PERSECUTION

How Liberals are Waging War

Against Christianity

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Contents

as the "separation of church and state," without understanding their true meaning, especially under the Constitution as originally written. So let's establish a few basic facts.

First, we must recognize that the framers believed that religious freedom was of paramount importance; it was a primary reason for emigration to America. Religious freedom was so important to them that they sought to guaranty it by the placement of two separate clauses in the very first amendment to the Constitution. The First Amendment begins with the two clauses back to back: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ." The first clause is known as "The Establishment Clause" and the second, the "Free Exercise Clause.

You'll note there is no language in either-or anywhere else in the Constitution-mandating a wall of separation between church and state. That phrase, as we'll see in Chapter One, comes from a letter of Thomas Jefferson, several years after the Constitution and Bill of Rights were well in place. Moreover, the phrase has been taken out of context, distorting what Jefferson meant. Nevertheless, those advocating a strict separation (often referred to in this book as "separationists"), point to the "Establishment Clause" as evidence the framers intended a strict separation.

But it's important to understand that both clauses, the establishment Clause and the Free Exercise Clause, were adopted by the framers for the explicit purpose of *promoting,* not suppressing religious freedom. That may be obvious with the Free Exercise Clause-its literal language says as much-but people tend to overlook it with the Establishment Clause. The purpose of the Establishment Clause was to prevent the *federal* government from establishing a particular denominational religion that would serve to inhibit our religious freedoms; it was not intended to keep Christianity out of the public square. Yet today the Establishment Clause is routinely used to suppress people's free exercise rights of religion in our schools and in public life.

Of course, one of the problems of applying original intent analysis to these issues is that the relationship between government and education today is radically different from how it was at the time of the nation's founding.

In the first place, the Establishment Clause only restricted the federal government, not the states. Its language makes that quite clear, "Congress shall make no law..." At the time of the ratification of the First Amendment, many states in fact had state-established religions. There is no better evidence-besides its plain language-that the Establishment Clause was never intended to prevent state governments from establishing their own religions. Again, the language of the clause is instructive. "Congress shall make no law *respecting* an establishment of religion." That clearly meant that the federal government was precluded from establishing a national religion, but also that the federal government was precluded from interfering with the right of individual states to do as they pleased *respecting* the establishment of their own religions. Later, of course, the Fourteenth Amendment was ratified and the Supreme Court, in a series of abhorrent decisions we will discuss later, ruled that the First Amendment Establishment Clause was applicable to the states through incorporation in the Due Process Clause of the Fourteenth

Amendment.

While there is no question that these decisions were gross examples of judicial activism and that the Fourteenth Amendment was never intended to constitute a federal restriction on the state's right to establish a religion, these precedents are now the law of the land. Worse, though, is that as government has grown, so too have its restrictions on the free exercise of religion.

The courts say that public schools, because they are partially funded by federal money (First Amendment) and because they are predominantly funded by state money (Fourteenth Amendment) cannot engage in activities that are deemed an endorsement of a religion. Just the slightest nod to a religion will be enough to trigger an Establishment Clause violation. As we'll see, many schools and courts take this to absurd extremes, and to get to these absurd extremes they have had to torture the original intent of the Constitution.

Indeed, we should remember that when the Constitution was written, Christian religious instruction was the primary purpose of education. To the extent that we can imagine public schools being endorsed by the founders, we can be certain that they would not have objected to religious instruction, but would have insisted on it. If the founders could have anticipated that our schools would become a government near-monopoly and that the Establishment Clause would be stretched beyond recognition to prohibit Christian instruction, I think it's safe to say they would have opposed public education altogether.

We all know the framers were among the wisest men in history. Ignoring their original intent for the First Amendment of the Constitution, as we shall see, has already had alarming consequences for our precious freedoms. And unless we do something about it, it's going to get worse, seriously worse.

The War in Our Public Schools

Discrimination against Christians and the suppression of Christian religious expression pervade our society, and its perpetrators are legion. This survey begins by examining our country's education system, for two reasons. First, modern misinterpretations of the First Amendment's Establishment Clause-"Congress shall make no law respecting an establishment of religion"-are often rooted in *Everson v. Board of Education*,[1] 1947 Supreme Court case dealing with public funds and education. Second, because education plays such an important role in shaping children's values and worldviews, it greatly influences the character and future of our society. Today's social engineers recognize this, which is why they have tried to convert our public school classrooms into laboratories for social transformation.

The anti-Christian tenor of these social engineers after World War II and especially since the 1960s represents a dramatic change in American history. Most Americans would probably be shocked to discover the dominant influence of Christianity in America's colonial culture and schools, where the Bible was routinely used as a textbook.

Before some of you panic, be assured that this book does not advocate a return to a Christian-oriented education in our public schools, though it does encourage educational freedom. The federal education bureaucracy should relax its chokehold on our education system, including its opposition to the school choice and home-schooling movements. But we must understand that when virtually every vestige of Christianity, including its associated values, is meticulously removed from public schools, something has to replace that void. And it has. While the education establishment vigorously opposes the dissemination in schools of any value or belief that can be remotely traced to the Bible, it affirmatively endorses other values that many Christians find repugnant. Public schools are replete with values-laden curricula, from sex education and sexual orientation instruction to notions of self-esteem and death education.

Ideally, the schools should strive for neutrality on matters of religion-at least in expressing a preference for one over the other. But, in reality, our children are often being inculcated with values and attitudes that conflict with or are hostile to Christianity.

There has been a systematic sweeping away of all things Christian from our public schools, combined with a sweeping in of secularism. Chapters One and Two chronicle the elimination of Christian ideas, symbols, activities, and expressions from our public schools. Chapters Three and Four document how educators are not remaining neutral, but are embracing secularism. Chapter Five discusses the anti-Christian and pro-secular biases in American universities.

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1 *Everson v. Board of Education*, 330 U.S. 1 (1947)

chapter one

Christianity Out, Part 1

CHRISTIAN EXPRESSION IS TREATED as profanity and worse in many public schools and certain federal courts across the nation. In May 1995, Samuel B. Kent, U.S. District judge for the Southern District of Texas, decreed that any student uttering the word "Jesus" would be arrested and incarcerated for six months. Lest you think this was some month-late April Fools' joke, the judge expressly avowed his earnestness in his official order. His ruling stated, in part:

> And make no mistake, the court is going to have a United States marshal in attendance at the graduation. If any student offends this court, that student will be summarily arrested and will face up to six months incarceration in the Galveston County Jail for contempt of court. Anyone who thinks I'm kidding about this order better think again . . . . Anyone who violates these orders, no kidding, is going to wish that he or she had died as a child when this court gets through with it.[2]

In fairness, Judge Kent also prohibited references to other deities. "The prayer," he said, "must not refer to a specific deity by name, whether it be Jesus, Buddha, Mohammad, the Great God Sheba or anyone else." But let's not fool ourselves. These kinds of cases almost always involve Christian expression, as this one did. In this case, the school district had allowed students to read overtly Christian prayers. So while the court's language was nominally directed toward prayers of all religions, in reality it was targeted solely at Christian prayer, because it was the only kind at issue.

Don't think the judge's threat of criminal liability was an isolated aberration. A few years ago, Connecticut law enforcement officials threatened to arrest a man for corrupting the morals of a minor if they could prove he passed out religious tracts to a student. Even without threats of prosecution, school officials often bear down forcefully on young Christians. For example, a Vermont kindergartner was forbidden to tell his classmates that God is not dead, because such talk "was not allowed at school." School administration officials at a Kentucky public school told a student he was not permitted to pray or even mention God at school. A teacher in an

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2 Josh McDowell and Bob Hostetler, *The New Tolerance, How a cultural movement threatens to destroy you, your faith, and your children* (Wheaton, Ill: Tyndale House Publishers, Inc., 1998), 53.

elementary school in Florida overheard two of her students talking about their faith in Jesus and rebuked them, not for talking in class, but for talking about Christ in class. In no uncertain terms, she ordered them not to discuss Jesus at school.

Teachers are also sometimes targets of their school's religious discrimination. A school in Edison, New Jersey, reportedly rebuked a substitute teacher for leaving religious literature in the faculty lounge because of its potentially offensive content. Yet the school had allowed other teachers to leave literature trashing the "religious right." A teacher in Los Angeles posted his objection to the school's celebration of Gay and Lesbian Pride Month on the school bulletin board. Other teachers were routinely permitted to post items on the bulletin board without incident, but this teacher's post was removed.

Another teacher was singled out in a Denver elementary school, where the principal removed his Bible from the library and also made him remove his personal Bible from his desk, where he kept it to read during silent time. School officials didn't want that book in the students' sight, so they prohibited the teacher from reading it and made him hide it during the school day even though he never read from it to his students. In Ohio, thanks to the National Education Association (NEA), teachers who requested that their mandatory union dues be paid to a charity rather than the union's politically liberal causes were annually subjected to an invasive questionnaire. "For years the NEA has issued this particular scheme to intimidate and harass teachers of faith who dare to challenge their radical agenda," said Stefan Gleason, vice president of the National Right to Work Legal Defense Foundation. But this case had a happy ending when the Equal Employment Opportunity Commission, in response to a religious discrimination suit, ordered the NEA to curtail this practice. The NEA and state teachers' unions use this scheme in other states. But when challenged, they usually meet the same fate. That's what happened recently in California. To avoid a religious discrimination action, California Teachers Association officials reluctantly consented to redirect an Arcadia elementary school teacher's monthly union dues to charity because the union's political and social causes were incompatible with her religious beliefs.

Unfortunately, these are not exceptional cases. They are part of a growing pattern involving anti-Christian discrimination in public schools that originated with relatively modern rulings of the United States Supreme Court. Before we examine the modern era, it will be helpful to familiarize ourselves with the history of education in America and how the nation's education framework developed from a private into a public system.[3]

Development of Public Education

During the first colonial settlements, American education was decentralized and mostly private-though there was a movement for compulsory education motivated, ironically, by the colonists' belief in the importance of Christian study. But as we'll see, around the middle of the nineteenth century, starting in New England, the nation began to establish publicly run and funded schools.

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[3] Matthew Brouillette, "The Case for Choice in Schooling: Restoring Parental Control of Education," The Mackinac Center for Public Policy, 1. Brouillette has two postgraduate degrees in education and history and served as the Director of Education Policy for the Mackinac Center for Public Policy between 1998 and 2002.

Today our government-controlled education system bears no resemblance to the decentralized scheme preceding it. While many people regard public schools as marking a great progressive leap forward for America, the record is much more dismal. Albert Shanker, a former president of the American Federation of Teachers, reflected on this change for the worse: "It's time to admit that public education operates a planned economy, a bureaucratic system in which everybody's role is spelled out in advance and there are few incentives for innovation and productivity. It's no surprise that our school system doesn't improve: It more resembles the communist economy than our own market economy."

In early colonial America, parents largely controlled their children's education, as there were no regulatory boards and no system for teacher certification. Colonial America had common schools that were partially financed through local taxes, but the majority of funding was private. During that time, religious organizations and philanthropists helped to establish free schools for the destitute. The first common schools in America were Christian. This was a completely natural development, because many early settlers came to America as religious congregations seeking to escape religious persecution and to establish their own churches, local governments, and schools. In fact, these early schools were established for the very purpose of Christian religious instruction. There is a simple reason for this. The settlers viewed illiteracy as a great evil because it denied people access to the Bible. Parents wanted to teach their children to read so they could read the Bible, which provided information essential to their daily lives and eternal salvation.

Character and Textbooks of the Early Schools

In all the early American schools, including colleges, teaching was restricted mostly to religious instruction. The schools assumed little responsibility for teaching subjects like science, secular literature, or art. The Bible, used for teaching both reading and religion, was the chief textbook in the lower grades, and homes or churches were the classrooms. Other textbooks were hornbooks, the *New England Primer,* and the *Bay Psalm Book*

A hornbook consisted of a sheet of parchment pasted to a flat piece of wood with a handle, laminated with animal horn. Hornbooks featured the alphabet and also referenced the Trinity and the text of the Lord's Prayer. In 1690, the *New England Primer,* an explicitly Christian book, became a central textbook for the Puritans, replacing the hornbook as the chief beginner's textbook. The *Primer* contained the names of all the books of the Bible, the Lord's Prayer, "An Alphabet of Lessons for Youth," the Apostles' Creed, the Ten Commandments, the Westminster Catechism, and "Spiritual Milk for American Babes, Drawn out of the Breasts of Both Testaments for their Soul's Nourishment," by the Reverend John Cotton.

The *Primer's* Christian emphasis can also be seen in its illustrated rhyming verses for each letter of the alphabet, beginning with "In Adam's fall We sinned all," and ending with "Zaccheus he Did Climb a tree His Lord to see." *The Primer* was a staple of school instruction for more than one hundred years, and was second only to the Bible in popularity, with five million copies reportedly in existence for a population of around four million people. It was commonly said that the primer "taught millions to read, and not one to sin." The *Bay Psalm Book* rendered the

Psalms in verse and was the New England colonists' hymnal. *Webster's Blue-Backed Speller,* which was based on "God's Word" and originally published in 1783, was used for about one hundred years. Reportedly, through the years more than one hundred million copies of the *Speller* were sold .

Not only were textbooks explicitly Christian, but ministers commonly doubled as schoolteachers. George Washington firmly believed in the indispensability of Christian training for good government. "True religion," he said, "affords government its surest support. The future of this nation depends on the Christian training of our youth. It is impossible to govern without the Bible." Noah Webster, renowned American educator and founder of the famous dictionary bearing his name, was equally convinced that Christianity and education were mutually dependent. "In my view," said Webster, "the Christian religion is the most important and one of the first things in which all children under a free government ought to be instructed.... No truth is more evident to my mind than that the Christian religion must be the basis of any government intended to secure the rights and privileges of a free people."

Fifty years after the Constitution was ratified, the Christian influence remained dominant in schools, as evidenced by the presence of the Christian-oriented *McGuffey's Readers,* compiled by minister and professor William Holmes McGuffey, in schoolhouses throughout the land. It is estimated that between eighty and ninety million of these books were sold over the course of their history and at one point more than half of all American schoolchildren used them.

Types of Education

Though education in early colonial America was emphatically religious, it varied in type in different areas of the country. The New England colonies, under the control of the Puritans, developed a compulsory educational system in the early 1600s. People of many different sects, none being dominant, inhabited the Middle Atlantic colonies of New York, Pennsylvania, New Jersey, and Delaware. Such pluralism made common schools undesirable, and parochial schools sprang up to accommodate the various denominations. The Southern colonies, being geographically and culturally distinct, used the English charity schools-grammar schools aimed at providing a very basic education for the poor in Britain-as their educational model.

New England Colonies

As Calvinists, the New England Puritans believed that education was a principal avenue through which children would become conversant with Scripture. They also considered it essential for society to achieve social and religious stability and to develop a particularly well-read clergy." In 1636, John Harvard, "a godly Gentleman and a lover of Learning, established Harvard College to "raise up a class of learned men for the Christian ministry" so that "the tongues and arts" might be taught and learning and piety maintained." It has been said that 123 of this nation's first 126 colleges were of Christian origin. In order to prepare children for college, town governments established Latin grammar schools. The clergy sometimes participated in the educational process by teaching certain children the classics, either by tutoring them or by taking them into their families as boarding pupils.

At first, education was entirely voluntary, but people soon became concerned that too many were neglecting the religious instruction necessary to undergird society and civil government. Such parental negligence as there was in educating children was more a result of difficult living conditions than religious apathy. To keep matters from getting worse, Puritan leaders approached the state governing bodies, which in their world were subordinate to the Church, to pass a law requiring parents and masters to tend to their educational and religious duties.

In response, the colonial legislature of Massachusetts passed the Massachusetts Law of 1642, directing town officials to determine whether children were being trained "in learning and labor and other employments profitable to the Commonwealth," and if they were being instructed "to read and understand the principles of religion and the capital laws of the country." Violators were subject to fines. This was the first time in the English-speaking world that a representative body of a state government had ordered mandatory reading instruction for all children.

Notably, the 1642 measure had nothing to do with schools or teachers, just instruction, the responsibility for which remained with parents. But this law didn't produce the desired results, so the colonial legislature passed another law in 1647, known as the "Old Deluder Satan Act," which gets its name from its preamble. The preamble recited the colonists' belief that "one chief point of that old deluder, Satan, [was] to keep men from a knowledge of the Scriptures." Learning, it said, was in jeopardy of "being buried in the grave of our fathers in church and commonwealth." As the Puritans believed that ignorant people were more susceptible to Satan's corruptive power, the law required every town of fifty householders to appoint and compensate a reading and writing teacher. Towns of one hundred householders were to establish Latin grammar schools to train children for college. If they did not, they would be assessed a fine.

It has been said that these two laws of 1642 and 1647, along with the earlier laws of 1634 and 1638-establishing the principle of common taxation of all property for town and colony benefits-were the bedrock upon which the public school system was later founded in America. But in no way did these laws establish an educational system remotely approximating today's level of government support and control of education. It is ironic, given today's hostile climate toward any presence of Christianity in public schools, that the impetus for compulsory education was the colonists' determination to instruct their children in the Christian religion. This legislative scheme provided the model for education laws throughout New England, with the exception of Rhode Island, as its founding was grounded in a broader interpretation of religious freedom. Gradually, compulsory school laws were less stringently enforced and private schools began to flourish, so that by 1720, Boston, for example, had more private schools than taxpayer-supported ones. By the end of the Revolutionary War, many towns in Massachusetts had no publicly supported schools.

Middle Atlantic Colonies

Society in the Middle Atlantic colonies was extremely pluralistic. Among the various sects were contingents of Dutch Reformed, Anglican, Lutheran, Quaker, Presbyterian, Roman Catholic, and Jewish. And the people came from different nationalities, including English, Dutch, Swedish, French, Danish, Irish, Scottish, and German. Education was under control of the churches here

too, but since no single denomination controlled the state, the churches operated their schools independently. The clergy often served as teachers in these parochial schools." This pattern of mostly private schools persisted through the Revolution and into the first third of the nineteenth century.

Southern Colonies

Various factors, such as its agricultural dependence and plantation culture, deterred a strong sense of community in the South. These factors, along with a sparse population spread over a wide geographical area, worked against the development of formal education and led to the frequent use of tutors, mostly for the children of the elite. This was in marked contrast to New England, where education was largely driven by community cohesiveness and the Calvinist belief that Christian training was essential for the good of the community. Eventually, however, formal education emerged in certain areas of the South, mainly through the enactment of laws in Virginia and North Carolina requiring orphans and poor children to receive apprentice training in the trades as well as in reading and writing. Beyond these measures, the state exerted little influence over education. Private denominational (charity) schools also sprang up, largely supported by private endowments or gifts.

Though Southern efforts at formal education paled in comparison to the New England system, Southern education was nonetheless steeped in religious instruction. Indeed, early sources confirm that "the most prominent characteristic of all the early colonial schooling was the predominance of the religious purpose in instruction .... This insistence on the religious element was more prominent in Calvinistic New England than in the colonies to the south, but everywhere, during the early colonial period, the religious purpose was dominant. There was scarcely any other purpose in the maintenance of elementary schools." Virtually every school owed its existence to a religious purpose. In the absence of such purpose, many believe, the cause of education would have greatly diminished. And this religious motive for maintaining schools, though waning somewhat, continued to be dominant through the Revolutionary War, after which it began to decline.

Education and the Constitution

The subject of education is notably absent from the body of the Constitution and was mentioned only once in the debates of the Constitutional Convention and then only with the issue of whether a national university should be established at the seat of government. The likely reason is that education was still largely a private issue, with exceptions, and under the control of the church. Thus, under the Tenth Amendment to the Constitution, the matter of education was left to the states. Significantly for later church/state debates, there were few, if any, free schools funded by the government at the time the First Amendment was being drafted.

The federal government had expressed some interest in education just prior to the ratification of the Constitution, though, with the passage of the Northwest Ordinances of 1785 and 1787. These laws established a rectangular form of land survey for the Northwest Territories, from which new states would be carved out, laying out land in six-mile-square townships, which were

further subdivided into one-square-mile sections. Congress set aside a section of each township for education and also expressly affirmed a federal commitment to education. Article III of the Ordinance states: "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." This was probably an outgrowth of the gradual shift in the initial religious purpose in education to a more politically based belief that maintaining an educated citizenry was essential to the republic. (This shift came to full flower in the decades preceding the Civil War.) As states were added to the union, beginning with Ohio, Congress donated a section in each township to the state for the maintenance of schools within the township, in exchange for foregoing state taxation of the public lands.

Despite the land grants of the federal government, except in New England and New York, there was little national consciousness with respect to education through the first quarter of the nineteenth century' ' and there were few public schools. The public schools that did exist were funded by parents whose children attended the schools, or sometimes by local taxes. That private schools existed in most communities was a testament to the view that education was primarily the parents' responsibility. Private schools, still motivated by the religious interests of the sects establishing them, remained dominant. In some states, the private school "lobby" was so powerful that it was able to secure public aid."

The success of private schooling was phenomenal, with literacy in the North increasing into the middle to high ninety percent range and reaching as high as eighty-one percent among whites in the South between 1800 and 1840. The initial pressure for government-controlled education began in Boston in 1817, as a result of lobbying by those who contended that impoverished parents were unable to afford private schooling for their children. The Boston School Committee, however, urged against public schooling after its own survey revealed that ninety-six percent of Boston children were in school even though the schools were private and there were no truancy laws. But public school advocates persisted, and by 1818 succeeded in making Boston the first city in America to establish an entirely publicly funded school system.

Around 1825 a serious battle began for the development of tax-supported, publicly controlled and directed, nonsectarian common schools. Before then, such schools were merely a distant hope among "reformers." It wasn't until the 1850s that public education-in the sense of being government-sponsored, -operated, and –controlled started to gain national prominence, first in New England and then in the rest of the nation. Prior to that time, America's education system had remained decentralized. While one of the main purposes of government-controlled schooling was to provide a safety net so that even the poorest of children could go to school, in practice, government schools didn't effect an increase in school enrollment. Rather, they wiped out many private schools whose sponsors could not support them while simultaneously supporting public schools through taxation.

One of the prime movers in this transformation was Massachusetts legislator Horace Mann. Mann was raised Calvinist, but at the age of twelve rejected his Calvinist background and eventually became a Unitarian. Mann fought to diminish the Calvinist influence in the schools, and was instrumental in a reform movement that eventually led to centralized control of

education. When he was president of the state senate, he played a major roll in establishing the Massachusetts Board of Education in 1837, and served on it until 1848.

Mann was such an idealist in his views of the social engineering possibilities for government-run schools that he envisioned a society where ninety percent of the crimes would be eliminated. His influence extended well beyond Massachusetts; his energetic activism greatly contributed to the ignition of a crusade for public education in almost every state. During this time, the character of education became increasingly nonsectarian and secular, with a steadily decreasing focus on religious instruction. Many Protestant leaders attributed this trend to the workings of Mann, and people began to attack him for introducing secularism into the schools. Some claimed that the Massachusetts Board of Education intended to take the Bible out of schools and to leave students' religious instruction to the home and the Sabbath schools." While Mann denied any desire to remove the Bible, many today believe he was very influential in planting the seeds of secularism in our public schools. Secularism was part of a philosophical movement known as "humanism," whose influence on public education is explored in Chapter Three.

The Genesis of the "Wall of Separation" -*Everson v. Board of Education*

In the mid-1940s, New Jersey resident Arch Everson filed a lawsuit against Ewing Township to prevent state tax revenues from being allocated to transport parochial students to their Catholic high school in Trenton. This lawsuit culminated in the landmark Supreme Court case of *Everson v. Board of Education* (1947). The court, ironically, given the legacy of the case, denied Everson's claim, but it did so in language that proved to be the best weapon ever handed to those looking to strip Christianity from the public schools or public life.

In his majority opinion in *Everson,* Justice Hugo Black is the one who firmly incorporated-out of context, many would argue [4] Thomas Jefferson's "wall of separation" language into American jurisprudence.[5] "The First Amendment," said Black, "has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach." Justice Black gave the separation language its first real teeth, delineating its initial parameters. Black wrote:

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4 U.S. Supreme Court Justice William Rehnquist, in a dissenting opinion in *Wallace v. Jaffree,* 472 U. S. 38 (1985), stated, "the wall of separation between church and state is a metaphor based upon bad history, which should be frankly and explicitly abandoned," as a "mischievous diversion of judges from the actual intention of the drafters of the Bill of Rights."

5 Actually, Jefferson's language ostensibly advocating a wall of separation between church and state was introduced into our case law in the earlier Supreme Court case of *Reynolds v. U.S.* 98 U.S. 145 (1878), but the language didn't yet give rise to a revolution in church/state case law. In that case, Chief Justice Waite quoted Jefferson's famous language in an 1802 letter to the Danbury Baptist Church: "Believing with you that religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the government reach actions only, and not opinions, I contemplate with sovereign reverence that 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." In Chapter Seven, I discuss recent scholarship arguing that Jefferson's language was taken out of context by our courts.

> The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the federal government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa."

Author Gerard V. Bradley noted that *Everson* "effectively opened the modern era of church/state jurisprudence." Constitutional scholar Paul G. Kauper underscores the point. *Everson,* according to Kauper, "stands as a key decision in laying the foundation for judicial review of all governmental practices supportive of religion. The beginning of an impressive and influential body of case law, it nationalized the restrictions embodied in the Establishment Clause of the First Amendment and opened up a new and comprehensive surveillance of state and local laws and practices dealing with religious matters." Professor Daniel L. Dreisbach goes so far as to say, "Any informed discussion of the constitutional prohibition on `an establishment of religion' must contend with the reasoning and holding of *Everson v. Board of Education. The Everson* court's "version of history" and "separatist construction of the First Amendment," according to Dreisbach, "laid the foundation" for later First Amendment cases involving released-time, school prayer, "the continuing controversies over religious expression and instruction in public schools," and other lines of cases. Indeed, American courts have, on the whole, expanded the separationist concept over time. But the courts' unwillingness to go even further in certain areas has not prevented the education establishment from pushing the envelope of separation to new heights. That establishment, when unchallenged, has become a law unto itself, as this chapter will amply show.

The Prayer Police

For most people, the rising wall of separation wasn't apparent until the Supreme Court outlawed state-sponsored prayer in public schools in *Engel v. Vitale (1962).* The problem arose when the New York Board of Regents tried to compose an innocuous, nondenominational prayer that could be recited in New York public schools. The text of the prayer was simply, "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country." Ironically, some Christians who might otherwise support school-sanctioned prayer are against prayers like this one, precisely because they are so neutral and devoid of any particularly Christian characteristics.

It is important to understand that the board was adamant that no child should be compelled to join in the prayer, or even encouraged to do so. Yet when the New York suburban school board

of New Hyde Park adopted the prayer, the Supreme Court ruled it unconstitutional. It is inarguable that the principle established in *Engel-that* state-sponsored school prayer is constitutionally forbidden-is now firmly rooted in modern constitutional law. Lower courts are bound by the principle of *Stare Decisis* to follow that precedent. (The Supreme Court is also guided *by Stare Decisis,* but it has the power to reverse its earlier holdings.) That *Engel is* now the law of the land doesn't alter the fact that many still believe that the Supreme Court wrongly decided it in the first place, based on its misreading of the Constitution and American history. Nothing better highlights this than reference to the learned rulings of the lower New York courts in that case, all of which found the prayer constitutional. Their honest pronouncements, though rendered a legal nullity by the Supreme Court, are instructive for all who long for constitutional interpretation according to the framers' original intent.

First Amendment scholar George Goldberg aptly observed, "Of the first thirteen judges who considered the constitutionality of the Regent's Prayer, among whom were some of the most learned appellate judges in the nation, eleven found it valid, a batting average of .846; and some of them felt strongly that any other decision would be historically wrong and itself constitutionally objectionable." The chief judge of the New York Court of Appeals minced no words:

> Not only is this prayer not a violation of the First Amendment ... but holding that it is such a violation would be in defiance of all American history, and such a holding would destroy a part of the essential foundation of the American governmental structure.

And as Goldberg noted, the language of one of the concurring judges was even stronger:

> It is not mere neutrality to prevent voluntary prayer to a Creator; it is an interference by the courts, contrary to the plain language of the Constitution, on the side of those who oppose religion.

Some like to point out that *Engel* has been widely misunderstood. It did not, they say, "take God out of the schools." It merely prohibited state-sponsored prayer. Even the current Supreme Court has said as much.[6] But such analyses are oversimplified. It's one thing to say that only state-sponsored prayer is outlawed and another to define the parameters of state sponsorship. Suffice it to say, it doesn't take much state activity at all to trigger state sponsorship under modern precedent. The 1985 case *Wallace v. Jaffree* held that public schools may not set aside a period of silence at the commencement of the school day if there is the mere suggestion that students might use the time for prayer.[7] It strains the imagination to conceive how moments of

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6 The court made this clear in *Santa Fe Independent School District v. Doe,* 530 U.S. 290, 313 (2000), "Thus, nothing in the Constitution as interpreted by this Court prohibits any public school student from voluntarily praying at any time before, during, or after the schoolday. But the religious liberty protected by the Constitution is abridged when the State affirmatively sponsors the particular religious practice of prayer."

7 *Wallace v. Jaffree,* 472 U. S. 38 (1985). The court said that the Establishment Clause does not forbid voluntary silent prayer, but in this case, the Alabama legislature already had a statute in place permitting silent time for meditation. So when -the legislature amended the statute to read "meditation or voluntary prayer," the court concluded that it was suggesting prayer, because there was no other reason for the additional language. As such, the statute had no secular purpose and was invalidated.

silence constitute state endorsement of religion, especially a particular religion. But the law is nonetheless what the Supreme Court says it is.

While the court can protest that it has not unduly restricted religious freedom, its "modern" decisions, beginning with *Everson* and continuing through *Engel* and *Wallace,* have greatly emboldened those hostile to Christianity to scrub away prayer and other religious expression from our public schools.

Not in Our Cafeteria

The parents of Raymond Raines, a fourth grader at Waring Elementary School in St. Louis, Missouri, taught Raymond to pray before eating, which he did faithfully each day. By all accounts Raymond was a well-behaved, respectful, and studious young man. When a teacher saw Raymond in the school cafeteria at lunchtime bowing his head to thank God for providing his food, the teacher allegedly ordered him out of his seat and sent him to the principal's office. The teacher, according to reports, apparently made no effort to downplay this scene, as Raymond was singled out in full view of the other students present.

Raymond says the principal told him that it was against the rules to pray in school and ordered him not to do it again. But since Raymond's parents had instilled in him the importance of praying at mealtime he continued to do so. On two further instances-three in all-he was allegedly taken from the cafeteria and disciplined. The school administration segregated him from his classmates, subjected him to ridicule for his religious beliefs, and eventually gave him a weeklong detention. This incident gained national notoriety when U.S. Representative Newt Gingrich, then House Speaker-elect, discussed the case on NBC's *Meet the Press.*

Raymond and his mother filed suit in 1994 against the city schools and the principal for violating his constitutional right to freely exercise his religion. School district officials continually maintained that Raymond had been disciplined for reasons other than school prayer. But a representative of the Rutherford Institute, a public interest law firm specializing in religious freedom cases, which was defending Raymond, testified before the Senate Judiciary Committee that Rutherford had obtained "at least four sworn statements from witnesses who were in the cafeteria when Raymond was disciplined, as well as other pieces of information to substantiate Raymond's claims. The parties settled the lawsuit when the school board agreed to adopt a policy permits students to pray at school in a nondisruptive manner when not involved in a school activity.

Just Keep It to Yourself

In 1997, United States district judge Ira DeMent issued an injunction against the DeKalb County, Alabama, school board from organizing, sponsoring, or encouraging school-sanctioned religious activity. Fair enough. Most of us can agree or at least live comfortably with the notion that public schools shouldn't endorse religious activity. But the court went further, issuing an additional injunction prohibiting the school from permitting any prayer or devotional speech that was uttered aloud-even if it was voluntary. Under the order, any prayers spoken "aloud in the classroom, over the public address system, or as part of the program at school-related assemblies

and sporting events, or at a graduation ceremony" were prohibited-even if the school in no way endorsed them. The court also appointed an attorney to serve as a prayer monitor to oversee the school to make sure the order was carried out.

Happily, on two separate occasions, the Eleventh U.S. Circuit Court of Appeals vacated that part of the district judge's order prohibiting voluntary, vocal prayer. The court did not, however, reverse the order appointing the prayer monitor." Over a period of eight months alone the court-appointed prayer policeman cost the school some *$62,000.*

But before you get too sanguine about our courts allowing voluntary or student-initiated prayer, understand that it is not all that clear what constitutes "voluntary" in our mucked-up First Amendment jurisprudence. And it became less clear after the Supreme Court issued its ruling in *Santa Fe Independent School District v. Doe (2000).* There, the court, in a *6-3* decision, struck down a Texas school district's policy that allowed a student, elected by his classmates, to deliver a public invocation before the home high school football game.

The controversy initially arose when Santa Fe's student council chaplain delivered a prayer over the public address system prior to every home varsity football game. This upset certain Mormon and Catholic students, who sued to challenge the practice. Before the hearing, the school board changed its policy and provided for two separate student elections, presumably to dissociate the school from the process. In the first, the students would decide whether an invocation or message should be given at all. If so, the second election would determine which student would deliver it. But this bifurcated procedure turned out not to be enough to insulate the prayer. Both the Fifth Circuit Court of Appeals and the United States Supreme Court invalidated the policy as violating the Establishment Clause of the First Amendment.

The Supreme Court did not buy the school district's argument that the invocation was private speech because the students, not the school administration, voted to have it. The court reasoned that because the district sanctioned the election, which permitted the majority to prevail, the religious views of the minority candidates "will never prevail" and "their views will be effectively silenced." Nor was the court persuaded that the invocation should be considered private because it was delivered at an extracurricular event where student attendance was not mandatory. "For some students, such as cheerleaders, members of the band, and the team members themselves, attendance at football games is mandated, sometimes for class credit." The court also factored in the peer pressure driving many students to the game. "The Constitution demands that schools not force on students the difficult choice between whether to attend these games or to risk facing a personally offensive religious ritual."

Chief Justice Rehnquist, in his stinging dissent, joined by justices Scalia and Thomas, said that the majority had distorted existing precedent to invalidate the policy. He said that the policy "permits many types of messages, including invocations. That a policy tolerates religion does not mean that it improperly endorses it." But Justice Rehnquist got to the real nub of the problem when he commented on the majority's overt antipathy toward religion in public life, an antipathy-as this case alone shows-that has permeated the highest reaches of our judicial system. Rehnquist wrote:

> "But even more disturbing than its holding is the tone of the Court's opinion; it bristles with hostility to all things religious in public life. Neither the holding nor the tone of the opinion is faithful to the meaning of the Establishment Clause, when it is recalled that George Washington himself, at the request of the very Congress which passed the Bill of Rights, proclaimed a day of `public thanksgiving and prayer, to be observed by acknowledging with grateful hearts the many and signal favors of Almighty God."

Rehnquist might have gone further. Not only did Congress proclaim a public day of prayer, *it did so just one day after it passed the First Amendment itself.* As scholar M. Stanton Evans poignantly observed, "Indeed, in one of the greatest ironies of this historical record, we see the practice [officially sponsored prayer] closely linked with the passage of the First Amendment-supplying a refutation of the Court's position as definitive as could be wished."

This case dealt a significant blow to religious freedom by holding that a public school, merely by allowing students to hold an election to determine whether there would be a prayer at all, violated the Establishment Clause. But the flipside of the coin and what the court failed to acknowledge was that by invalidating the school's election process, the state-through the agency of the court-denied students their religious freedom. The court's assertion that the election would effectively silence the views of the minority was unimpressive. To allow the majority of students to enjoy a prayer of their choosing does not silence those who elect not to participate or prevent them from praying their own prayer. They are free to worship or not as they please, including silently to themselves during the majority prayer. Why should a minority deprive the majority of their religious freedoms just because they don't want to participate? While the Bill of Rights certainly aims to protect the minority against the "tyranny" of the majority, it is not intended to oppress the majority at the hands of a vocal minority. Banning this prayer denied the majority of students their free exercise rights while doing nothing to protect the killjoy minority.

The court's ruling in *Santa Fe Independent School District v. Doe*, it should be noted, sparked some student defiance around the country. In Poca High School in West Virginia, for instance, more than 200 students and parents at a football game stood up on cue and joined in when placekicker Jason Legg began the Lord's Prayer from the fifty-yard line. He said, "For me, it's the only time some fans will see somebody witness to them. They come to watch a football game, and they see the teenagers doing something good, maybe it will spark something in them-maybe that's something they will want to check into."

Legg was not trying to violate the Supreme Court's decision, but to organize a method to lead students in prayer without running afoul of the *Santa Fe* case. The students even avoided using the school's intercom system to broadcast the prayer. The school's superintendent, Sam Sentelle, who approved of the student-led prayer, acknowledged that "a government institution cannot foster religion. I cannot tell you what to pray, or not to pray. As long as the principal doesn't tell them to go out, or it's not disruptive, it's okay," said Sentelle.

The proscription against "public" prayer has extended beyond high school classrooms, auditoriums, and sporting events. Now we see it rearing its head in kindergarten settings, where the prayer police are on the beat to suppress any renegade attempts at vocal prayer. On January 15, 2002, kindergartner Kayla Broadus recited a familiar prayer at her school in Saratoga

Springs, New York, while holding hands with two students sitting next to her at her snack table. "God is good. God is great. Thank you, God, for my food." This didn't sit well with her teacher, who silenced and scolded her, then dutifully reported the infraction to the school's lawyer, Gregg T. Johnson. Johnson concluded Kayla's behavior was a violation of the "separation of church and state." The school principal sent a letter saying, "Please be advised that Kayla will not be permitted to ask other students to join her in prayer prior to snacktime or lunchtime. Kayla is certainly free to silently say her prayer before a snack or lunch." The school board then launched into action, issuing a press release stating that Kayla was prohibited from praying aloud in school. Kayla's mother, Cheryl Broadus, filed a federal lawsuit on Kayla's behalf through the Rutherford Institute, and obtained a temporary restraining order against the school. Rutherford president John W. Whitehead observed that the school officials' understanding of the First Amendment religion clauses was upside down. "Saratoga Springs school officials claim the Constitution requires them to be alert to personal student discussions and immediately censor any student expression that appears religious," said Whitehead. "In fact, the Constitution requires the opposite."

The lawsuit was settled without trial, with the school district acknowledging Kayla's right to pray out loud, so long as she did not disturb her classmates or invite them to pray with her. Whitehead was pleased with the settlement, but expressed regret that it took a federal lawsuit to vindicate Kayla's civil rights. Whitehead had it just right when he said, "Any censorship of personal religious speech in a public school-even though it is couched in terms of separation of church and state-teaches children that religious persons are second-class citizens, and this is fundamentally wrong." Following the settlement, a defiant school board refused to admit any wrongdoing, claiming that it had always permitted "nondisruptive audible prayer at school.' But Thomas Marcelle, another attorney representing the Broadus family, disputed that claim. "The school district," said Marcelle, "said she could only say grace silently." There seems to be a recurring pattern in religious discrimination cases. When its perpetrators are caught in the act they invariably offer some excuse for suppressing the students' freedoms. In Kayla's case, this wasn't about disruption and the school should be ashamed for suggesting so. It was about the district's hyperventilation over "church and state" issues, a hyperventilation caused by a combination of prejudice against the free exercise of religion and ignorance that this right is guaranteed by the Constitution.

Prayer-Free Pomp and Circumstance

Even under conservative Chief Justice Rehnquist-though not because of him-the Supreme Court has added further restrictions on school prayer. In *Lee v. Weisman* (1992), the court, in a 5-4 decision, held that it is unconstitutional for public schools to include prayers given by clergy at their official graduation ceremonies. In this case, the principal, Robert E. Lee, had made the decision that a prayer should be given and selected the clergy member who was to deliver the prayer. That was too much involvement by the state for the narrow majority's comfort.

Lower courts have split on whether school board members or superintendents may, as part of a graduation address, recite the Lord's Prayer or other prayers. In a case in a Nebraska high school, a board member, whose son was in the graduating class, was permitted to lead students in

the Lord's Prayer in his graduation address, but the ACLU is appealing the District Court's ruling. In another Nebraska school district, however, the state Department of Education reprimanded the superintendent for leading students in prayer at a graduation event.'

But what about student-initiated prayer at graduation ceremonies? Well, it's a little less clear, with conflicting decisions in lower court jurisdictions and with a great deal of murkiness as to what constitutes student-initiated prayer as distinguished from school-sponsored prayer. The Eleventh Circuit Court of Appeals, for example, in *Adler v. Duval County School Board* (2001)-see below-ruled that student-led prayers at graduation ceremonies, unrestricted as to content, are constitutional. The Ninth and Fifth Circuits have held that student-led prayers are only permissible if they are nonsectarian and nonproselytizing. The Ninth Circuit found that the school district's "plenary control over the graduation ceremony" meant that it "would have borne the imprint of the district." The Third Circuit, meanwhile, ruled that student-led prayers at graduating ceremonies are unconstitutional, and at least implied their constitutionality wouldn't be saved even if they were nonsectarian and nonproselytizing. With this hodgepodge of opinions it is no wonder, then, that throughout the various jurisdictions, uncertainty reigns.

The Eleventh Circuit case of *Adler v. Duval County School Board (2001)* arose in Florida, where some students and their families were upset when the Duval County School District permitted its seniors to elect one of their classmates to deliver a religious message at graduation festivities. A student in one of the county's high schools chose to deliver a Christian-based message. In her remarks, the student thanked Jesus for "dying for our sins" and thanked God for "raising him from the dead three days later so that through your son's death we may be at peace with you and thereby may have fellowship with you." A group of offended students and their parents filed a suit, which ultimately failed, because, according to the Eleventh Circuit Court of Appeals, the students selected the speaker and school officials did not preview the remarks for approval, thus maintaining the school's neutrality. The United States Supreme Court refused to take the case, which means that student-led prayer at graduation ceremonies is probably safe, for now, in that circuit.

In another case, a Pennsylvania graduating high school senior actually had to threaten her school with a temporary restraining order before it would let her allude to her Christian faith in her graduation speech. The principal of Hollidaysburg Area Senior High School told salutatorian Shannon Wray that it might be offensive to some if she spoke about Christ and asked her to rewrite her speech to make it more "inclusive" and "diverse." But it was the school's instructions to her-that her speech should focus on her life's path to graduation-that had led her to discuss her religion in the first place. And this is a crucial point: Christ was central to her life and it would have been intellectually dishonest of her not to emphasize that in her message. Yet those who would erect an enormous wall of separation between religion and public life force people into such dishonesty. According to Wray's attorney, Joel Oster, she wanted to "talk about what her religion meant to her and how it allowed her to get to the point where she was .... She felt like if she had to give a speech with the religion struck out, it would be an incomplete speech; it would be a lie."

Wray insisted that she wasn't trying to proselytize, but to share the reason for her success in school, the single greatest factor of which, she believed, was her dependence on Christ. The school finally retracted its demand that she delete the paragraphs touching on her Christianity

when attorneys for Liberty Counsel said that interfering with the content of Wray's speech would lead to them to request a federal restraining order. Amazingly, even after the school backed down, the superintendent faxed Wray another message imploring her to delete those portions because to include them wouldn't be "fair" to everyone at the ceremony. There were separate rumblings that the school might end the tradition of having valedictorians or salutatorians giving graduation speeches lest future students make Christian allusions. Again, the prevailing assumption in these schools seems to be that Christianity is intolerably offensive to all but Christians.

So as we can see, even when the courts permit or grudgingly tolerate a degree of religious expression in the schools, that's no guaranty that recalcitrant classmates and administrators will make it easy for students wishing to freely exercise their religion. But such obstacles aren't stopping some students. In *2001,* the valedictorian at Norfolk High School in Nebraska led her fellow students in prayer-and received a standing ovation for her courage.

In some cases the courts have upped the ante for "disobedient" Christians. In West Virginia, a federal district judge not only outlawed a student-led graduation prayer at St. Albans High School in Kanawha County; he ordered the offending school system to pay *$23,000* in legal fees to the eighteen-year-old atheist who brought the suit.

The judge's initial order banning the student-led prayer and saying that the plaintiff would likely suffer irreparable harm if he were exposed to the prayer did not sit well with many of the students, more than one hundred of whom disobeyed the order. Following the lead of one student, they stood, bowed their heads, and recited the Lord's Prayer during a moment of silence. This prompted many relatives in attendance to give the students a standing ovation. At the beginning of the ceremony, one parent shouted "God Bless America" from the bleachers, to which the crowd replied, "Amen." And during the recitation of the Pledge of Allegiance, many in attendance, students and parents, enunciated "under God" louder for emphasis.

The atheist student plaintiff, who ostensibly was in jeopardy of irreparable harm, didn't even bother to attend the graduation ceremony. He said, "I have no use for that pretentious, self-congratulatory ceremony. To me, this ruling is much more significant.

In so many of these cases denying the students' right to pray at school events, the courts engage in lofty rhetoric about the Establishment Clause and in the process almost completely ignore the underlying religious freedom issues. Every time a student's right to invoke God is denied, often due to overblown concerns about the indirect involvement of the state in religion, we must remember that his speech and religious freedom are being suppressed. A case at Amador Valley High School in Pleasanton, California, illustrates the point. The school administration invited the school's salutatorian, Nick Lassonde, to give a graduation speech. Nick was excited at the invitation and viewed it as an opportunity to tell his classmates how important his Christian faith was to him. The principal required Nick to submit his speech in advance for review. Predictably, though Nick was told before that he could speak on any topic he chose, the principal demanded that references to Nick's faith be deleted. According to the school's attorneys, those references were forbidden because they constituted "proselytizing" or "preaching." Nick was told he could either rewrite his speech as directed or he wouldn't be permitted to speak.

Nick was disheartened because, like Shannon Wray in the Pennsylvania case, he believed he

could not fully express who he was as a person without revealing the thing most important to him, his faith in Christ. He felt that he had been censored and denied his speech and religious rights. "I felt, and still feel;' said Nick, "that I was denied a right I had earned, the right to express who I am and how I came to achieve the honor of being salutatorian, based solely on my Christian viewpoint .... I felt, and I still feel, that the censored portions were the most important part of the speech, for they contained the central message that I felt not only explained who I was as a person, but answered the question implicitly addressed in any graduation speech: how others could follow my example of success and happiness. I believed, and sought to state, that success and happiness in this life depend not on material wealth or personal fulfillment, but upon knowing who God is as our Creator and Heavenly Father ..."

Nick's father said that it would have been disobedient to accept a public honor without giving the glory to God. He added that the school's censorship of these portions of Nick's speech "made me feel that our views as a Christian family were disfavored by the district ... as being too offensive to state publicly."

Again, the underlying purpose of both religion clauses in the First Amendment, the Free Exercise Clause and the Establishment Clause, is to protect religious freedom. As we can see in the cases, these clauses are often in tension. That tension, generally speaking, should be resolved in favor of maximizing religious expression. In considering cases like Nick's, we have to ask ourselves whether the suppression of the religious content of his speech furthered or limited the cause of religious expression. Had the school permitted Nick's speech to be delivered in its entirety, would anyone's religious freedom likely have been violated? Just as with the non-participating students in the Santa Fe football prayer case, how can it reasonably be argued that the religious freedom of other students, even those who violently disagreed with the tenets of Christianity, would be abridged by sitting through a speech endorsing Christianity? It is an absurd stretch to conclude that by simply allowing that speech, the state, through the agency of the school, somehow affirmatively endorsed Christianity and thereby intimidated non-Christians. Yet by disallowing those parts of the speech the school clearly suppressed Nick's right to express himself. And in so doing, it didn't just violate his rights in the abstract. The omitted segments were highly relevant. The thrust of his speech was gutted when he couldn't share his foundational beliefs.

It is not just formal prayer at graduation ceremonies that alerts the prayer police. They are also opposed to individual students and high school choirs singing the Lord's Prayer at graduation ceremonies. Two students at Windsor High School in Virginia wanted to sing "The Prayer," an inspirational song, at their graduation ceremony. The song, which mentions God once and talks of faith, has been recorded by Christian and mainstream singers alike, including Celine Dion. School officials refused to let the students sing the song because it would "violate the requirements of separation of church and state." When the students asserted their First Amendment "free exercise" rights, the school simply banned all singing at the ceremony.

In another such case in Woodbine, Iowa, involving a school choir, the complaining students (members of the choir), who were reportedly from an atheist family, didn't want "to be forced" to sing the Lord's Prayer. The Iowa Civil Liberties Union fried a lawsuit on their behalf. Neither the disgruntled students nor the ICLU were satisfied with the choir's offer to compromise by adding a "nonreligious" song "to balance things out." The school superintendent, Terry Hazard, said that

the song was selected for its musical content, not its religious value. But one of the objecting students disagreed. "The prayer which they are having us sing for graduation is basically forcing us to sing praise to a God that we don't even believe in," said Donovan Skarin. "The novelty here is that the prayer is to be sung. That's still unacceptable," said Rand Wilson, ICLU legal director.

The U.S. District Court granted the injunction banning the singing of the Lord's Prayer, ending the school's thirty-year tradition. School officials announced that they would not appeal the court's decision. Does this decision mean that choir members can prevent their choirs from singing, for example, "God Bless America" or "The Battle Hymn of the Republic" or the bulk of the greatest classical choral music ever written? This extreme banishment of God from the classroom means the exclusion of much of the most important art, culture, history, and civilization of the West, and, rock bottom, that's a failure of education, all based on an anti-Christian bias and a tendentious reading of the Constitution.

A "Subversion of School Policy

In addition to forbidding school choirs from singing the Lord's Prayer or other religious songs at graduation ceremonies, some schools restrict the outside activities of their choirs as well. To commemorate the first anniversary of the September 11 massacre, the Central Baptist Church in Sanford, Florida, organized a memorial service honoring the victims of the attacks. The church invited the local school board members, other community leaders, and the general public. The church asked the Seminole High School Gospel Choir to perform at the ceremony, which was to be held at the church. The gospel choir had been established twelve years before as a result of community demand for this type of music. The school district has three other choirs, all of which are secular. All four of the choirs are highly acclaimed and have received a number of trophies in competition. The gospel choir had some eighty-five members, every one of whom participated on a purely voluntary basis.

School officials, upon hearing of the invitation, barred the choir from participating. They didn't stop there, saying the voluntary participation by individual choir members was also forbidden as "subversive of school policy." The choir director said the students were heartbroken because they had been rehearsing diligently in anticipation of the service. Their names had already been printed in the program because the school was late in informing the church that the choir would be forbidden to attend.

The school district, in response to the controversy, quickly adopted a new policy that officially prohibited the school choir from taking part in any event located in or sponsored by a church. Reportedly, the district was even considering banning the gospel choir altogether.

The school's hostility toward religion went further: it prohibited choir members from praying among themselves prior to their practice sessions. When the students asked, then, whether they could share a moment of silence, the answer was no. This is when Liberty Counsel intervened on behalf of the aggrieved choir members. Liberty's president, Mathew Staver, happened to be the keynote speaker for the memorial event and was appalled with the school district's treatment of the choir. "I was shocked by the situation-not only because I believe it's blatantly unconstitutional, but it's also unbelievable that it would come on the day that they were going to celebrate those who died during the September 11, 2001, terror attacks, and honor them in a

patriotic celebration and a memorial service as well," said Staver.

Many citizens of Sanford were none too pleased, on the whole, with the school board's decision. *They* were especially upset with school superintendent Paul Hagerty's proposal to create a separate, after-school club that would be permitted to sing at religious events, provided it was clear that in so doing it did not represent the school or district. When residents appeared at a school board meeting and registered their strong support for the choir, three members requested an audience with Hagerty to discuss the issue. Following the meeting, Hagerty reversed himself, maintaining the choir's status and saying that it could perform at churches, so long as students were permitted to opt out if they didn't want to participate. Of course, Mathew Staver didn't consider this qualifier to be a significant burden. The choir members, he said, were always agreeable to such a provision. But Staver views it as a moot point. "No one has ever requested to opt out," he said. "They're in the gospel choir so they can sing gospel music. So, they're not going to opt out whenever they get an opportunity to sing gospel music at a religious event."

You've Got (Prayer in Your) Mail

The prayer police aren't just after students. School employees are also fair game. LaDonna DeVore, a receptionist in the administrative offices of Highland Park Independent School District in Dallas, Texas, sent a personal group e-mail message from her office computer that included, God forbid, President Bush's National Day of Prayer Proclamation. DeVore's accompanying note said, "The following proclamation by our president is an incredible statement by the leader of the free world, and I encourage you to pass this on to your friends and colleagues to set the stage for the National Day of Prayer this Thursday, May 2."

According to a school administrator, the e-mail violated the district's policy of banning e-mail messages for "commercial, for-profit purposes, political purposes, religious worship, or proselytizing." School officials admonished DeVore over the "inappropriateness" of the e-mail and told her that further violations could result in discontinuance of her e-mail privileges. The school district had no problem with its employees sending non-work-related messages over its e-mail system, including jokes, secular messages of encouragement, event invitations, and chain messages. But forwarding a national day of prayer proclamation from the president of the United States was strictly forbidden. After the American Center for Law and Justice (ACLJ) brought a lawsuit on DeVore's behalf in the U.S. District Court in Dallas, the school agreed to amend its communications policy to remove the provisions prohibiting "religious worship or proselytizing.' The district admitted that the religious content of the e-mail was constitutionally protected. DeVore's attorney put this case in perspective. "All this individual did, in effect, was distribute the text of the president's message, and the school district is saying that raises serious constitutional issues," said ACLJ attorney Stuart J. Roth. "She's just passing on the president's proclamation. He's our president; he's a government employee, just like she is."

Conclusion

When you consider that the first common schools in this country were established for the purpose of Christian instruction, the current climate of hostility toward all things Christian in the public school environment is sobering. Legitimate concerns about government-sponsored religion have been blown out of proportion to the point that voluntary student activity involving

the Christian religion-without the slightest nod of endorsement by the state-is prohibited. While separationist extremists operate under the freedom of religion banner, the fact is that they are on a campaign to smother religious freedom for Christian students. In the next chapter we'll see further examples of discrimination against Christians in public schools covering a broad scope of activities. The sheer number and variety of these cases prove that the separationists are determined to purge public schools of Christian thought, symbols, and expression.