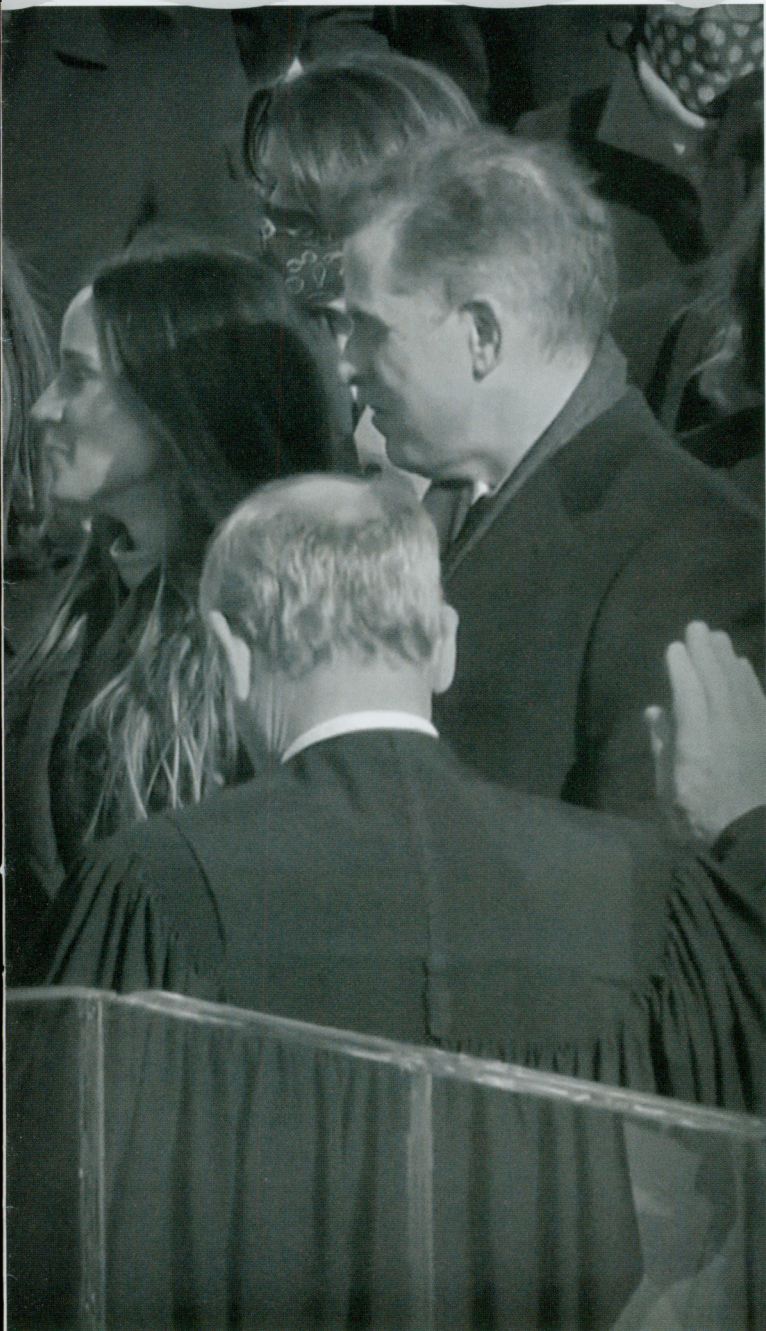
Attempts to unite church and state are opposed to the interests of each, subversive of human rights, and potentially persecuting in character; to oppose union, lawfully and honorably, is not only the citizen's duty but the essence of the golden rule—to treat others as one wishes to be treated.

Evangelical

Collap



ose?



BY DAVID RHEE

The President Trump era was a bountiful period for the political fortunes of Evangelical Christians in America. That is because the forty-fifth president of the United States checked off virtually every box on the Evangelical wish list. Trump gave Evangelicals everything they could have wished for. He relocated the U.S. embassy to Jerusalem. He advocated for policies that sought to restrict access to abortions. Trump also signed an executive order that created the White House Faith and Opportunity Initiative. This decree sought to remove barriers that had unfairly prevented faith-based organizations from receiving federal funding. Overall, Trump made the federal government much more open and responsive to the concerns and desires of Evangelicals.

Therefore, it is no surprise that many Evangelicals responded unfavorably to the news of Joe Biden's victory over Trump. Some Evangelicals reacted to Trump's defeat by expressing disappointment or sadness. Others expressed concerns for the future. There were also some Evangelicals who simply did not want to believe that it actually happened. For instance, moments after most major news networks declared Biden the winner, Franklin Graham quickly reminded everyone that the news networks had merely made a projection, and the results were not yet official. Graham and other Evangelicals were essentially holding on to the hope that the news networks were wrong, and that Trump would somehow prevail after all the votes were counted and certified.

Franklin Graham was not the only Evangelical leader disappointed with the results of the 2020 presidential election. Soon after Biden was presumed to be the winner of the election, Robert Jeffress, the pastor of First Baptist Church of Dallas, rented out space on billboards throughout Dallas to advertise his upcoming sermon on how Christians should respond to a Biden presi-

Evangelicals see the increasing incidents of religious persecution of Christian minorities in other countries, and they fear that the same thing will happen here in the United States as Christians become a smaller part of the population.

dency. This illustrates just how much concern some Evangelicals have about a future in which Donald Trump is no longer in the White House. For some Evangelicals, Trump's defeat is an existential threat to Evangelicals in America. They notice how the changing demographics in America are not skewing in their favor. There are far fewer people in America today who identify themselves as Christians than there were 20 years ago, and only about one in four Americans currently considers themselves to be Evangelical Christian.

Also, according to a recent AP-NORC poll, Evangelicals are more likely than other Christians to believe that their religious freedom is under attack. They see the increasing incidents of religious persecution of Christian minorities in other countries, and they fear that the same thing will happen here in the United States as Christians become a smaller part of the population. They feel a need to have a government that looks out for them during a time when they are exerting a decreasing influence on society and culture in America. That is why Evangelicals want a president who will protect their rights and interests. Donald Trump did just that. For them, President Trump was the firewall that shielded Evangelicals from a world that is becoming more hostile to Christian values.

A Long Journey

Trump's presidency was also the fulfillment of a 40-year-long journey that Evangelicals have taken to the political promised land. Evangelical Christians began their concerted involvement in politics during the 1970s as a reaction to mandates from the federal government that they believed were contrary to the teachings of Scriptures, as well as threats to religious liberty. Their original intent was to mobilize a Christian response against the government's increasing tendency to enact laws that impeded individuals from living in accordance with the Bible. There

is one specific event that is often attributed to sparking Evangelical engagement in politics, and that was a 1978 proposal by IRS commissioner Jerome Kurtz to require Christian schools to prove they were trying to integrate in order to maintain their tax-exempt status. This new regulation prompted a significant response from Evangelicals. A total of 126,000 letters of protest were sent to the IRS, and many calls were made to Congress. As a result, the IRS quickly pulled the proposed regulation.

The IRS incident demonstrated the ability of Evangelicals to successfully mobilize and challenge government policy. This victory emboldened Evangelicals to press forward with their efforts to influence the government. In 1990 Pat Robertson told the audience at a Christian Coalition convention that his goal was to elect a pro-family Congress by 1994 and a pro-family president by 2004. The first objective was accomplished in 1994, when the Republicans gained control of Congress for the first time in 40 years. Then in 2000, Evangelicals helped George W. Bush to win the White House. But the biggest political victory for Evangelicals took place in 2016, when Donald J. Trump was elected president of the United States.

Trump actively courted Evangelical voters, and he promised to enact policies that were favorable to the beliefs and values espoused by Evangelicals. White Evangelicals in particular responded very favorably to Trump, as 81 percent of them voted for him. In response, Trump largely kept all the promises that he made to Evangelicals. Thus, it is no surprise that many Evangelicals are disappointed that there will not be a second term for President Trump.

The Next Battlegrounds

Trump's defeat may have been a letdown to many Evangelicals; however, they had little time to sit around and mourn their loss, as the next

battle in their political crusade was to take place even before Joe Biden was inaugurated. On January 5, 2021, Georgia conducted a runoff election for both of their seats in the United States Senate. Democrats won both seats, giving them control of both the House and Senate, and that will enable them to do such things as increasing funding for Planned Parenthood. Evangelicals were aware of what was at stake in the Georgia runoff elections. That is why groups such as the Faith and Freedom Coalition dedicated significant resources to mobilizing a high turnout of Evangelical voters.

Another upcoming battle for Evangelicals involves the rights of individuals who conscientiously object to values and lifestyle choices of the LGBTQ community. Prior to the 2020 presidential election, Al Mohler, the president of the Southern Baptist Theological Seminary, predicted that “the primary front of the religious liberty controversy is likely to be related to LGBTQ issues, and both Biden and Harris are eager to advance the sexual revolution on every front.” One look at Biden’s campaign website gives credence to what Mohler is saying. Biden posted his plan to advance LGBTQ rights on his website, and his proposals include the very things that some Evangelicals fear:

“Religious freedom is a fundamental American value. But states have inappropriately used broad exemptions to allow businesses, medical providers, social service agencies, state and local government officials, and others to discriminate against LGBTQ+ people. . . . Biden will reverse Trump’s policies misusing these broad exemptions and fight so that no one is turned away from a business or refused service by a government official just because of who they are or who they love.”

Biden seems to make it clear that he will allow the rights of the LGBTQ community to take precedence over those who disagree with them because of religious convictions. Many Evangelicals object to such things as same-sex marriage because they feel it goes against the teachings of the Bible. Evangelicals want to have the freedom to refrain from participating in any activities that recognize or promote same-sex marriage. Therefore, when Biden declares his intentions to disallow individuals and organizations from objecting to the LGBTQ lifestyle based on religious beliefs, Evangelicals are understandably concerned.

A Changed Court

Some of the issues that are most important to Evangelicals have ultimately ended up before the United States Supreme Court, and in the past the Court has delivered some devastating setbacks to the Evangelical movement. *Roe v. Wade* was one; another was *Obergefell v. Hodges*—a landmark case in which the Supreme Court extended marriage rights to gays and lesbians nationwide. However, the composition of the Supreme Court is much different today than it was prior to when Trump first took office. Trump had the opportunity to fill three vacancies on the Court, and he appointed three individuals who are highly regarded by social conservatives. Trump’s third and final appointment to the Court was sworn in just days prior to the November 3 election, and that individual, Amy Coney Barrett, now gives conservatives a majority on the Supreme Court. There are now five justices who are deemed to interpret the Constitution in a way that is favorable to Evangelicals. Therefore, the Supreme Court may now be the preferred battleground for Evangelicals. They can take their cases to the Court, expecting to now have a majority of the justices on their side.

Moving On

Joe Biden’s victory might be viewed as a setback for Evangelicals. They might no longer have a president who is as receptive to Evangelicals as Donald Trump was. Trump did a lot of good things for the Evangelical movement, and there is a possibility that Joe Biden will revoke some of the mandates that Trump enacted that were favorable to Evangelicals. However, the end of Trump’s presidency does not signal the end for Evangelicals in American politics. Joe Biden is not the nail in the coffin for the Evangelical foray into American politics. There are many ways that Evangelicals can survive through a period during which they will no longer have an advocate in the White House. Evangelicals will continue to play a public role despite the loss of Donald Trump, in large part because they see religious liberty as something that is worth defending.

The rise of evangelical sensibility in the United States cannot be seen as a bad thing in itself. This magazine has often critiqued their, at times, blunt search for political power, even as we share many of the moral sensibilities that have stirred that community. We could hope that in the aftermath of the Trump collapse, the Evangelical right will temper their efforts with true Christian charity, avoid the appearance of autocratic solutions, and continue to be a moral compass for the nation.
Editor.

David Rhee writes from Las Vegas, Nevada.



A BOOK REVIEW REDUX

The Gathering

Reaganland: America's Right Turn, 1976-1980,
by Rick Perlstein. New York: Simon and Schuster, 2020.

BY RON
CAPSHAW

Alarmed at what they saw as the decay of morality in the nation, religious fundamentalists John Conlon and Bill Bright in 1976 organized a group of activist protestants, the Christian Freedom Foundation. Previously the Southern Baptist Association had sought to keep religion out of politics. But this “New Right” saw their marching orders as coming from what they regarded as the “excesses” of the 1960s; where

abortion and homosexuality were weakening America from within. The Christian Freedom Foundation thus declared their purpose to be “electing real Christians.”

For the press, this was regarded as just one more instance of sectarian Christians, not to be taken seriously as a political force. As such, they were ignored.

But the Christian Freedom Foundation learned a valuable political lesson. Four years



stage a “White House get-together” for evangelists to discuss religion over a plate of grits. Republicans were also feeling the heat. Then-presidential candidate George H. W. Bush was so vilified at every campaign stop by the Moral Majority about his past support of “family planning” that he exasperatedly asked his campaign, “How do I get rid of them?” A nearby journalist heard him and said, “Change your position.”

That time around, journalists did not dismiss social conservatives, but saw their power as enormous and decisive for the 1980 presidential election. Observing a religious summit composed of various denominations, Robert Novak saw the die was cast for President Jimmy Carter: “Jimmy Carter’s goose was cooked because I saw the intensity of these people.”

How religious groups got to this position of power is recounted in Rick Perlstein’s *Reaganland: America’s Right Turn 1976-1980*. Although Perlstein locates other groups responsible for Ronald Reagan winning the White House—neoconservatives (hawkish Democrats disillusioned with Jimmy Carter’s “dovish” policies toward the Soviet Union); supply-siders; libertarians; and the “Silent Majority”—it is apparent that the sinews of the Reagan revolution came from social conservatives.

That is why Perlstein’s subtitle, *America’s Right Turn: 1976-1980*, should be amended to read *How Social Conservatives Mastered the Art of Politics*.

Perlstein’s métier has always been showing how the establishment saw consensus when the reality was a deeply divided country. Surveying the 1970s, liberals and centrists believed they had won the culture war. They pointed to the popularity of the hedonistic *Saturday Night Fever*, the Supreme Court ruling in *Roe v. Wade*, and the “acceptance” of homosexual lifestyles in Florida and California. Moreover, they saw in President Carter’s support in banning discrimination against homosexuals in the Army as proof that, as one gay activist proclaimed, 1977 was “the year of the gay.”

Such was the establishment’s blinders that they misinterpreted the best-selling book of 1974, *The Total Woman*, by born-again Christian Marabel Morgan. Liberals focused on her advice to Christian women to heat up the bedroom—another “sign” that liberal popular culture had made a dent. They completely missed the overriding thesis of the book: that a woman’s duty was “to surrender her life to her husband.”

To anyone without blinders, it was apparent

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later, in 1979, the group was rechristened the Moral Majority and was made up—according to their manuals—of “72,000 ministers, priests, and rabbis.” A satellite group, Christian Voice, was applying a “biblical scorecard” to Congress, rating legislators according to their support for anti-abortion and anti-gay causes.

By that same year they were no longer regarded as at best a splinter group nuisance. Then-president Jimmy Carter felt compelled to

Attendees praying at the rally that preceded the riots at the Capitol on Jan. 6, 2021.



BLINK O'FANAYE/CC BY-NC 2.0

that religion was on the rise in the 1970s. Five thousand people attended the Christian Booksellers Association in 1976. Christian psychotherapist James Dobson's seminars on the need for traditionalist families were so popular that he became the host of a highly rated radio show. Evangelist preacher Pat Robertson ran a crisis counseling program with 6,000 workers trained to help those in need. Debby Boone, the daughter of social conservative singer/activist Pat Boone, received an Academy Award for her hit song "You Light Up My Life," which she said was about her relationship with Jesus.

Perlstein shows that what lent such urgency to religious activism was the belief that the counterculture lifestyles rife in the land was causing the death of America and hastening Armageddon. Former missionary Hal Lindsey's *The Late, Great Planet Earth*, a novel that asserted that the End of Days was at hand, sold 10 million copies. With "seventy of the prophecies written in the Bible" already "fulfilled," Lindsey predicted that the "seven-year countdown to Armageddon" had begun.

For religious activists one of the "signs" of the nation's fatal sickness were present in the ERA. The Christian backlash against it surprised its supporters, who viewed the measure as economic in design. Led by author and activist Phyllis Schlafly, the ERA's religious opponents hated the amendment because it imperiled the traditional family unit by taking women out of their housewife roles and into the marketplace (Schlafly dealt with her heresy as a

public activist by always introducing her speeches with a thank-you to her husband for "allowing me to come").

Supporters of the ERA, which was defeated (being ratified in only 35 states), said that it couldn't have been stopped without Schlafly. Of her leadership, professor of political science Jane J. Mansbridge said: "Many people who followed the struggle over the ERA believed—rightly, in my view—that the amendment would have been ratified by 1975 or 1976 had it not been for Phyllis Schlafly's early and effective effort to organize political opponents."

The so-called Year of the Gay, 1977, saw the emergence of Anita Bryant, who led a burgeoning crusade against homosexual rights. She gathered supporters from eight states, and she was able to defeat several anti-discrimination bills.

But despite all the groundswell support, social conservatism might not have made it to the national and legislative level but for Richard Viguerie. As Perlstein shows, he was the true mastermind of social conservatism becoming a force in politics.

Still smarting from the resounding defeat of his candidate Barry Goldwater by President Lyndon Johnson in 1964, Viguerie, by the 1970s, tested the political wind and ascertained that what was wrong with the conservative movement was its refusal to focus on social issues.

This was ironic, given that Viguerie started off with no interest in social conservatism. He became conservative when then-president Harry

Truman fired General Douglas MacArthur during the Korean War for the latter advocating an invasion into mainland China. His interest in Senator Joseph McCarthy and William F. Buckley had nothing to do with their Catholicism, but instead their anti-Communist policies. [Interestingly, Donald Trump was an acolyte of McCarthy's cutthroat lawyer Roy Cohn. Editor.]

Viguerie made social conservatism a force on the national level by the pioneering use of direct mailing. With the membership lists of those who donated and supported Bryant and Schlafly, Viguerie mailed out agitprop circulars twice a week to constituents. Anticipating what today would be called "alternative media," Viguerie said of direct mailing: "The left" thinks of "direct mailing as fundraising. They miss the whole boat if they think that. It is a form of advertising. It's not an evil conspiratorial thing. It is just a fact of life, which I haven't found anybody to deny, that the major media of this country has a left-of-center perspective. The conservatives can't get their message across the blockade, except through direct mail. . . . It's a way of mobilizing support."

By 1978 journalist Roland Evans characterized Viguerie's direct-mail mobilization as a successful effort "to build a party within a party."

What linked this group to other conservative factions that helped propel Reagan to victory wasn't just Jerry Falwell "crossing over" to hawkish foreign policies and low taxes and support of Israel. Jimmy Carter deserves some credit. A man of the left, Perlstein tries to rescue Carter's reputation as a weak leader, but the net effect of the book is that Carter is portrayed as bumbling, tin-eared, and hopelessly naive (he only considered that the Soviets had a totalitarian and imperialist government after they invaded Afghanistan). He managed to alienate both conservatives and liberals (uber-liberal Tip O'Neill preferred Ronald Reagan as president to Carter). He refused to back a constitutional amendment banning abortion; linked arms with Bella Abzug; kissed Soviet premiere Brezhnev on the cheek; defended his Cabinet member Andrew Young's praise of Castro. Yet Carter was in essence an architect of the Moral Majority, and because of his weak response to Soviet aggression (the Moral Majority saw Russia as the "antichrist"), bridged the gap between social conservatives and hawks.

Ironically, the Moral Majority then focused their energies on then-candidate Ronald Reagan, a divorced movie actor with admitted

bed-hopping and one who voted for FDR four times. Perlstein shows Reagan's documented obsession with the End of Days, and his support of school prayer and anti-abortion legislation. But he neglects Reagan's passionate support of the separation of church and state:

"We in the United States, above all, must remember that lesson, for we were founded as a nation of openness to people of all beliefs. And so we must remain. Our very unity has been strengthened by our pluralism. We establish no religion in this country, we command no worship, we mandate no belief, nor will we ever. Church and state are, and must remain, separate. All are free to believe or not believe, all are free to practice a faith or not."

The more one studies Reagan, the more it is apparent throughout Perlstein's book that his real passions were foreign policy and low taxes (on his weekly radio program Reagan devoted eight consecutive broadcasts to standing up to the Soviets and reducing the size of government).

Conspicuously absent from Perlstein's book is Barry Goldwater, who represented conservatism at odds with the Moral Majority. Goldwater saw them as a threat to the separation of church and state. He supported abortion rights and gays in the military. By doing so, he sought to separate conservatism from a draconian religious faction bent on "imposing their will on others." In one speech he showed that to be a conservative, one must keep religion out of politics:

"I am a conservative Republican, but I believe in democracy and the separation of church and state. The conservative movement is founded on the simple tenet that people have the right to live life as they please as long as they don't hurt anyone else in the process."

Perlstein's book is a compelling study of the nuts and bolts of the political process. It shows how religion has intruded into politics, a factor that is very much with us today.

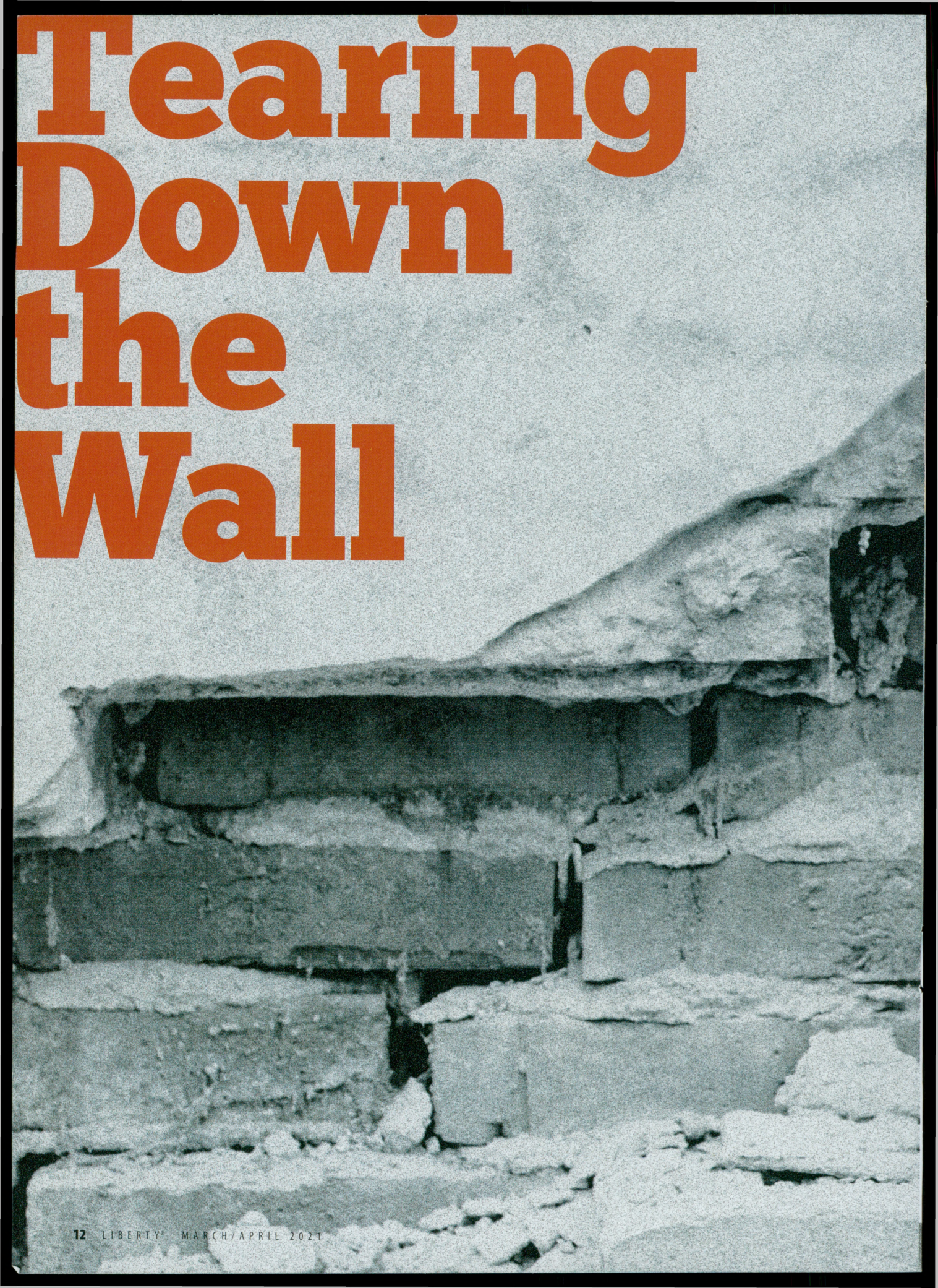
Ron Capshaw writes from Columbia, South Carolina.


This is the second time an author in Liberty has reviewed this book: not because it is the last word on the topic, although it is a very recent and pertinent work, but because of the so obvious manifestation of what it discusses in the recent presidential election. As this issue comes off the press, the "national nightmare," to hark back to Watergate times, is likely still a publicly agitated memory. You need to know its antecedents.
Editor.

"Church and state are, and must remain, separate. All are free to believe or not believe, all are free to practice a faith or not."

—Ronald Reagan

Tearing Down the Wall





This article is the first in a series tracing and explaining the battle for church and state in the United States. It highlights, in broad pen strokes, the key events, legal aspects, organizations, and societal movements that demonstrate how drastically the concept of church and state has changed in America within a lifetime. The series identifies how the Roman Catholic Church in particular, in conjunction with the Religious Right, has influenced social trends, legal thought and analysis, as well as politics, to erode foundational concepts of American democracy. The series will cover the various interpretations of the religion clauses of the First Amendment and analyze the development of each in the debate over church and state. The author adopts the position of separation of church and state as the most historically accurate understanding of the First Amendment and as the most beneficial toward societal peace in a religiously pluralistic society. The series is intended to warn of the perils a union of church and state will produce.

BY EDWIN COOK

In 1986 President Ronald Reagan nominated Associate Justice William Hubbs Rehnquist to serve as the sixteenth chief justice of the Supreme Court, in which role he served until 2005. The chief justice began to question separation of church and state jurisprudence and argue in favor of an accommodationist viewpoint. Accommodationism argues that government may assist religion in the public sphere, provided that it assists all equally. This is not a full establishment of religion, but it is certainly opposed to a separationist viewpoint. Rehnquist referred to the separationist doctrine as a myth and to the wall of separation as only a metaphor based on the Danbury Baptist letter and not founded upon legal jurisprudence. He perceived what he believed to be inconsistencies regarding the Court's interpretation and application of separationist jurisprudence. Prior SCOTUS jurisprudence decided each church and state case on its individual merits and recognized that each case varied in its unique character.

After several years of the Rehnquist Court's novel interpretations, attorney and humanist scholar Derek Davis wrote *Original Intent*,¹ in which he analyzed the judicial philosophy of Rehnquist. Davis asserted that Rehnquist

Such an interpretation of religious liberty could easily lead the SCOTUS to conclude that establishment clause prohibitions are a violation of a Christian's free exercise rights.

was introducing an accommodationist interpretation of the religion clauses, contrary to the original intent of Founders such as Jefferson and Madison, and that Rehnquist could lead the Court into serious departures from its separationist jurisprudence. Rehnquist's actions could introduce alarming and vast changes to church and state jurisprudence, with harmful implications to both. Davis' book was not only timely but also prophetic.

With such rhetoric emanating from the highest Court in the nation, legal scholars and conservative Evangelical and Catholic pro-faith advocates could not help taking notice. They took Rehnquist's rhetoric as an open invitation to advance their agenda for establishing Christianity's role in American society. In quick succession, three now prominent law firms came into existence. Pat Robertson and Jay Sekulow founded the American Center for Law and Justice (ACLJ) in 1990. Three years later the Alliance Defending Freedom (ADF) was organized by a group of 35 Christian leaders who claimed "the legal system, which was built upon a moral and Christian foundation, began steadily moving against religious liberty, the sanctity of human life, freedom of speech, and marriage and family."² Right on the heels of the ADF, Kevin Hasson founded Becket Law (Catholic) in 1994 as a public interest law firm defending religious freedom for people of all faiths. Its primary emphasis is to push back

against restrictions on religious expression in the public square,³ the result of which is to accommodate religion by giving it a protected, semi-established role in society. Such an interpretation of religious liberty, vis-à-vis a Christian's right to free exercise includes advocating and establishing that view in the public sphere, is exactly aligned with Catholic teachings espoused in *Gaudium et spes* ("Pastoral Constitution on the Church in the Modern World"). The specious nature of such an interpretation of religious liberty is that it leads to a purely religious society, the majority of whose members in America would be Christian, and thus, it would produce a Christian commonwealth that is tolerant of other minority faiths, but nonetheless would remain the dominant religious group. Additionally, such an interpretation of religious liberty could easily lead the SCOTUS to conclude that establishment clause prohibitions are a violation of a Christian's free exercise rights, which is exactly how some more recent SCOTUS cases have been interpreted.

During the 1990s the integration of conservative, Evangelical Protestants with Catholics became more closely woven together through theology. The Catholic Church began to emphasize the "culture of life" through the teachings of Pope John Paul II. *Centesimus annus* (1991) and *Evangelium vitae* (1995) introduced the term and concept, which argues for the sanctity of life from conception to death. In application it



argues against abortion, euthanasia, capital punishment, and embryonic stem cell research. The Religious Right has adopted such language and similar social platforms as part of its political agenda. Additionally, in 1995, both Lutherans and Catholics signed the Joint Declaration on Justification by Faith, with the intent to signify that the theological and doctrinal issues that had divided them since the Protestant Reformation of the 1500s, have now been resolved, paving the way for greater cooperation of common social and political agendas.

On June 29, 1995, the SCOTUS delivered its opinion on *Rosenberger v. Rector and Visitors of the University of Virginia*. Rosenberger represented Wide Awake Publications (WAP), which was a student organization at the University of Virginia. He paid student fees, which entitled his organization to request reimbursement for printing costs associated with his organization's publication. The university denied payment, arguing that its charter prohibited payment to a religious organization based on a separation of church and state. The SCOTUS ruled in favor of Rosenberger, arguing that the university denied Rosenberger's free speech rights. Attorney Jay Sekulow of the ACLJ argued the merits of the case using the plaintiff's free speech rights to bypass any establishment clause jurisprudence issues and the SCOTUS accepted that line of reasoning for the first time in its history of adjudicating establishment clause issues.

On an intellectual front, the first decade of the twenty-first century witnessed the publication of several scholarly works that echoed similar sentiments to those of Chief Justice Rehnquist. Daniel Dreisbach authored *Thomas Jefferson and the Wall of Separation Between Church and State*,⁴ in which he examines the origins and use of the metaphor of the wall of separation, and reconfigures its meaning based on his understanding of its jurisdictional viewpoint. In the following year Philip Hamburger wrote *Separation of Church and State*,⁵ in which he argues that the separation of church and state has no historical foundation in the First Amendment. Instead, the concept was conceived out of fear of ecclesiastical authority and prejudice, particularly that of the Catholic Church, and has been used as a means of intolerance and bigotry. Donald L. Drakeman wrote *Church, State, and Original Intent*,⁶ arguing that the justices have used constitutional history to portray the concept of separation of church and state according to their own views of how church and state should be separated.

In this same decade the SCOTUS issued two opinions, the first of which further eroded prior establishment clause jurisprudence. On June 27, 2002, the Court ruled in *Zelman v. Simmons-Harris* that the Ohio voucher program that allowed public tax dollars to be given to parents to send their children to schools of their choice was not a violation of the establish-

William Rehnquist (left) takes the oath as Chief Justice in 1986 as his wife, Natalie, holds a Bible and President Ronald Reagan looks on.

To render decisions in favor of religious plaintiffs, the Court is relying more upon the argument of a violation of free exercise rights, as opposed to viewing such cases through establishment clause jurisprudence.

ment clause and indeed was a matter of purely private choice made by parents and not a government entity seeking to promote any particular religious institution.⁷ On February 25, 2004, the SCOTUS delivered its opinion of *Locke v. Davey*, arguing that a state that offers funding for secular education is not required under the free exercise clause to offer funding for religious instruction.⁸

On June 26, 2017, the SCOTUS delivered its opinion in *Trinity Lutheran Church v. Comer*, contending that Missouri's Department of Natural Resources denial of a neutral, generally available grant for resurfacing of Trinity Lutheran's playground was a violation of the free exercise clause. Justice Breyer, a longtime advocate of establishment clause jurisprudence, concurred with the 7-2 majority opinion delineating that this benefit could be categorized within such generally available benefits as fire and police protection that should be made available to all organizations, regardless of religious affiliation. The grant would provide resurfacing of the playground and thus the benefit was for the health and safety of children. Thus, he saw no violation of the establishment clause.⁹

In the same year that *Trinity Lutheran* was decided, Thomas G. West wrote *The Political Theory of the American Founding: Natural Rights, Public Policy, and the Moral Conditions of Freedom* in which he argues that the Founders' political theory was based predominantly on natural rights with some contributions from common law and Protestantism, in contrast to other scholars who argue that the Founders relied upon concepts of liberalism and republicanism.¹⁰ Of significance, West describes the natural rights of the Founders as distinct from Catholic natural law theory, which rebuts Catholic scholars arguing in favor of Catholic intellectual influences prevalent among the Founders.

So, because of the influence of Catholic and Protestant combined efforts to advance a common social agenda through politics and legal means, as well as intellectual efforts to under-

mine a historical understanding of the establishment clause, the SCOTUS has shifted its church and state jurisprudence from a separationist position to an accommodationist position. To render decisions in favor of religious plaintiffs, the Court is relying more upon the argument of a violation of free exercise rights, as opposed to viewing such cases through establishment clause jurisprudence.

States that have historic constitutional provisions that prohibit aid to religious entities should not be offering aid to any group in order to avoid running afoul of claims of a violation of free exercise rights. And, if legislation is passed that provides neutral, general aid, great care should be exercised in the formulation and choice of language of such legislation to avoid any claim that could be construed as discriminatory toward religious entities

The byproduct of the Court's shift and the insistent politicking of faith groups has been a sea change in what passes for religious freedom. Separationism, which aimed to avoid "an establishment of religion" has been replaced by religious entitlement.

¹ Derek Davis, *Original Intent* (Amherst, N.Y.: Prometheus, 1991).

² Alliance Defending Freedom, About Us, <https://www.adflegal.org/about-us>, accessed on January 5, 2021.

³ Becket Law, About Us, <https://www.becketlaw.org/about-us/mission/>, accessed on January 5, 2021.

⁴ Daniel Dreisbach, *Thomas Jefferson and the Wall of Separation Between Church and State* (New York: New York University Press, 2002).

⁵ Philip Hamburger, *Separation of Church and State* (Cambridge, Mass.: Harvard University Press, 2004).

⁶ Donald L. Drakeman, *Church, State, and Original Intent* (Cambridge, N.Y.: Cambridge University Press, 2009).

⁷ *Zelman v. Simmons-Harris*, <https://www.oyez.org/cases/2001/00-1751>, accessed on January 5, 2021.

⁸ *Locke v. Davey*, <https://www.oyez.org/cases/2003/02-1315>, accessed on January 5, 2021.

⁹ *Trinity Lutheran Church of Columbia, Inc., v. Comer*, <https://www.oyez.org/cases/2016/15-577>, accessed on January 6, 2021.

¹⁰ Thomas G. West, *The Political Theory of the American Founding: Natural Rights, Public Policy, and the Moral Conditions of Freedom* (Cambridge, N.Y.: Cambridge University Press, 2017).

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Augustine disputing
with the heretics

The Theocratic Theory of Government

A THEOCRACY is a form of government in which all the affairs of men, whether temporal or spiritual, civil or religious, are united under the control of God. The government of Israel was a true theocracy. It was really a government of God.

When doing their duty, the kings of Israel ruled the people according to the directions of

God. But the kings did not always do their duty. Many of them rejected the counsel of the Lord. This was carried to such an extent by Zedekiah that God said to him:

“Thou, profane wicked prince of Israel, whose day is come, when iniquity shall have an end, thus saith the Lord God; Remove the diadem, and take off the crown: this shall not be the same:

BY A. G.
DANIELLS

exalt him that is low, and abase him that is high. I will overturn, overturn, overturn, it: and it shall be no more, until he come whose right it is; and I will give it to him." Eze. 21:25-27.

In fulfillment of this sentence, the kingdom of Israel was subsequently overturned three times—once by Medo-Persia, once by Grecia, and once by Rome. Soon after the third overturning, the theocracy of Israel was removed from the earth, and, according to the sentence of God, "It shall be no more, until he come



John Calvin

whose right it is; and I will give it him."

He "whose right it is," and to whom that kingdom will be restored, is the Lord Jesus Christ. Of him we read:

"He shall be great, and shall be called the Son of the Highest: and the Lord God shall give unto him the throne of his father David: and he shall reign over the house of Jacob forever; and of his kingdom there shall be no end." Luke 1:32, 33.

When Christ was on earth, he declared to Pilate that his kingdom was not of this world. John 18:36. He further declared that the time when he would sit upon the throne of his kingdom would be at his coming. Matt. 25:31, 32.

"Therefore while this world stands, a true theocracy can never be in it again. From the death of Christ until now, every theory of an earthly

theocracy has been a false theory. And from now on until the end of the world, every such theory will be a false theory. Yet such was the theory of the bishops of the fourth century."

And it was this theory that led to the establishment of the Papacy.

Augustine's Dangerous Theory

Augustine, one of the Fathers of the Catholic Church, reasoned thus:

"It is indeed better that man should be brought to serve God by instruction than by fear of punishment, or by pain. But because the former means are better, the latter must not therefore be neglected. . . . Many must often be brought back to the Lord, like wicked servants, by the rod of temporal suffering before they attain to the highest grade of religious development."—*Schaff's "Church History," Vol. II, sec. 27.*

Of the principle in Augustine's theory, Neander says:

"It was by Augustine, then, that a theory was proposed and founded, which . . . contained the germ of that whole system of spiritual despotism, of intolerance and persecution, which ended in the tribunals of the Inquisition."—*Id., p. 217.*

Yes, the theory that advocates law, compulsion, punishment in matters of religion, contains the germ of spiritual despotism, of religious intolerance and cruel persecution. The Papacy was that theory fully developed. The man who holds that theory will invade the rights of his fellows. The church that holds that theory will usurp authority over the state, and use the civil power as an instrument of persecution.

This has been done by men claiming to be Protestant reformers, and by professed Protestant churches. The cruel deeds of Calvin and Cranmer, and the dark chapters in the history of the Scotch Covenanters, the Puritans, and the English Church are the natural and awful results of this theory.

Augustine's Theory Adopted by Calvin

The theory of counteracting evil and of making Christians by enforcing laws and inflicting penalties, propounded by Augustine and now advocated by the Evangelical Alliance and other religio-political organizations of America, found a large place in the heart of John Calvin. One of his apologists says:

"He allowed to the church a greater authority than any other Reformer. Here, again, the influence of Augustine is seen. He says, 'The church is our mother.' . . . Outside of the church there is no salvation. . . . In this scheme he had in

mind the Israelites. He aimed at a theocracy.”—*Schaff-Herzog Encyclopedia*, art. “Calvin.”

Calvin “aimed at a theocracy,” and he succeeded in establishing one, and the account of its working and its influence in various countries forms one of the darkest chapters in the history of modern times. Geneva was his home, and the seat of his operations. On arriving in that city in 1536, Calvin found the people emerging from a violent conflict between papists and Protestants. The reformed religion had just been adopted by the state. Calvin decided to remain in Geneva, and devote himself to the cause of the Reformation.

“He soon found himself at the head of the whole movement, political and religious; and by his iron hand a theocracy of a very stern type was established. The reformed doctrine became a civil duty, and dogmatical deviations were treated as treason. Ecclesiastical discipline was carried even into the routine of daily life, and a breach of its dictates was punished as a crime.”—*Id.*, art. “Geneva.”

Calvin's Theocracy

Calvin formed a “church court,” which had “full authority to maintain discipline.”

“On Nov. 20, 1541, at a popular meeting, the scheme he drew up was ratified. This provided for a consistory composed of six city ministers and twelve elders,—one of the latter to be a syndic, and their president,—which met every Thursday, and put under *church discipline, without respect of persons, every species of evil-doers.*”—*Id.*, art. “Calvin.”

This was a government after Calvin's own heart. It was the theocracy which he aimed to establish. The church controlled the state, and Calvin controlled the church. It is not surprising that historians have called Geneva the “Rome of Protestantism,” and Calvin a “prophet king.”

“His system of church polity was essentially theocratic; it assumed that every member of the state was also under the discipline of the church; and he asserted that the right of exercising this discipline was vested *exclusively in the consistory, or body of preachers and elders.* . . . Nor was it only in religious matters that Calvin busied himself; nothing was indifferent to him that concerned the welfare and good order of the state or the advantage of its citizens. His work, as has been justly said, “embraced everything,” he was consulted on every affair, great and small, that came before the council,—on questions of law, police, economy, trade, and manufactures, no less than on questions of doctrine and church polity.”—*Encyclopedia Britannica*, art. “Calvin.”

The government established by Calvin, and over which he exercised almost absolute control, bore such a striking resemblance in form to the Jewish theocracy that Wylie, speaking of Geneva, says:

“Calvin took the Jewish theocracy as his model when he set to work to frame, or rather to complete, the Genevan republic. What we see on the banks of the Leman is a theocracy. . . . The government exercised a presiding and paternal guardianship over all interests and causes, civil and spiritual. Geneva, in this respect, was a reproduction of the Old Testament state of society.”—*History of Protestantism*, book 10, p. 284.

Yes, Calvin's government exercised a “paternal guardianship over all interests and causes, civil and spiritual.” It interfered with the private affairs of the people to such an extent that it became intolerable. On one occasion the people arose in rebellion and banished Calvin from Geneva. At the end of two years he returned with a firm determination to persevere in his course to the end. Those who spoke against Calvin's religion or doctrines were severely punished. Ameaux, who declared that Calvin's religion was “deceit and tyranny,” was compelled “to walk through the streets bareheaded, carrying a lighted candle, and to make confession of his fault on his knees.”—*Id.*, book 17, p. 310.

Gruet, on a charge of infidelity, was condemned and beheaded. Jerome Hermes Bolsec was imprisoned, and finally banished, on the same grounds. Michael Servetus was persecuted and finally burned to death by Calvin's theocracy, for having opposed the doctrine of the Trinity.

These are a few samples of fruits produced by this man-made theocracy. The theocracy itself was an exact counterpart of the Papacy, which grew out of Augustine's theocratical theory of government. And, like the Papacy, it invaded the rights of the people. It robbed them of their liberties.

The theory propounded by Augustine and adapted by Calvin, at present occupies a prominent place in the schemes of many religious organizations in this and other Protestant lands. And as the germ of each scheme is the same, the fruits are not likely to be different. The only just and safe course to pursue is to keep the state and the church separate, and to allow men to exercise the fullest liberty in matter of religion. This is in harmony with the words of Christ, “Render . . . unto Caesar the things which are Caesar's; and unto God the things that are God's.”

Washington, D.C.

From *Liberty Magazine*, Volume xii, Fourth Quarter, 1917: a time of great national and international crisis, and as the “Spanish Flu” began to trouble the already war-troubled world.

A theory was proposed and founded, which . . . contained the germ of that whole system of spiritual despotism.



OPINION: A CHRISTIAN MINISTER WORRIES OUT LOUD.

The Next Target?

BY DAVID RHEE

We live in dangerous times. It is especially dangerous if you happen to be a statue. That is because statues all over America are being torn down. In early 2020 the city of Columbus, Ohio, removed a statue of Christopher Columbus that was located in front of City Hall. This statue was installed in 1955 as a celebration of Columbus' voyages to the Americas. However, some people no longer see Columbus as a hero. Instead, they view him only as an imperialist whose exploration and discovery of North America led to genocide. This revisionist portrayal of Columbus as a villain



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People have long been offended and uncomfortable with Jesus and His message.

seems to have found favor among those in charge of the city of Columbus. That is the only explanation for why they would remove a statue of the man for whom their city was named.

That wasn't the first or only statue to be torn down that year. Earlier in the summer, protesters in Portland, Oregon, tore down a statue of George Washington. This happened around the same time that the statues of Jefferson Davis, John C. Calhoun, and Stonewall Jackson were removed from cities across the South. Statue removal became a very popular activity in 2020, and it even happened right here in my hometown of Las Vegas, Nevada. Back in June the University of Nevada at Las Vegas took down the statue of their mascot, Hey Reb. They took down his statue because some people claimed that he was a Confederate soldier. So in that regard, Hey Reb's removal is consistent with the fact that most of the statues that have been torn down are images of men who were either slave owners or supporters of the Confederacy. Their statues are swiftly being removed all across America. Soon there will not be any statues of slave owners or Confederate soldiers standing anywhere in America. But even after that happens, the anti-statue movement, which is fueled by the flames of political correctness, will not be finished. No, they will simply find a new target. And their new target might well be religious icons. The anti-statue movement, which is trying to force political correctness down our throats, will perhaps end up tearing down statues of Jesus Christ. They might even go so far as to demand that churches remove any images of Jesus Christ. After all, iconoclasm did so in the not-so-distant past!

Why might self-appointed arbitrators of political correctness embark on a mission to remove Jesus and His image from our society and culture? Well, it is because, just as in the early days of Christianity, many find Jesus Christ to be offensive. Jesus Christ does not fit the narrative that is being pawned off by the purveyors of political correctness. You see, Jesus said He is the only path to God, and in today's environment, it is not politically correct to say

something like that. It is not politically correct to say that Jesus is that only path to God. Nowadays, if you do not want to offend anyone, then the safe thing to say is that all religions offer an equal path to God. That certainly does sound nice. And it does sound very inclusive. But it is NOT what Jesus said. Jesus said there is only one path to God, and that is through Him. That is what Jesus was talking about when He said, "I am the way, and the truth, and the life. No one comes to the Father except through me" (John 14:6, NRSV).*

If you want to enter the kingdom of God, then you need to go through Jesus Christ. There are many people who are offended by that idea. This itself is nothing new. People have long been offended and uncomfortable with Jesus and His message. That is the reason Jesus was crucified in the first place. The religious leaders of Israel were offended by the fact that Jesus claimed to be the Son of God. Jesus said He was the Son of God and the only way to God, and the religious leaders of Israel said that was blasphemy. That is why they arrested Jesus and turned Him over to the Romans. Then years later Christians living in the Roman Empire were persecuted by the Roman government. The Romans persecuted Christians because they believed that there was only one true God, and the only way to God was through Jesus. You see, in the Roman world, most people were pagans who believed in the existence of many different gods. The Romans even paid homage to all these different gods. But Christians believed that all those other gods were fake. Christians believed that all those other gods were just human-made idols. Christians believed there was only one true God, and that is the Lord God Himself. Moreover, Christians also believed that the only way to God is through His Son, Jesus Christ. Romans found that to be offensive. They were offended by the idea that Jesus is the only way to God, and that is why they persecuted the Christians.

So our society isn't the first place where people are offended by the idea that Jesus is the only way to God. No, this stuff has been going on for a very long time. Today we have a lot of

different religions to choose from, and the truth is that other religions do indeed offer some benefits, but those benefits extend only to life in this world. You see, other religions can show you how to find inner peace in this world. Other religions can help you to find happiness in this world. Other religions can teach you how to be a better person in this world. But none of those other religions can assure you of eternal life. That is because no matter how good a person you are, and no matter how many good things you do, you will never be good enough to enter the eternal kingdom of God on your own. That is because the kingdom of God is a holy place that is completely devoid of sin. As long as you have even just one unforgiven sin, you cannot enter the kingdom of God. The only way you can enter God's eternal kingdom is by being fully cleansed of all your sins. That is exactly what Jesus did; Jesus cleansed you of your sins. That is also *the* reason Jesus came into this world. Jesus Christ, the Son of God, came into this world, and died on a cross, so He could offer Himself as the sacrifice for our sins. So if you accept Jesus' sacrifice, then you will be cleansed of your sins. You will be forgiven of all your sins. You will then be worthy of entering God's eternal kingdom after you leave this world.

Christians do indeed hold that Jesus Christ is the only way to God. That is the truth for us. And sometimes the truth bothers others when they hear it. There will always be some people who find the truth to be uncomfortable. There will always be some people who are offended by the truth. But the truth needs to be heard. And it is up to Christ's followers to spread the truth about Jesus to the rest of the world. Remember, before Jesus ascended back to heaven, He left His followers with just one command, and that was to share His message with the rest of the world. Therefore, those of us who profess to be followers of Christ must never be afraid to proclaim that Jesus Christ is the only pathway to God, no matter how unpopular that message may appear to be.

Our society is filled with individuals and organizations that harbor a disdain for Jesus Christ. They will use any opportunity or excuse

to censor Jesus' message, and in today's racially charged climate, they are now playing the race card against Jesus Christ. It is true that some people in the past did try to use Jesus to justify White European supremacy. However, Jesus was not a White European. Jesus was a descendant of Abraham, who came from a tribe of people living in what is now present-day Iraq.

What is happening here is that some anti-Christian radicals are now using race as an excuse to remove Jesus from our culture. We must not support the removal of ANY Jesus statues. It doesn't matter if the statue depicts Jesus as being White, Brown, or some other color. The truth is that Jesus' skin tone is not important, and we must not allow anyone to try and use Jesus' skin color as an excuse to remove Him, or His image, from anywhere in our society.

*Bible texts credited to NRSV are from the New Revised Standard Version of the Bible, copyright © 1989 by the Division of Christian Education of the National Council of the Churches of Christ in the U.S.A. Used by permission.

David Rhee writes from Las Vegas, Nevada.

This magazine does uphold Jesus as the Lord Jesus Christ, the incarnate Son of the Creator-God. Actually, because of that, we are motivated to proclaim to all men and women that the Creator God in His kindness toward us has given us the ability to choose and, usually, the desire to worship. In forcefully defending religious liberty for all, no matter what viewpoint others may settle on, we are honoring God. And we must insist that civil powers and secular thinking have no rights to take away the God-given: as Jefferson recognized in the Declaration of Independence. A cruel misrepresentation of Jesus was on display during the January 6 riot in the nation's capital. Christian symbols were seen alongside a variety of hateful images; and prayers were offered by these self-styled revolutionaries in the legislative chamber itself. They could not have understood Jesus' words "My kingdom is not of this world."

—L. Steed, Editor.



BY CLIFFORD GOLDSTEIN

ILLUSTRATIONS BY JON KRAUSE

Government accommodation of religious practices has been an enduring pillar of American liberty. In *Hobbie v. Unemployment Appeals Commission of Florida* (1987), the U.S. Supreme Court (8-1) said that: “This Court has long recognized that the government may (and sometimes must) accommodate religious practices and that it may do so without violating the establishment clause.” The idea is that when policies or laws burden a religious practice, the government has the responsibility to create—narrowly, perhaps—an exemption or accommodation for those practices. That is, unless the state can show a good reason to the contrary, the free exercise of religion takes precedence. That’s the idea, anyway.

Even the infamous 1990 *Employment Division v. Smith*—one of the greatest U.S. Supreme Court blunders since *Minersville School District v. Gobitis* (1940), when the High Court ruled that school districts could force (*force!*) Jehovah’s Witness children to salute the flag and recite the Pledge of Allegiance against their religious convictions (overturned three years later)—still allowed for the principle of legislative accommodation. Of course, some saw that *legislative* accommodation

Mandatory Behavior

Rights in a Pandemic



What happens, however, when parents, for religious or even secular reasons, do not want to vaccinate their children? In such cases, free exercise, parental rights, public health, and other issues present competing claims.

as precisely the problem. If you were an Orthodox Jew in Brooklyn or a Mormon in Salt Lake City, you'd have a good chance of getting that legislative accommodation because of the power of democratic rule. However, for a Jew in Salt Lake City or a Mormon in Brooklyn, democracy would be working against you, which is why the claim of legislative remedy rang hollow in *Smith*, whose damage to free exercise has never been fully mitigated.

The Vaccination Debate

Nevertheless, the idea of exemption and accommodation for religious practice remains a central component of American religious freedom. Who gets religious accommodations and why? What justifies these accommodations, especially on religious grounds, when someone who might want a similar accommodation on nonreligious grounds could be rejected? Why are religious accommodations sometimes granted, sometimes rebuffed?

It's one thing if an adult, based on religious (or even secular) reasons, chooses to make a potentially dangerous medical decision for himself or herself. The courts have allowed a fair amount of latitude there. When, however, parents make that choice for a child, the issue gets more dicey. And in the case of vaccinations, what happens if the choice potentially can harm not just their own children but others as well?

With the exception of clean water, the introduction of vaccines against infectious diseases has been one of the greatest contributions of public health during the past century. Polio, smallpox, measles, mumps, rubella (MMR), and whooping cough ravaged humanity, killing millions over the years, only to finally have been all but eradicated, at least in the Western world, as a result of large-scale vaccination programs. The idea, sometimes called herd immunity, is that once you get enough of the population inoculated, the disease is so contained that it no longer poses a threat. In short, for immunization to work, a lot of people need to be vaccinated. Otherwise, the threat of the disease remains.

What happens, however, when parents, for religious or even secular reasons, do not want to vaccinate their children? In such cases, free exercise, parental rights, public health, and other issues present competing claims. Is the government's responsibility to protect public health compelling enough, legally, to nullify the free-exercise rights of children and parents opposed, for religious (or even secular) reasons, to some or all vaccinations? What role should the rights of parents, and the bodily autonomy of their children, play into the debate? And what happens when parents have religious objections to vaccinations?

What has complicated the matter in recent years has been the controversy of potential side effects of vaccinations. No question, vaccination does entail risks. (Of course, every medical procedure, even the most "benign," entails risks as well.) There is always some chance that a child will have an adverse reaction, one that can be crippling or fatal. In fact, the U.S. Congress and Supreme Court have declared government-licensed and mandated vaccines as "unavoidably unsafe." Also,

about \$3 billion in federal vaccine injury compensation has been awarded to children and adults under the National Childhood Vaccine Injury Act of 1986, which had been signed into law by Ronald Reagan in order to protect vaccine makers because of vaccine injury claims.

Despite the medical/scientific controversy, the law is pretty settled in America. In *Jacobson v. Massachusetts* (1905) the High Court ruled against a Swedish immigrant named Henning Jacobson who claimed it was “an invasion of his liberty” to be forced to have a needle thrust into his arm and having cowpox injected into his body. In a 7-2 ruling, the Court ruled that the government has an overriding interest in enforcing compulsory vaccination laws, even though in some cases medical exemptions could be allowed (it didn’t allow Jacobson!). Though people could not be physically forced, the Court said, they could be fined or even jailed for refusal. The Supreme Court reaffirmed its *Jacobson* decision in *Zucht v. King* (1922), which ruled that a public school system could refuse to admit a student who had not gotten the required vaccinations.

What about, however, a religious exemption, those who for religious reasons want to opt out of vaccinations for their children? When that happens, most of the states apply three standards when evaluating claims for religious exemptions. First, the parents must be members of a recognized religious organization that is opposed to vaccination. Second, the parents must demonstrate a sincere religious belief that opposes one or all vaccinations. Third, the parents must sign a statement confirming their religious opposition to vaccination and, therefore, request an exemption.

Because all 50 states have some kind of immunization requirements for entrance into public schools, problems arise when some parents don’t want to immunize their kids, including for religious reasons. Forty-eight states have religious exemptions to their vaccination requirements (only, interestingly enough, Mississippi and West Virginia don’t), challenges have been raised against these exemptions, and sometimes successfully, too. In other words, despite the exemptions written into law, they are not guaranteed. As with many religious freedom issues, there are pros and cons to the offers of religious exemptions for vaccinations.

The Pros and Cons

In some instances those seeking exemptions on religious grounds, arguing of course from

the free exercise clause and claiming that to force vaccinations when they go against sincerely held religious convictions is to egregiously violate the most basic religious freedom rights. As far back as 1972, in the *Yoder* decision, the Court allowed exemptions for Amish kids not to attend school past a certain grade, contrary to state law. Advocates for religious exemptions claim the same principle here as well.

Meanwhile, though acknowledging what the Court did in *Jacobson*, advocates for exemptions argue that it’s not fair to impose now, in a different environment, a ruling needed for a specific threat. “In that era,” wrote Shaun McFall at the First Amendment Center, “smallpox infection rates were staggering, and the danger the disease posed to the public health was clear and impossible to ignore. Recognizing the severity of the danger, the Court found that a state had the right, under its police power, to require vaccination against smallpox. Many pro-exemption advocates find it problematic that those opposed to religious exemptions rely on a precedent established 100 years ago, and point to the fact that there does not exist today a disease prevented by vaccination that poses a threat to the public health that is comparable to that posed by smallpox.”

Those opposed argue mostly on the grounds of a “compelling state interest,” the idea that, considering the potential dangers of not vaccinating children who want to attend public school, the state should not grant these exemptions, either for religious or secular reasons. The use of vaccinations have, they argued, and justly too (it seems), done an incredible job in eradicating many diseases, and not to do it would create an unnecessary health risk for the population at large, but especially for children. Some cite a 1991 measles outbreak among a small religious community in Pennsylvania who requested, and were granted, exemptions from vaccinations. As a result, six children died from the disease. Again, the idea is that in order for immunization to have the best effect, the idea of “herd immunity,” the more vaccinated the safer everyone is, should take precedence over free exercise.

Also, the argument goes that while adults have the right to make risky medical choices for themselves, they don’t have the right to make those choices for their children—an often sticky and emotionally fraught religious liberty issue. Decades ago, however, the Supreme Court ruled (*Pierce v. Society of Sisters*, 1944): “Parents

This nation must find a way
to balance the wonderful
First Amendment promise of
“the free exercise of religion”
with the state’s interest in
the protecting the well-
being of all its citizens.



Immunization

The Seventh-day Adventist Church places strong emphasis on health and well-being. The Adventist health emphasis is based on biblical revelation, the inspired writing of E.G. White (co-founder of the Church), and on peer-reviewed scientific literature. As such, we encourage responsible immunization/vaccination,

and have no religious or faith-based reason not to encourage our adherents to responsibly participate in protective and preventive immunization programs. We value the health and safety of the population, which includes the maintenance of “herd immunity.”

We are not the conscience of the individual church member, and recognize individual choices. These are exercised by the individual. The choice not to be immunized is not and should not be seen as the dogma nor the doctrine of the Seventh-day Adventist Church.

—A statement on immunization on Adventist.org, the official website of the Seventh-day Adventist World Church.

may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves.” Those opposed to exemptions claim that the principle applies here as well.

What to Do?

In early 2015 the U.S. Court of Appeals for the Second Circuit rejected a constitutional challenge to a New York law that required vaccinations for all kids attending public schools. The case involved two parents, both Catholics, who had obtained exemptions. However, New York also had a separate regulation that stated that in the event of an outbreak, kids who had not been vaccinated must be excluded from school. And when a kid in the school got chicken pox, the ones not immunized were not allowed to attend.

The parents sued, losing in federal court before taking it to the Second Circuit, which also ruled against them, citing, among other things, *Jacobson*. The school was, ruled the court, well within its “police power” to mandate vaccinations for schoolchildren. Immunizations are, it said, “in the interest of the population as a whole,” and thus this interest trumps

the parents’ rights, even their religious ones. The court brushed aside their claim that “a growing body of scientific evidence demonstrates that vaccines cause more harm to society than good,” stating that it’s a legislative prerogative, not that of parents or the court, to make a determination on the scientific evidence regarding the potential health hazards of vaccinations. The plaintiffs appealed to the U.S. Supreme Court, which turned down their appeal, thus upholding the circuit court ruling that the exclusion of the children during the outbreak did not violate their religious freedom.

The controversy, obviously, remains, and doesn’t show much promise of going away anytime soon. Somehow, between the courts and the legislative branches, this nation must find a way to balance the wonderful First Amendment promise of “the free exercise of religion” with the state’s interest in the protecting the well-being of all its citizens. The COVID-19 pandemic has killed hundreds of thousands in the United States and brought back memories of the Spanish flu of 1918. So much depends on an effective vaccine against it. We cannot afford to reject any vaccine outright, as such a “flat earth,” unscientific response will only extend the dying. But we owe it to ourselves and the

larger society to somehow respect deeply held religious and moral inhibitions and to recognize that uncritical application in the past has led to some rather unsavory results.

Clifford Goldstein writes from Ooltewah, Tennessee.



A Uyghur mosque
in Khotan

COLEGOTA

Oppression and Genocide in China

A Canadian perspective

The outrage over Chinese action to reduce the freedoms of people in Hong Kong has overshadowed the genocide against the Uyghurs, who live in the Xinjiang territory, which inhabitants are apt to call East Turkestan. The causes of the repression may be traced back to incidents in 2009, such as riots in the capital, Ürümqi.

Rioting broke out during protests against the actions of the Chinese government in its promotion of in-migration of ethnic Chinese into the region, and its providing economic incentives to them that are unavailable to Uyghurs. There have been other acts of violence as well from time to time, and Uyghur guerrilla groups have staged some attacks.

While the effort at demographic alteration at the expense of the Uyghurs was not adequate to accomplish the aim of Uyghur assimilation, and has in fact caused pushback, China's solution has been to intensify repression; hence the establishment of concentration camps. The government claims that the camps are educational facilities aimed at development of vocational skills and knowledge of Mandarin. However, Omerbek Ali, a former inmate, told a Canadian parliamentary subcommittee that many inmates are professionals and businesspeople; who are already well educated and not in need of vocational training. In his case he is also fluent in Mandarin and has worked as a translator.

It is widely estimated that there are at least 1

BY RUELL
S. AMDUR

million Uyghurs, out of a population of 11 million, in the camps. University of Quebec at Montreal history professor Olga Alexeeva says that internment began in 2017. How does the Chinese government decide whom to incarcerate? The population is overwhelmingly Muslim, and identification with Islam seems to be a key factor. Growing beards, wearing a veil, attending prayers at the mosque, and referring to the Qur'an in letters are all factors. Of course, expression of "subversive" opinions will likely result in arrest, but simply acting as an observant and believing Muslim appears to be enough. China speaks of the problem of religious "extremists." Outside the camps a massive surveillance system pervades life in Xinjiang.

Conditions in the camps are harsh. Education, vocational or otherwise, is nonexistent. Inmates are made to sing songs of praise to the Communist government. Physical abuse and torture are used. Another former inmate, Gulbahar Jelilova, told the same subcommittee that she was sexually abused by one of the camp operatives. As well, they demanded that she sign confessions, which she did not understand because they were in Chinese. One possible reason for her arrest is that she wears a hijab. In the camps women are forced to have birth control devices inserted. Children are taken from their parents.

Critics have often charged that some people who are arrested are executed in order to have their organs harvested. The charge is made with regard to Uyghurs and also to imprisoned followers of Falun Gong. In his testimony before the subcommittee, Ali recounted his experience in a camp. Some people were taken out and never returned. He himself underwent an examination of his liver, kidneys, and irises (for corneas). Reporter Ethan Gutmann did extensive interview research in China and came up with evidence that such harvesting has taken place in Xinjian. Fortunately, Ali eventually got out with these organs all still intact.

China is motivated in its repression by its aims at economic development; finding Uyghur sentiments as destabilizing. Xinjiang is rich in coal and natural gas and is part of the Silk Road development. University of Ottawa Errol Mendes advises putting pressure on private economic activity. He notes that France has a law requiring that companies attest that their merchandise is not produced in whole or part by forced labor. In China some products come out of concentration camps and others are produced by Uyghurs forced to move elsewhere in the country. Mendes noted that the French law imposes penalties on companies that are found to be implicated in use of forced

labor. Thus, companies have an impetus to ensure that their goods are produced by free labor.

Mendes also calls for use of the Magnitsky Act on Chinese officials involved in human rights violations. The United States has used this law against some Chinese officials, and the list could be expanded. However, he would like to see a coordinated effort by a number of countries, listing the same offenders. Canada has such a law and such a list, but as of yet there are no Chinese on the Canadian list. The Magnitsky Act freezes property of the person in the country acting and refuses that person any entry visa. Even if the person does not have any property there, the listing is a way of shaming, especially if the action is taking jointly by a number of countries.

Besides the Uyghurs, Falun Gong practitioners are also targeted by the Chinese government. Falun Gong is a movement in which participants engage in meditation, various exercises, and regulated breathing. The movement embodies a moral philosophy largely of Buddhist character, with Taoist elements.

When Falun Gong began in 1992, it was in China's good books, seen as promoting health and Chinese culture and improving morality. However, in 1995 founder Li Hongzhi refused to formalize ties to the Communist Party. That was the end of the romance. The Chinese government is uneasy with any movement of which it is not in control. In 1999 thousands of Falun Gong leaders were arrested, and the movement was outlawed.

Falun Gong may or may not be a religion, depending on how one looks at it. It has no clergy, no religious holidays, and does not meet in religious facilities to celebrate faith, but it does have a moral philosophy based largely on Buddhism. In 2001 Falun Gong was given the International Freedom Award by Freedom House, an American nongovernmental organization dedicated to advocacy and research on freedom and human rights.

To an outsider, the Chinese government repression makes no sense. It has turned a quiet exercise movement into a bitter opponent on an international level. At present, the movement produces the *Epoch Times* newspaper outside China, a publication with a right-wing orientation. The movement also has radio and television outlets in the West. China's repression of the movement has involved a massive campaign of coercion involving physical punishment and torture, sexual abuse, firing from employment, and expulsion from school. Former Canadian member of Parliament and lawyer David Matas conducted research resulting in the conclusion that organ harvesting has also taken place with



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Falun Gong victims. As in Ali's case, Falun Gong prisoners were examined to determine if their organs would be suitable for transplant. The principle is clear: If you are not fully within the system, you are the enemy.

Canada has citizens who are imprisoned in China: some for criminal activities and others for ideological and political reasons. Two criminals have been convicted of drug offenses and are currently under death sentence. "Currently" might be an appropriate qualifier, because this sentence was imposed following conflict between China and Canada over the case of Meng Wanzhu.

Meng, chief financial officer of Huawei, a major Chinese corporation which is an international competitor for 5G Internet placements, had been charged by the United States with fraud and trade with Iran in violation of the American embargo. Her plane stopped in Vancouver, where she was to take a connecting flight to Mexico. Meng was then arrested by Canadian border agents because of an American request for her extradition.

Meng is currently under a very mild form of house arrest in Vancouver, fighting what is likely to be a long court battle to avoid being extradited to the United States. She is well connected in China, and that country has reacted vigorously, in both economic and juridical ways. China is a major market for Canadian agricultural products, especially canola, wheat, and pork. Canola shipments have been rejected as being contaminated, but the contamination is political rather than organic. There have also been problems with sales of pork and wheat.

On the juridical end, China has jailed three Canadians in retaliation. Michael Spavor is a businessman who has dealt extensively with North Korea. Michael Kovrig is a former Canadian diplomat who is currently with the International Crisis Group, which works to defuse international tensions. Speaking of irony! China has also jailed and tried Sun Qian, who was sentenced to eight years in prison for her affiliation with Falun Gong.

Huseyin Celil is the other Canadian. He fled China, where he was a defender of Uyghur human rights. In 2006 he and his family were visiting in-laws in Uzbekistan when that government responded to a request to arrest him and extradite him to China. He has been held in China ever

since. Celil is Canada's special Uyghur victim. China even refuses consular visits.

At this point, Canada's approach has been to call on other governments to put pressure on China to release the Canadians not convicted of drug offenses. Canada is also calling on China not to execute the offenders. The fact that Celil has been in custody for 14 years demonstrates might illustrate the mixed value of this approach. Sun is looking forward to eight years, and the two Michaels are facing two years shortly. It is likely that they will be imprisoned for as long as Meng's sentence might be if she ends up in U.S. custody and is found guilty there.

There is another approach possible. Canada could engage China in a cold war-type swap—Meng for Kovrig, Spavor, Sun, and Celil and reduction of the death sentences. It is very likely that China would agree to such a deal because of Meng's importance to the powers that be in China. Moral suasion does not seem to work with the men in charge in Beijing.

It might be objected that Canada has duties to the United States that prevent Canada from flouting the American demand. However, as John Bolton reported in his recent tell-all book about the Donald Trump administration, *The Room Where It Happened*, Trump directly offered Chinese president Xi Jinping to drop the case against Meng in exchange for trade concessions. Hence, the United States would have little legitimate argument against such a prisoner exchange between Canada and China.

Under Conservative prime minister Brian Mulroney, Canada took a leadership role in the international struggle against apartheid. Once such a swap settles the situation with the Canadian captives in China, Canada should then take an international leadership role in the struggle against the genocide against the Uyghurs and the discrimination and brutalization of Falun Dong. As Professor Mendes proposed, such a course is most effective when in coordination with other countries.

In the meantime, there are other tools that Canada can take on the economic front, such as a complaint to the World Trade Organization over the canola matter. A WTO ruling against China would give Canada the occasion to impose punitive tariffs.

Reuel S. Amdur writes from Val-des-Monts, Quebec, Canada.

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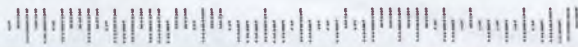
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The Darkness

“For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places.”

—Paul’s letter to the church in Ephesus, chapter 6, verse 12, KJV.

