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RELIGIOUS ACTIVISM: THE HISTORICAL RECORD

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Professor Greenawalt and several of the other commentators plainly show an aptitude for philosophical analysis. I could try to continue the conversation in the same vein, but my bent is historical rather than philosophical. I can contribute more to the conversation by providing historical background to the issue raised by Professor Greenawalt.¹

For this purpose, I will restate the issue. In light of the practices and understandings of the American people throughout our nation's history, may churches, the clergy, and other religious groups and their leaders properly take part in political controversies? More particularly, to what extent have religious groups and their leaders participated in our political affairs? How have others reacted to their participation? Do we have a national tradition on these questions?

The issue should be considered in light of our nation's whole history, and not with an excessive focus on the political controversies of the moment, such as abortion or intervention in Central America. For this reason, all references to specific events will predate the last decade.

The first question is, to what extent have religious groups and their leaders involved themselves in political controversies? A recent thoughtful study of religion in American public life concludes that "organized religion has almost continually been deeply involved in American politics."² There is little reason to contest this assertion.

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1. This Comment draws much of its information concerning the historical background from three main secondary sources: S. AHLSTROM, *A RELIGIOUS HISTORY OF THE AMERICAN PEOPLE* (1972), by far the most comprehensive study of its subject; A. REICHLEY, *RELIGION IN AMERICAN PUBLIC LIFE* (1985), an up-to-date report published by the Brookings Institution; and A. STOKES, *CHURCH AND STATE IN THE UNITED STATES* (1950), which treats all but the recent history of its subject far more exhaustively than any other study.

2. A. REICHLEY, *supra* note 1, at 168.

The clergy were deeply involved in the first great political question in our history as a nation, the propriety of the War for Independence against England. In New England, Congregationalist ministers backed the war aggressively through sermons, membership on revolutionary committees, and other means. The same was true of Baptist and Presbyterian ministers elsewhere in the colonies. Indeed, the leading Presbyterian minister in America, John Witherspoon, was a member of the Continental Congress and a signer of the Declaration of Independence. On the other side, much of the Anglican clergy opposed the war, albeit more discreetly.³

This pattern of involvement by religious activists in debates concerning the propriety of controversial wars has persisted throughout our history. The War of 1812,⁴ the Mexican War,⁵ the Civil War,⁶ the Spanish-American War,⁷ preparations for World War I⁸ and for World War II,⁹ and the Vietnam War¹⁰ all prompted religious activists emphatically to support or oppose the actions of our government. The same is true, particularly since World War I, of debates concerning other international questions, such as membership in international organizations,¹¹ participation in peace agreements,¹² independence for Ireland,¹³ and statehood for Israel.¹⁴

Since the early nineteenth century, religious groups and their leaders have been even more active with respect to domestic political questions than in the international arena.¹⁵ Their involvement in debates about these questions has followed two main lines. One might be called "personal" reformism—the impulse to reform through law what conventionally has been regarded as private behavior, such as the consumption of alcohol. The other line might

3. See *id.* at 97; 1 A. STOKES, *supra* note 1, at 276-80, 282-84.

4. See 1 A. STOKES, *supra* note 1, at 686.

5. See 2 *id.* at 75-82.

6. See *infra* notes 33-37 and accompanying text.

7. See S. AHLSTROM, *supra* note 1, at 879-80; 2 A. STOKES, *supra* note 1, at 311-15.

8. See S. AHLSTROM, *supra* note 1, at 883-84.

9. See *id.* at 930-31.

10. See A. REICHLEY, *supra* note 1, at 250-53.

11. See S. AHLSTROM, *supra* note 1, at 893-94.

12. See 3 A. STOKES, *supra* note 1, at 259-64.

13. See 2 *id.* at 416-21.

14. See *id.* at 471-72, 475, 478-80.

15. See *id.* at 4.

be called "social" reformism—the penchant for altering social relations such as the institution of slavery.

In our nation's history, the Prohibition movement has been the prototype of personal reformism. The first stage of the movement was initiated by the sermons of Lyman Beecher, perhaps the most influential clergyman of his generation, and was carried forward by other Protestant ministers and groups. As a result of their efforts, more than a dozen states outlawed the liquor traffic during the ten-year period ending in 1855.¹⁶

In the next decade, which encompassed the Civil War, most of these states backslid, necessitating a second and more enduring stage of the movement.¹⁷ It began in 1869, when leaders of many Protestant denominations joined in founding the Prohibition Party. Five years later, women activists created the Women's Christian Temperance Union under energetic evangelical leadership.¹⁸ In 1893, the most powerful group of all appeared, the Anti-Saloon League. Led by the Protestant clergy and backed by the denominational press, this group called itself "the church in action against the saloon."¹⁹ Of the Protestant denominations, the Methodists were the staunchest supporters of prohibition, going so far as to set up an office in Washington in 1916 to lobby for the cause at the federal level.²⁰ The Baptists and Presbyterians, particularly in the South, also were extraordinarily active in the movement.²¹ By 1919, as a result of these efforts, prohibition had been enacted as the eighteenth amendment to the United States Constitution, and more than two-thirds of the states had passed laws banning liquor traffic.²²

During the 1920's, these groups continued to work for strong enforcement of prohibition laws and against their repeal. These efforts were insufficient to prevent adoption of the twenty-first amendment to the United States Constitution, which brought

16. S. AHLSTROM, *supra* note 1, at 426.

17. *Id.* at 867; A. REICHLEY, *supra* note 1, at 216; 2 A. STOKES, *supra* note 1, at 40-42.

18. See S. AHLSTROM, *supra* note 1, at 867-70.

19. See *id.* at 902-03; A. REICHLEY, *supra* note 1, at 216-17; 2 A. STOKES, *supra* note 1, at 328.

20. A. REICHLEY, *supra* note 1, at 244.

21. S. AHLSTROM, *supra* note 1, at 871.

22. *Id.* at 870-71; 2 A. STOKES, *supra* note 1, at 328.

national prohibition to an end in 1933. Despite this defeat, however, the religious groups continued to fight for the reinstatement of national prohibition and for the maintenance and expansion of prohibition at the state level.²³

Prohibitionism by no means has been the only religious movement to promote personal reform through law. Beginning in the early nineteenth century, Protestant clergymen and groups fought hard, and often successfully, for legislation against dueling,²⁴ pornography,²⁵ lotteries,²⁶ polygamy,²⁷ and related behavior. Even in their battles against civic corruption at the turn of this century, the main target of religious groups seems to have been liquor, gambling, and prostitution.²⁸ On some of these questions, the Protestant groups were joined by the Catholic hierarchy,²⁹ whose own cause until recently was to seek a ban on artificial contraception.³⁰

With respect to the other line of involvement by religious groups—social reformism—the prototypical instance in our nation's history has been the movement to abolish slavery. This cause seemed to be making substantial headway at the end of the eighteenth century, when two of the major evangelical Protestant churches, following the lead of the Quakers, petitioned public authorities to end slavery by law.³¹ Abolitionism stalled during the next generation, coincident with the great upsurge in the use of slaves to produce cotton,³² but it revived in the 1830's and continued unabated until emancipation was achieved by the Civil War.

Although the smaller Protestant denominations confined to the North threw themselves into the abolitionist cause wholeheartedly, the major evangelical denominations with large southern memberships held back.³³ The lead was taken by individual evangelical leaders and interdenominational groups. They poured forth a flood

23. See 2 A. STOKES, *supra* note 1, at 333-44.

24. See *id.* at 5-11.

25. See 3 *id.* at 215-16.

26. See 2 *id.* at 297-304.

27. See *id.* at 280-85.

28. See *id.* at 304-06.

29. See *supra* notes 24 & 26.

30. See 3 A. STOKES, *supra* note 1, at 72-74.

31. See A. REICHLEY, *supra* note 1, at 191; 2 A. STOKES, *supra* note 1, at 130-31, 135-36.

32. See A. REICHLEY, *supra* note 1, at 191.

33. See *id.*

of sermons, speeches, pamphlets, books, and petitions with thousands of signatures.³⁴ The most renowned agitator of the movement among whites was William Lloyd Garrison, who had been the editor of a Baptist temperance periodical,³⁵ while the single most influential publication, *Uncle Tom's Cabin*, was written by Harriet Beecher Stowe, a lay theologian and the daughter of Lyman Beecher.³⁶ These efforts provoked a public defense of slavery by churches and clergy in the South. According to some historians, the religious activism on both sides contributed greatly to the onset of the Civil War, and thus to emancipation itself.³⁷

Religious concern for the social condition of blacks did not end with emancipation. Northern Protestant churches, predominantly white, were the mainstay of the short-lived Reconstruction movement.³⁸ When the cause eventually was revived in the 1930's and 1940's, church groups again were in the forefront.³⁹ Their level of involvement crested during the civil rights movement of the 1960's, when they were instrumental in the passage of major federal legislation.⁴⁰ Meanwhile, from the end of the Civil War, ministers of black Protestant churches were dealing with politicians, mostly white, on behalf of their people. For these religious leaders as well, the civil rights movement of the 1960's, triggered and sustained by Martin Luther King and other black clergymen, was the culmination of their prolonged efforts.⁴¹

Religious involvement in social reform has gone far beyond the cause of black equality. Toward the end of the nineteenth century, for example, Protestant ministers developed a program called the "social gospel," aimed partly at redistributing economic power and wealth through law.⁴² This program led in 1908 to the formation of the Federal Council of Churches, an activist association of liberal and mainline Protestant denominations now called the National

34. See 2 A. STOKES, *supra* note 1, at 142-56.

35. See S. AHLSTROM, *supra* note 1, at 651-52.

36. *Id.* at 651-53, 657; A. REICHLEY, *supra* note 1, at 191-92.

37. See S. AHLSTROM, *supra* note 1, at 668-69, 673.

38. See *id.* at 691-94.

39. See 2 A. STOKES, *supra* note 1, at 374-78.

40. See A. REICHLEY, *supra* note 1, at 246-49.

41. See *id.* at 239-42.

42. See *id.* at 207-09.

Council of Churches.⁴³ Catholic bishops committed themselves to a similar program at the end of World War I, when they created the National Catholic Welfare Council.⁴⁴ These efforts, in turn, evoked the opposition of many evangelical Protestants, who organized the American Council of Churches and the National Association of Evangelicals during World War II.⁴⁵ The activism of the 1960's invigorated political activity on both sides.

As a result of their commitments to particular causes, such as prohibition or abolition, and also because of broader allegiances, religious groups and their leaders at times have involved themselves in partisan elections. Major occasions for religious partisanship have included the presidential candidacies of Thomas Jefferson,⁴⁶ Andrew Jackson,⁴⁷ Grover Cleveland,⁴⁸ William Jennings Bryan,⁴⁹ Alfred E. Smith,⁵⁰ and John F. Kennedy.⁵¹ Furthermore, from the founding of our nation, members of the clergy themselves occasionally have held important public offices.⁵²

The second question is, how have other people reacted to this constant, deep involvement of religious groups and their leaders in American political controversies? The short answer seems to be that there has been substantial support for the practice, and very little consistent objection to it.

Naturally, people on one side of a political controversy, seeking to deprive their opponents of a political asset, have engaged in a certain amount of tactical criticism of religious activism. In the 1850's, for example, southern congressmen responded to an anti-slavery petition from northern ministers by denouncing clerical

43. See S. AHLSTROM, *supra* note 1, at 802-04.

44. See *id.* at 1005-06; A. REICHLEY, *supra* note 1, at 220-21.

45. S. AHLSTROM, *supra* note 1, at 920; see *id.* at 923-26.

46. See A. REICHLEY, *supra* note 1, at 178-82; 1 A. STOKES, *supra* note 1, at 674-76.

47. See 1 A. STOKES, *supra* note 1, at 697, 701-02.

48. See 2 *id.* at 397-99.

49. See A. REICHLEY, *supra* note 1, at 209-13.

50. See 2 A. STOKES, *supra* note 1, at 331-32.

51. See A. REICHLEY, *supra* note 1, at 224-25, 241.

52. See, e.g., 2 A. STOKES, *supra* note 1, at 24, 307, 345-46. The law of some states early in our nation's history both encouraged and discouraged this practice. Compare *Torcaso v. Watkins*, 367 U.S. 488 (1961) (invalidating Maryland constitutional provision requiring appointee to office of notary public to declare belief in God) with *McDaniel v. Paty*, 435 U.S. 618 (1978) (invalidating Tennessee law disqualifying clergy from serving as constitutional convention delegates).

interference in political affairs.⁵³ Similarly, in the 1960's, members of Congress from the South objected to clerical lobbying on behalf of civil rights.⁵⁴ This kind of criticism is significant only insofar as it supposes a more consistent unease about religious activism in our society.

From time to time, two groups of Americans have purported to oppose religious activism consistently. One group, typically composed of liberals, secularists, and members of vulnerable religious groups, especially Jews, has argued that religious involvement in political affairs is bad for *society*. Some people who make this argument regard organized religion as a backward social influence in general, while others fear that if organized religion were to acquire undue political power, it would be used to persecute them or their friends.⁵⁵ The other group, consisting not only of traditional Lutherans, but also of a substantial number of evangelical Protestants, especially Baptists, Methodists, and Presbyterians in the South, has believed that religious involvement in political affairs is bad for *religion*. This argument, which was most prevalent during the period between the Civil War and World War II, expresses the concern that political activism might distract Christians from their main duty, to convert the world to belief in Christ.⁵⁶

In practice, neither group has opposed religious activism consistently. Liberals, secularists, and Jews seem to welcome it when it happens to favor a social reform cause dear to them. Consider, for example, the reaction of Joseph Rauh, a leading Jewish liberal, describing a scene in the battle for the Civil Rights Act of 1964: "Standing outside the Committee Room was the most beautiful sight I had ever seen—twenty Episcopalian priests, fully garbed, all young beautiful WASPS. . . . I knew then we really were in business."⁵⁷ Likewise, even in the heyday of evangelical privatism, Southern Baptists, Methodists, and Presbyterians were propelled into the political arena by their commitment to personal reform

53. See A. REICHLAY, *supra* note 1, at 192-93.

54. See *id.* at 248.

55. See *id.* at 168.

56. See *id.*; T. SANDERS, *PROTESTANT CONCEPTS OF CHURCH AND STATE* 197 (1964).

57. A. REICHLAY, *supra* note 1, at 247; see also T. SANDERS, *supra* note 56, at 198 (commenting on separationist liberals in general).

through law, and in particular to Prohibition.⁵⁸ They also actively promoted the election of upright Christian candidates for public office.⁵⁹

Moreover, a substantial number of Americans have asserted that in general religious involvement in political affairs is proper. This group includes many inheritors of our established colonial religions—Congregationalists and Episcopalians—and many members of the largest single religious body in the country, the Catholic Church. These people accept, in principle as well as in practice, the desirability of cooperation between religion and law to achieve common social objectives.⁶⁰

The matter, however, is more complex than that. Reflecting on the history of religious activism in this country, one has the sense that, beyond the more or less result-oriented opposition, many Americans have had an abiding unease about certain kinds of involvement. The evidence is fragmentary, and plenty of evidence points to a contrary conclusion, yet the impression persists. I hope that someone someday will have more to say about this.

By this time, some readers may be wondering what legal difference these historical understandings and practices make concerning the issue raised by Professor Greenawalt. He suggests one answer himself when he recites with some approval the claim "that particular cultures settle what is valuable and what sorts of actions are right, and that these understandings appropriately underlie political decisions. . . . [O]fficials then would be drawing from the rich materials of their culture to resolve novel problems, and the value judgments they would appropriately deploy would be drawn from the culture."⁶¹ My purpose has been to describe a piece of the culture to which we and our officials are bound.

58. See *supra* notes 20-21 and accompanying text.

59. See T. SANDERS, *supra* note 56, at 197, 269.

60. See *id.* at 244, 258-59.

61. Greenawalt, *The Limits of Rationality and the Place of Religious Conviction: Protecting Animals and the Environment*, 27 WM. & MARY L. REV. 1011, 1056-57 (1986).