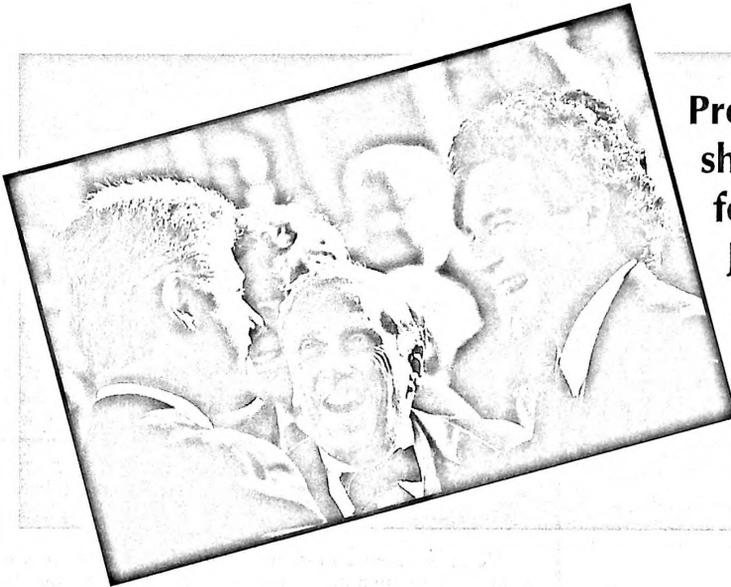


REPORT from the CAPITAL

Celebrating religious freedom



President Clinton shares a laugh with fellow Baptists James M. Dunn and Oliver S. Thomas after signing religious freedom bill.

President Clinton enjoys signing historic Religious Freedom Restoration Act on Nov. 16 at the White House South Grounds.



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REPORT from the CAPITAL

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Cover: Photos on the cover and Pages 4 and 6 of events surrounding the signing of the Religious Freedom Restoration Act are by Pam Parry and Larry Chesser.

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Saying 'no' and 'yes'

Saying "no" has never been easy for me. Unless, of course, you are offering me a second helping of calf-brains and scrambled eggs! But having to disagree, sometimes adamantly, with a friend has never been easy.

For instance, an Oct. 10 letter to the editor of the *Chicago Tribune Magazine* sounded like it could have been written by several friends of mine. The writer posed this:

"I have one question: Are the Ten Commandments hanging on the wall of a public school really more dangerous than many of the tapes and CDs our kids can buy at will?" Only a dunce could miss the good point.

We do have an increasingly value-neutral school system. That's not appreciated by many of my friends. But that's the law, even if we are only now discovering we've been disregarding it for decades, expecting public schools to serve as extended Sunday schools, unofficially adding the fourth R of religion (our brand, of course) to the three Rs of the curriculum.

The discomfort comes when a firm no must be said to those who want to re-mount the Ten Commandments on the classroom wall. When I do so, misunderstanding friends ticket me off as Beelzebub's best friend. But fidelity to the principle of church-state separation requires me to risk that perception and say no to my friends' governmental attempts to "get God back into the public schools." Friendships matter, but they are a poor master.

However, there's more to be said than just an impassioned no. Quite a number of yeses also can and should be said.

I can say yes to my friends' concern for the moral fiber of our children.

I can say yes to that too frequently neglected mandate of evangelism.

I can say yes to educational programs in the church that provide thoughtful moral formation and guidance for children and adults.

I can say yes to teaching about religion in public schools, insisting that this dimension of our life be neither omitted nor ridiculed.

I can say yes to legislation that favors children and elevates the family.

I can say yes to those who work in public education and pray for the clarity of their lifestyle witness.

I can say all of this. Both no and yes. But then there's the pain of having to do something about all these yeses. Unless I act on them I cannot fault my friends for finding fault with me. Δ

— J. Daniel Day
Pastor, First Baptist Church, Columbia, Mo.



IN 1992 THE UNITED STATES SUPREME COURT decided *Lee v. Weisman* — the Rhode Island school graduation prayer case. The solicitor general of the United States and others urged the court in that case to abandon the traditional *Lemon* test that the court had used to help it decide Establishment Clause cases. *Lemon* requires that government remain neutral toward religion, neither advancing nor inhibiting it, and not become unduly entangled in church affairs. Proposed in its place was a less protective coercion test under which government would have more leeway to promote or become involved in religion.

The Supreme Court refused to change the law. Justice Anthony Kennedy, a critic of the *Lemon* test, wrote the opinion of the court. He did not rely on *Lemon* to strike down the prayer but did not repudiate it either. Last term, the court cited *Lemon* with approval in *Lamb's Chapel v. Center Moriches Union Free School District*.

This past week the Supreme Court agreed to hear three consolidated cases involving a challenge to a New York law creating a public school district for a group of Hasidic Jews in the Village of Kyrias Joel, near New York City. Because of their separatist beliefs and practices, the Hasidic Jews mostly send their children to private church schools. But they objected to sending their handicapped students to existing public schools where state supported services could be rendered. The Supreme Court must decide whether the law — carving out a public school district for religious reasons to benefit a religious group — violates the separation of church and state.

But, more importantly, two of the three petitioners have asked the court again to revisit the *Lemon* test. In their initial papers they do not specify the alternative test that they want the court to adopt, but it probably will be some species of the coercion test.

The court has changed since it decided *Lee v. Weisman*. Justice Byron White, long a critic of *Lemon*, has left the court and Ruth Bader Ginsburg has taken his place. Her opinions while serving on the District of Columbia Circuit and her testimony before the Senate Judiciary Committee during confirmation suggest that she will be more friendly to the neutrality principle embodied in *Lemon* than Justice White had been. Thus, assuming everybody else votes the same as they did in *Lee v. Weisman*, the chances that the court will adopt a new rule are remote.

This is the only church-state case the court has agreed to decide this term. It will be interesting to watch how Ruth Bader Ginsburg decides this case. Since she is Jewish, the fact that this case involves an Hasidic sect will provide an interesting twist. •(JBW)

Liberty restored

Americans' first freedom again protected

Religious Americans should be welcomed as political players, President Clinton declared Nov. 16 before signing into law a bill that protects religious liberty.

"It is high time we had an open and honest reaffirmation of the role of American citizens of faith — not so that we can agree, but so that we can argue and discourse and seek the truth and seek to heal this troubled land," Clinton told a diverse gathering of U.S. religious groups at the signing ceremony.

The president's signing of the Religious Freedom Restoration Act capped three and one-half years of effort by a unique alliance of religious and civil liberties groups who worked together in an unprecedented fashion to restore a high level of protection for religious practice.

The Coalition for the Free Exercise of Religion was formed in 1990 after the Supreme Court virtually abandoned its long-held view that government needed a compelling reason to interfere with religious activities.

RFRA restores the legal standard that requires government to show a compelling reason, such as important health or safety concerns, to restrict the religious practice of Americans.

After the signing, Clinton and Vice President Al Gore, both Baptists, waded into the crowd of about 200 guests that included fellow Baptists, Jews, evangelicals, mainline Protestants, Muslims, Jews, Sikhs, Roman Catholics, Scientologists, Lutherans, Native Americans and others.

"There are lots of reasons to celebrate today's ceremony," Gore said. "In fact, if you look at the letterhead of the coalition of groups supporting it you'll see 68 good ones: groups that usually don't agree on much — but have come together to support religious freedom."

Gore highlighted the coalition's diversity by noting the membership of liberal groups such as People for the American Way and the American Civil Liberties Union and conservative organizations such as the National Association of Evangelicals and the Traditional Values Coalition.

"The fact is," he said, "that the Religious Freedom

Restoration Act is something all Americans can support."

Clinton credited the coalition, chaired by former Baptist Joint Committee General Counsel Oliver S. Thomas, for its central role "in drafting this legislation and working so hard for its passage."

Clinton said the unique coalition led to broad support for the bill in Congress.

"I'm told that, as many of the people in the coalition worked together across ideological and religious lines, some new friendships were formed and some new trust was established, which shows, I suppose, that the power of God is such that even in the legislative process miracles can happen," Clinton said.

Both Clinton and Gore cited the need for RFRA in the wake of the 1990 high court decision.

"More than 50 cases have been decided against individuals making religious claims against government action since that decision was handed down," Clinton said. "This act will help to reverse that trend —

by honoring the principle that our laws and institutions should not impede or hinder, but rather should protect and preserve fundamental religious liberties."

RFRA, Gore said, restores freedom of religion.

"We want Americans free to practice their religion not as government sees fit but as they see fit," he said.

Clinton said the power to reverse by legislation the effect of a Supreme Court decision is hesitantly and infrequently exercised.

"But this is an issue in which that extraordinary measure was clearly called for," he said.

The importance the administration attached to RFRA was reflected both in the remarks of the president and vice president and in their scheduling of the signing ceremony during the hectic final hours before the House of Representatives vote on the North American Free Trade Agreement.

Bill signings, Clinton noted, frequently are routine. But the president said the Nov. 16 event "assumes a more majestic quality because of our ability together to affirm the his-



President Bill Clinton (center) signs the landmark Religious Freedom Restoration Act as Vice President Al Gore and members of Congress look on. Bill supporters are (from left) Rep. Don Edwards, D-Calif.; Sen. Orrin Hatch, R-Utah; Gore; Rep. Charles Schumer, D-N.Y.; Sen. Howard Metzenbaum, D-Ohio; and Sen. Mark Hatfield, R-Ore.

toric role that people of faith have played in the history of this country and the constitutional protections those who profess and express their faith have always demanded and cherished."

The nation's founders, Clinton said, understood that both government and religion could be perverted without the First Amendment's twin guarantees of separation of church and state and the free exercise of religion.

The founders "knew that religion helps to give our people the character without which a democracy cannot survive," Clinton said. "They knew that there needed to be a space of freedom between government and people of faith that otherwise government might usurp."

Clinton credited religion's positive role in the nation's ability to become the oldest democracy in history and probably the most truly multi-ethnic society on Earth.

"I am convinced that neither of those things would be true today had it not been for the importance of the First Amendment and the fact that we have kept faith with it for 200 years."

Clinton said the nation is involved in a debate about the "extent to which people of faith can seek to do God's will as political actors.

"I would like to come down on the side of encouraging everybody to act on what they believe is the right thing to do."

He lamented a climate in which Americans are embarrassed to advocate positions and actions based on religious beliefs.

"I submit to you today, my fellow Americans, that we can stand that kind of debate in this country.

"We are living in a country where the most central institution of our society, the family, has been under assault for 30 years," he continued. "We are living in a country in which 160,000 school children don't go to school every day because they're afraid someone will shoot them, or beat them up, or knife them ... where gun shots are the single leading cause of death among teen-age boys ... where people can find themselves shot in the cross fire of teen-agers who are often better armed than the police who are trying to protect other people from illegal conduct."

Freedom of religion, Clinton insisted, does not impose the responsibility "to run from our convictions.

"Let us instead respect one another's faiths, fight to the death to preserve the right of every American to practice whatever convictions he or she has, but bring our values back to the table of American discourse to heal our troubled land."

RFRA reached the president's desk after a flurry of activity late in the first session of the 103rd Congress. The Senate overwhelmingly approved the measure Oct. 27 after first rejecting an amendment that would have excluded prisoners from the scope of the bill's protections.

The prison amendment was opposed by the coalition supporting RFRA but enjoyed the backing of a number of state attorneys general. It lost on a 41-58 vote. Senators then voted 97-3 to approve RFRA with three Baptist members — Sens. Jesse Helms, R-N.C., Harlan Mathews, D-Tenn., and Robert Byrd, D-W.Va. — casting the only negative votes.

Because of minor changes, RFRA was returned to the House of Representatives for final action. House members, who had unanimously approved RFRA in May, cleared the Senate changes on a unanimous voice vote Nov. 3.

— Larry Chesser

RFRA Chronology

April 17, 1990	U.S. Supreme Court virtually abandons requirement that government show a compelling reason to restrict religious practice.
101st Congress	
July 26, 1990	RFRA introduced in the U.S. House of Representatives.
Oct. 26, 1990	RFRA introduced in the U.S. Senate.
Oct. 28, 1990	RFRA dies in House and Senate Judiciary committees as 101st Congress adjourns.
102nd Congress	
June 26, 1991	RFRA reintroduced in the House.
July 2, 1992	RFRA reintroduced in the Senate.
May 13-14, 1992	House panel holds hearings on RFRA.
Sept. 18, 1992	Senate Judiciary Committee holds hearings on RFRA; BJC General Counsel Oliver S. Thomas testifies.
Oct. 9, 1992	House Judiciary Committee approves RFRA, but Congress adjourns before it could be considered by the House. RFRA dies in Senate Judiciary Committee after Sen. Alan Simpson, R-Wyo., put a hold on the bill just days before Congress adjourns.
103rd Congress	
March 9, 1993	U.S. Catholic Conference endorses RFRA.
March 11, 1993	President Clinton endorses RFRA as measure is reintroduced in Congress.
March 17, 1993	A House subcommittee passes RFRA.
March 22, 1993	House Judiciary Committee clears RFRA for floor action.
May 6, 1993	Senate Judiciary Committee clears bill for floor action.
May 11, 1993	House of Representatives unanimously approves RFRA on voice vote.
Oct. 27, 1993	Senate approves RFRA by 97-3 vote. Prison amendment defeated 41-58.
Nov. 3, 1993	House clears RFRA for President Clinton's signature.
Nov. 16, 1993	President Clinton signs RFRA.

Common goal drives unique coalition

A common goal for the common good — religious freedom for all Americans — united and sustained an unprecedented coalition working for legislation on Capitol Hill.

The Coalition for the Free Exercise of Religion worked for the passage of the Religious Freedom Restoration Act — landmark legislation that restores a high level of protection for religious practice. After a three-year struggle, the coalition realized its dream Nov. 16 when President Clinton signed the bill into law at a White House ceremony.

The president and vice-president, both Baptists, pointed to the diverse coalition's central role in drafting and enacting the bill.

"There are lots of reasons to celebrate today's ceremony," Al Gore said. "In fact, if you look at the letterhead of the coalition of groups supporting it, you'll see 68 good ones: groups that usually don't agree on much — but have come together to support religious freedom.

"You know when you have the National Association of Evangelicals and the American Civil Liberties Union ... the Traditional Values Coalition and People for the American Way ... that we're doing something right."

Clinton said, "I'm told that, as many of the people in the coalition worked together across ideological and religious lines, some new friendships were formed and some new trust was established, which shows, I suppose, that the power of God is such that even in the legislative process miracles can happen."

The coalition members put aside their deep political, theological and religious differences to work for the principle that all Americans have the right to exercise their conscience in matters of faith, coalition Chairman Oliver S. Thomas said at a press conference after the signing ceremony.

Thomas, former BJC general counsel, said, "Seeing Paul Weyrich, Nadine Strossen, John Buchanan and Beverly LaHate work together has done my heart good.

"I hope I shall never again have to hear someone say that the ACLU and People For the American Way don't care about religion; or that guys like Mike Farris are extremists who can't work with others. Because together, we have achieved something magnificent."

(Farris recently lost his bid to become lieutenant governor of Virginia after a campaign in which his views were depicted as right-wing extremism.)

Several coalition members addressed the press conference, expressing gratitude to God for sustaining grace and Thomas' leadership.

James M. Dunn, BJC executive director, said that the coalition stayed together because of God's grace and that Thomas was the instrument of grace.

"We take particular pride in the fact" that Thomas chaired the coalition, he said. "We applaud and express gratitude to every member of the coalition for their dedication and hard work over the last three years."

Robert Dugan, director of the Office of Public Affairs for the National Association of Evangelicals, said, "This historic act would gladden the heart of Thomas Jefferson who called religious liberty 'the most sacred of all human rights.'

"The coalition's joint efforts reflect the spirit of The Williamsburg Charter, which affirms: 'A society is only as just and free as it is respectful of this right, especially toward the beliefs of its smallest minorities and least popular communities.'"

Rabbi David Saperstein, director of the Religious Action Center of Reform Judaism, underscored the significance of the bill as restoring a protection virtually abandoned by the U.S. Supreme Court in 1990.

"This was the first time in the history of the United States that the Supreme Court simply abandoned one of our explicit First Amendment rights. America's greatest contribution to political thought was that we are endowed by our Creator with certain unalienable rights beyond the touch of government."

Those rights are celebrated in the First Amendment, and they are essential to the freedom of the country, he said.

"The bill enacted today,"

Saperstein added, "is the first civil rights bill in the history of America that focuses entirely on religious freedom.

"Make no mistake about it, the Religious Freedom Restoration Act is the most important religious liberty bill in our lifetimes, and the free exercise of religion of every American today is vastly safer than it has been for the last three and a half years."

Tyrone Pitts, immediate past chairman of the BJC and board member of the National Council of Churches, said that "not since the civil rights struggle has there been a group of religious leaders who have come together to pave the way for a piece of legislation that is more meaningful to us as people of God than any other legislation.

"Not only are you to be commended for that act, but we should see this as a signal that God is calling us (religious community) to move more and more together to make sure religious freedom and the freedom of all persons are guaranteed," said Pitts, general secretary of the Progressive National Baptist Convention.

He pointed to the symbolism of a Baptist president signing the landmark bill.

"It's a major signal for us to realize that God indeed is moving us in a new direction — in a direction of freedom."

— Pam Parry



Thomas addresses press conference.

VIEWS OF THE WALL

J. Brent Walker
General Counsel



Churches and religious organizations and the people who donate to them should be aware of significant tax law changes that take effect next month. Pastors, church treasurers and members who itemize their deductions should pay particular attention to these changes.

Starting Jan. 1, donors to non-profit organizations cannot deduct from their income tax any single gift of money or property of \$250 or more without a written acknowledgement or receipt. A canceled check is no longer adequate to substantiate contributions of \$250 or more.

The receipt from the church must include the following information:

1. The name of the donor. A Social Security number is not required.

2. The dollar amount of the contribution and a description (but not the value) of any property given other than money.

3. Whether the church provided any goods or services in exchange for the contribution. If so, the receipt must describe the goods and services and contain a good faith estimate of value. If such goods and services amounted only to "intangible religious benefits," a statement to that effect must be included. The law defines these benefits as "any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context."

The receipt must be "contemporaneous." This means that the taxpayer must obtain the receipt before filing a return for the taxable year in which the contribution was made, or the due date (including extensions) for the filing of such returns, whichever comes first.

The law does not require the taxpayer to attach the receipt to the return; the taxpayer must retain it in case the IRS audits the return. A separate acknowledgement need not be given for each contribution, but if a quarterly or year-end statement is given, each contribution ought to be separately listed. Receipts for contributions for which no tangible property is exchanged should include the statement: "Any value received in exchange

It would be like trying to use the check you wrote to the "First Baptist Church" for Wednesday evening supper, child care or school tuition as evidence of a deduction for a charitable contribution. These new regulations will help thwart that kind of abuse.

for these contributions is purely 'intangible religious benefit.'"

The second part of the new law deals with the so-called "quid pro quo contributions." This happens when a donor makes a payment that is partially a contribution and partially in exchange for tangible goods and services. If a church receives a quid pro quo contribution of more than \$75, it must provide a written statement informing the donor that not all of the payment is deductible. Only the part that exceeds the value of the goods and services received in return is deductible. Further, the notice must give the donor a good faith estimate of the value of such goods and services. The notice must be given in connection with the solicitation or receipt of the contribution.

For example, if someone pays \$100 to attend a fund-raising dinner and the dinner is worth \$20, the charity must tell the donor that he can only deduct the \$80, not the entire amount. But, if someone contributes \$30 and receives a \$5 mug, the charity need not make any disclosure because the total amount is less than \$75. Since most Baptist churches do not engage in substantial quid pro quo activities, this provision will have only limited application.

This is a general overview of the tax law changes. The IRS soon will issue regulations that will provide greater

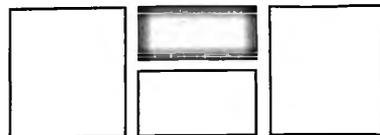
guidance. In the meantime, church treasurers should gear up to comply for tax year 1994. This will not involve much that is new. Many churches already provide quarterly or annual statements reflecting the amount of contributions given. The main change here would be to make sure that the contributions are listed separately and to include the statement about "intangible religious benefit." But, the new tax law makes no change whatsoever in the underlying law governing the deductibility of contributions.

Some have expressed concern about this law and are chafing under the burden that it is expected to impose. Several things, however, should be kept in mind. First, these changes are intended to prevent tax fraud. According to governmental data, some taxpayers are using canceled checks to support deductions that went, in whole or in part, to pay for tangible goods and services. It would be like trying to use the check you wrote to the "First Baptist Church" for Wednesday evening supper, child care or school tuition as evidence of a deduction for a charitable contribution. These new regulations will help thwart that kind of abuse.

Second, although many would prefer no record keeping requirements to support our charitable contributions, these changes are a far cry better than what was originally proposed in 1992. Under a Bush administration proposal, the church would have to report directly to the IRS the names, Social Security number and amount of contributions of those who gave to the church more than \$500 a year. This would have been intolerably burdensome and invasive and probably unconstitutional. As little as \$10 a week in the collection plate by year's end would have put you over the \$500 floor requiring the church to report. Here, as long as each contribution is less than \$250, there is no reporting at all. And, most importantly, the church never deals directly with the IRS. Only the taxpayer does that, if he or she is audited.

Finally, in exchange for these substantiation and disclosure require-

See VIEWS, Page 14



High court may reassess *Lemon* test

The U.S. Supreme Court indicated Nov. 29 it may re-examine its long-held but controversial test for assuring church-state separation.

The high court agreed to review lower-court decisions that struck down creation of a special New York public school district to accommodate a Hasidic Jewish community.

Two of the parties appealing the case — New York Attorney General Robert Abrams and the new district's school board — asked the high court to reconsider its landmark 1971 ruling in *Lemon v. Kurtzman* that has been used to ensure governmental neutrality toward religion.

To comply with the First Amendment's church-state separation requirements under the three-part *Lemon* test, governmental actions must have a secular purpose, neither advance nor inhibit religion and avoid excessive entanglement with religion.

The high court's decision to accept the case may signal it will address the *Lemon* test, since the court said its review will not be limited to the issues raised in the New York dispute.

The *Lemon* test has been sharply criticized by four current members of the court — Chief Justice William Rehnquist and Associate Justices Antonin Scalia, Anthony Kennedy and Clarence Thomas. A fifth justice, Sandra Day O'Connor, has offered less-harsh criticism.

"It is not a foregone conclusion that the court will re-examine *Lemon*, though it appears to be on the table," said J. Brent Walker, general counsel at the Baptist Joint Committee.

Even if the court revisits *Lemon*, Walker said, it may be to reaffirm it.

"It is far from clear that the court will use this case to lower the wall separating church and state," he said.

Proponents of the neutrality required by *Lemon*, he said, should be comforted by the replacement of recently retired Justice Byron White, a *Lemon* opponent, with Justice Ruth Ginsburg, who spoke generally in favor of the test during confirmation

hearings and applied it as a federal appeals-court judge.

The New York legislature created the special school district encompassing the village of Kiryas Joel in Orange County to resolve a conflict over providing special-education services to handicapped students of the village, which is inhabited almost exclusively by Hasidic Jews. Hasidic Jews practice an insular lifestyle, generally speaking Yiddish instead of English; wearing distinctive dress; barring television, radio and English-language publications; and usually educating their children in religious schools. Although the Monroe-Woodbury Central School District previously offered education for handicapped students through the private Hasidic schools, that practice was outlawed by the Supreme Court.

The school district's solution — to offer classes through its other schools — proved unsatisfactory to the Hasidic students, so the state legislature established the special school district encompassing the Hasidic community, which allowed education for the handicapped students within the Hasidic environment. Officers of the New York State School Boards Association filed suit charging that the special district violates the First Amendment. To this point, courts have agreed.

The New York Court of Appeals said the principal effect of the creation of the special school district "is to advance religious beliefs."

Because the special services already are available to the handicapped children of Kiryas Joel in the Monroe-Woodbury district, New York's top court said, the primary effect of the special district "is not to provide those services, but to yield to the demands of a religious community."

Lawyers for the special school district argue both that *Lemon* was misapplied by the lower courts and that it should be discarded.

As long as *Lemon* remains the law, "it creates great uncertainty for the lower courts," Kiryas Joel school district attorney Nathan Lewin said in

asking the high court to hear the case. "This court should resolve, once and for all, whether *Lemon vs. Kurtzman* will be retained as the beacon by which legislatures and lower courts are to be guided to a safe shore," Lewin argues.

Walker urged caution: "The *Lemon* test was developed over a 10-year period and embodies teachings as old as the republic itself — a mandate of governmental neutrality with respect to religion."

Walker said the court could decide the New York case without utilizing *Lemon* by following another case that bars favoring one religion over others.

"Where one religion is being privileged over all others, the Supreme Court has ruled that the state must justify that treatment by showing that it is pursuing a compelling interest through narrowly tailored means," he said. "This case more closely resembles those circumstances than the typical *Lemon* case where all religions are privileged."

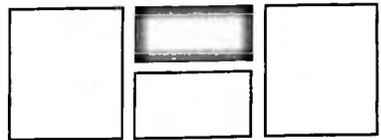
In another church-state dispute, the high court declined to review the case of a railroad worker — a practitioner of the Worldwide Church of God — who said his civil rights were violated when Amtrak dismissed him for failing to work during his Sabbath. A lower court said Amtrak could not have accommodated Stephen Rasch's religious needs without incurring undue hardship. Rasch was dismissed but then was reinstated. Δ

Court rejects religious hiring preference dispute

A pair of private schools in Hawaii have lost their bid to continue a policy of hiring only Protestant teachers.

The U.S. Supreme Court refused Nov. 8 to review a lower court's conclusion that the Kamehameha Schools do not qualify for an exemption to a federal ban on religious discrimination in hiring.

Kamehameha Schools, one for boys and one for girls, were created by the estate of a member of the Hawaiian



royal family. The will of Bernice Pauahi Bishop, who died in 1884, directed that teachers at the schools be Protestants.

The policy was challenged by a non-Protestant who sought a job as a substitute French teacher.

A federal district court sided with Kamehameha officials, holding that the schools qualified for all three exemptions Congress provided to legislation barring discrimination in hiring.

Those exemptions allow hiring based on religion for a religious educational institution; when religion is a bona fide occupational qualification necessary to the operation of a particular institution; and when the curriculum of a school is directed toward the propagation of a particular religion.

A federal appeals court, however, ruled against the schools.

The appeals court said the schools' ownership and affiliation, purpose, faculty, student body, student activities and curriculum "are either essentially secular, or neutral as far as religion is concerned."

The court said that "the general picture of the Schools reflects a primarily secular rather than a primarily religious orientation."

Among the reasons for its conclusions, the appeals court noted that no religious organization has ever controlled or supported the schools, which are not affiliated with any denomination or association of religious schools.

The court also said that only three of the schools' 250 full-time, on-campus faculty members have specific religious teaching duties and that less than one-third of the students are Protestants. Δ

Productivity marks first session of 103rd Congress

On the heels of an anti-incumbent election year, lawmakers scrambled to bring about change during the first session of the 103rd Congress.

But for Baptists, the session perhaps will be best remembered because lawmakers finally restored the nation's first liberty to its rightful place.

President Clinton signed Nov. 16 the Religious Freedom Restoration Act

(Public Law 103-141) after the measure languished three years in Congress. The bill would restore a high level of protection for religious practice.

In 1990 the U.S. Supreme Court virtually abandoned the time-honored test that required government to show a "compelling interest" before it could restrict religious practice.

The bill, supported by a 68-member coalition of religious and civil liberties groups, was approved on a unanimous voice vote in the House and on a 97-3 vote in the Senate.

In addition to RFRA, lawmakers addressed:

— **Confirmations.** The Senate confirmed 31,257 nominations, including a new Supreme Court justice and an ambassador to the Vatican.

The Senate overwhelmingly confirmed Judge Ruth Bader Ginsburg to the Supreme Court. A pioneer for women's rights, Ginsburg garnered a 96-3 vote as she became the second woman and the 107th justice to sit on the high court.

The Senate also confirmed Boston Mayor Raymond L. Flynn as U.S. ambassador to the Vatican — a position that Baptists have opposed on church-state grounds.

— **Charitable giving.** Gifts to churches and other charities are expected to rise under the \$496 billion omnibus budget bill. The plan contained several items that have a direct impact on churches and other charitable groups (See Views, Page 7). Δ

California voters soundly reject voucher proposal

California voters soundly rejected a proposal that would have allocated tax funds to pay for tuition at private and religious schools.

Proposition 174 lost by about a 2-to-1 margin. The proposal would have provided vouchers worth up to \$2,600 for parents to send a child to the public, private or religious school of their choice.

"It is encouraging that this vote is even more lopsided than the last time Californians rejected a proposal to use public dollars to finance religious edu-

cation," said James M. Dunn, BJC executive director.

Dunn noted that Californians rejected a 1982 parochial aid initiative by a 61 percent to 39 percent margin.

"We still hold some truths to be self-evident: that public money goes only for public purposes, that no one pays taxes to support religious institutions, that Americans have a common commitment to the common school," he said.

Dunn also noted the California result's consistency with voter disapproval of parochial aid plans elsewhere.

"Twenty times since 1966, voters in various states have been asked to approve parochial aid schemes and have said no in every case but one." Δ

Missouri governor lauds church-state separation

Missouri Gov. Mel Carnahan, a Southern Baptist, heralded the separation of church and state as a national treasure during a recent interview with **REPORT from the CAPITAL.**

"That's not to say that those of us that believe are not to be in government, but that government ought not to aid or inhibit the practice of religion," said Carnahan, a member of First Baptist Church, Rolla, Mo.

"I am really at a loss as to why some of the denominations are trying to cross back over and do it the other way. Our whole country was founded on this premise. And we have been able to assimilate more different points of view in this country, because we do have this separation.

"I think it's one of our treasures, one of our strengths."

When Americans see what is going on in Bosnia and Northern Ireland, they see that many parts of the world are intolerant of others' beliefs.

"They think it's something to go to war over. I think we ought to cherish our heritage and not surrender it to some temporary leanings or seeming short way to solve a problem." Δ

Compiled from staff reports

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Bulgarian evangelicals cite harassment

Another former communist country is locked in an internal struggle over how much religious freedom to allow.

This time it's Bulgaria, an East European country of 9 million people located on the Black Sea. Bulgaria emerged from communist rule in 1989 and, like most post-communist countries, established religious liberty for its citizens.

But the influx and growth of religions competing with the dominant Orthodox Church have produced tension and calls for new restrictions. Evangelical Christians, including Baptists, say they are the targets of a harassment campaign conducted by the Orthodox Church and abetted by the government.

According to Theo Angelov, president of the Baptist Union of Bulgaria, evangelicals and even mainline Protestants are lumped together with less traditional religions under the derisive heading of "sects," even though some of those traditional faith groups have been around for more than 100 years.

Government leaders accuse the sects of bribery, brainwashing and infecting Bulgaria with drugs and organized crime, according to the European Baptist Press Service.

New laws that give preference to the Orthodox Church and restrict other faith groups have been proposed by Christopher Subev, chairman of the parliament's committee for religions.

Already some non-Orthodox churches have been denied building permits and others forced to vacate government-owned buildings.

James Duke, an American serving as pastor of an English-speaking Baptist congregation in Sofia, has been told to leave Bulgaria by Dec. 3. Efforts to obtain long-term visas for James and his wife, Audrey, have been futile.

The Dukes, Southern Baptists, have been working with the Sofia congregation since March. Between 70 and 120 internationals meet for worship every week in a hotel in the capital city.

If allowed to register with the government, the Sofia congregation would be the only official English-language church in Bulgaria. But efforts to register have been rebuffed. Without registration, James Duke explained, "Our church could be closed at any time."

A report by the Helsinki Commission earlier this year found considerably more religious freedom in post-communist Bulgaria but also noted evangelical complaints about visa problems, proposed restrictions and media attacks "that have confused their churches with foreign non-Christian sects."

"Apparently little distinction is made among the various non-Eastern Orthodox religions, and a growing number of Bulgarians seem to be supporting state restrictions for non-Orthodox evangelical activity," said the Helsinki Commission, which monitors human rights.

The number of Baptists in Bulgaria reportedly has tripled since the fall of communism. Baptists now claim 3,000 members in 30 churches.

Such growth has been viewed as a threat by the Orthodox Church in Bulgaria and other former communist countries.

Efforts to restrict non-Orthodox religions have surfaced in several Eastern European countries, including Russia and Albania. Δ

Experts say Yeltsin working for religious freedom

Russian President Boris Yeltsin is making a good-faith effort to bring religious freedom to his country, according to an official at the National Security Council.

Richard Schifter, NSC special assistant to the president and counselor, told Associated Baptist Press that "Yeltsin and the people around him are making a major effort to move the country into a mode of operation that is in keeping with" human-rights standards set in the Helsinki Accords.

The Helsinki Accords are an inter-

national agreement among nations in Eastern and Western Europe and North America that protect a range of human rights, including religious freedom.

Schifter's observation follows comments by officials loyal to Yeltsin that Russian Baptists would be vital in the creation of a new society. The Southern Baptist Foreign Mission Board reported that the government officials made that overture during the 29th Russian Baptist Congress.

Vladimir Shumejka, first deputy prime minister of Russia, said that societal changes would include equal rights for all religions, the FMB said.

"That is good news," Schifter said, adding that Russian officials have a new recognition that reform should include religious freedom. "That religious freedom means freedom for all denominations, not just for a particular established church.

"In the struggle that we have seen in Russia between President Yeltsin on the one hand and Parliament on another, we see a commitment by Yeltsin and the people who support him to fulfill the obligation taken by the Soviet Union when it signed the (Helsinki) Final Act."

A Baptist congressman active in international human-rights issues agreed with Schifter.

Rep. Steny Hoyer, D-Md., co-chairman of the Commission on Security and Cooperation in Europe (commonly referred to as the Helsinki Commission), said: "It is very gratifying to see that Russian government officials have recognized the importance of the Baptist church in the spiritual rebirth of Russia. ... I was pleased that President Yeltsin rejected the law (restricting religious freedom) and hope that the upcoming parliamentary elections will bring into the new Parliament legislators who are committed to religious freedom."

The Helsinki Commission is an independent agency created by Congress to monitor compliance with a series of human-rights accords. Δ



— NEWS SCAN —



Former President George Bush (left) recently met with the highest-ranking delegation ever sent from the People's Republic of China to study religious issues in a foreign country. The delegation of government and church officials studied American religious life. They were hosted on their 24-day, 13-city tour by East Gates International, a Seattle-based organization headed by the Rev. Ned Graham, son of evangelist Billy Graham. It was during the Bush presidency in 1989 that the uprising in Tiananmen Square drew international attention. Others in the picture include (from left) Zhang Sheng-zuo, director of religious affairs bureau, and Graham.

Ukraine open to gospel, Texas Baptists told

Ukrainians have a renewed interest in Jesus Christ, and Christians in the former Soviet republic enjoy unprecedented freedom, according to two Ukrainians visiting the United States.

Svetlana Koptilina and Yuri Zozulya, who came to faith in Christ through the witness of Texas Baptists, recently visited in the Dallas offices of Texas Baptist Men.

In the past two years, Texas Baptist ministries in the Ukraine have included providing hospital equipment; leading evangelistic crusades; launching a student summer missionary program, a televised Bible class and several prison ministries; delivering a water purifier; and providing funds for the purchase of 25,000 Bibles and other Christian educational materials.

"People are really moving toward the Lord, showing an interest in Jesus Christ," said Koptilina.

The young mother of two children is

mayor of Schastye, a town of 14,000 people about 12 miles from Lugansk — a 30-minute drive on the rough Ukrainian roads.

Koptilina, who became a Christian last September, is one of about 25 Baptists meeting each Sunday in a home Bible study in the Ukraine. The Bible study is led by George and Drue Christian of Santa Fe, Texas.

"We are not registered as a church yet, but the papers have been filed, and it is in the process of happening," Koptilina said, explaining that new congregations must seek recognition by the Ukrainian Department on Religious Affairs.

However, both Koptilina and Zozulya emphasized the free climate for religious expression in the Ukraine today.

"In the streets of Kiev, I have seen young people my age doing street evangelism and freely preaching the gospel of Jesus Christ," said Zozulya, a 24-year-old interpreter from a small town near Lugansk. Δ

Prague, capital city of the Czech Republic, has been picked as the new site for European Baptists' international seminary. The executive committee of the European Baptist Federation, meeting in Didcot, England, in late November, gave provisional approval for the Baptist Theological Seminary to move to Prague from its current site in Ruschlikon, Switzerland. ... The world needs a new generation of abolitionists willing to break the bondage of hunger, according to speakers at a conference on Overcoming Global Hunger Nov. 30-Dec. 1. Among the participants was former U.S. President Jimmy Carter, a Southern Baptist. Carter, who has championed international human rights — including the right to food — challenged the crowd to do more than talk about hunger. ... The first volume of a translation of the Jerusalem Talmud into Russian has been completed by Rabbi Adin Steinsaltz, an internationally known scholar. The Jerusalem Talmud, which dates to the fifth century, is an older and shorter version of the Babylonian Talmud, the ancient writings of Jewish civic and religious law. ... Saying that the transition of South Africa from apartheid to democracy has reached "an irreversible stage," the black Baptist Convention of Southern Africa has called on the international community "to lift all sanctions against South Africa, and encourage massive reinvestment toward the development of their country." ... President Bill Clinton said Oct. 23 that he's determined to make peace in the Middle East "real, secure and enduring." Addressing a religious ceremony marking the 150th anniversary of the Jewish group B'nai B'rith, Clinton said: "I am committed to building on the momentum we have created to achieve nothing less than a comprehensive settlement — one in which Israel secures real, lasting peace with all her neighbors. The future for Israel and for the Jewish people is bright and full of promise tonight." Δ

Compiled from staff and news service reports

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ments, the Congress passed much welcomed tax relief that allows donors to deduct the full appreciated value of property that they contribute to a non-profit organization. This change was extremely important to the ability of religious institutions, such as hospitals, colleges and universities, to raise large sums of money in the form of the donation of stocks, bonds and tangible personal property.

This column should not be taken as the final word. The IRS regulations are expected soon. I will report on them in a later "Views" column. Churches should immediately examine their record keeping and receipting practices to make sure they comply. Although these changes put the burden of compliance squarely on the donor, churches should help to educate their members about what the law requires. Churches should do what they can to ensure that donors are able to deduct their contributions by providing a written acknowledgement that complies with the law.

Detailed questions about the full extent and specific application of these changes should be directed to a knowledgeable tax attorney. Δ

REVIEWS

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and purpose of the church. Here the very scholarly tone of the work gives way to a degree of emotion. Newman laments that the church as institution has become self-promoting and enamored with size. Churches claiming the free church tradition have become engrossed in a "narcissistic and competitive process" (which Newman, in another context, has called "the attendance button empire.") Such promotionalism is contrary to the free church's roots and its calling. "A church which has become afflicted with this malady deserves to be turned 'inside out,' to be reconstructed so as to conform to the ideal of service for which it was intended." (p. 106)

Newman writes primarily as a teacher, not an apologist. In view of what has come to pass among

Southern Baptists since the book was published in 1986, Newman's work can be recognized as prophetic. This book, however, is not designed to counter the rising tide of fundamentalist conformism only in the present day. It is, instead, intended as a reminder that the free churches will always, in every age, be faced with the threat of organizational and doctrinal tyranny. To keep the perspective of the free church is to protect the freedom of individual persons to become more mature disciples of Christ and servants of humanity in Christ's image.

A Free Church Perspective is small. Its cover is bland. It lacks contemporaneity in its references and gender inclusive language in its style. Nonetheless, it is an important book that needs to be brought out of its obscurity into the noble light of wide usage. Those, like Walter Shurden, who are searching today for help in re-establishing an accurate understanding of Baptist identity amid all the competing claims will find Stewart Newman's book an invaluable help. Δ

—W. Kenneth Williams

Pastor, Baptist Temple, Rochester, N.Y.
BJC Scholar-in-Residence

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Those who stood the most to lose, the princes of the pulpit, the fearless proclaimers of a prophetic Gospel were strangely silent.

REFLECTIONS

James M. Dunn
Executive Director



Irony compounded!

Irony No. 1

The press virtually ignored the Religious Freedom Restoration Act (RFRA).

It is ironic because freedom of the press is legislatively grounded in the same First Amendment that guarantees freedom of religion. But far more important, both freedoms live and breathe because of the more fundamental freedom of conscience that is the crowning glory of Western Civilization.

This freedom of conscience is a derived liberty, derived from an estimate of humankind as valuable because all persons are made in the image of God. This doctrine of the IMAGO DEI, and perhaps this teaching alone, has a track record of investing dignity and worth in every human being. Look at history. Where are persons worth something today? In what parts of the world and under the sway of what beliefs have individuals been valued?

Freedom of conscience, freedom of belief, freedom of expression ... can one draw neat boundaries between them? Can one even refine discreet definitions, isolating one from the other? No! It seems that they are inextricably bound together. These liberties are one flesh, indissoluble.

John Milton in the powerful *AREOPAGITICA* makes the case that freedoms of the human spirit are a piece of whole cloth, a seamless garment. It does not require some theoretical argument to see this urgent truth. Common sense, a slim knowledge of history and eyes to see validate this proposition. My mother used to say, "You can learn some things standing on the street corner."

Is there a working journalist who honestly believes that a free press would last long if the free exercise of religion were inhibited? Can one slice cleanly between free pulpits and free papers? Can any prophetic preacher worth his salt fail to care about the wholehearted, full-throated telling of the truth by the news media? If one opportunity to speak out is lost, all attempts to tell the truth as one sees it are in deep trouble.

Irony No. 2

The churches, as such, did pitifully little to promote, publicize or push the Religious Freedom Restoration Act.

Oh, the hired hands of the umbrella agencies for the churches worked hard and long. Forest Montgomery, attorney for the National Association of Evangelicals, worked tirelessly. Lisa Wright of the National Council of Churches came to meetings and walked the halls of Congress beyond the call of duty. The Christian Legal Society's Steve McFarland was a workhorse.

The staff of the Baptist Joint Committee bore the traffic and carried the day-to-day duties of the coalition. It was the BJC address, phone number, fax machine and meeting rooms that bore the heavy traffic. And it was Buzz Thomas and Brent Walker who argued, begged, pled, cajoled, blustered when appropriate and by all means held together the most diverse group of people imaginable to press toward the singular goal of requiring the state to have a "compelling state interest" before meddling in religion.

It is true that the Church of Jesus Christ of Latter-Day Saints, the Mormons, gave extraordinary priority to passage

of the bill.

The General Conference of Seventh-day Adventists were literally on call for every chore. The Evangelical Lutheran Church in America had staff members on the job. Other Washington offices of the Methodists, Presbyterians, Episcopalians, the United Church of Christ, Unitarians, Disciples of Christ participated in meeting after meeting, delivered letters, made calls, contacted congresspersons. But I speak of the denominational headquarters, the churches out over the country, the pulpits of America, the church-related colleges and seminaries. Too often as the Washington hired hands of all these groups went out over the nation, it seemed that no one knew or cared about RFRA.

It seemed to those embattled warriors on Capitol Hill that they were alone. Those who stood the most to lose, the princes of the pulpit, the fearless proclaimers of a prophetic Gospel were strangely silent. Oh, some of the folks they most love to condemn were at work every day for RFRA. Bob Peck of the ACLU was not outworked by any mortal. Jim Halpert and Elliot Minberg of People for the American Way did double duty day and night for the free exercise of religion.

As you would expect if you know anything at all about the story of freedom in America, Jewish leaders were steadfast in the struggle. Marc Stern of the American Jewish Congress, Richard Foltin of the American Jewish Committee and especially David Saperstein of the Religious Action Center of Reform Judaism made absolutely indispensable contributions to make this safeguard law.

Ironically, the folks who lost the free exercise of their religion never missed it, did nearly nothing to regain it and for the most part have not bothered to say thanks to those whom they love to berate and belittle using their free exercise. Oh well, only in America.

Irony No. 3

The only three members of the United States Congress (both houses) to vote against the final version of the bill were Baptists. Sens. Byrd, Helms and Mathews, all of whom should know better, were the three in the 97-3 vote for Senate approval. On May 11, 1993, the House of Representatives accepted RFRA without a dissenting vote.

The trademark, the hallmark, the birthmark of Baptists is soul freedom. The fight for religious liberty in the United States is littered with Baptist heroes. Sen. Robert Byrd is a history buff. Sen. Jesse Helms fought long and hard a couple of years ago for religious freedom for prisoners. Sen. Harlan Mathews is from the "Volunteer State," the heart of Baptistland, and had the bill 'splaind to him plainly. Why any of them should vote against the important piece of legislation is a puzzlement. Perhaps it is a political puzzle that we ordinary mortals are not meant to understand.

The fact of the matter is that the Congress corrected the court when it goofed. The Congress, 532 of the 535 of them, told Justice Antonin Scalia that he was dead wrong when he opined that the free exercise of religion was a legal "luxury we can no longer afford." The words still have meaning: "Congress shall make no law respecting an establishment of religion or prohibiting the FREE EXERCISE thereof." Thank God for all who worked to make this true. Δ

REVIEWS



A Free Church Perspective: A Study in Ecclesiology

Stewart A. Newman, Stevens Press,
Wake Forest, N.C., 1986, 113 pp.

Treasures do not always glitter. Sometimes they are hidden, blocked by both the flowery and the famous. Stewart Newman's *A Free Church Perspective* is a hidden treasure that deserves to be uncovered. Indeed, using the language of urgency, Walter Shurden recently noted in his *The Baptist Identity* that Newman's book has been "tragically overlooked." Shurden wanted to help draw the boundaries, again, around the Baptist identity, and he identifies Newman as one of those to whom he has turned for help. Shurden wishes to make it easier for others to find Newman among the dazzling and the more obvious.

After a long and distinguished career in the academy, in which he sought to instruct his students in the difference between indoctrination and education, Newman condenses his life's work with this analysis of the origins and implications of the free church. Published as fundamentalists seized control over the Southern Baptist Convention and in the shadow of his own struggle with an anti-intellectual bias in Southern Baptist seminaries and colleges in which he served for more than 50 years, the book is a call to the free church to hold firmly to the principles of its heritage: "A jealous regard for a certain church tends to blur the image of the faith orientation of personal religion which has been the identifying idea of the free church movement." (p. 98, emphasis added.)

For Newman, the "identifying idea" of the free church movement is that the outcome of Christian faith is a spiritually well-developed person, not

"church" *qua* institution. In the free church understanding, Christian mission is conducted by self-aware and mature individuals motivated by a received and growing faith that brings them together. The mature, other-directed individual is the product of the "faithing" process, which makes the church an instrument of mission, not an end in itself. To claim otherwise, says Newman, is to deny the fundamental tenant free church tradition.

To press the point, Newman uses his native Texas vernacular to render his own paraphrase of Matthew 18:16-18, the so-called Petrine confession. "Others have their *ekklesia*," Jesus claimed, "but *my* kind of crowd will be composed of people who are thus qualified." (p. 55) The individual's perception of who Christ is and his/her confession of Christ as Lord and Savior is a personal act that is *a priori* to community formation and its inevitable institutionalization. Newman asserts that remembering history is the necessary corrective to the conformism of ecclesiastical institutionalization.

With an artful use of language, and an erudite use of classical secondary sources, Newman reviews the essential history of the free church movement. The Renaissance gave birth to the elements of what Newman calls "free churchism" when the authoritarianism of the medieval church diminished with the spread of education among the masses.

The church's deduced supernatural answers to questions about the natural world, human behavior and personal destiny became less satisfying and effective with the birth of the scientific method and its search for inductive truth. A broadening literacy within European cultures made the Bible accessible to those other than the priestly elite. Unchained from the high altars and pulpits, the scriptures became subject to the now confident

curiosity of nascent modernity.

At this point in history, asserts Newman, religion faced the problem of "altering the functional operation of its faith while preserving intact the traditional deference for the eternal." (p. 29) In the Reformation, Luther and Calvin transferred ultimate authority from the church to the Bible. The more radical Anabaptists took the next logical step in claiming the revelatory process to be a two-party transaction, "one in which man himself [sic] is required to become a sensitive, responsible participant." (p. 30)

The watchword of churches that hold to the high role of the individual is "maturity." All aspects of free church ecclesiology flow from this singular concept. Churches are voluntarily gathered. Membership is a matter of choice, made at an appropriate age of discretion. Pastoral leadership is perceived to be functional rather than official. Symbols and rituals are powerful, but they are devoid of the power to save. Consensus rules in congregational decision-making, but conscience reigns in the individual members, empowering them to follow another way if they perceive the Spirit so leading. Without such maturity, the "wagging ways" of history intimidate free church people to abdicate the authority of their partnership with God in the "two-party" revelatory process. In "losing their nerve" they trust the ecclesiastical organization more than themselves. Subsequently, the genius and freedom of free church life is threatened.

The book progresses through eight brief chapters, each building on the other and on the foundation of history, philosophy and church practices. In the final chapter, "The Free Church and the World," Newman joins the contemporary argument concerning the role

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