Shelter From The Storm

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Abstract

Two of the contributors who engage contested constitutional questions in this special issue of the Law Review, Justice Harry A. Blackmun and Judge John T. Noonan, Jr., are also two of the most interesting and important figures in the landscape of contemporary law and religion in the United States.
considerate. His accompanying article, which we proudly print, should teach all of us that decency is the best way to insure continued successes for our Constitution and the nation it serves.

Thank you Justice Blackmun, for helping to light the way to liberty and justice for us all.

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Two of the contributors who engage contested constitutional questions in this special issue of the Law Review, Justice Harry A. Blackmun and Judge John T. Noonan, Jr., are also two of the most interesting and important figures in the landscape of contemporary law and religion in the United States. Judge Noonan’s new collection of “cases, history, and other data bearing on the relation of religion and government” is a landmark in the field—a text whose commentary by Judge Noonan, while measured (often even inconspicuous), remains provocative and always extremely learned. Judge Noonan has not just recently arrived at this particular area of constitutional concern; nor has Supreme Court Justice Harry Blackmun, author of some of the most influential constitutional jurisprudence involving private morality and public regulation, the complex terrain on which are fought out cases involving relations between church and state. Neither Justice Blackmun’s essay here nor his recent opinion for the Court in County of Allegheny v. ACLU, Greater Pittsburgh Chapter,* deviates from the very high standard of sensitivity and civility which he has imposed upon himself, respecting both religious and constitutional faiths.*

The particular strengths of Justice Blackmun’s essay, The First Amendment and Its Religion Clauses: Where Are We? Where Are We Going? include: (1) the author eschews the willful obscurity which characterizes so much current law review scholarship, written by disci-

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ples of deconstruction or other remote linguistic theories of discourse; (2) Justice Blackmun provides a cogent introduction to religion and constitutionalism, emphasizing not so much how perfectly the Framers’ design has worked, but rather, the difficulty of reconciling the quite different purposes of the Free Exercise and Establishment Clauses—the accessibility of Justice Blackmun’s comments here is particularly valuable since the various opinions filed by the Justices in deciding Allegheny v. ACLU are, themselves, rather daunting, and almost certainly too doctrinally complex for the novitiate, even one with the several dozen appropriate federal and Supreme Court reporters containing cited cases at hand; (3) while emphasizing the inescapable fact that there is no simple, “bright-line” distinction which can separate constitutionally permissible from impermissible relations between church and state, Justice Blackmun nevertheless does make clear what he regards as a half dozen pertinent conclusions which may be drawn from constitutional litigation surrounding the religion clauses; and (4) with the acknowledged immediate concerns of his bicentennial audience in mind, Justice Blackmun is still able to use this essay to pull his reader back from the constitutional fray, the political tumult of the moment, and gain a sense of long-term perspective: “When was it ever easy,” he asks, “to recognize the rights of others, to cease our selfish, individual, and personal quest for money and for power?”

How often in our history, one wonders, have Supreme Court Justices been willing to put such a stark, yet candid, question before an audience?

The world which the federal judiciary confronts today seems, in some ways, to be a world coming apart—a world in which the constitutional center seems no longer able to hold things together. A proposal to amend the Bill of Rights in order to permit government to constitutionally criminalize the burning of the American flag picks up steam in spite of apparent disinterest among the proposal’s authors in the meaning words like “physical desecration” will end up taking in practice. Whole fields of civil rights case law, developed to deal with racial discrimination, are abandoned without, in some instances, much explanation. Events seem to be moving quickly, and yet their constitutional shape or impact appears difficult to adequately predict.


In the specific area of religion and politics, there is also a sense that everything is up for grabs. Americans face a growing clash between two very different schools of thought: one which holds that American liberty and political stability have long been preserved, in part, by a serious commitment to confining church and government to separate spheres; and another which holds that American democracy itself is in danger of collapse because of moral and spiritual decline in national affairs, and it is high time to reread the Constitution’s religion clauses in a new light. This latter viewpoint has, perhaps, been most closely associated with the flourish of publications, newsletters, speeches, and law school symposia appearances of Richard John Neuhaus. The New York Times asserts that the work of Neuhaus “should be read by anyone concerned with the current debates over the emergence of the ‘new Christian right’. . . .”9 While the political faction identified by The Times may have suffered some setbacks over the last several years in its own electoral and fundraising campaigns—and in maintaining its un tarnished public image—Jerry Falwell may not be engaging simply in self-congratulation when he states that the Moral Majority has closed up shop because it has become effectively institutionalized in the federal government through the appointive process. According to theologian Stanley Hauerwas,

In his much publicized book, The Naked Public Square: Religion and Democracy in America, Neuhaus argues that we are facing a crisis in our society. Because religious discourse has increasingly been excluded from our public life he fears a moral vacuum has been created. This vacuum threatens constantly to be filled by totalitarianism as the isolation of the individual from mediating structures gives us little power to stand against the omnivorous appetite of the bureaucratic state . . . . From this perspective Neuhaus is appreciative of the Moral Majority. For in spite of the crudeness with which they often put their positions, they have at least raised the issue of the public value of religion . . . .”


6. Blackmun, supra note 4, at 42.
So just as the advocates of strict separation of church and state see behind Neuhaus and Falwell the same essential mistakes which previously produced a Gerald L. K. Smith, the advocates of clothing the naked public square in religious symbolism and bringing religion back into politics see behind the strict separationists the dangers of "secular humanism," the rise of the bureaucratic state without a soul, and the nightmare vision of Orwell's 1984.

Against the Nations 122 (1985).


One of the most frightening developments of the 1980s has been the reemergence of fundamentalist religion in the United States as the cornerstone of right wing politics. 'Born-again' military strategists boast about their willingness to incinerate the world in nuclear war rather than tolerate the spread of 'atheistic communism.' 'Christian' senators oppose the Equal Rights Amendment on the grounds that it undermines the family and deprives men of their 'right' to come home from work to a fresh martini, a cooked dinner, and a cheerful and compliant wife. And an array of electronic evangelists fill the air waves with relentless exhortations attributing all of America's problems to the Soviet Union or to the 'sin' of recent movements for racial, social, and sexual emancipation. This tortuous transformation of the Sermon on the Mount into exercises in Christian ballistics and bombast has a long, if ignoble, history in the U.S.

Id.


Dr. Hook's philosophy was based on the three pillars of pragmatism, secularism and rationalism. A student of the pragmatic philosophers John Dewey at Columbia University, Dr. Hook never tired of saying that there were no absolutes. . . . [H]e believed fervently that proper behavior and entirely by reason, not by emotion or religious beliefs. He called himself a secular humanist, defining the term in a 1982 interview as 'the view that morals are autonomous of religious belief, that they are relevant to truths about nature and human nature, truths that rest on scientific evidence.'

Id.

It is, of course, an irony that Sidney Hook was as fervently anti-communist in his views as members of the new Christian right.

11. See Neuhaus, supra note 7 at 8-9.

The case can be made that the great social and political devastations of our century have been perpetrated by regimes of militant secularism, notably those of Hitler, Stalin, and Mao. That is true, and it suggests that the naked public square is a dangerous place. When religious transcendence is excluded, when the public square has been swept clean of divisive sectarianism, the space is opened to seven demons aspiring to transcendent authority.

Neuhaus rarely acknowledges the disagreement over whether Hitler's rise to power represented a purely secular movement; see, e.g., G. I. Mosse, Toward the Final Solution: A History of European Racism (1985); G. L. Cedick & Hendrix, Democracy, Autonomy, and Values: Some Thoughts on Religion and Law in Modern America, 60 S. CAL. L. REV. 1579, 1591 (1987).

The most profoundly horrible atrocities of the 20th century have been committed by unambiguously secular regimes—Nazi Germany, Stalinist Russia, Maoist China, Khmer Rouge Cambodia. Thus, some have argued that state suppression of transcendent moral visions, such as those espoused by the Western religions, subjects humanity to the unmitigated intolerance and violence of rationality.

Like Neuhaus, Cedick and Hendrix leave the impression that they wish to distinguish the human rights policy of China under Mao from that of China under Deng Xiaoping, but do not explain why the naked public square after Mao has become less dangerous. Tiananmen Square certainly did not become so. Perhaps the new Christian right, like the Republican administration in Washington and that of the LDP in Tokyo, regards business values as the next best thing to religious values. Deng's openness to Japanese and American capital no doubt helps explain the relatively moderate Bush administration's "internal affairs." See Trofimenko, Long-Term Trends in the U.S.-Japan Alliance (1989): The Asian-Pacific Region, 29 ASIAN SURVEY 237, 246-47 (1989).

It is significant that the trade turnover between Japan and China is more than twice as big as the volume of trade between the U.S. and China. And with all the necessary research and proper organizational measures being pursued, the Japanese at present are in a much better position than the United States to develop further the potentially tremendous Chinese market. The same can be said about other Asian markets. The financial competition between the [U.S. and Japan] is already worldwide.

See also Religion and Politics in the Modern World (P. H. Merki & N. Smart, eds. 1985); Piety and Politics: Evangelicals and Fundamentalists Confront the World (R. J. Neuhaus & M. Cromartie, eds. 1987).

12. Blackmun, supra note 4, at 33.

13. Id.
So just as the advocates of strict separation of church and state see behind Neuhaus and Falwell the same essential mistakes which previously produced a Gerald L. K. Smith, the advocates of clothing the naked public square in religious symbolism and bringing religion back into politics see behind the strict separationists the dangers of “secular humanism,” the rise of the bureaucratic state without a soul, and the nightmare vision of Orwell’s 1984.


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Can the Constitution provide a guide to resolving this clash? Justice Blackmun suggests there were at least “three distinct and recognized approaches that influenced the framers” in their adoption of the religion clauses. One was the Jeffersonian view that “religion should be separated from the state in order to safeguard secular interests,” another was the Madisonian view that “religious and secular interests alike would be advanced by diffusing and decentralizing power so as to assure competition among sects rather than domination by any one of

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them. 14 This concern for protecting both secular and spiritual values produced two religion clauses and a long list of Supreme Court cases which Justice Blackmun provides as examples of how "there can be tension between the two Religion Clauses." 15 The value of the Constitution, for Blackmun, is that it can provide continuity over time, and it can systematically help to shape the effort to reconcile these competing values within American public life.

Richard J. Neuhaus has a dramatically different view of the religion clauses; indeed, he believes there is only one religion clause: "Free exercise is the purpose of the religion clause; nonestablishment is a means to that end. But today the party of 'strict separationism' treats nonestablishment as an end in itself . . . . Both historically and logically, there is no reason for nonestablishment other than to protect religious freedom." 16 At the end of this paragraph Neuhaus presents a single citation to bolster his "historical and logical" analysis: Noonan's The Believer and the Powers That Are. 17 Yet, not surprisingly, Noonan's text provides an infinitely more complex picture than the one Neuhaus is using it to justify. Indeed, only a few pages away from those specifically relied upon by Neuhaus, the reader finds Noonan's inclusion of James Madison's famous petition of 1785, "To the Honorable the General Assembly of the Commonwealth of Virginia, A Memorial and Remonstrance," 18 which remains one of the key documents in the history of American constitutional thought, and a source for all those who happen to be interested in what may have been the framers' intentions. A tax had been proposed which would help pay for the provision of Christian teachers throughout Virginia. This seemed to Madison nothing but an establishment of religion, and his fifteen-point attack on the measure included, in parts five and six, reasons for nonestablishment which went far beyond Neuhaus' notion of humble service to free exercise. "We remonstrate against the said Bill," began Madison's petition, which later asserted:

5. Because the Bill implies either that the Civil Magistrate is

14. Id.
15. Id.
17. NOONAN, supra note 1.
18. J. Madison, To the Honorable the General Assembly of the Commonwealth of Virginia, A Memorial and Remonstrance, reprinted in NOONAN, supra note 1, at 107-11.
19. Id. at 109.
20. See, e.g., Dykstra, A Fresh Awakening, 46 THEOLOGY TODAY 125, 127 (1989):

For indeed, numerous religious 'corporations' are bankrupt. There is no God there, only claims to power in the name of God that turn out to be pathological. Violent fanaticisms regularly come theologically garbed, and the world is strewn with victims of palpable evils committed under theological justification. Academic theologians are not the only people aware of this problem. All of us, pastors and lay members of churches included, know religion takes corrupt forms. And not all the corruption is terribly obvious.

See also Marty, "Two Cheers for Heterogeneity," 106 THE CHRISTIAN CENTURY 837 (Sept. 27, 1989).
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\textit{a competent Judge of Religious truth; or that he may employ Religion as an engine of Civil policy. The first is an arrogant pretension falsified by the contradictory opinions of Rulers in all ages, and throughout the world: the second an unhallowed perversion of the means of salvation.}

6. Because the establishment proposed by the Bill is not requisite for the support of the Christian Religion. To say that it is, is a contradiction to the Christian Religion itself, for every page of it disavows a dependence on the powers of this world; it is a contradiction to fact; for it is known that this Religion both existed and flourished, not only with the support of human laws, but in spite of every opposition from them, and not only during the period of miraculous aid, but long after it had been left to its own evidence and the ordinary care of Providence.\textsuperscript{19}

We might stop here and ask ourselves, "Have political groups in the United States ever sought to 'employ Religion as an engine of Civil policy'?"\textsuperscript{20} Even more striking, Madison says that he does not regard the naked public square as a threat. On the contrary, it contradicts Christianity itself, according to Madison, to become dependent upon government for support, to need the government's "public square." Perhaps Madison may have thought, along these lines, of the familiar comment attributed to the Apostle Paul:

Therefore sprang there even of one, and him as good as dead, so many as the stars of the sky in multitude, and as the sand which is by the sea shore innumerable. These all died in faith, not having received the promises, but having seen them afar off, and were persuaded of them, and embraced them, and confessed that they were

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19. Id. at 109.
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For indeed, numerous religious 'corporations' are bankrupt. There is no God there, only claims to power in the name of God that turn out to be pathological. Violent fanaticisms regularly come theologically garbed, and the world is strewn with victims of palpable evils committed under theological justification. Academic theologians are not the only people aware of this problem. All of us, pastors and lay members of churches included, know religion takes corrupt forms. And not all the corruption is terribly obvious.

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Strangers and pilgrims on the earth.  

"Strangers and pilgrims" the Christians would remain, even in America, especially in America where they would be free from Constantinism, free from the kind of state sponsorship which had been a threat to Christianity ever since the time of Emperor Constantine. Or at least, that is what Madison appeared to have hoped.

Religious belief should remain outside the sphere of politics under the new Constitution—not because Madison failed to understand the proper relation between nonestablishment and free exercise (an inescapable conclusion if one accepts the Neuhaus reduction of the two religion clauses to a single purpose), not because government in America "reflects an unjustified hostility toward religion, a hostility inconsistent with our history and our precedents" (a Balke complaint now echoed even: within that bastion of secular reason: the law


Though this particular letter has Pauline overtones, it is so original that its immediate attribution to Paul is difficult. Most critics agree that Paul could not have been its author in the same sense as he was author of the other letters, but he is felt to have had sufficient influence to warrant its inclusion from early times in the corpus Paulinum . . . The argument of the letter, plead with rhetorical skill, is founded entirely on the Old Testament.


22. See Hauerwas, supra note 8, at 122:

Prior to the time of Constantine, Christian belief in God's rule of the world was a matter of faith. However with Constantine, providence is no longer an object of faith for God's governance of the world is now thought to be empirically evident in the person of the Christian ruler. With this changed ecclesiastical ethics had to change because one must aim one's behavior at strengthening the regime, and because the ruler himself must have very soon some approbation and perhaps some guidance as he does things the earlier church would have perhaps disapproved.


24. See County of Allegheny, 109 S. Ct. at 3134; see also Editorial, Supreme

Surely, N.Y. Times, July 9, 1989, at 26:

[Justice O'Connor] cast the deciding vote in opinions that allowed display of a Christmas tree and Jewish menorah outside Pittsburgh's City Hall but disallowed a Nativity scene framed by flowers in its county courthouse. Her opinion, like those of other justices, reflected a struggle to find an answer. While and Scalia, it showed "an unjustified hostility toward religion."

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reviews—but, instead, because government in America must reflect a justified respect for religion, and employing "Religion as an engine of Civil policy," reflects contempt, not respect. Trying to improve the case for government by borrowing the symbols of a faith which transcends earthly kingdoms will inevitably offend the believer who does not wish to have his or her faith endorsed by the legislature. What greater respect for religion can be shown than trusting it to its own merits, taking at its word? And for Christians, one historically prominent group among Americans who profess belief in God, the word was clear: plainly it was a country which they sought, yet "now they desire a better country," better if (it can be imagined) than even the one the

24. See, e.g., Gedicks & Hendrix, supra note 11 at 1584: "Not surprisingly, the Supreme Court's decisions, with few exceptions, can be read as displaying hostility toward institutional religion."

25. See County of Allegheny, 109 S. Ct. at 3128 (Brennan, J.): Nor do I discern the theory under which the government is permitted to appropriate particular holidays and religious objects to its own use in celebrating pluralism. The message of the sign announcing a 'Salute to Liberty' is not religious, but patriotic: the government's use of religion to promote its non-religious cause is undoubtedly offensive to those whose religious beliefs are not bound up with their attitude toward the Nation.


27. Hebrews 11:14-16.

For they that say such things declare plainly that they seek a country. And truly, if they had been mindful of that country from whence they came, they might have had opportunity to have returned. But now they desire a better country; that is an heavenly: wherefore God is not ashamed to be called their God: for he hath prepared for them a city.

See also K. Barth, Church and State, Community, State, and Church 122-23 (1960):

In order to throw light upon the contrast between Church and State emphasis has always, rightly been laid on the fact that the State . . . of Christians should not be sought in the 'present age' but in that which is to come'; not on earth but in heaven . . . It must here be emphasized, above all else, that in this future city in which Christians have their citizenship here and now (without yet being able to inhabit it), we are concerned not with an ideal but with a real State — yes, with the only real State; not with an imaginary one but with the only one that truly exists. And it is the fact that Christians have their citizenship in this, the real State, that makes them strangers and sojourners within the State, or within the States of this age and this world. Yes, if they are 'strangers and
strangers and pilgrims on the earth.21

“Strangers and pilgrims” the Christians would remain, even in America, especially in America where they would be free from Constantinism, free from the kind of state sponsorship which had been a threat to Christianity ever since the time of Emperor Constantine.22 Or that, what Madison appeared to have hoped. Religious belief should remain outside the sphere of politics under the new Constitution—not because Madison failed to understand the proper relation between nonestablishment and free exercise (an inescapable conclusion if one accepts the Neuhaus reduction of the two religion clauses to a single purpose), not because government in America “reflects an unjustified hostility toward religion, a hostility inconsistent with our history and our precedents”23 (a Falwellian complaint now echoed even within that bastion of secular reason: the law


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new Christian right would like to see constructed on the old and unreliable constitutional foundations of American democracy, better in fact than any nation conceived by the hand of man. Clearly, this word cannot be reconciled with any confusion of governmental realms, with any confusion of kingdoms, or with any notion (however aggressively advanced by televangelists during fund drives or by politicians during wartime) that America is "God's own Country." 28

Government support for the Christian Religion? "Nay, it is a contradiction in terms;" concluded Madison:

for a Religion not invented by human policy, must have preexisted and been supported, before it was established by human policy. It is moreover to weaken in those who profess this Religion a pious confidence in its innate excellence and the patronage of its Author; and to foster, in those who still reject it, a suspicion that its friends are too conscious of its fallacies to trust it to its own merits. 29

Imagine if Neuhauß had titled his book, not The Naked Public Square, but, rather, Trusting Christianity To Its Own Merits! One has the feeling that Madison would quickly have seen through the various crusades and campaigns to bring religion back into public life and to turn religious questions back to the state legislatures. Of course Neuhauß has a right to disagree with Madison and with other Christians who do not regard their faith as a political agenda or a blueprint for moral rearmament of the state. But he is wrong to assert that "historically and logically, there is no reason for nonestablishment other than to pro-

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28. P. ROAZEN, FREUD AND HIS FOLLOWERS 388 (1976), "In the study of Woodrow Wilson on which Freud collaborated with William C. Bullit, further evidence of the pious provincialism that others have seen in America, 'God's own Country.'" See also Yoder, supra note 22, at 194.

29. To take the advocates of civil religiosity more seriously would mean clarifying who their founders and church fathers are, and what their 'canon' is, beyond a few phrases from 1776. My efforts to understand these cola lie on the grounds, beyond taste and civility, they prefer the perspective of and our gunboat diplomats.

Chase: Shelter From The Storm

[Vol. 14]

Chase

Churches sleepe, the Gardens of Christ's Churches turned into the Wilderness of National Religion, and the World (under Constantines Dominio) to the most unchristian Christendom. The nationalization of religion had meant the end of Christianity, and while churches remained national, they could never be Christian.88

In their zeal to replace the naked public square with one deeply imbued with religious culture and sentiment, those who wish to abandon the Establishment Clause or transform it into an adjunct of free exercise, seem hardly to have stopped to consider the implications for religion of its nationalization. Must every religious institution compete to have its symbols most prominently displayed during its particular holidays in the courthouse auditorium or in front of the city hall? Must every candidate for office stake out a position on abortion before each separate religious body? Must every believer draw up a political platform for his or her church to debate, pray over, and then vote on, perhaps generating in the process “smoked-filled rooms” where there is last minute wheeling and dealing over issues of Biblical interpretation? Once religion has become a “politics” like the others, what room remains for simple human faith—for an unapologetically private belief in God?88

35. E.S. Morgan, Roger Williams: The Church and the State 96 (1967); see W.C. Gilpin, The Millenarian Piety of Roger Williams (1979).

36. It is extraordinary to find those who assert that the liberal state has diminished the value of religious feeling themselves belittle that sentiment when it does not take a politically organizable form; see, e.g., Gedicks & Hendrix, supra note 11, at 1584.

An emphasis on individual rights thus transforms religion and religious institutions from sources of social value and change into ‘the private affair of the individual seeking to be unburdened of his loneliness, a cult of personal peace of mind,’ which the secure and enlightened believer has nothing to say of public significance.

For so many of the critics of the naked public square, intimate religious feeling betrays a kind of insincerity. A private and personal relationship with God, “a force that brings about an interior transformation,” Alfaro, supra note 33, represents a virtual distortion of religion, amounting to a rejection of the social and political agenda the authors apparently attribute to God. It is perhaps futile to refer the new Christian right to the insight of Princeton philosopher, Walter Kaufmann:

In the case of the New Testament they ended up, as Reinhold Niebuhr did a generation later . . . by reconstructing Jesus in their own image, in flat defiance of the texts and of all historical probability. By a curious twist of logic, this idealized self-portrait with the bold caption 'Jesus' convinced the interpreters not only that Jesus was the most wonderful of men and a
historians, Edmund S. Morgan, confronted head on the question of the Christian's relation to the state within the scope of Williams' theology.

The answer for (Roger) Williams was simple: Christ did not choose to uphold His church by temporal means. Christ's kingdom, though in the world, must not be of the world. His church and religion suffered when the kingdoms of this world tried to protect them. In its first three centuries the church flourished in the midst of persecution; but when Constantine adopted it and undertook to stamp out other beliefs, "then began the great Mysterie of the

Williams, who was one of the earliest exponents of the doctrine of separation of church and state, believed that separation was necessary in order to protect the church from the danger of destruction which he thought inevitably flowed from control by even the best-intentioned civil authorities: "The unknowing zeal of Constantine and other Emperours, did more hurt to Christ Jesus his Crowne and Kingdome than the raging fury of the most bloody Neroes . . . ."

See also, H.L. Black and E. Black, Mr. Justice and Mrs. Black: The Memoirs of Hugo L. BLACK and Elizabeth BLACK 95 (1986). Though Hugo didn't go into it that night he had felt deeply and passionately about the Prayer case, Engel v. Vitale. This was the New York Regents' attempt to force school teachers to read every morning in the classroom a prayer the Regents had written. This offended Hugo's deeply held view that there should be absolute separation between church and state . . . . Headlines came out in the papers, written by many reporters who had not even had the time to read the opinion, screaming that the Court had produced a deluge of mail to Hugo about this case. Some people praised it, but a lot thought it was terrible. One woman condemned Hugo to hell, without a hearing, he told me, and he wrote an answer telling her a bit sarcastically, I thought, that if she would go to the library (as he was sure she would not have it in her own house) and ask for a book called the Bible, she could turn to the chapter and read where it said, 'Pray in your own closet.'

Rahner, Prayer, ENCYCLOPEDIA OF THEOLOGY: THE CONCISE SACRAMENTUM MUNDI 1268, 1272 (K. Rahner, ed. 1986): 'Prayer is the great religious act. What man really is in the depths of his mental activity in time yet transcending time - that is prayer.' Alfaro, up a relationship to God, it would remain wholly extrinsic to man's religious social life, something there by mere juxtaposition, not a force that brings grace elevates the spiritual dynamism of man to relate it to God himself. The inward illumination of grace has no objective content.

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In 1828, De Witt Clinton, governor of New York and one of the state’s most important political figures, suddenly died. By a resolution of the city council all of the New York clergy were requested to notice Clinton’s death from their pulpits. In a letter to the mayor Hobart wrote that he would not comply with the request, explaining that it challenged the apostolic separation of the concerns of the church from those of the state by the attempt to influence the ministrations of the clergy. For a clergyman to be asked to eulogize a political figure led to the risk of seemingly linking the church to the principles that the figure represented and of thus alienating his political opponents. All political figures divided the populace, and it was the responsibility of the church to be above such divisions.”

Hobart’s desire to “use the church as a place of psychological or emotional sanctity was to become a strong aspect of Episcopal self-understanding,” and I think it may be said in fairness that there has long

moral genius but also that their own ethic, seeing that it agreed with his, must be right. The profound complacency of this approach is independent of whether the interpreter likes the social status quo or wants to change it: many of the liberals endorsed social change. What is complacent is the refusal to change oneself or even to admit any discrepancy between one’s own ethic and the that of Jesus. What is complacent is the failure to read the text with an open mind; the predestination that, of course, we are right, and Jesus is right, and we can keep our ethic and our religion, too.

38. Id. at 95.

One common criticism of the church conceived primarily as a place of sanctity is that it leads to political passivity. On the contrary, however, the separation of church and state merely deprives politics of religious justifications—social reform as well as social structure can only be legitimated through rational political argument. Consider this observation by Karl Barth from the perspective of political argument. Consider the 1914-1918 war: “Let there be strike, general strike, and street fighting if need be, officer, but on no condition as military chaplain . . . social democratic but not religious.” K. Barth, quoted in J.C. CORT, CHRISTIAN SOCIALISM 209 (1988).”

Chase, Shelter From The Storm

been a tradition in the United States of separating church and governmental practices in order to help preserve religion as an ark of refuge. Parishioners of all faiths must now turn toward their religious communities to explore how they can manage to remain a shelter in the storms gathering at the horizon.

helps reveal why Barth is the preeminent Protestant theologian of this century. Attacked in the United States during the McCarthy period as “pro-communist” (by cold warriors like Reinhold Niebuhr), Barth still had to defend himself against the charge, made by his Czech friend, religious leader Joseph Hromadka, that he was “anti-communist”:

I have an extreme allergic reaction not only to all identifications but also to all the drawing of parallels and analogies between theological and socio-political thought in which the superiority of the analogon (the gospel) to the analogateum (the political insights and opinion of the theologian concerned) is not clearly, soberly, and irreversibly maintained and does not remain visible. Where the relative importance of the two is reversible, there I speak . . . of a philosophy which does harm to theology and Christian proclamation.


While some of those who wished to clothe Weimar’s naked public square were doing so with banners and flags bearing swastikas and heralding the synthesis of German Christian nationalism with fascist political strength, others, like Karl Barth, were struggling to build opposition to the new regime; see, e.g., H. HOLBORN, A HISTORY OF MODERN GERMANY, 1840-1945 741 (1969): “The drive of the German Christians to introduce a non-Aryan paragraph into the constitution helped to crystallize opposition among the Protestant ministers . . . Karl Barth, the Swiss Calvinist theologian, who was to be suspended from his professorship in Bonn by the Nazis, gave the opposition a deeper theological meaning. So did the young Dietrich Bonhoeffer . . . The fight of the anti-Nazi theologians led to a renaissance of theological thought within Protestantism that survived the Nazi period . . . ”

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Cort, a “Christian socialist,” uses this quotation to help dismiss Karl Barth and his theology. Yet to me, the same quotation links Barth to Madison and Williams, and

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