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Brief Studies

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BRIEF STUDIES

RELIGION AND THE SCHOOLS A REVIEW ARTICLE

Religion and the Schools: The Great Controversy. By Paul Blanchard. Boston: Beacon Press, 1963. 265 pages. Cloth. \$4.95.

Religion, the Courts, and Public Policy. By Robert F. Drinan. New York: McGraw-Hill Book Co., 1963. vi and 261 pages. Cloth. \$5.95.

Piety and Politics: American Protestantism in the World Arena. By Alan Geyer. Richmond, Va.: John Knox Press, 1963. 173 pages. Paper. \$2.25.

From State Church to Pluralism: A Protestant Interpretation of Religion in American History. By Franklin H. Littell. Garden City, N. Y.: Doubleday and Co., 1962. xx and 174 pages. Paper. 95 cents.

The Wall Between Church and State. Edited by Dallin H. Oaks. Chicago: University of Chicago Press, 1963. vii and 179 pages. Cloth. \$6.95. Paper. \$1.95.

The Messianic Character of American Education: Studies in the History of the Philosophy of Education. By Rousas J. Rushdoony. Philadelphia: Presbyterian and Reformed Publishing Co., 1963. xiv and 410 pages. Cloth. \$6.50.

The books listed above cover almost 1,500 pages and cost \$22.25. They all deal directly or indirectly with questions of church-state relations, especially as this issue affects schools and education.

One approach to these questions ought to be the historical approach. Littell's Doubleday Anchor original will be most helpful, and the interested reader can afford to purchase this *one* volume. Rushdoony, too, adopts the historical, or better the biographical, approach as the framework for his

treatise. Blanchard's opening chapter is "From Jefferson to Kennedy: The Continuing Controversy." And perforce the essayists in the volume edited by Oaks must make their bow to history.

Littell's interpretation of "Religion in American History" will be a shock to those who believe that the founding fathers brought forth a nation in which the vast majority were Protestant Christians, that the "wall of separation between Church and State" has been built high, and that it is impregnable. No wall is that. Physically even the Great Wall of China and the Berlin Wall have not succeeded in keeping people out or locking all of them in. "Many contemporary writers attempt to read back into the past," says Littell, "a 'wall of separation' between church and state which in fact never existed in the United States" (p. 99). Moreover, he holds, in the colonial period the official recognition of religion meant only that the colonies recognizing Anglicanism or Congregationalism and Presbyterianism allowed "baptized heathenism" to exist.

The rise of dissent and the practice of voluntaryism were fostered by the Great Awakening. The new nation, a "Christian nation," was in fact, in Littell's judgment, "a heathen nation" (p. 29); this means, that the churches of the United States belong to the "Younger Churches" (p. 49). What he calls the most important single fact in American church history (p. 33) is that more people joined the Christian church between 1800 (the Second Great Revival) and 1960 than ever before in the history of the church. Immigration contributed to that growth; mass evangelism was responsible for much of it. American church history, therefore, is not simply a continuation of European church history. It has its unique character. Voluntaryism and pluralism fashioned reli-

gion in America. The steady deterioration of the standards of membership was only one of the factors which led the Protestants particularly to look to government and law for the enforcement of church judgments and positions. The pockets of New England Puritanism in the Middle West established the ethos of a theocratic society in this section. Here the abolitionist crusade was strong, and here anti-evolution laws and prohibition had their strongholds. Littell maintains: "Nothing more reveals the temptation of American Protestantism to revert to use of state power to enforce their teachings than the record of church action during the struggle surrounding the Eighteenth Amendment and the anti-evolution laws" (p. 120). With keen judgment he points out: "But the unhappy bent toward state churchism, and the legislation of dogmatic error to combat an hypothesis also in error if presented dogmatically, diverted attention from the real issue: the fundamental necessity that the church voluntarily maintain standards of theological discipline." (P. 122)

Protestant "moralism," in Reinhold Niebuhr's phrase, the "nonsectarian religion," without creed or confession except a vague belief in an "American way," have looked to the schools for the teaching of "moral and spiritual values." Rushdoony comes to the conclusion that the public schools constitute "the true established church of the United States, dedicated to a catholic faith which is no longer semi-Christian moralism but social morality and social democracy" (p. 45; cf. p. 314, et passim). Drinan (p. 40) voices the opinion that "the most important problem in the public school today," or "the central question in church-state relations in American education," is: "*What moral and spiritual values are these state agencies mandated and/or permitted to transmit?*" (Italics original).

This moralistic task of the schools was emphasized by the Unitarians in the 1830s

and 1840s. Littell points to the strength of Unitarianism (p. 38); Rushdoony documents it from the writings of Horace Mann, Edward A. Sheldon, and others. The essentially religious purposes of the common school are emphasized again and again by Rushdoony as he finds the "messianic" motif in the philosophies of 22 American educators. Mann's man-centered educational philosophy emphasized natural law — on this point Drinan would not dissent — and introduced the concept of natural rights. Mann secularized education and made it the province of the state rather than of parents and community (p. 27). The Pierce case (1925) set down the fundamental principle that the child was not the creature of the state. Most of the educational theorists, however, postulate the need of education for the state. Henry Barnard, the promoter of normal schools, the Hegelian William Torrey Harris, John Swett, Francis Parker, Nicholas Murray Butler, John Dewey, and Harold O. Rugg are among these theorists. In chapter 27, headed "Education as a Religion," Rushdoony formulates three propositions: "If education is in any sense a preparation for life, then its concern is religious. If education is at all concerned with truth, it is again religious. If education is vocational, then it deals with a calling, a basically religious concept" (p. 315). The state schools are "inescapably religious," he concludes. Like Littell he warns against the "American Religion."

Littell and Rushdoony both write from a Protestant point of view. Their historical or biographical-philosophical approaches are valuable for a better understanding of the legal issues raised before the Supreme Court. The Regents' Prayer decision (1962) and the Bible-reading and Lord's Prayer decision (1963) were the products of the religious and judicial histories of our country. That practices persisted in the schools which came from the moralistic aims of early educators

is not surprising to the student of that history, nor is it surprising that the practices were challenged. In detail Blanchard presents both cases, and in appendices gives the texts of the decisions. Philip B. Kurland has an excellent essay, "The School Prayer Cases," in the Oaks symposium, *The Wall Between Church and State*. He is encouraged by the fact that the Supreme Court is "searching for an appropriate rationale for the religious clauses." In the *Engel* and *Schempp* cases the decisions are narrow: "The states may not prescribe the conduct of religious ceremonies in their public schools."

There are other issues. Released-time classes away from public school buildings are permitted in this restricted sense by the 1948 *McCullum* and the 1952 *Zorach* decisions. Dismissed time, that is, shortening one day in the week by one hour for religious education off public school premises, is not controverted. The compromise formula, shared time ("being oversold as a general solution to the whole religion-and-schools controversy," says Blanchard, p. 179), has not been court-tested—as yet. Drinan favors it. Moral guidance in the schools without religious instruction is being assailed.

But "the most controversial religious issue in American society," according to Blanchard (p. 119), is the issue of tax dollars for church schools. It is a worldwide issue. "The essence of the [Roman] Catholic financial policy in education is the claim that the [Roman Catholic] Church, being the primary guardian of education for all its own people, and a supplementary guardian for all education, is entitled as a matter of right to full subsidies out of public treasuries for all the major costs of its schools." So Blanchard claims. (P. 119)

Drinan, a Jesuit, in *Religion, the Courts, and Public Policy*, carefully builds his case, which can also be found in condensed form

in his essay "The Constitutionality of Public Aid to Parochial Schools," in *The Wall Between Church and State*. He affirms a symbiosis, "the warm and cordial relationship between government and religion which exists in the United States" (p. 5), and he would capitalize on the friendly alliance between church and state. Tax exemptions for religious institutions; exemption from military service for seminarians, clergymen, conscientious objectors, and chaplains in prisons and military installations; tax assistance for the work of sectarian social agencies, and a score of other practices are cited by Drinan. The problem of religion in public education is one that does not escape him. Anent the *Zorach* decision he says that it has come to be identified "with a theory of 'cooperation' rather than 'separation' between church and state" (p. 87). The church-related school — Drinan uses this term, in preference to "parochial" — has a juridical status by reason of the *Pierce* case (1925). The *Pierce* case also allowed the reasonable regulation of all schools. The state can use its enforcement agencies to compel a child to attend school. Now Drinan argues that "a strong case" can be made for the proposition "that it is unfair and unwise to force all children to attend school and then require those parents who refuse to allow their children to go to a school that is 'wholly secular' to finance the education of their children entirely from their own resources. Is it too much to say that the nation should either reverse *Pierce* or give financing to the private school?" (p. 127)

Of course, he does not want the reversal of *Pierce*. Auxiliary benefits are allowed to pupils in private schools. In some states they get bus rides to parochial schools (even though there is a "basic ambiguity" in the *Everson* case, according to Drinan). In Louisiana and Rhode Island children get free textbooks, but not in Oregon. Federal aid to education on the elementary and

secondary levels is the Roman Catholic goal. "If Federal aid is to become a reality, the nonpublic school must not be treated as if it did not exist" (p. 167; italics original). The 1961 controversy on this question is reviewed in detail by Drinan. Blanchard reviews the Roman Catholic position and appraises the "propaganda battle." He concludes, "Public money for public schools only" (p. 143). Not so Drinan. Child welfare benefits and long-term loans under any proposed Federal aid program are the Roman Catholic demands (even against the late President Kennedy). The issue is "whether the Federal government should encourage or discourage nonpublic schools in America" (p. 183). With much sophistication Drinan develops "the case from ecclesiastical and parental rights, coupled with the notion of distributive justice" (p. 185). The Roman Catholic philosophy of the state is a pre-supposition in his arguments. He argues for the secularization of state schools and the tax support of church schools. The rights of conscience and freedom of religion — so his argument runs — are guaranteed by the free exercise clause of the First Amendment. The new interpretation of the establishment clause has ensconced secularism in the school. Can the Roman Catholic argue that his right is being infringed? "On any theory of American jurisprudence it is unjust to inflict a financial penalty on citizens because of the exercise of their religion when the state could [sic], with no added expense and no harm to the common good, relieve them of such financial penalty" (pp. 194, 195). Then, too, Drinan maintains that allowing a modicum of tax money to subsidize "a small part of the *secular* program" of parochial schools cannot be inimical to the public schools or national unity or bring about a "proliferation of sectarian schools." (P. 197)

"The Unconstitutionality of Public Aid to Parochial Schools" has been ably argued by

New York attorney Murray A. Gordon in *The Wall Between Church and State*, although he fears "the dangerous divisiveness" of church-controlled schools. His analysis of the Supreme Court decisions relative to the establishment clause and his consideration of the argument that tax money may be constitutionally appropriated to the use of church schools demolish, in the opinion of this reviewer, Drinan's arguments. The Supreme Court will make the decision at some future date.

The constitutionality of tax exemptions for religious activities and the constitutional problems of utilizing a religious factor in adoption and placements of children are two further questions canvassed in *The Wall Between Church and State* by Paul G. Kauper and Monrad G. Paulsen respectively.

The factor of religion as a source of loyalty and as a sanction of loyalty in world affairs is explored by Geyer in his *Piety and Politics*. It is a sanction for conflict, too, as well as a source of conflict; again, it is a sanctuary from conflict and a reconciler of conflict, he writes. But Geyer's book will not influence current thinking.

The other books dealt with in this review will. Drinan, for instance, found occasion to cite Littell. Drinan's book and his essay will be regarded as among the ablest presentation of the Roman Catholic position. Blanchard cannot be ignored. His *Religion and the Schools* will be widely read and will be regarded as required reading by many. It is an able presentation and a good corrective to some of Drinan's views. Rushdoony's work can easily be bypassed. It ought not be. He brings a dimension of great consequence. Littell's work deserves commendation. This reviewer must recommend it as an arresting interpretation which every student of American church history must know. Finally, the essays in the volume edited by Oaks are masterful presentations by lawyers and demand careful study.

One essay must still be mentioned, one of the most controversial in that volume, "The Future of the Wall." Robert M. Hutchins wrote it. The wall has obscured the whole debate; after all, it is merely a figure of speech. His endorsement of federal aid for all schools makes his essay controversial. "Federal aid to education is inevitable," he argues (p.21), "and the sooner it comes the better." Incidental benefits to church

schools do not limit religious freedom. "Aid to all educational institutions that meet federal standards would promote religious freedom as well as education," he writes (p.22). "The Wall" should not obstruct the future of democracy; "the wall has no future." So says Hutchins.

But the topic will call forth more books and will cause more discussion.

CARL S. MEYER