THE BIG LIE: SEPARATION OF CHURCH AND STATE

At the time of this writing, a high school principal and athletic director have been exonerated from criminal contempt charges for offering a public prayer over a meal at an athletic banquet.[1] Yet, how could such a seemingly harmless activity ever rise to the level of a potential crime in the United States of America? The answer: a distorted reading of the Constitution that supposedly erects a high and impregnable wall between church and state. It is because of this lie, which was first introduced into the fabric of our culture through errant Supreme Court decisions of the early 1960's, that city councils are sued for placing manger scenes on the steps of city hall, public schools are prohibited from teaching scientific creationism alongside evolution, copies of the Ten Commandments are stricken from government walls, teacher-led prayer and Bible reading is prohibited in public schools, and Christianity has generally been purged from public life.

It is true that church and state should be separate in the sense that both institutions are different and fulfill unique roles. The church should not take on governmental tasks such as taxing citizens and prosecuting criminals any more than the state should take on the responsibility of fulfilling the Great Commission. However, this is not the way the modern day separation between church and state doctrine is applied. Today, this doctrine means that the Christian worldview can have no influence over how the state should function. This doctrine has been misapplied so as to eliminate virtually all forms of Christian expression in public and governmental life.

When did all of this insanity begin? We can trace the origin of the modern understanding and application of separation between church and state to the following

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[1] Bob Allen, "Florida Principal, Athletic Director Not Guilty of Contempt of Court," online: www.abpnews.com, accessed 10 October 2009, 1.

two Supreme Court decisions of the early 1960's: *Engle v. Vitale*[2] and *School District of Abington Township v. Schempp*.[3] At issue in *Engle* was the practice of the New York public schools in having their students recite a non-compulsory, voluntary,[4] short, 22 word, innocuous, non-denominational prayer requiring less than ten seconds of reading time that merely acknowledged dependence upon God. The words of the prayer read as follows: "Almighty God, we acknowledge our dependence upon Thee, and we beg thy blessings upon us, our parents, our teachers, and our Country."[5] The court's decision in this case represented the first time in American history that the Supreme Court used the separation of church and state doctrine to illegalize the long-standing American tradition of opening the public school day with the voluntary recitation of a prayer. Similarly, the issue in *Schempp* involved Bible reading in the public schools. This practice was also voluntary, involved one of the students reading an excerpt from the Bible, the student selected a version of his own choice, and no instruction or comment was given beyond the simple reading of the text.[6] Once again, the Supreme Court used the separation of church and state doctrine to strike down this long-standing American tradition.

Yet, an honest appraisal of these decisions shows them to be out of harmony with the vision of the Constitution's authors. The founders would have been horrified at the prospect of removing the influence of Christianity from the functioning of public schools and government. The purpose of this chapter is to show how out-of-step these

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[2] *Engle v. Vitale*, 370 U.S. 421 (1962).

[3] *School District of Abington Township v. Schempp*, 374 U.S. 203 (1963).

[4] Students were allowed to opt out of the prayer in cases of parental objection. *Engle v. Vitale*, 370 U.S. 421, 423 (1962).

[5] Ibid., 422.

[6] *School District of Abington Township v. Schempp*, 374 U.S. 203 (1963), 207, 211, n. 4.

decisions are with the express wishes of America's founding fathers.[7] This purpose will be accomplished through a consideration of the following nine facts.

NO MENTION OF THE SEPARATION OF CHURCH AND STATE

First, the words "separation between church and state" never appear in the actual wording of the First Amendment. The *Engle* and *Schempp* courts based their rulings on the "wall of separation between church and state" from the First Amendment's prohibition of a state establishment of religion. However, it is odd for the court to base its ruling on this "wall of separation of church and state" language considering the fact that none of these words appear in the actual language of the text of the First Amendment. The religion clauses of the First Amendment simply say, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise there of." Although one often hears the phrase "a strict wall of separation between church and state," the words "strict," "wall," "separation," "church," and "state" nowhere actually appear in the First Amendment's wording.

While this notion of a strict wall of separation between church and state is alien to the First Amendment, and all of America's founding documents for that matter, the idea can be found in the constitutions of other countries, such as the former Soviet Union. Article 124 of the Soviet Union Constitution says, "In order to ensure to citizens freedom of conscience, the church in the USSR is separated from the state, and the school

[7] For a broader discussion, the following sources are recommended. David Barton, *Myth of Separation* (Aledo, TX: Wallbuilder Press, 1992); idem, *Original Intent* (Aledo, TX: Wall Builder Press, 1996).

from the church."[8] Interestingly, in 1958, one jurist commented on this conspicuous absence when he noted:

> Much has been written in recent years concerning Thomas Jefferson's reference in 1802 to "a wall of separation between church and State." It… has received so much attention that one would almost think at times that it is to be found somewhere in our Constitution.[9]

If the "separation between church and state" language does not appear in the First Amendment, from where does it originate? Interestingly, this phrase actually comes from a letter that Thomas Jefferson wrote to the Danbury Baptist Association in 1802 rather than from the First Amendment itself. In other words, the oft used "separation between church and state" phrase is not found in the First Amendment and did not originate until Jefferson's letter, which was written over a decade after the Constitution was completed. It is strange to connect Jefferson's words in this letter to the First Amendment considering the fact that Jefferson was out of the country serving as America's ambassador to France at the time that the Constitution was debated, ratified, and adopted.[10] In fact, in 1802, Jefferson corrected Dr. Joseph Priestly who had given Jefferson too much credit in the Constitution's formation:

> One passage, in the paper you enclosed me, must be corrected. It is the following, "and all say it was yourself more than any other individual, that planned and

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[8] Amos J. Peaslee, *Constitutions of Nations*, rev. and 3d ed., 4 vols. (The Hague, Netherlands: Martinus Nijhoff, 1968), 3:1005; Leroy Brownlow, *Bible vs. Communism* (Fort Worth, TX: Brownlow, 1961), 77.

[9] *Baer v. Kolmorgen*, 14 Misc. 2d 1015, 1019 (1958).

[10] *Reynolds v. United States*, 98 U.S. 145, 163 (1878). See also Tim LaHaye, *Faith of Our Founding Fathers* (Brentwood, TN: Wolgemuth & Hyatt, 1987), 191-92; John Eidesmoe, *Christianity and the Constitution: The Faith of Our Founding Fathers* (Grand Rapids, MI: Baker, 1987), 243; Stephen Mansfield, *Ten Tortured Words: How the Founding Fathers Tried to Protect Religion in America...And What Has Happened Since* (Nashville, TN: Nelson, 2007), 33, 65.

> established it," *i.e.*, the Constitution. I was in Europe when the Constitution was planned, and never saw it till after it was established.[11]

Rather than cite those founding fathers who were actually present at the Constitutional Convention or who framed the First Amendment, in order to find "separation between church and state" language, the court relied upon the writings of someone who was not there and who used the expression over a decade after the Constitution had been adopted. The first official governmental pronouncement associating this Jeffersonian separation of church and state language with the establishment clause of the First Amendment was not made until the *Everson v. Board of Education* case in 1947.[12]

A ONE-WAY WALL

Second, the *Engle* and *Schempp* courts assumed that Jefferson's "wall of separation of church and state" was intended to prohibit the practice of Christian principles in government. However, this historical analysis is suspect for several reasons. For example, Jefferson was not opposed to religious practices in the public square. As President, Jefferson supported and signed into law a treaty with the Kaskaskia Indians that provided a stipend from the national treasury to support a missionary to minister to the Kaskaskia Indians.[13] According to historian Stephen Mansfield, "It was Jefferson,

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[11] Thomas Jefferson, *The Writings of Thomas Jefferson*, 20 vols., ed. Albert Ellery Bergh (Washington D.C: Thomas Jefferson Memorial Association, 1904), 10:325, to Dr. Joseph Priestly on June 19, 1802.

[12] *Everson v. Board of Education*, 330 U.S. 1 (1947). Only one other time in American judicial history prior to *Everson* had the Supreme Court ever cited Jefferson's 1802 letter in full. Here, the court did not connect the Jeffersonian "wall of separation of church and state" to the First Amendment's establishment clause prohibiting a government establishment of religion. Rather it used the phrase *only* in connection with government regulation of the free exercise of religion. In other words, because of the separation of church and state concept found in the free exercise clause of the First Amendment, "Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order." *See Reynolds v. United States*, 98 U.S. 145, 164 (1878).

[13] Robert L. Cord, *Separation of Church and State: Historical Fact and Current Fiction* (Grand Rapids: Baker, 1988), 38-39.

after all, who approved funds for evangelizing Native Americans. It was Jefferson who attended church on federal property for most of his administration, approved still other churches on federal property, and even ordered the marine band to play in his church."[14]

It becomes obvious that Jefferson never intended for God to be banned from the institution of government simply by reading the Declaration of Independence that he authored just a few years earlier in 1776. This founding document contains the following religious phrases: "the Laws of Nature and of Nature's God," "we hold these truths to be self evident, that all men are created equal," "they are endowed by their Creator with certain unalienable Rights," "appealing to the Supreme Judge of the world for the rectitude of our intentions," and "with firm reliance on the protection of Divine Providence."[15] Interestingly, some have noted the overt way this charter expresses dependence upon God and have thus referred to it as the Declaration of Dependence rather than the Declaration of Independence. Did Jefferson suddenly believe that the 1776 Declaration of Independence itself had become unconstitutional by the time he spoke of a wall of separation between church and state in 1802?

Furthermore, the 1802 letter that the court cited to prove that Jefferson advocated "a wall of separation between church and state" is taken out of context. In writing to the Danbury Baptists, Jefferson used this expression to assure them that the federal government would not interfere with their private free exercise of religion. The letter had nothing to do with government sponsored religious activity. In other words, Jefferson used the phrase "wall of separation of church and state" as a one-way wall. The wall prevented the government from interfering with Christianity rather than preventing

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[14] Mansfield, *Ten Tortured Words: How the Founding Fathers Tried to Protect Religion in America...And What Has Happened Since*, 65.

[15] While Jefferson authored most of these phrases, Adams inserted the final two later on with the approval of Congress. Peter Marshall and David Manuel, *The Light and the Glory* (Old Tappan, NJ: Revell, 1977), 307.

Christianity from influencing government.[16] Here is what Jefferson's letter to the Danbury Baptists says:

> Believing with you that religion is a matter which lies solely between a man and his God; that he owes account to none other for his faith or his worship; and that the legislative powers of government reach actions only and not opinions, I contemplate with solemn reverence the act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion or prohibiting the free exercise thereof," *thus building a wall of separation between Church and State* (italics added).[17]

ACTIVITIES OF THE FIRST CONGRESS

Third, regarding the issue of religious practices in public schools, the *Engle* and *Schempp* courts confidently asserted that the framers would have been opposed to such a practice. However, the court conveniently ignored the legislative activities of the first congress, which was comprised of those who wrote and adopted the Constitution and the Bill of Rights. An obvious way to determine the meaning of a document is to observe the prior and subsequent legislative history of those who authored the document. The first congress, made up largely of the framers of the Constitution and the Bill of Rights including the First Amendment, also passed the Northwest Ordinance, which was signed into law by President Washington in 1789. Article III of the Northwest Ordinance says, “Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.”[18]

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[16] LaHaye, *Faith of Our Founding Fathers*, 61-62; Eidesmoe, *Christianity and the Constitution: The Faith of Our Founding Fathers*, 243-44; Alvin J. Schmidt, *Under the Influence: How Christianity Transformed Civilization* (Grand Rapids: Zondervan, 2001), 267; Cord, *Separation of Church and State*, 45.

[17] Jefferson, *The Writings of Thomas Jefferson*, 16:281-82, in a letter from Jefferson to the Danbury Baptist Association on January 1, 1802.

[18] Henry S. Commager, ed., *Documents of American History*, 8th ed. (NY: Appleton-Century-Crofts, 1968), 131.

Apparently, the framers of the First Amendment believed that schools and educational institutions were the proper place to encourage religion and morality.

Based upon the legislative activities of those who framed the First Amendment, it would seem that they understood the prohibition against the establishment of a religion as forbidding only government-sponsored denominationalism. The framers would have been perfectly comfortable with governmental sponsoring of the general principles of Christianity that were applicable to all Christian denominations. To argue that the First Amendment's prohibition against an establishment of religion removes all vestiges of Christianity from public life leads to the ridiculous conclusion that the first congress violated the very Constitution and First Amendment that they themselves authored and adopted. Similarly, the question needs to be asked, "If Christianity in the public schools is blatantly unconstitutional according to the intent of the founding fathers, why did it take the judiciary nearly two hundred years to figure this out and apply the Constitution properly so as to eradicate public school sponsored prayer and Bible reading?"

Based upon the Supreme Court decisions dealing with prayer and Bible reading in school, the court has subsequently developed a three-part test for determining if religious expression in government is permissible. The activity must have a secular purpose, must not advance nor inhibit religion, and must not excessively entangle government with religion.[19] This is the test that has been consistently used to push much of Christianity out of the public schools and government on the grounds that such activity does not pass constitutional muster. Yet this test is out of harmony with the views of the founders who favored the general, non-sectarian principles of Christianity in government as long as one Christian denomination was not favored over another.

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[19] *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

Thus, legal scholar John Eidsmoe suggests another test that the courts should instead use that is far more harmonious with the beliefs of the founders when determining if religion in government violates the First Amendment. According to Eidsmoe, Christian activity in government is impermissible if it compels attendance at religious services or activities, prefers a particular "church or denomination above others," and penalizes those who do not support a specific government involvement with religion such as by "depriving them of the right to vote or hold office."[20] The bottom line to this whole discussion is that the legal test that is used today to completely separate God from government is inconsistent with the beliefs of the founding fathers whose legislative record demonstrates that they contemplated no such separation.

THE FIRST AMENDMENT'S INAPPLICABILITY TO STATE GOVERNMENT

Fourth, the *Engle* and *Schempp* courts applied the First Amendment's prohibition of a government-established religion to religious activity taking place at the state level. Such an application contradicts the express wording of the religion clauses of the First Amendment, which say, "*Congress* shall make no law respecting an establishment of religion, or prohibiting the free exercise there of" (italics added). The First Amendment places the prohibition of establishing a religion on Congress rather than upon the state governments. The American political system has at least two levels of government: federal government and then the many state governments. This unique governmental structure creates multiple layers of government (national, state, and local) operating over the same geographical expanse. Mansfield explains the rationale behind such a deliberately inefficient system. "When the founding generation of Americans turned to the business of creating a country, they had just fought a war against a

[20] John Eidesmoe, *The Christian Legal Advisor* (Milford, MI: Mott, 1984), 147.

centralized and controlling government. They had no intention of creating an American version of the same evil."[21]

Based upon the specific language of the First Amendment ("*Congress* shall make no law respecting an establishment of religion, or prohibiting the free exercise there of") the founders only intended the First Amendment to apply to the federal government rather than the many states and localities. In fact, Chief Justice John Marshall, America's third Supreme Court Chief Justice, spoke for a unified court on this matter in 1833. He noted, "The constitution was ordained and established by the people of the United States for themselves, for their own government, and not for the government of the individual states." Therefore, the Bill of Rights "…contain no expression indicating an intention to apply them to the state governments."[22]

However, it is worth noting that the *Engle* and *Schempp* courts were able to apply the First Amendment to the activities of state governments because fifteen years earlier the court in *Everson v. Board of Education* in 1947[23] had made the First Amendment applicable to the states through the due process clause of the Fourteenth Amendment. The Fourteenth Amendment was passed in 1868 to guarantee rights to recently emancipated slaves. The Fourteenth Amendment is binding upon state government. It reads:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the *State* wherein they reside. *No State* shall make or enforce any law which shall abridge the privileges or immunities of the United States; nor shall *any State* deprive any person of life,

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[21] Mansfield, *Ten Tortured Words: How the Founding Fathers Tried to Protect Religion in America...And What Has Happened Since*, 38.

[22] *Barron v. Baltimore*, 32 U.S. 243, 247, 250 (1833). For similar statements by early American jurisprudence showing that the Constitution, Bill of Rights, and the First Amendment applied only to the national government rather than to the state governments, see *Permoli v. Municipality No. 1 of the City of New Orleans*, 44 U.S. 589, 609 (1845).

[23] *Everson v. Board of Education*, 330 U.S. 1, 15 (1947).

> liberty, or property, without due process of law; nor to deny to any person *within its jurisdiction* the equal protection of the laws (italics added).

After this amendment was passed, over time the Supreme Court used it as the vehicle to gradually make the Bill of Rights, which were originally intended to be binding only upon the federal government, binding upon state government. Legal scholars call this legal maneuver the doctrine of incorporation.

Thus, the *Everson* decision was ground breaking in two respects. First, it associated the Jeffersonian wall of separation between church and state from his 1802 letter with the First Amendment's prohibition against an establishment of religion.[24] The court declared, "In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between church and State'.…The First Amendment has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach."[25] Second, it made the separation of church and state concept supposedly found in the First Amendment applicable to the individual state governments despite the fact that the actual wording of the First Amendment indicates that it applies only to Congress at the federal level. Thus, *Everson* laid the groundwork over a decade earlier. The *Engle* and *Schempp* courts simply took the precedent set in Everson and used it to remove Bible reading and prayer from state government public schools.

Why did the *Everson* court make such a radical move? Justice Hugo Black wrote the majority opinion in *Everson*. According to Mansfield, Black struggled early on as a Supreme Court justice after being appointed to the bench by Franklin Roosevelt in 1937. "His opinions sounded like Senate speeches and were unevenly reasoned. Justice

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[24] Earlier courts that cited Jefferson's 1802 letter in full did not connect this "wall of separation of church and state" to the First Amendment's establishment clause prohibiting a state establishment of religion but rather used it only in connection with the issue of how much government could regulate religion. *See Reynolds v. United States*, 98 U.S. 145, 164 (1878).

[25] *Everson v. Board of Education*, 330 U.S. 1, 16, 18 (1947).

Harlan Fiske Stone complained openly about Black to members of the press and even wrote Felix Frankfurter at Harvard Law School suggesting that he give Black some needed tutoring."[26] Another interesting feature of Black's background includes his former membership in the Ku Klux Klan,[27] which is a racist organization known for its hostility against blacks, Jews, and Catholics. *Everson* involved the Constitutionality of a New Jersey law that required school boards to reimburse parents for the transportation expenses that they incurred in sending their children to Catholic schools. Although the court ultimately upheld this arrangement, Black's Klan background and resulting hostility against the Catholic Church may explain the sweeping separation of church and state language that he chose to incorporate into his majority opinion.

HISTORICAL CONTEXT OF THE FOURTEENTH AMENDMENT

Fifth, the *Engle* and *Schempp* courts followed the precedent set by the *Everson* court in using the Fourteenth Amendment as the vehicle for making the First Amendment's religion clauses applicable to the states. However, the Fourteenth Amendment has nothing to do with religion. Historically speaking, the Fourteenth Amendment was passed in 1868 in the post-Civil War era in order to guarantee certain rights to the recently emancipated slaves.

Moreover, just seven years after the Fourteenth Amendment passed, a legislative attempt, known as the Blaine Amendment so named after Representative James Blaine of Maine, was made to allow the First Amendment to become binding upon the states through the vehicle of the Fourteenth Amendment. Yet the very Congress,

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[26] Mansfield, *Ten Tortured Words: How the Founding Fathers Tried to Protect Religion in America...And What Has Happened Since*, 59-60.

[27] Ibid., 55-60; William A. Donohue, *Secular Sabotage: How Liberals Are Destroying Religion and Culture in America* (NY: Faith Words, 2009), 119.

which was comprised of many of the same people who helped form the Fourteenth Amendment, voted down all attempts to link the First Amendment and the Fourteenth Amendment together in this manner.[28] Judge William Brevard Hand commented many years later that the Blaine Amendment's defeat was a "stark testimony to the fact that the adopters of the Fourteenth Amendment never intended to incorporate the establishment clause of the First Amendment against the states…"[29] Thus, for the *Engel* and *Schempp* courts to make the First Amendment applicable to the states through the vehicle of the Fourteenth Amendment not only ignores the Fourteenth Amendment's historical context, but it also contradicts the intent of those who drafted the Fourteenth amendment.

NO PRECEDENT CITED

Sixth, by banning voluntary prayer in public schools, the *Engel* court made the radical move of overturning a long-standing tradition in American educational history without citing a single precedent. Yet a court following established precedent from previous courts is one of the cornerstones of American jurisprudence. Legal scholars call this time honored principle *stare decisis*, which is a Latin expression meaning, "Let precedent stand." Interestingly, a year later, even the *Schempp* court called attention to the non-existence of any precedent cited in *Engel* when it noted, "Finally, in *Engel v. Vitale*, only last year, these principles were so universally recognized that the Court, *without the citation of a single case*…reaffirmed them" (italics added).[30]

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[28] *McCollum v. Board of Education*, 333 U.S. 203, 218-219, n.6 (1948).

[29] *Jaffree v. Board of School Commissioners*, 554 F. Supp. 1104, 1126 (1983).

[30] *School District of Abington Township v. Schempp*, 374 U.S. 203, 220-21 (1963). For further discussion on how the linking of the First and Fourteenth Amendments is inconsistent with the founder's intent, see Mansfield, *Ten Tortured Words: How the Founding Fathers Tried to Protect Religion in America...And What Has Happened Since*, 69-72.

Today when courts cite prior authority in order to remove some vestige of Christianity from public life, they typically fail to cite anything prior to the 1947 *Everson* case.[31] In other words, the *Everson* and *Engle* courts not only created new case law by failing to cite precedent, but they also became precedent themselves since they are now routinely cited when modern courts want to pursue a similar course of action in removing Christian expression from government. The same practice is followed in the abortion debate. In 1973, the *Roe* court created a constitutional right to procure an abortion out of nothing.[32] Today, courts look to *Roe* as settled law and precedent when protecting and furthering the right to have an abortion.

BIBLE READING CAUSES PSYCHOLOGICAL DAMAGE

Seventh, the *Engle* and *Schempp* courts reached the decisions that they reached regarding prayer and Bible reading in the schools because of their *a priori* belief that such activity is psychologically harmful. The fact that the court majorities perceived these practices as harmful is evidenced by the *Schempp* court's willingness to rely on expert testimony indicating that psychological damage could be inflicted on a child if portions of the New Testament were read without explanation. The court observed:

> But if portions of the New Testament were read without explanation, they could be, and in his specific experience with children Dr. Grayzel observed, had been, psychologically harmful to the child and had caused a divisive force within the social media of the school.[33]

Rather than considering additional testimony of how prayer and Bible reading might be emotionally beneficial, the court had already made up its mind that such practices were detrimental.

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[31] Barton, *Myth of Separation,* 163-66.

[32] *Roe v. Wade*, 410 U.S. 113 (1973).

[33] *School District of Abington Township v. Schempp*, 374 U.S. 203, 209 (1963).

A LEGISLATIVE RATHER THAN A JUDICIAL PHILOSOPHY

Eighth, the *Engel* and *Schempp* courts seemed to have followed more of a legislative philosophy rather than a judicial philosophy. It is interesting to observe that most of the jurists on these courts had political rather than judicial experience. Historian David Barton makes the following important observation:

> For example, Chief Justice Earl Warren had been the governor of California for ten years prior to his appointment to the court; Justice Hugo Black had been a U.S. Senator for ten years prior to his appointment; Justice Felix Frankfurter had been an assistant to the Secretary of Labor and a founding member of the ACLU; Justice Arthur Goldberg had been the Secretary of Labor and ambassador to the United Nations; Justice William Douglas was chairman of the Securities and Exchange Commission; all the justices except Potter Stewart had similar political backgrounds. Justice Potter Stewart, having been a federal judge for four years prior to his appointment, was the only member of the court with extended federal constitutional experience before his appointment. Interestingly Justice Potter Stewart was the only justice who objected to the removal of prayer on the basis of precedent. He alone acted as a judge: the rest acted as politicians.[34]

SELECTIVE ENFORCEMENT

Ninth, the court has been highly selective in terms of which religions are to be removed from government based upon the separation of church and state principle. Despite the court's willingness to violate the intent of the Constitution in removing Christianity from public school classrooms, the same court has shown reluctance toward applying the same standard to pagan religious practices. Because nature abhors a vacuum, pagan religious practices quickly filled the void created by the banished Judeo-Christian value system. Consequently, many public school children are still exposed to religious practices.

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[34] Barton, *Myth of Separation,* 148.

However, these practices are now in the form of New Age visualizing and channeling.[35] In fact, New Agers are quite open in their conviction that the public school classroom is an appropriate venue for proselytizing and evangelizing the next generation with the New Age worldview. Note the words of New Ager John Dunphy.

> I am convinced that the battle for humankind's future must be waged and won in the public school classroom by teachers who correctly perceive their role as the proselytizers of a new faith: a religion of humanity that recognizes and respects the spark of what theologians call divinity in every human being. These teachers must embody the same selfless dedication as the most rabid fundamentalist preachers, for they will be ministers of another sort, utilizing a classroom instead of a pulpit to convey humanist values in whatever subject they teach, regardless of the educational level—preschool day care or large state university. The classroom must and will become an arena of conflict between the old and the new—the rotting corpse of Christianity, together with all its adjacent evils and misery, and the new faith of humanism, resplendent in its promise of a world in which the never-realized Christian ideal of "love thy neighbor" will finally be achieved….humanism will emerge triumphant. It must if the family of humankind is to survive.[36]

Regarding such practices, the court suddenly turned a deaf ear to its cherished Separation of Church and State doctrine. While one religion was pushed out of government, another religion was allowed in. Thus, Separation of Church and State has been selectively used to drive Christianity out of the public square while simultaneously paving the way for tax subsidized New Age and occultic practices.

The courts have also refused to show the same zeal in policing Islam in the public schools in comparison to how they regulated Christian expression. According to one recent newspaper account:

> In the wake of Sept. 11, an increasing number of California public school students must attend an intensive three-week course on Islam, reports ASSIST NEWS SERVICE. The course mandates that seventh-graders learn the tenets of Islam,

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[35] John Ankerberg and Craig Branch, *Thieves of Innocence* (Eugene, OR: Harvest House, 1993), 35-50; Berit Kjos, *Under the Spell of Mother Earth* (Wheaton, Ill: Victor Books, 1992), 35-37.

[36] John J. Dunphy, "A Religion for the New Age," *The Humanist* 43, no. 1 (January/February 1983): 26.

> study the important figures of the faith, wear a robe, adopt a Muslim name and stage their own jihad…students must memorize many verses in the Koran, are taught to pray "in the name of Allah, the Compassionate, the Merciful" and are instructed to chant, "Praise to Allah, Lord of Creation." "We could never teach Christianity like this," one outraged parent told ANS… "We can't even mentioned the name of Jesus in public schools…but…they teach Islam as the true religion, and students are taught about Islam and how to pray to Allah. Could you imagine the barrage and problems we would have from the ACLU if Christianity were taught in the public schools, and if we tried to teach about the contributions of Matthew, Mark, Luke, John, and the Apostle Paul? But when it comes to furthering the Islamic religion in public schools, there is not one word from the ACLU, People for the American Way or any body else. This is hypocrisy."…"This is not just a class of examining culture…This course is entirely too specific. It is more about indoctrination."…The textbook used for the Islamic course, "Across The Centuries," is published by Houghton-Mifflin and has been adopted by the California school system. In it according to ANS, Islam is presented broadly in a completely positive manner, whereas the limited references to Christianity are "shown in a negative light, with the events such as the Inquisition, and the Salem witch hunts highlighted in bold, black type. ANS notes the portrayal of Islam leaves out word of "the wars, massacres, cruelties against Christians and other non-Muslims that Islam has consistently perpetrated over the centuries."[37]

One also notices a far more aggressive enforcement of the Separation of Church and State principle whenever conservative Christianity is the target as opposed to liberal Christianity. People are quick to cite the "Separation between Church and State" in order to limit the influence of a member of the "religious right," such as Pat Robertson or the late Jerry Falwell, while failing to apply the same standard when the religious figure in question happens to be a member of the "religious left," such as Al Sharpton, Jesse Jackson, Tony Campolo, Jim Wallis, Jeremiah Wright, or Louis Farrakhan. For example, when leftist religious leaders organized to voice their solidarity behind President Barack Obama's health care plan,[38] the usual voices opposing political activity involving

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[37] WorldNetDaily, "Brave New Schools: Islam Required in California District; Course has 7th-Graders Memorizing Koran Verses, Praying to Allah," online: http://www.wnd.com, accessed 12 October 2009, 1.

[38] Ed Stoddard, "U.S. Religious Left Wades into Health Care Fight," online: www.reuters.com, accessed 12 October 2009, 1.

conservative religious leaders on Separation of Church and State grounds, such as the ACLU or Americans United for Separation of Church and State or People for the American Way, were inconsistently silent.

In addition to New Age, Islam, and Christian leftism, the courts have refused to aggressively enforce the Separation of Church and State doctrine against humanism. Humanism is a belief system embraced by many societal leaders, including educator John Dewey, scientist and author Isaac Asimov, and R. Lester Mondale, who is the brother of former Vice-President Walter Mondale during the Carter Administration. The beliefs of humanists are expressed in the following three documents: Humanist Manifesto I (1933), Humanist Manifesto II (1973),[39] and Humanist Manifesto 2000.[40] Humanists embrace the following six core tenets: the non-existence or irrelevancy of God, man as the center of all things, the reality of evolution, man as an evolved animal rather than a special creature made in the image of His creator, the absence of any absolute morals or values, and confidence in the scientific method to solve the world's problems.[41] Many will recognize these beliefs since they are taught unabashedly in public schools today.

What is critical to understand is that humanism is just as much a religion as is Christianity.[42] For example, because humanism's tenets are unprovable, they must be accepted by faith. How can one prove the non-existence of values or of God? Because it is impossible for an atheist to investigate every part of the universe or to be in all places at the same time, perhaps God resides somewhere where the atheist has not visited. Thus, the notion of God's non-existence must be accepted by faith. Evolution must also be

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[39] Paul Kurtz, ed., *Humanist Manifestos I and II* (Amherst, NY: Prometheus, 1973).

[40] Paul Kurtz, ed., *Humanist Manifesto 2000: A Call for a New Planetary Humanism* (Ameherst, NY: Prometheus, 2000).

[41] Eidesmoe, *The Christian Legal Advisor*, 180-87.

[42] Ibid., 187-91.

accepted by faith. Since the evolutionary process allegedly transpires over millions or billions of years, evolution lies outside the powers of human observation. Because no one has actually observed evolution taking place, it also must be accepted as a matter of faith.

Humanism, like Christianity, also attempts to answer life's most important questions such as "who am I?" (answer: a biological accident), "where did I come from?" (answer: from the primordial soup), "why am I here?" (answer: to fulfill self), "where am I going?" (answer: toward a planetary new world order), and "how can I get there?" (answer: the scientific method). Of course, the Christian answers these questions differently: "who am I?" (answer: a special creation of God), "where did I come from?" (answer: from God's design), "why am I here?" (answer: to know and glorify God), "where am I going?" (answer: to heaven), and "how can I get there?" (answer: only through Jesus Christ). In other words, just as Scripture seeks to answer life's fundamental questions, so does the religion of humanism.

Moreover, humanism claims to represent the advancement of a religion.[43] Humanists even describe themselves as "religious humanists" and their worldview as "religious humanism."[44] Evangelical apologist Dr. Norman Geisler was called as an expert witness in a case sometimes referred to as "Scopes II" since it dealt with the constitutionality of a state statute mandating that creation science be taught alongside evolution in Arkansas public schools.[45] While on the stand, Geisler was asked if he believed that humanism is a religion. Here is how he answered according to the court transcript:

> First of all, this is the Humanist Manifestos I and II, which were published in 1933 and 1973 respectively, and this particular edition comes from Crometheist

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[43] Kurtz, ed., *Humanist Manifestos I and II*, 8, 10.

[44] Ibid., 8-9.

[45] *McLean v. Arkansas Board of Education*, 529 F. Supp. 1255 (1982).

> [Prometheus] Books, which publishes a lot of humanistic material. In the preface it says on the very first line of page 3, "Humanism is a philosophical religious and moral point of view as old as human civilization itself." Then without reading more of this part I counted some 28 times in the first manifesto the use of the word religion, most of which was a positive use describing a humanist point of view. Then if you note on page 4 in the last paragraph there about four lines down, it says, "They are not intended as new dogmas," referring to this manifesto, "for an age of confusion, but as the expression of a quest for values and goals that we can work for and that can help us to take a new direction. Humanists are committed to building a world that is significant, not only for the individual's quest for meaning but for the whole human kind." I think that's a good description of what I discovered a religion to be. They describe it as a religion. It is a commitment to something that is of transcendent value for them. Then I noted on the first page, page 7 really, Humanist I on the bottom, it speaks several times on that page, line 2, religion, line 5 religion, down through the page about six times, and the last line refers to abiding values. Then on the next page, page 8, the first full paragraph, at the end of that paragraph the third line from the end of the paragraph reads, "To establish such a religion is a major necessity of the present. It is the responsibility which rests upon this generation. We, therefore, affirm the following." And then they give their humanistic beliefs. So, the Humanistic Manifesto claims to be an expression of a religion called Humanism that has certain component parts that they describe.[46]

In addition, humanism's status as a religion is also evidenced by the American Humanist Society's possession of 501(c)3 tax-exempt status and its classification by the IRS as a church.[47] Even the Supreme Court has referred to humanism as a religion. In *Torcaso v. Watkins* the court noted, "Among the religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism, Taoism, Ethical Culture, Secular *Humanism* and others" (italics added).[48] In sum, humanism has all of the characteristics of a religion.[49]

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[46] Norman Geisler, *Creation & the Courts: Eighty Years of Conflict in the Classroom and the Courtroom* (Wheaton, Ill: Crossway, 2007), 155-56.

[47] David Noebel, J.F. Baldwin, and Kevin Bywater, *Clergy in the Classroom: The Religion of Secular Humanism*, 3d rev. ed. (Manitou Springs, CO: Summit, 2007), 159.

[48] *Torcaso v. Watkins*, 367 U.S. 488, 495, n. 11 (1961).

[49] For an in-depth demonstration of humanism's religious status, see Noebel, Baldwin, and Bywater, *Clergy in the Classroom: The Religion of Secular Humanism*.

Like New Agers, humanists are also transparent in their conviction that the public school classroom represents an appropriate pulpit for indoctrinating the next generation into the humanist faith. Humanist Charles Francis Potter divulged:

> Education is thus a most powerful ally of Humanism, and every public school is a school of Humanism. What can the theistic Sunday-schools, meeting for an hour once a week, and teaching only a fraction of the children, do to stem the tide of a five-day program of humanistic teaching?[50]

Because of religious humanism's dominance in public education, some have even referred to government schools as seminaries, which are busy training the next generation of humanist priests. Despite humanism's religious influence in public education, the Supreme Court has done little, if anything, to dis-establish this religious system from the taxpayer-funded classroom. Thus, it is incorrect to believe that the court threw religion out of the schools in the 1960's. In actuality, what the high court did in *Engle* and *Schempp* was to exchange religions. Christianity was banished and the religion of humanism took its place. Sadly, most people are unable to recognize this reality since humanism masquerades as religiously neutral. In actuality, today's public schools are just as religious as ever. The only difference is that the Christian religion no longer reigns supreme. Rather, religious humanism has become the state sponsored religion of the United States of America.

Thus, the preceding discussion involving the New Age, Islam, and Humanism in the public schools clearly communicates that "Separation Between Church and State" has nothing to do with removing religion from government schools. Rather, this phrase is employed in order to injure Christianity and simultaneously elevate non-Christian religions in public schools. A similar philosophy is at work behind other issues such as feminism. Because feminists sat by silently while former President Bill Clinton harassed, groped, and even raped multiple women, in order to remain intellectually honest, the

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[50] Charles Francis Potter, *Humanism: A New Religion* (NY: Simon and Schuster, 1930), 128.

objective observer had to conclude that modern feminism is not really concerned about protecting women. Rather feminism is used selectively to further liberalism by injuring conservative office holders, such as Clarence Thomas, and by promoting liberal office holders such as Ted Kennedy and Bill Clinton. The same can be said regarding the Separation Between Church and State. This phrase does not refer to the removal of religion from public life. Rather, the phrase is used today in order to mitigate the Christian religion while simultaneously promoting non-Christian religions in its place.

CONCLUSION

In conclusion, what this chapter has demonstrated is that the introduction and application of the "Separation Between Church and State" doctrine into the fabric of American culture is one of the greatest acts of fraud and deception ever to be perpetrated upon the American people. The doctrine is nothing more than a legal fiction brought into existence only by committing tremendous violence against the founders' original vision for the country. In its march to separate Christianity from government, the high court in *Engle* and *Schempp* read words into the First Amendment that simply are not there, relied upon and took out of context a letter written by Thomas Jefferson more than a decade after the Constitution was created, ignored the legislative activities of those who authored the First Amendment, applied the First Amendment to the states in spite of the fact that the First Amendment describes itself only as a limitation upon federal power, ignored the original intent of the Fourteenth Amendment, failed to cite a single precedent, erroneously believed that Christianity causes psychological damage, acted as the Constitution's amender rather than its interpreter, and selectively applied their newly created separation doctrine only to Judeo-Christian truth while giving alternative non-Christian religions a virtual free pass.

While this criticism may sound strong, it is not mine alone. None other than Supreme Court Chief Justice William Rehnquist leveled a similar harsh critique of the "Separation Between Church and State" concept in his dissenting opinion in *Wallace v. Jaffree*.[51] There, Rehnquist used the following phrases to depict this new doctrine: "the absence of a historical basis for this rigid theory of separation", "not wholly accurate", "can only be dimly perceived", "its lack of historical support", "all but useless as a guide to sound constitutional application", "it illustrates all too well Benjamin Cardozo's observation that 'metaphors in law are to be narrowly watched, for starting as devices to liberate thought, they end often in enslaving it'", "mischievous diversion of judges from the actual intentions of the drafters of the Bill of Rights", "no amount of repetition of historical errors in judicial opinions can make the errors true", "a metaphor based on bad history", "a metaphor which has proved useless as a guide to judging", and "it should be frankly and explicitly abandoned."

Most troubling is that the decision to remove America from its Judeo-Christian heritage did not come through a vote by the American people or even the people's elected representatives. Rather, it originated from the actions of the unelected, life tenured federal judiciary. Even then, the judiciary was able to render such a ruling only by twisting the Constitution and American history into a pretzel. Perhaps all of this would be easier to stomach if the electorate wanted to remove America from Christianity and re-anchor the nation upon humanism. Yet, the people have never formally consented to such a transition.

Equally troubling is the notion that those voices that are the loudest calling for the Separation Between Church and State are also the loudest for radically expanding the role of government into every area of daily life. Certainly the Obama Administration fits

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[51] *Wallace v. Jaffree*, 472 U.S. 38, 106-7 (1985).

this pattern since it has proposed unprecedented government spending.[52] If Christianity has no place in government and government must perpetually expand, then the formula is in place for a country with no Christianity at all. As the government grows, Christianity shrinks. Ann Coulter well summarizes the matter when she says, "First they claim there is no place for religion in the public square, and then they expand the public square to include everything."[53] All of this to say that if the historical error of Separation Between Church and State is not soon corrected, then American Christians may soon find themselves in a country whose national motto is "freedom *from* religion" rather than "freedom *of* religion."

[52] Byron York, "Obama's Trillions Dwarf Bush's Dangerous Spending," online: www.washingtonexaminer.com, accessed 13 October 2009, 1.

[53] Ann Coulter, "Foreword," in *Speechless: Silencing the Christians*, ed. Donald E. Wildmon (Minneapolis, MN: Vigilante, 2009), xiii.