



REPORT FROM THE CAPITAL

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NewsMakers

◆ Peter Wehner, director of policy at Empower America, a conservative public policy organization, recently urged Christians to resist "a creeping political idolatry." In a *Washington Post* column, he said the main threat Christians "now face is not disengagement from politics but absorption by it."

◆ Rep. Ron Hood, a Republican member of the Ohio House of Representatives, plans to introduce legislation that would require public schools that teach evolution to present evidence for and against the theory, a Cleveland newspaper reported.

◆ In a speech to United Methodists, Hillary Rodham Clinton urged Americans to practice humility, forbearance and patience. "We should act on the outside of church the way we try to act on the inside," she said. Δ

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Supreme Court turns away church-state disputes this term

Like recent decades, the 1990s have witnessed some subtle and not-so-subtle shifting of the nation's church-state landscape as the U.S. Supreme Court continued to define the limits of the First Amendment's religious liberty protections.

Any further defining of church-state law, however, must await the high court's 1996-97 term, which begins Oct. 7. That's because the court has so far this term declined to review any pending church-state disputes, and any cases accepted between now and this summer will have to wait until the new term to be heard and decided. (See Page 6 for recently rejected disputes.)

"The Supreme Court is taking fewer cases across the board," said Baptist Joint

Committee General Counsel J. Brent Walker. "This year it accepted for review less than half as many cases as it decided a decade ago."

Walker said the court may eventually review one or more lower court rulings on the 1993 Religious Freedom Restoration Act, which requires government to have a compelling interest before it can "substantially burden" religious practice.

"The high court eventually will have to decide what Congress meant by a 'substantial burden,' as well as rule on the constitutionality of the act," he said.

Walker said the court may address during its next two terms the issues of state-sponsored prayers at graduation exercises and vouchers and other forms of financial aid to religion. Δ

Key church-state rulings in the '90s

- 1990 *Board of Education v. Mergens* — before- and after-school access to classrooms for student religious meetings in secondary schools upheld.
- 1990 *Swaggart v. Board of Equalization* — application of sales tax to religious organizations does not hinder free exercise of religion.
- 1990 *Employment Division v. Smith* — generally applicable laws do not violate free exercise rights.
- 1992 *Lee v. Weisman* — school-sponsored, clergy-led prayer at commencement exercises struck down.
- 1993 *Church of Lukumi Babalu Aye v. City of Hialeah* — city ban on animal sacrifice unconstitutionally targets religious practice.
- 1993 *Zobrest v. Catalina Foothills School District* — deaf student at a religious school can be provided a government-paid sign-language interpreter.
- 1993 *Lamb's Chapel v. Center Moriches Union Free School District* — policies on after-hours use of school facilities cannot discriminate against religion.
- 1994 *Kiryas Joel Village School District v. Grumet* — special school district formed for religious community struck down.
- 1995 *Capital Square Review and Advisory Board v. Pinette* — a privately sponsored, unattended religious symbol displayed in public park permitted.
- 1995 *Rosenberger v. University of Virginia* — university cannot deny generally available student activity fees to student religious publication.

Where the Spirit of the Lord is ... freedom

II CORINTHIANS 3:17

Observe
Religious
Liberty
Day
1996

Affirming freedom — a good place to be

"Where the Spirit of the Lord is, there is freedom." (NRSV)



Carol
Franklin
Sutton

This freedom business is tricky. Years ago, when I was a mere seminarian, I recall the local paper sending a reporter out onto the street. This guy was asked to show people a document and get their reactions. He did so. According to the article, as I remember it, a significant percentage of the people reacted negatively. The document in question? You guessed it — the Bill of Rights. Comments ran along the lines of: "Dangerous ideas." "Don't show that around." "Sounds treasonous to me."

That attitude seems to me to characterize much of our political and theological discourse these days. If it's hard or unfamiliar or heretical (by my definition) I don't want to hear about it. But we live in a nation and world that is incredibly diverse. The ideas, the belief systems, the credos multiply daily it seems. What are we to do as faithful Christians in the swirling midst of such a cacophony of ideas? How can we hold fast to the faith and still allow all these ideas to be heard? Isn't that dangerous? Dangerous to impressionable minds? Risky for those faltering in the faith? Dare we encourage the open exchange of ideas when even those within the family of faith seem sometimes to have embraced questionable beliefs?

Well, yes.

Scripture teaches us that the Spirit is present in free-

dom. No, actually, Paul says that freedom is present in the Spirit. By the very nature of the Spirit of God we are free, called into freedom. And so, we are also called into the discomfort of knowing that not everyone with whom we worship on Sunday morning is in 100 percent agreement with us. Can we live with that? Can we tolerate, no, make that *welcome* those differences?

I hope so. I keep asking myself, why did God create so much diversity? Not just the visible signs of our differentness — color, gender, etc. How is it that so many people, all seeking to know the mind of Christ, seeking honestly and prayerfully, keep coming up with radically different answers? Maybe God finds our clamor for uniformity boring and likes all the excitement of our debate. Maybe the issues we think are central to a pure church will turn out to be peripheral. I don't know. But let's not lose sight of the fact that we have been set free. I'm fascinated by the link in Greek thought between *eleutheria* (freedom) and *soteria* (salvation). I know Xenophon used them in a political context (*History of Greece, II*), but I think they are joined in Christian thought as well. Paul spoke of this link more than once (see Galatians). The two concepts are inseparable. God is free and made us to be free. Paul says we are being transformed into the image of God which we see as a reflection in a mirror (II Cor. 3:18). When we deny our own freedom or that of others, we put ourselves at odds with God. Not a good place to be. Δ

Carol Franklin Sutton is executive director of American Baptist Women's Ministries and former associate director of information services at the Baptist Joint Committee.

Church-State Intersection

J. Brent Walker

General Counsel



Passage of the Religious Freedom Restoration Act of 1993 (RFRA) was a big victory. But, some courts continue to misunderstand the

act and misapply its terms.

Several cases have addressed the issue of whether RFRA protects landlords who, for religious reasons, do not want to rent to cohabitating, unmarried couples. What happens when the landlord's sincerely held religious belief conflicts with the rights of a tenant under state fair housing laws? The courts have split on this issue. Several have held landlords' religious liberty rights to be more important. One court, however, ruled for the tenant, finding that the state has a compelling interest in eliminating discrimination based on marital status in housing.

Recently, the California Supreme Court ruled (4-3) that a property owner could *not* refuse to rent to unmarried couples on religious grounds, even under RFRA. The landlord, Evelyn Smith, was exercising sincerely held religious convictions. She had long refused to rent to *unmarried couples* — often to her economic detriment — out of a firm belief that to do so would be a sin. When an unmarried couple to whom she denied a unit sued, Mrs. Smith defended on the basis of the RFRA. The lower court initially agreed with her, ruling that the state did not have a sufficiently compelling interest to override her religious exercise. But the California Supreme Court disagreed and reversed.

One is hard-pressed to discern any *compelling* interest on the part of the state to enforce these laws. As Professor Doug Laycock of the University of Texas has said, how can sex outside of marriage go from a misdemeanor to a compelling interest in one generation? But the California high court didn't even get that far in its analysis. Four members of the

fractured court denied that there was even a burden on Mrs. Smith's free exercise. It upheld the fair housing law in part because the law was "religion-neutral," and not directed specifically at Mrs. Smith's religious exercise. This is crazy! It was to protect religious liberty in the face of religion-neutral laws that RFRA was passed in the first place. Moreover, the court took an extremely pinched view of what constitutes a "substantial burden." The court said that Mrs. Smith's religion "does not require her to rent apartments, nor is investment in rental units the only available income-producing use of her capital." In other words, she could avoid the burden on her religious exercise by finding something else to do for a living. Well, of course! Religious burdens can almost always be avoided by doing something else. If this is the test, the promise of RFRA's robust protection for our religious liberty was indeed illusory.

Now there might be situations involving, for example, a large corporate landlord where the burden on the exercise of any shareholder's religion is so attenuated that it would not be substantial. And, there might be situations where a landlord's business is far-flung and pervades the local market to such an extent that unmarried couples who want to live together are absolutely prevented from finding a place to live. If that were the case, then the state might have a compelling interest to enforce the fair housing laws. But these are rare situations and certainly was not the case here. Mrs. Smith only owned four units, and there was no evidence the tenants were unable to find suitable housing elsewhere.

I hope Mrs. Smith petitions the Supreme Court for review. This misinterpretation of RFRA must be corrected. Δ

Baptists observe **Religious Liberty Day** regularly, religiously.

It is a tradition the Baptist Joint Committee supports among Baptist bodies in the United States. Many Baptists celebrate this observance on the first day of worship in June. Whenever, however your church celebrates the tradition of religious freedom, it joins with free and faithful Baptists everywhere in recognizing a major element of Baptist identity.

A limited quantity of the



BJC's full-color 1996 Religious Liberty Day poster are available for \$2 each, including postage and handling. See back cover for ways to contact the BJC. Δ

Religion-state issues mark India elections

Our country first. Closed or restricted borders. Emphasis on governmental policy reflecting the beliefs of the religious majority. A return to the past when issues were clear and traditional values ruled.

Sound like 1996 American political rhetoric? Think again. India's own political canvas also is being painted with the same issues by political parties and paramilitary groups that yearn for a past that never was and a future that cannot be if democracy is to be preserved.

Those interested in religion-state relations will do well to pay close attention to the elections in India that conclude May 15. At issue is more than the future direction of the world's largest democracy. The very stability of the social, religious and political fabric of India is being challenged by groups with not-so-enlightened self-interest at stake. Despite its appearance as a perpetual political dynasty that has controlled the central government for all but four years since independence, the Congress Party is the only all-India political institution that has managed to preserve a long-term political consensus among diverse groups throughout the country and especially at the Center in Delhi.

In part this is due to the Congress Party's ability to address issues of common concern to many Indians regardless of their religious, social, regional or economic status; in part, because it has been the most successful at building a national party structure in every state in India; and in part because historically it has appealed to its heritage as the party of Mohandas K. Gandhi, Jawarhalal Nehru and Nehru's daughter and grandson, Indira and Rajiv Gandhi. Moreover, this consensus building has withstood both Indira Gandhi's 1970s Emergency declaration and autocratic

rule and numerous charges of corruption and nepotism.

Though it is always healthy for a democracy to have at least one major "loyal opposition" party to keep the party in power more focused toward a centrist position, the not-so-loyal opposition party that has emerged in India during the past seven years, the Bharatiya Janata Party (BJP), has somewhat checkered historical antecedents and characteristically appeals to social, religious and ethnic fears and uncertainties to preserve and strengthen its political charisma. When it began to solidify its base of support and flex its newfound strength in 1989, the BJP had emerged as an outgrowth of a religious and social nationalism that had given birth in the 1940s and 1950s to groups such as the Jan Sangh Party and its paramilitary right-wing "cultural" parent, the Rashtriya Swayamsevak Sangh. Along with the BJP's not-so-tentative alliance with the Vishwa Hindu Parishad (VHP) — another Hindu nationalist organization that has encouraged the "liberation" of allegedly once-Hindu sacred sites from what are now Muslim mosques — is the BJP's tendency to use traditional Hindu religious language, symbols and rituals to promote its political goals. They and others argue that it is essentially secular in its goals to promote Indian nationalism, majority Hindu rule and an end to multinational economic efforts in India. Yet, its frequent use of Hindu holy men, conferences and other activities with strong religious content, a leadership that comes largely from the Brahman class and appeals for Indians to be careful of religious and social minority groups, all tend to belie the BJP's argument that it is based on a secular, not religious, foundation and that it represents all Indians. Further, its political alignments with the VHP and regional and anti-minority parties such as Bombay-based Shiv Sena and its

support of the 1992 destruction of a Muslim mosque in the North Indian town of Ayodha suggest that its goals are less than conducive of community building in India's very diverse society. Moreover, though the BJP has insisted on its lack of involvement in political corruption that is endemic to most political (and non-political) organizations, recent revelations suggest that the moral high ground is not a plateau on which this Hindu nationalistic party can stand with any more confidence than the Congress or any other Indian party.

What can we conclude about religion and politics in the world's largest democracy, a greater percentage of whose citizens vote in each election than we do in the United States? As in the United States, in India the voter is challenged not only by the political qualifications of candidates but by a rhetoric that reaches much deeper: into the very fiber of an individual's sense of what he or she is physically, emotionally, mentally and spiritually. Like some American candidates who claim possession of a spiritual and moral character far purer than their opposition, the BJP, the Shiv Sena and some other parties in India appeal not only for the Indian voter to judge their ability to form a more promising future for the country, but a future somehow more intimately favored by the forces of the sacred than their opposition. One can only hope that the wise voter is able to see through political rhetoric laced with spiritual platitudes and symbolism and see instead a future society in India that begins to accept Indians as Indians, rather than as possessed of particular spiritual value that is exclusive rather than inclusive. Δ

J. Daniel White is professor of religious studies at the University of North Carolina at Charlotte, Charlotte, N.C.

J. Daniel
White

Rejecting government-advocated religion

On Feb. 21, 1996, the Tennessee Senate, of which I have been a member for 14 years, passed a resolution encouraging the citizens of this state to observe the Ten Commandments, teach them to their children and display them in their homes, businesses, schools and places of worship and set aside 10 days in May to particularly honor these commandments. Earlier that day, Tennessee's attorney general opined that the resolution violates the Establishment Clause of the First Amendment. He stated that although the resolution "is not a law but is rather an expression of legislative intent, the resolution unquestionably provides official state encouragement for observance of the Ten Commandments and therefore has the effect of advancing religion." The resolution passed 27-1. I was the only senator to vote against the resolution.

The Bill of Rights restricts the government's ability to enact laws and take certain actions which deprive citizens of their basic rights. The very first two clauses of the First Amendment provide that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Associate Supreme Court Justice Hugo Black wrote in the 1962 case of *Engle v. Vitale* that government should neither lend its power nor its prestige to further or support any particular form of religion or worship. And in 1980 the Supreme Court struck down a Kentucky law requiring the posting of the Ten Commandments in schools.

I was raised in and follow the Jewish faith, and I believe in the Ten Commandments. However, each time I have been elected I have taken an oath of office

which binds me to uphold the Constitution. In our capacity as elected officials, we are government and government is prohibited from trampling the rights of citizens. Our founders intended for our government to be separate from all religion, neither endorsing nor denying any expression of faith.

An erroneous argument which has gained some momentum among lawmakers suggests that the founders of this country were exclusively Christian, that this is a Christian

country and that the First Amendment has been misinterpreted. Many of the founders were also Deists, Unitarians, or like Thomas Paine, atheists and were fleeing religious persecution from governments and other Christians. Those who think religion has a place in government want their beliefs advocated. America is comprised of Muslims, Hindus, Buddhists, Mormons, Jehovah's Witnesses, Quakers, Seventh-day Adventists, Mennonites, Christian Scientists, Jews and those of many other faiths and beliefs, as well as those who choose not to worship. Thomas Jefferson said it best: "I am for freedom of religion, and against all maneuvers to bring about a legal ascendancy of one sect over another."

What is happening in Tennessee is not an anomaly. The radical religious right is creeping into our government because the great majority of Americans have not expressed their views on government-advocated religion. There are lawmakers who claim that they are only doing what the people want. But the people are not monolithic in thought nor are elected representatives allowed to "represent" the people to the detriment of our oath of office. We are not

only to represent the most vocal and most threatening of the citizenry. We are to uphold our oath of office and the Constitution.

One of our senators who voted for the resolution apologized for voting 'yes' and admitted the true reason for his vote: "This is a political issue. Tomorrow morning the paper is going to say who voted for this and who didn't vote for this. ... I do not have the time to knock on 150,000 doors ... to explain to my constituents the whole argument that this is America, this is a country where people have a choice."

It is not a question of supporting the Ten Commandments or religion but that the marriage of government and religion diminishes each. I have great faith in the Ten Commandments, in God and in the teachings of Moses, Buddha and Jesus. I do not have nearly as much faith in government or political interests and activities. The Bill of Rights is the only list of 10 rules which the government should encourage citizens to post. May it long be respected and heeded. Δ



Sen. Stephen
Cohen

"Our founders intended for our government to be separate from all religion, neither endorsing nor denying any expression of faith."

Above are excerpts of a statement by Tennessee State Sen. Stephen Cohen, D-Memphis, following his vote against a proposal to urge state residents to observe the Ten Commandments. (See story, Page 6.)

1936-1996

Six Decades
of Securing
Religious Liberty



The Baptist Joint Committee added three full-time staff positions during the years C. Emanuel Carlson directed the agency (1954-1971). In October 1957, W. Barry Garrett, editor of the *Arizona Baptist Beacon*, was named associate director in charge of information services. Garrett served as regional editor of Baptist Press, and as editor of *Report from the Capital* (1958-1967). He received press accreditation in the House and Senate press galleries and at the White House. In the 1960s, he was the only accredited Baptist newsman at the last Second Vatican Council in Rome. In 1964, James M. Sapp became director of correlation services, where he developed relations with Baptist bodies, planned Religious Liberty Conferences and edited *Report from the Capital*. The next year, Walfred H. Peterson, a professor at Bethel College, became the agency's first director of research services. Δ

Supreme Court rejects religious liberty claims

Returning to the bench following a two-week break, the U.S. Supreme Court declined April 15 to hear three disputes involving religious liberty claims.

Left standing were lower court rulings that:

◆ Chicago officials did not violate the free exercise rights of a congregation by refusing to permit worship services in a commercially zoned area;

◆ Ohio's exemption of religious organizations from a charitable solicitation law did not violate the First Amendment's ban against government advancement of religion; and

◆ the First Amendment prevented courts from hearing a Texas Pentecostal minister's lawsuit challenging the cancellation of his minister's license.

In the Chicago dispute, Celestial Church of Christ challenged the city's refusal to let it conduct religious services in an area zoned for commercial and business purposes. The church argued that the city violated its free exercise rights.

An Illinois appeals court, in a decision the state's Supreme Court refused to review, rejected that claim. The court noted that the 1993 Religious Freedom Restoration Act (RFRA), which requires government to show a compelling reason before it can substantially burden religious practice, applied retroactively to this case.

In applying RFRA, the court said Celestial Church failed to show that its free exercise was substantially burdened.

Allowing the church and other religious groups "to locate where they will in Chicago would clearly destroy the city's development plan," the court said.

Requiring the church to relocate may be inconvenient, the court acknowledged. But it noted that the 40 percent of Chicago that is zoned residential is available for churches.

"Consequently, we feel Celestial Church is not substantially burdened," the court said, concluding that Chicago had violated neither the First Amendment nor RFRA.

Three Ohio non-profit organizations challenged portions of the state's charitable solicitation law, which requires covered organizations to register with the attorney general, providing financial reports and other information.

Among other challenges, the groups

argued that the law's exemption of religious organizations unconstitutionally favored religion.

The 6th U.S. Circuit Court of Appeals disagreed, applying a three-part legal test that requires government actions involving religion to have a secular purpose, to neither advance nor inhibit religion and to avoid excessive entanglement with religion.

The appeals court said the charitable solicitation statute serves the "secular purpose" of protecting the state's citizens from abusive solicitation practices.

In addition, the appeals court said the exemption for religious organizations does not result in government advancing religion but government "lifting a regulation" and allowing churches and religious groups to advance religion.

The exemption helps avoid entanglement between church and state by eliminating any need for the state to examine the financial records of religious bodies, the court concluded.

In the Texas dispute, the Supreme Court declined to disturb lower court dismissals of a complaint by the Rev. Homer Green, who sued the United Pentecostal Church International after his minister's license was revoked. Texas courts said the First Amendment prevents them from deciding ecclesiastical matters.

Tennessee lawmaker sees threats to separation

America is in danger of "losing the separation of church and state" if people fail to stand up to the religious right, a Tennessee state legislator said.

Stephen Cohen, the only member of the Tennessee Senate who voted against a bill that would encourage citizens to observe the Ten Commandments and display them in homes, businesses, schools and places of worship, issued the warning April 12 at a People For the American Way national network meeting.

The Ten Commandments bill passed the state Senate on a 27-1 vote. Cohen said the vote shows what can happen when people don't stand up to the Christian right.

Today's liberals are those on the far right who want to change the nation's historic views on tolerance, he added.

"When I'm spouting ideas from a 200-year-old document (the Constitution), that's really conservatism," he said. Δ

Proclaim Liberty



Celebrating
the past ...

facing
the future

BAPTIST JOINT COMMITTEE

60th Anniversary
Conference

October 6-8, 1996
Washington, D.C.

Date: Oct. 6-8, 1996
Location: Calvary Baptist Church
755 8th Street, N.W.
Washington, D.C.

Conference Hotel: Days Inn Crystal City
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(703)-920-8600
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Rate: \$99 a night for
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church. Ask hotel for
BJC rate.

Student Housing: \$5 a night at Camp
Fraser, owned and
operated by Calvary
Baptist Church. Contact
BJC for details.

Conference Registration: \$60 individual
\$90 couple
\$35 student
Registration fee includes
packet of materials,
new book chronicling
the history of BJC and
Monday night banquet.

Conference Events: Banquet

Presentation of
J.M. Dawson Awards

Reunion of former BJC
board members, staff,
scholars-in-residence
and interns

Breakouts

Plenary sessions

Speakers:

John Buchanan
Joan Brown Campbell
Tony Campolo
Elenora Giddings-Ivory
Henry Green
Doug Marlette
Wintley Phipps
Richard Pierard
A. James Rudin
Walter Shurden
Al Staggs
Gardner Taylor
Oliver S. Thomas
J. Philip Wogaman

**Additional speakers to
be announced.**



Religious Liberty Conference celebrating
the 60th Anniversary of the Baptist Joint Committee
October 6-8, 1996 • Washington, D.C.

- Yes, I plan to attend the conference and am enclosing my registration fee. I will make my own reservation at Days Inn where the \$99 rate is guaranteed for the first 100 rooms, or at another location.
- Yes, I will be attending the conference and request information about student housing at Camp Fraser at \$5 per night.

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- ◆ National Missionary Baptist Convention
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- ◆ Religious Liberty Council
 - ◆ Seventh Day Baptist General Conference
 - ◆ Southern Baptist state conventions/churches

REPORT FROM THE CAPITAL

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Book Review

Is Jesus a Republican or a Democrat? And 14 other Polarizing Issues

Tony Campolo, Word Publishing, Dallas, 1995, 181 pp.



If the title of Tony Campolo's new book hasn't already caused you to start fumbling for your bookstore discount card, let me just add my calmly considered opinion: Read the sucker! I suppose you could conceivably wait for another Baptist writer to address in a single volume such diverse topics as: "Does God Prefer Poor People?" "Is Television Demonic?" "Do Real Christians Smoke?" "Does God Have a Feminine Side?" "Are Christian Talk Shows Christian?" and our favorite, "What About Prayer in Public Schools?" Please don't hold your breath.

Never one to shrink from a difficult issue, Campolo now gives us the sequel to his controversial *Twenty Hot Potatoes Christians Are Afraid to Touch*. The structure is fairly simple. Each chapter is an analysis of the type of question that causes people to switch churches, withhold tithes or holler in Sunday school. Prepare to take offense. The first book got him in more hot water than a Baton Rouge shrimp boil. I, too, was so deeply shaken by his examination of Christian BMW ownership that I did not read him for several years. (I had an excuse; I grew up watching "Dallas.") However, with age I have gained some measure of control over my materialistic tendencies, and I enjoyed the new book thoroughly. If your mind is as open as mine (not difficult), you will, too.

Also, prepare to take notes. While I am convinced that only Tony Campolo can agree with everything in this book, the more important effect of reading it is to set one's mind in motion (or commotion) on the questions he asks. Campolo asks honestly; he expects genuine debate. In fact, the most valuable part of the book is not his conclusions but the fact that he's willing to discuss the issues at all. He rails against those Christians who avoid controversial stances in order to protect their "ministries." He encourages us to be true to our convictions and let God provide for his work. He equally disparages those who are quick with a dogmatic, knee-jerk answer for problems that merit examination. Quoting Romans 1: 22-25, Campolo declares that those who claim Jesus as a supporter of their agendas are guilty of idolatry.

This book will challenge you, it will probably rile you, and it may even win your agreement. Some chapters made me want to cheer out loud, and others nearly inspired me to drive to Pennsylvania and beat the author like a rented mule. (Incidentally, Mr. Campolo prefers to be contacted by mail at an address he provides.) Regardless of your reaction to his beliefs, Campolo's call for review of public policy and Christian behavior using scripture, the Holy Spirit, and our God-given intelligence is one all Christians can and should answer.

In case you were losing sleep, the answer to the title question is "no."

— Philip T. Kingston
BJC Intern

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