

St. John's Law Review

Volume 23
Number 2 *Volume 23, April 1949, Number 2*

Article 3

July 2013

God and Our Government

John P. O'Byrne

Follow this and additional works at: <https://scholarship.law.stjohns.edu/lawreview>

Recommended Citation

O'Byrne, John P. (1949) "God and Our Government," *St. John's Law Review*: Vol. 23 : No. 2 , Article 3.
Available at: <https://scholarship.law.stjohns.edu/lawreview/vol23/iss2/3>

This Note is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact selbyc@stjohns.edu.

NOTES AND COMMENT

GOD AND OUR GOVERNMENT *

In one sense we Americans are a jealous people; especially of our rights and privileges, our liberty and our freedom. But what is mystifying about us Americans is not our jealousy but our matter of fact complacent acceptance of a great democratic tradition. For some perverse reason we are loathe to pursue the means necessary to protect and maintain that tradition. In this day, in our state of advanced civilization we have averted our faces from the God who is the author and source of all the privileges of our culture. We have chosen to ignore God in the education of our children. Here in the citadel of democracy it has become undemocratic to permit the teaching of religious doctrine in our public schools.

A paradox is born! A nation that calls itself Christian and thinks of itself as Christian, that was founded in accord with the principles of Christianity, has decided to become un-Christian and irreligious.

We have chosen to ignore our rights and neglect our duties. It is the way of man plotting his self-destruction. From the freedom to practice religion we, in our sophistication, have deduced the freedom to practice no religion. We negate the very reason for our existence and even worse we are going to foster our ignorance upon our children.

When comes this degradation of democracy? It is neither from democracy itself nor from its admitted enemies. Democracy was conceived in the acknowledgment of a Creator and a Supreme Judge. This great wound to religion has been inflicted by those interpreters of democracy who would break faith with their forefathers and effect democracy's purification by the purgation of religion. It comes from those who in ignorance would ignore democracy's first duty of self-preservation. It comes from those who lost in a maelstrom of false belief and irrational opinion would deprive democracy of the support from religion that is necessary for democracy's very existence.

* This essay by Mr. John P. O'Byrne of Teachers' College, St. John's University, was recently awarded the first prize of \$100 in a university-wide essay contest sponsored by the Rev. John A. Flynn, President of St. John's University. The subject of the contest "God and Our Government" was inspired in part by the recent widely discussed Supreme Court decision, *McCollum v. Board of Education*, 333 U. S. 203, 92 L. ed. 451 (1948), in which by a split decision the Court ruled that the "released time" program was an unconstitutional joinder of Church and State.

These people, perhaps sincere in their intention but nonetheless in error, would forever separate the functions of Church and State and reduce the intimacy under which both have prospered to the formality of a diplomatic pouch. So necessary is religion to a democracy that one might as wisely expect the flow of blood without the heart as expect the survival of democracy without religion.

It is true that the Church and the State cannot be joined in our democracy but it is also true that in some areas the Church and the State can cooperate for the common good.

In the field of education especially, Church and State must augment and help each other. But in this area of education is being waged one of the great controversies of our day between those who would take God out of the schools as undemocratic and those who insist that only with God can we have a democracy.

The age we live in! God undemocratic! Has reason deserted mankind?

Those people who hold that the use of public buildings and facilities for the teaching of religion is discriminatory to the non-religious taxpayers are misinterpreting the spirit of democracy and condemning it to doom.

A religious education is absolutely necessary for the complete development of the whole man. It is even more important than the teaching of civic duties. Since honor and duty are paid to the makers of our democracy by educating our children in their thoughts is it not even more reasonable to pay honor and duty to the Creator of these men by educating our children in His wisdom?

There is no evidence to support the charge of discrimination. In existing religious educational programs each sect is recognized, and equal opportunity is given to all of them. Those who do not wish religious instruction are given regular, academic classes. Are we then being discriminatory because we ask students to avow their beliefs? This too is hardly credible. The sincere person is not ashamed to proclaim his belief or even disbelief.

Our country is made up of many nationalities. Do we think it undemocratic to maintain departments of foreign languages in our publicly supported schools? Do we accuse these schools of sponsoring nationalisms other than our own? Do we accuse these schools of discrimination because they do not teach some language? No, we do not and we would be absurd if we did. Why then protest the maintenance of religious curricula sponsored by all interested sects? It is not the establishment of a state religion nor does it smack of inequality.

Parents have the responsibility of forwarding the religious education of their children. Such education begins in the home but it must be carried on throughout the child's school years. And when the parents of a community decide to aid the religious education of their children by using public property belonging to them as tax-

payers such a matter is the sole concern of the state. Our National Government does not have jurisdiction over such local affairs.

Besides the imposition on the Constitution, our Government has imposed on its chance of survival. An irreligious citizen cannot be a good citizen. His loyalty will be founded upon caprice rather than duty. If man is responsible only to government and not to God, he is responsible only to himself. This is not democracy but anarchy.

It is in this teaching of responsibility to God that government draws its strength from religion. Ultimately government is to rely upon those same moral principles that form the core of religion. Man may live by conforming to the natural law but if he is to live successfully he must also conform to the supernatural law.

The truth that the religious citizen is usually the more loyal, patriotic and law-abiding citizen must be realized by government. The inculcation of moral and ethical recognition of authority is fundamental to a democratic system. And such a recognition of authority must recognize the Supreme Authority, that is God, or it collapses, bent and at last broken for lack of stable support.

Any attempt to teach such lofty principles of democracy as the individual's responsibility to himself, to his fellow man and to his government, without the recognition of a Godhead is an attempt to convey empty words and phrases to the mind of man desiring not empty words and phrases but meaning and reason.

We must give recognition to God. The very proposition upon which democracy is founded, that all men are created free and equal, is meaningless if we refuse to acknowledge the Creator of all men. The blessings of liberty for which our forefathers shed their blood and which we cherish today, would not be ours to enjoy had not our Constitution been conceived by men who acknowledged their debt to their Creator.

Democracy is a shadow without substance if it chooses to ignore religion. The minds of its citizenry obscured by the shadow will follow the will o'wisps of the most vicious totalitarianism that will banish the shadow by extinguishing completely the light of freedom. There will be no God, no democracy, no individuals, no liberty, no light to guide men to their destiny. Totalitarianism is repugnant and intolerable to the lovers of democracy and so, too, should the absence of God in our schools that will lead us to totalitarianism, be repugnant and intolerable.

Democracy is indeed a wonderful institution and few have been fortunate enough to enjoy its benefits. We who live in a democratic nation must realize that the strength of democracy is dependent upon our loyal and patriotic cooperation. The system is not one of force. It is an expression of the will of the people. Democracy demands recognition by the majority of the rights of the minority, and the obedience of the minority to the will of the majority. This is a difficult concept to realize unless a high moral and ethical code is presupposed. Only religion can supply these moral and ethical

standards, for they are derived only from a knowledge of, and an obedience to God. It would be impossible to realize our democratic ideals if we choose to educate our children in ignorance of their Creator.

The ideals of democracy flow naturally from religion. Men did not derive their inalienable rights from democracy or from each other. These rights are inalienable because each one of us has received them from his Creator and because they are proper to our dignity as men. Man must realize his obligations to God before he can realize his dignity as a member of a democratic society.

It was not by chance that our Declaration of Independence acknowledged man's debt to God. The Declaration of Independence was a thoughtful, solemn, acknowledgment of the source of all right and dignity.

Our Government must conform to the spirit of that declaration. We, too, must acknowledge God and foster the spread of His knowledge and worship. The fire of revolution may inflame men's hearts, but the love of God is necessary to make that flame eternal.

To envision a democracy in which pseudo-democratic educators have extirpated religion is to see a corpse moved now and then by reflexes. Movement becomes less and less frequent and finally the corpse is still, awaiting the buzzards of anarchy or dictatorship to feed on its corruption.

The vision is not pretty, and yet if we are to trust history it is prophetic. The preservation of democracy demands decency and unselfish ideals in its youth. They will lack decency and ideals if they lack religion.

My claim to prophecy is not far-fetched. History in this instance is incontrovertible. Within our own generation we have witnessed the Nazification of Germany and the attendant secularization of her schools. Hitler realized much better than some of our democratic educators that youth without faith is the ready prey of the demagogue. His exploitation of a faithless youth is now a bloody and shameful page in the history of the world. And how much has Germany suffered for a mistake that we are too prone to commit! Democracy is not invincible; it could happen here!

We must not raise a brazen idol in the image of democracy. Democracy cannot be a god unto itself. It is an imperfect contingent, evolving system. It must have roots in religion.

We cannot survive, we will not survive, if our children grow into irreligion because we outlaw religion from their education. An irreligious person could never hope to understand the meaning of equality. He could never comprehend the concept of inalienable rights. He would respect only force. He would have no ideals, no beliefs compatible with a democratic system. A democracy become irreligious eats of its own flesh and perishes.

This is not alarmism. Its truth is obvious. When the great mass of the people become irreligious they will not be content to

live in honor and decency. They will not make the sacrifices necessary for the preservation of democratic ideals. They will decline into a worship of power. Fear will be their only motivation. The strong will vanquish the weak and democracy will perish.

Men must know God's law and they must learn it in the homes and in the schools. Secularization of the schools will produce monstrosities respectful of neither God nor man. Fear, hate and prejudice are the offspring of ignorance and if we are to keep our youth ignorant of God this nation will perish through fear, hate and prejudice.

Let us make religion a part of our school curricula, let us educate our citizens in the love of God and of country, and democracy will survive its enemies from without and from within.

JOHN P. O'BYRNE.

SECTION 61-B OF THE GENERAL CORPORATION LAW OF NEW YORK:
ITS CONSTITUTIONALITY AND APPLICABILITY IN THE
FEDERAL COURTS

On April 9, 1944, a disastrous blow was dealt minority stockholders seeking to institute derivative actions in the courts of New York State. On that day Governor Thomas E. Dewey signed the bill which was later known as Section 61-b of the General Corporation Law of New York.¹ Since that time a bitter battle has been raging as to (1) the constitutionality of the statute and (2) its applicability in the federal courts. Powerful and persuasive arguments are put forth both by those who uphold the statute and by those who seek to destroy it and the clash is one of exceptional interest.

¹ N. Y. GEN. CORP. LAW § 61-b: "In any action instituted or maintained in the right of any foreign or domestic corporation by the holder or holders of less than five per centum of the outstanding shares of any class of such corporation's stock or voting trust certificates, unless the shares or voting trust certificates held by such holder or holders have a market value in excess of fifty thousand dollars, the corporation in whose right such action is brought shall be entitled at any stage of the proceedings before final judgment to require the plaintiff or plaintiffs to give security for the reasonable expenses, including attorney's fees, which may be incurred by it in connection with such action and by the other parties defendant in connection therewith for which it may become subject pursuant to section sixty-four of this chapter, to which the corporation shall have recourse in such amount as the court having jurisdiction shall determine upon the termination of such action. The amount of such security may thereafter from time to time be increased or decreased in the discretion of the court having jurisdiction of such action upon showing that the security provided has or may become inadequate or is excessive."