

## BOOK NOTE

It's Not Whether You Win or Lose, It's [Whether] You Play the Game—  
STEPHEN L. CARTER, *GOD'S NAME IN VAIN: THE WRONGS AND  
RIGHTS OF RELIGION IN POLITICS*, Basic Books, New York, New  
York, 2000, pp. 248.

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Since (and likely before) Jesus Christ instructed his followers to give “to Caesar what belongs to Caesar and to God what belongs to God,”<sup>1</sup> men and women have pondered the appropriate boundary between the often conflicting masters of religion and politics. For those concerned about both the protection of religious traditions and adherence to the dual admonitions of the Free Exercise and Establishment Clauses,<sup>2</sup> the attempt to theorize a sensible and constitutionally appropriate dividing line between what belongs to Caesar and what belongs to God is likely to flounder in a morass of inconsistent judicial interpretation, forceful religious pronouncement, and fiery political rhetoric.

Whether the debate is expressed in terms of religion and politics, or cached in the rubric of church and state, the invocation of these terms immediately calls to mind the most (in)famous structure in our constitutional architecture: the “wall of separation” between church and state. While this familiar apothegm is normally explained as the protection of the State from overtly religious influences and traced to Thomas Jefferson,<sup>3</sup> it is worth noting that this metaphor has an older counterpart traced to Roger Williams.<sup>4</sup> Unlike the Jeffersonian wall that “protects”

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<sup>1</sup> *Matthew* 22:21 (New American Bible).

<sup>2</sup> The Free Exercise and Establishment Clauses appear in the opening clause of the First Amendment and provide, in pertinent part, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .”. U.S. CONST. amend. I.

<sup>3</sup> The term was used by Jefferson in a letter to the Danbury Baptist Association and quoted in *Reynolds v. United States*, 98 U.S. 145, 164 (1878), the first decision by the Supreme Court to uphold a conviction for a crime (polygamy) resulting from the practice of religious belief. *Id.* at 168.

<sup>4</sup> STEPHEN L. CARTER, *GOD'S NAME IN VAIN* 75-76 (2000) (citing TIMOTHY L. HALL, *SEPARATING CHURCH AND STATE: ROGER WILLIAMS AND RELIGIOUS LIBERTY* (1998)). Professor Carter is the William Nelson Cromwell Professor of Law at Yale University, and the author of several books and articles dealing with the intersection between religious

civil society from the dangers of theocracy often invoked in modern constitutional and political discourse, Williams posited that the wall's purpose was to protect the "garden" of religious life from the "wilderness" of the secular world.<sup>5</sup>

The conflicting interpretations of the wall of separation symbolism underscore the often bitter debate over the appropriate role of religious belief in political discourse. While this conflict has ancient roots, every two to four years Americans are bombarded with news articles regarding the "proper" role of religious organizations in the electoral process.<sup>6</sup> This conflict is as partisan as our politics: Democrats and liberal public interest groups blast conservative organizations such as the Christian Coalition for "corrupt[ing] sanctuaries with politics,"<sup>7</sup> while Republicans chastise Democrats for "abusing their ties with black churches."<sup>8</sup> This dispute likely is furthered by American society's general reluctance to discuss matters of religious belief. However, it is a discussion that must take place before any attempt to define properly the roles of religion and politics can be successful. In this discussion, therefore, engaging in a dialogue is more important than reaching an agreement.

Professor Stephen Carter's latest book, *God's Name in Vain*, serves as a valuable tool to begin the discussion. In his 1989 book, *The Culture of Disbelief*, Professor Carter argued that modern-day society's view of religion is similar to that of a hobby—something perhaps personally

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belief and government policy such as *THE DISSENT OF THE GOVERNED: A MEDITATION ON LAW, RELIGION, AND LOYALTY* (1998), *THE CULTURE OF DISBELIEF: HOW AMERICAN LAW & POLITICS TRIVIALIZE RELIGIOUS DEVOTION* (1993), *Parents, Religion, and Schools: Reflections on Pierce, 70 Years Later*, 27 SETON HALL L. REV. 1194 (1997), *The Separation of Church and Self*, 46 SMU L. REV. 585 (1992), *The Free Exercise Thereof*, 38 WM. & MARY L. REV. 1627 (1997), and *The Religiously Devout Judge*, 64 NOTRE DAME L. REV. 932 (1989).

<sup>5</sup> CARTER, *GOD'S NAME IN VAIN*, *supra* note 4, at 75-76. Professor Carter explains that Williams used the metaphor to express his concern not "that the people of the garden might have too much influence over the wilderness . . . . [Rather, that r]eligious freedom, for Williams, as for the later Protestant tradition, meant protecting the garden." *Id.* at 76.

<sup>6</sup> See, e.g., Stephen Huba, *Churches Immersed in Politics*, CINCINNATI POST, Nov. 4, 2000, at 7A (describing materials left at Cincinnati churches, instructing churchgoers to pray for or against the election of various candidates in the 2000 elections); Alberta Lindsey, *Politics and Pulpits: For Houses of Worship, Elections Can Be Dangerous Terrain*, RICHMOND TIMES-DISPATCH, Nov. 4, 2000, at B1 (explaining how church pastors seek to get parishioners involved in the electoral process without violating IRS regulations); Larry Witham, *Christian Coalition Takes Heat for Church-Bulletin Voter Guides*, WASH. TIMES, Oct. 26, 2000, at A4 (describing the controversy over Christian Coalition "voter guides," and whether their use violated IRS regulations prohibiting tax-exempt churches from engaging in certain political activities).

<sup>7</sup> Witham, *supra* note 6, at A4.

<sup>8</sup> Sean Scully, *Democrats' Visits Could Cost Churches Tax-Exempt Status, IRS Prohibits Mixing Politics, Religion*, WASH. TIMES, Nov. 3, 2000, at A11.

relevant, but not worthy of coloring one's view of a political controversy.<sup>9</sup> Resuming where *The Culture of Disbelief* left off, *God's Name in Vain* sets forth two arguments regarding the appropriate role of religious belief in matters of public concern:

First, that there is nothing wrong, and much right, with the robust participation of the nation's many religious voices in debates over matters of public moment. Second, that religions—although not democracy—will almost always lose their best, most spiritual selves when they choose to be involved in the partisan, electoral side of American politics.<sup>10</sup>

By addressing these issues with a discerning eye focused on the successes and failures of religious involvement in political debates throughout American history, Professor Carter's book is an estimable dialogue for explaining how (and whether) religion should be involved in the political controversies of the future.

*God's Name in Vain* is divided into two parts. Part I, "Religion's Sphere," addresses why religion continues to be important in American politics. It warns those using the moral force of religion in electoral politics of the dangers that arise when the religious voice chooses "to be kingmaker rather than prophet."<sup>11</sup> Part II, "Religion's Voice," delves into some unexpected areas in which the religious voice can have a profound impact on political debate.<sup>12</sup> It is important to note that the book is written from the standpoint of a proudly religious American. Certainly this is not a criticism, it is simply a recognition that the principles and arguments set forth by Professor Carter seek to enhance and protect the religious voice in this country. If the reader finds that Carter's concern for the well-being of religious America biases his arguments at times, Carter would likely agree.<sup>13</sup> Ultimately, however, both the devout and the atheist have to find a common set of rules to govern their lives. Consequently, they must have a way to understand the religious belief of each person. *God's Name in Vain* is the medium for those who want to understand why the religious voice should continue to be an active participant in the political arena.

There is a single reason why religion is so important in political debate—God is everywhere. While some may reasonably dispute this assertion as a matter of theology, it is unassailable as a matter of political

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<sup>9</sup> CARTER, *GOD'S NAME IN VAIN*, *supra* note 4, at 5-6.

<sup>10</sup> *Id.* at 1.

<sup>11</sup> *Id.* at 56.

<sup>12</sup> For example, Professor Carter laments that the religious voice has become largely silent on the issues of international conflicts, *id.* at 126-36, and the protection of religious freedom generally, as opposed to protecting one's *own* religious freedom. *Id.* at 157-62.

<sup>13</sup> *Id.* at 148 ("After all, a religion that makes no difference is not a religion.").

reality. As Professor Carter explains in Part I, "Religion's Sphere," "God's will is cited as a reason to be against gay rights. And a reason to be for them. God is said not to tolerate poverty. Or abortion. Or nuclear weapons."<sup>14</sup> There are also those who believe that the American political structure "was laid upon the bedrock of Biblical truths, truths clearly evident throughout our founding documents."<sup>15</sup>

Rhetoric aside, there is a more logical reason that supports the prevalence of religion in politics—for many Americans, Carter among them, religion is an important part of life that cannot be surrendered when entering the political arena.<sup>16</sup> A conflict arises, however, when the church and the state require different things from an individual. While it may be theoretically possible to separate religious views from political views in the abstract, according to Professor Carter, both religion and politics are ultimately concerned with morality, an abstract concept that easily straddles the wall of separation.<sup>17</sup> And, since morality is equally the province of both religion and politics, if religion "is truly about the meaning God assigns to the world, the . . . truly faithful[ ] can hardly select a different meaning simply because the state says so."<sup>18</sup>

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<sup>14</sup> *Id.* at 13.

<sup>15</sup> Christian Coalition of America, *Our Mission*, at <http://www.cc.org/mission.html> (last visited Oct. 1, 2001).

<sup>16</sup> CARTER, GOD'S NAME IN VAIN, *supra* note 4, at 25 ("To the faithful, there is no part of the day that is outside of God's view."). See also Pope John Paul II, Encyclical Letter *Veritatis Splendor* at 99, at [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/encyclicals/documents/hf\\_jp-ii\\_enc\\_06081993\\_veritatis-splendor\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor_en.html) (last visited Aug. 15, 2001). In *Veritatis Splendor*, Pope John Paul II sought to explain the bond between the Catholic Church's teachings on morality and the actions of everyday life:

[T]he inseparable connection between truth and freedom—which expresses the essential bond between God's wisdom and will—is extremely significant for the life of persons in the socio-economic and socio-political sphere. This is clearly seen in the Church's social teaching . . . and from her presentation of commandments governing social, economic and political life, not only with regard to general attitudes but also to precise and specific kinds of behaviour and concrete acts.

*Id.* (internal quotations and footnote omitted).

<sup>17</sup> See President Ronald Reagan, *Politics and Morality are Inseparable*, 1 NOTRE DAME J.L. ETHICS & PUB. POL'Y., 7, 10 (1984). President Reagan argued that not only were religion and politics related through a common interest in morality, but that religion was actually essential to the proper functioning of government:

The truth is, politics and morality are inseparable. And as morality's foundation is religion, religion and politics are necessarily related. We need religion as a guide; we need it because we are imperfect. And our government needs the church because only those humble enough to admit they are sinners can bring to democracy the tolerance it requires in order to survive.

*Id.*

<sup>18</sup> CARTER, GOD'S NAME IN VAIN, *supra* note 4, at 25.

Accepting the premise that both religion and politics are relevant when discussing morality, how should we define the proper role of the church *in* the state? As Professor Carter notes, religion cannot be confined behind the wall for those who believe that the mandates of God come first.<sup>19</sup> The problem with previous attempts to properly define the role of religion in governance, Carter explains, is that all such arguments start with looking at the needs of the state and therefore subjugate religion to an inferior position. This stance is hardly adequate, the argument continues, to the “tens of millions of Americans for whom God is a living truth, whose ordinances we are bound to obey.”<sup>20</sup>

While Professor Carter is correct that putting the state first gives religious belief a less enviable position, it is necessary because of the practical realities of today’s religiously pluralistic society. That is, although the church may be more important to certain individuals—even a majority of Americans—the State is the only thing equally binding on *all* Americans, regardless of what church (if any) they belong to. While it may seem overly pragmatic to place the interests of the state first, the American political structure binds believer and non-believer alike. Even wholeheartedly accepting Carter’s assertion that the religious voice has a proper role in political affairs does not change the fact that devout Americans (collectively the “church”) are part of the State, while the Establishment Clause prevents the State from being a part of the church.<sup>21</sup>

In Part II, “Religion’s Voice,” Professor Carter offers some examples of the successful (and failed) attempts of the religious voice to shape the outcome of important historical issues such as the abolitionist’s campaign against slavery,<sup>22</sup> the Social Gospel movement,<sup>23</sup> and the rise of the

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<sup>19</sup> *Id.* at 112 (“For religion . . . has no sphere, and the river of serious belief cannot be damned. The waters will flow where the waters will flow, because the Lord will go where the Lord will go.”).

<sup>20</sup> *Id.* at 97.

<sup>21</sup> No doubt the reader may object that by passing legislation that impacts religious practices, the state does precisely this. However, the Free Exercise and Establishment Clauses (although admittedly interpreted differently from time to time) set the limits of government power. They do not, however, set limits upon what the church may do. Professor Carter makes this point himself. *See id.* at 77.

<sup>22</sup> *See id.* at 83-99. Professor Carter’s recitation of the events surrounding the abolitionist movement is perhaps the most illustrative of both sides of the current church / state debate. On the one side were the abolitionist preachers who claimed that slavery was wrong simply because “[w]hat the South was doing, the Bible forbade . . .” *Id.* at 84. Note that this argument is simply about right and wrong, moral and immoral, or that which is God’s will and that which is against it. For many abolitionists, there was no discussion of the economic or political justifications for freeing the slaves. Rather, there was the simple, yet elegant argument that slavery should be abolished “for no other reason than that slaveholding was inconsistent with Divine Law.” *Id.* at 85.

On the other hand, many in the South felt that “the abolition question was about the

Christian Coalition.<sup>24</sup> These examples share a common theme that is one of the main theses of *God's Name in Vain*: Religion can be used as a powerful force in the political game, but sometimes the cost of playing is too high. As Carter recounts many of the historical political battles aided by religious voices, the principle that surfaces is that religion used as an agent for social or political change is at its most powerful—albeit not necessarily most successful—when it calls the world to account for its practices without becoming enamored with its newly-minted political power. In contrast, Professor Carter uses the examples of the Moral Majority and the Christian Coalition to delineate the dangers attendant when religious groups use God's name as “a ticket to get [them] where [they] want to go.”<sup>25</sup> The point Carter seems to make is that the religious should not necessarily be concerned with electoral or political success, but rather with advocating their religious beliefs honestly, without political compromise.

After using numerous historical examples to show how religion can be a positive motivating force of political advocacy, however, Professor Carter points out how poorly equipped the devoutly religious are to engage in political dialogue. The lynchpin, Carter explains, is the multiple meaning of the word “politics.”<sup>26</sup> Politics as an agent for social change, to implement moral values, or to promote religious freedom is ripe terrain in which the religious cannot only flourish, but add valuable input to the debate. Conversely, partisan electoral politics is a minefield of coercion and corruption that tempts those seeking to use religious power into being co-opted into engaging in political compromise at the expense of inviolable tenants of faith.

In essence, Professor Carter's view seems to be that religion has a responsibility, if not a moral obligation, to shape public policy with an eye toward the principles of morality embodied in religious tenets. This

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political and economic arrangement of society, and therefore was one on which the Church should not presume to speak.” *Id.* at 93. Therefore, to the Confederacy, the separation of church and state was (perhaps conveniently) inviolable. Moreover, the Establishment Clause was not merely a mechanism to prevent religion from being mandated by government, but also to prevent religion from having any role *in* government.

<sup>23</sup> See CARTER, *GOD'S NAME IN VAIN*, *supra* note 4, at 101-12.

<sup>24</sup> See *id.* at 41-58. Professor Carter's description of the rise and fall of the Moral Majority and the Christian Coalition exemplify a sharp contrast from how the religious voice was utilized during the abolitionist movement. While the abolitionist preacher's stood apart from the political fray and called the world to account for the practice of slavery in the South, the Christian Coalition became more of a political entity than a religious one. It is through this transition, Professor Carter argues, that organizations such as the Christian Coalition lose their religious voice and become yet another partisan political organization. *Id.* at 52.

<sup>25</sup> *Id.* at 16.

<sup>26</sup> *Id.* at 6.

proposal also emphasizes, however, that religious organizations have only a limited amount of political capital and thus must choose political battles wisely.<sup>27</sup> A similar argument was espoused by Joseph Cardinal Bernardin in the following way:

In our American society, individuals and groups are free to participate in any dimension of the public debate . . . . However, individuals and groups must also earn the right to be heard by the quality and consistency of their arguments.<sup>28</sup>

This position attempts to balance the religious obligation to bear witness against the practical dangers of entering into the legislative or electoral arena with an inviolable principle. In other words, it is dangerous for a religion which may have its view shaped by one or more fundamental "truths" to support a candidate who might be amenable to compromising some of those "truths" in order to get elected.<sup>29</sup>

Carter's view also supposes that there is a danger in the continued intertwining of the religious voice in politics because frequent pronouncements of policy by the clergy (especially with respect to non-social legislation) tend to undercut the authority that the religious voice has when speaking on more spiritual matters.<sup>30</sup> Combining the theses, it is possible to summarize Carter's rationale: Religion should not necessarily speak on every issue, but when it does, there is no harm in speaking loudly.

It is necessary to distinguish what *God's Name in Vain* is from what it is not. Professor Carter's book is not a blueprint for the religious to achieve political power. In fact, some devoutly religious individuals may feel somewhat dissatisfied with the author's suggestion for achieving an environment more hospitable to religion—to spend more time in the "garden," as opposed to finding ways to change society. For example, one of the ways Professor Carter suggests to find more personal religious space while protesting the increasing secularization of society is to boycott

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<sup>27</sup> See The Hon. Arlin M. Adams, Remarks, *The Role of the Religious Leader in the Development of Public Policy*, 34 DEPAUL L. REV. 14, 16 (1984). Judge Adams argues that, as a matter of policy, religious leaders should use the force of religiously motivated political activity sparingly:

The religious leader must be aware of the threat to [its] institutional claim to transcendence latent in the use of religious authority to promote particular political policies. Our religious institutions are so valuable to us politically because they stand above the state, not against it and certainly not with it.

*Id.*

<sup>28</sup> Joseph Cardinal Bernardin, Remarks, *The Role of the Religious Leader in the Development of Public Policy*, 34 DEPAUL L. REV. 3, 5-6 (1984).

<sup>29</sup> See CARTER, *GOD'S NAME IN VAIN*, *supra* note 4, at 22 (discussing this danger and referring to it as the "Electoral Objection" to religious involvement in political matters).

<sup>30</sup> See *id.* at 22 (discussing this danger and referring to it as the "Integrity Objection" to religious involvement in political matters).

products and media sources that are inconsistent with personal religious values.<sup>31</sup> The reader may object that such boycotts historically have had little impact on changing society. Professor Carter acknowledges this complaint, but saliently argues that the boycott will have tremendous impact on the *individual*.<sup>32</sup>

*God's Name in Vain* is accessibly written, avoiding arcane legal terminology whenever possible, and explaining it simply when it is not. The arguments are forceful, and delivered from the standpoint of a religious individual who is concerned primarily with the well-being of religious individuals of any denomination. Professor Carter's book does not address the questions regarding the legally or constitutionally "appropriate" role of religion in politics. Instead, the book reminds the devout that their first allegiance is to God. As a result, Professor Carter warns that the religious should not seek *spiritual* goals through the means of mortal candidates and lawmakers, but rather should rely on the advocacy of their fundamental beliefs. Professor Carter does not pretend that all such entreaties will be successful, but rather contends that they will ultimately be more faithful to the obligation of the devout to do "what the Lord requires."<sup>33</sup>

Regardless of one's religious or political beliefs, it is easy to understand why religion and politics are such important parts of the everyday lives of millions of Americans. Through religion or politics, an individual seeks a path to a "better" or "just" society. In both areas, individuals can vehemently disagree with one another's arguments, justifications, and conclusions. Furthermore, the spectrum of religious belief in this country runs from the atheist to the ardently devout, just as the average American's interest in politics can run from completely disinterested to all-encompassing fascination. The trouble with partitioning the "appropriate" role of religion from the "appropriate" role of politics is similar to the conflicting interpretations of the wall of separation. Before ascertaining the respective roles of religion and politics, one must necessarily utilize a frame of reference. If one believes that religion, to have any real meaning, must inform one's decisions in every aspect of life, there is no harm in the religious using the medium of politics to achieve social change. Conversely, if one believes that the purpose of the Establishment Clause is to eliminate completely spiritual influence over secular affairs, religious involvement in politics constitutes a form of persuasion prohibited by our form of government. Depending on whom you talk to or the polls you read, the "average" American may fall

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<sup>31</sup> *Id.* at 120-21.

<sup>32</sup> *Id.*

<sup>33</sup> *Micah* 6:8 (New American Bible).



anywhere on the religious or political spectrum. As a result, it is difficult for our government to set ground rules for appeasing both the religious and the secular. *God's Name in Vain* does not seek to set those rules, but compels us to begin the discussion.

In *God's Name in Vain*, Stephen Carter adds valuable insight to the debate regarding the appropriate role of the devoutly religious in political discourse. The book is relevant not only for its forceful arguments relating to the need to keep the religious voice active in governance, but also for its warnings to those who would wield divine power in order to achieve electoral success or secular political gain. While *God's Name in Vain* does not purport to answer the question of how the Supreme Court will ultimately divide the secular from the divine, Professor Carter echoes the concerns of those who believe that they will ultimately answer to a higher tribunal.