

## POLITICS & GOVERNMENT

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debates will not be resolved by trying to decipher the "intentions" of the First Amendment's authors. The Founding Fathers "could not have foreseen" the switch from "private, sectarian schools" to a public system designed to educate most of the nation's youth. Nor could they have predicted "the *new* threats" posed by today's "politically involved" evangelists.

Justices and legal scholars have always regarded the language of the First Amendment—which Thomas Jefferson said in 1802 was intended to erect "a *wall* of separation between church and state"—as "opaque." In 1947, the U.S. Supreme Court referred to Jefferson's wall as "high and impregnable." Two decades later, the Court described it as "a blurred, indistinct, and variable barrier." To define that barrier more precisely, the Court in 1970 decided to judge cases challenging a state or federal action for alleged violation of religious liberty in light of three criteria: whether the contested law (or action) has any "secular (nonreligious) purpose"; whether it has "a primary effect that neither advances nor impedes religion"; and whether it "avoids excessive government entanglement with religion."

Subsequent U.S. Supreme Court decisions have been more consistent, in McCarthy's opinion. State-imposed Bible reading for religious purposes was barred from public schools in 1963. But teaching Biblical history is now permitted (even encouraged) because of its relevance to American culture—a secular purpose.

Moreover, under the second criterion, the Court struck down an Alabama law authorizing a one-minute period of silence for "meditation or voluntary prayer" on the grounds that it seemed to "promote" a religious cause. (Such laws are still on the books in 16 states, with similar legislation pending in nine others. McCarthy asserts that each statute will require separate court review.)

Excessive "entanglement" is the most complex criterion, notes the author. In 1979, for instance, the Court ruled that the U.S. National Labor Relations Board has no jurisdiction over lay faculty in religious schools, because federal meddling in the schools' administration would embroil Washington in their religious affairs. A later decision exempted such schools from the Federal Unemployment Tax Act for similar reasons.

In short, McCarthy sees no tidy ending to the controversy over church-state separation; she does fear that under pressure from the "Christian Right," Jefferson's wall may eventually give way.

### *State House Pros*

"The Changing Character of State Legislators: Requiem for a Vanishing Breed" by Alan Rosenthal, in *Public Affairs Review* (vol. VI, 1985), 1255 23rd St. N.W., Ste. 750, Washington, D.C. 20037.

Gone are the days when farmers, union members, and "county board types" constituted a majority of America's state lawmakers. Now, career politicians dominate a growing number of state legislatures.

The change, contends Rosenthal, a Rutgers University political scientist, is not for the better. As U.S. Rep. David Obey (D.-Wis.) put it, nowadays

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state legislators are "much more materialistic, much more poll-oriented, much less willing to do what's tough but necessary" than their part-time, amateur predecessors. True, notes Rosenthal, these upwardly mobile professionals are also younger, better educated, and more likely to devote long hours to their legislative duties than were their "citizen" predecessors. But proceeding directly from law school or graduate studies to the campaign trail, they often lack the broad experience that helped former community leaders to serve their electorates.

In 1963, all members of the Wisconsin state legislature held down regular jobs—as attorneys, businessmen, farmers—in addition to their political posts; by 1983, 72 of the 132 legislators in Madison called politics their only livelihood. All told, Rosenthal estimates that almost "one-third of the nation's legislatures are . . . in the hands of full-timers." Only in the less populous states (Nevada, New Hampshire, North Dakota, South Dakota, Vermont, and Wyoming) do "part-time citizens" still occupy most state house and senate seats, and their numbers are declining.

Increasing demands on state legislators' time is one reason for the influx of professionals, says Rosenthal. Most state legislatures used to meet biennially; today, all but seven convene annually. Rising salaries have also enabled legislators to live as purely political creatures. Although New Hampshire still pays its legislature members only \$100 per year (and no expenses), Alaska and New York pay almost \$50,000. And higher salaries have changed the make-up of state government by luring modest-income folk into the state political arena: Since 1960, the number of former teachers in state legislatures has risen from three percent to more than 10 percent.

Today's state legislatures are suffering from this "new breed" of politician, concludes Rosenthal. Eager to "make it" in office, many careerists waste time needed for the public business on personal image-building and fundraising for re-election. And, when offered a more prestigious political post, they leave the legislature "as soon as they have a shot." All told, Rosenthal suggests, 20 years ago the average state legislator "placed more emphasis on the issues, on the art of legislating, as opposed to the art of politicking, getting elected, and staying elected."

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**FOREIGN POLICY & DEFENSE**


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*Living with Risk*

"Maintaining Global Stability" by James R. Schlesinger, in *The Washington Quarterly* (Summer 1985), 1800 K St. N.W., Ste. 718, Washington, D.C. 20006.

The era of Pax Americana—when the United States clearly enjoyed global military and economic supremacy—is over. Responding to that reality have been two groups of analysts: One group calls for a military build-up to regain past American superiority; the other, for a cutback in the country's commitments abroad.