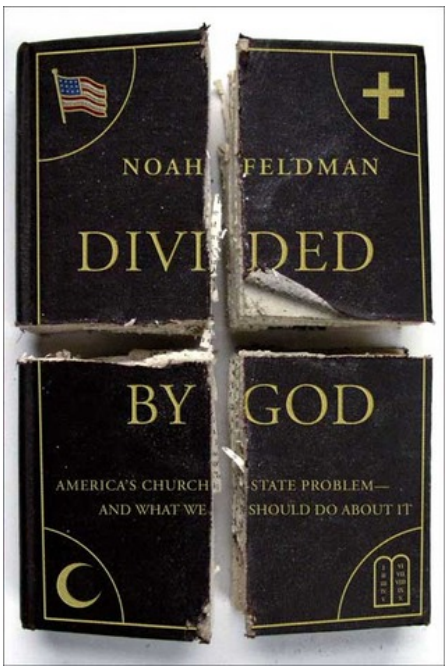

Divided by God: America's Church-State Problem--and What We Should Do About It

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A brilliant and urgent appraisal of one of the most profound conflicts of our time

Even before George W. Bush gained reelection by wooing religiously devout "values voters," it was clear that church-state matters in the United States had reached a crisis. With *Divided by God*, Noah Feldman shows that the crisis is as old as this country--and looks to our nation's past to show how it might be resolved.

Today more than ever, ours is a religiously diverse society: Muslim, Hindu, and Buddhist as well as Catholic, Protestant, and Jewish. And yet more than ever, committed Christians are making themselves felt in politics and culture.

What are the implications of this paradox? To answer this question, Feldman makes clear that again and again in our nation's history diversity has forced us to redraw the lines in the church-state divide. In vivid, dramatic chapters, he describes how we as a people have resolved conflicts over the Bible, the Pledge of Allegiance, and the teaching of evolution through appeals to shared values of liberty, equality, and freedom of conscience. And he proposes a brilliant solution to our current crisis, one that honors our religious diversity while respecting the long-held conviction that religion and state should not mix.

Divided by God speaks to the headlines, even as it tells the story of a long-running conflict that has made the American people who we are.

Divided by God: America's Church-State Problem--and What We Should Do About It Details

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Richard says

Noah Feldman contributes some great perspectives about Church-State issues, including an important argument for judicial conservatism and retaining a careful financial separation of church and state that I whole-heartedly agree with. While in the end his legal suggestions are obviously not the entire solution to this problem, and he remains too liberal in some of his views, the book is certainly worth reading if only to get you thinking.

Larry says

If you are interested in the topic, this book provided a great, and somewhat surprising (to me) history of the subject starting with the colonies and moving forward to the early 2000s. I was not nearly as impressed with the author's prescription about how to move forward, and given the book was published in 2005, the last 12 years show few, if any, are following his advice. Kind of a dense book as you might expect from a law professor, so only read it if your really interested.

Quinndara says

Noah Feldman's book gives a detailed history of the church-state conflict in the United States and suggests how the conflict can be resolved. Legal secularists and values evangelicals have a common desire to reconcile unity and diversity. "Out of the many strands of religious faith that have increased since our founding, we have been trying to construct a single nation. Our work is not yet done."

Yofish says

I liked the history of church/state stuff. Made sense and was interesting. Turns out that for a long time, it was driven by keeping the Catholics down. And originally, it was basically about making sure the gov't can't tax in order to support any one church. But his description of the way things are now, and was borderline insulted with some of his suggestions of where to go from here. (*He* gets to decide what should bother me??)

(Really 3.5.)

Gary Miller says

The author writes about all the church/state issues since the beginning of our country as well as the issues confronting us today and how to deal with them.

One such early story regarded how many jurisdictions would have a church tax. The government would collect taxes and then give to the denomination of the taxpayer's choice. It was believed churches would die if they did not received tax money and it was further believed churches were important to society as they were the only institution providing moral authority, which guided civilization.

There was also some discussion in the early days that the Constitutional Amendment on freedom of religion only applied to the federal government and no necessarily to state governments.

Many religious people today talk about the Christian foundation upon which this country was formed, yet Feldman makes mention of the fact Jefferson rejected the issue of a personal God. Madison did not feel the government should pay salaries for government chaplains. Mail service was delivered on Sundays up until 1912.

The religious right seems to have been around (albeit in a different name) since the beginning. There was an attempt in the mid l800's to have a Constitutional Amendment, which would recognize the Christian God and the Bible as the foundation for this country. Fortunately and obviously it did not pass.

I had always wanted to know the exact story of how the Mormons left the issue of bigamy and why the U. S. Court made any ruling on the issue. As you probably know, the Mormons went cross-country escaping states, which would not allow them to practice this part of their religion. They decided to settle in a territory of Utah, which had no prohibition for this practice. Then the Congress passed a law saying bigamy would be outlawed in the territories. The Mormons took the issue to court. The Supreme Court ruled though this was an infringement upon their religious right, they felt that allowing this practice would create a domino affect on other religious practices. What if a religion wanted to burn people at the stake, for instance? When the Supreme Court ruled against them, their leader had a new revelation saying that bigamy would no longer be allowed as an official church practice.

Another interesting story was when local jurisdictions started to mandate children saying the Pledge of Allegiance, many Jehovah Witnesses protested. They took their case to the Supreme Court and lost. Then as FDR started appointing new people to the Court, the JW's decided to try again and the Court reversed itself.

He also talks about current day issues and the conflict between the religious right and people on the other side. He fears a real battle ahead unless both sides can find common ground.

He talks about the issue of Christmas. He feels it is a cultural activity for the vast majority of US citizens, therefore people who don't celebrate Christmas should "just get used to it". I would say there is a difference between public and private sector. The private sector can do whatever it wants, but the public sector should not celebrate any religious holiday. (I am such a strong advocate for church separation to think that government offices should be open on Dec 25).

He talks about "under God" issue in the Pledge. He mentions the JW issue of not wanting to say the Pledge. Their argument was not that everyone should refrain only they should be allowed to. He feels that should be the compromise for those who do not want the word God in the Pledge.

He feels the same as I do that there is a different between church and state, which must always be separate and religion and politics, which cannot be separated. Religious people (on both right and left) have a constitutional right and a religious mandate to try to change laws as they feel is best.

The author is a former clerk for the U. S. Supreme Court and now law professor. The book sometimes is

written for attorneys and therefore at times difficult for a layperson like me to gasp all the aspects of his writing. Nevertheless, it is a fascinating book to read.

Michael says

Divided by God is an engrossing history of America's church-state issues; the title is a bit misleading, as 90%+ of the book discusses the (distant) past, while only the last chapter details Feldman's proposed solution to the current stalemate.

Feldman presents several historical episodes that add a fascinating (and often unexpected) depth to current church/state issues in America. Several merit (brief) mention.

The history of religion in public schools is lively. (A preliminary note that, at the founding, public schools were unheard of). There were many resulting tensions in the early 1800's as "common schools" began to proliferate: as one example, could teachers use the Bible to instruct students? There appeared to be at least two conflicting truths: (1) the First Amendment explicitly prohibits establishing a religion, which would seem to bar the Government from funding Bible-study; and (2a) one of the major purposes of the public schools wa/is to inculcate morals, and (2b) the only way to do so [circa early 1800's America] is via the Bible. Truth (2) won the day, with the Bible used (in a "nonsectarian" manner) in public schools until 1963.

A straightforward victory for religion over secularism? Proof that early America was simply a happy, unified Christian nation? Or at least that they all shared the same basic Christian values? Not exactly. There was bitter fighting over whether Bibles should be in schools in the 1800s, but opposing them wasn't atheists, it was Catholics, who argued—with strong evidence—that the government was establishing a Protestant religion. For one, "The King James Version of the Bible was read in the schools—complete with its original seventeenth-century introduction describing the pope as "that man of sin." (Kindle Location 1040). Without delving too deeply into church doctrine, Catholics were also wary of unmediated Bible instruction (teachers telling students: interpret the Bible for yourselves), which ran afoul of Catholic teaching, with its emphasis on the Church's interpretations. The Catholics' push to get the Bible out of public schools ignited fury, e.g., rioting in Philadelphia that killed thirteen and burned down a Catholic church (Kindle Location 1128); the "Bible wars" in New York, which arose "after schools expelled Catholic students for refusing to attend Bible reading." (Kindle Location 1166).

It turns out that this Bible-in-school issue is deeply related to the funding of Catholic schools; it wasn't Catholics vs. secularists. Catholics' argument instead ran: the current public schools are Protestant, give us the same per-pupil funding for Catholic schools. Again, they had many facts on their side, but lost politically (and at the Supreme Court), and eventually the majority of Catholic students assimilated into public schools. (Feldman notes that in 2002 the Supreme Court held school vouchers constitutional, even though the vouchers could be used to attend religious institutions, so state funding of religious education is now de facto allowed.)

At the very least, early Americans were more accepting of public religion in general, even if they disagreed about specifics? Again, not exactly. Two quick examples. The postal system initially delivered mail on all seven days of the week, and when the Senate debated halting it for the Sabbath in 1828, the measure failed: a Kentucky senator intoned about the danger about officially deciding whether Saturday or Sunday was the Sabbath, and "worried . . . religious combinations . . . could eventually come to dominate the civil sphere."

(Kindle Location 888). (In 1912 Congress caved, and closed post offices on Sundays. (Kindle Location 4401).) Congress added “under God” to the pledge of allegiance in 1954, and “In God We Trust” became the national motto in 1956, appearing on paper currency two years later; these were all just reactions against “godless Communism.” (Kindle Location 2689).

Historical episodes like those above add nuance to Feldman’s ensuing discussion of our current issues regarding religious symbols in public places, funding of religious schools, abortion, and gay marriage: he does a great job at anticipating and addressing counter-arguments to his positions. He is also respectful, always putting forth each side’s best argument.

Broadly speaking, Feldman approaches the church-state issues by developing a framework to understand the two major competing views: legal secularists, who aim to remove religion from public life, and values evangelicals, who want religion (and specifically, religious values) to provide meaning to public life, as they view religion as a lens through which to view virtually everything important. His main argument is that the current Supreme Court doctrine’s balance between these two views—cracking down on religious symbolism, e.g., by banning school prayers, while allowing structural intermingling between church and state, e.g., allowing religious school vouchers—is backwards: Feldman advocates for more lax restrictions on symbolic instances of faith, such as allowing a moment “for prayer or silence” (which phrase was struck down as unconstitutional), while strengthening the wall of separation between church and state regarding money. (Interesting note regarding the “wall”: in its original formulation by Roger Williams the wall was to protect the garden of religion from the wilderness of government (Kindle Location 375)). Feldman is fairly convincing, although as America’s religious diversity keeps increasing, there will have to be a wide variety of symbols/holidays/etc., which might defeat the purpose of shared meaning that public faith was originally intended to promote.

Daniel Solera says

In late 2008, I read a book by Rob Boston on the separation of church and state. It focused specifically on how the Religious Right has hijacked this essential distinction for the wrong reasons, but came off sounding like a textbook and didn’t have a very compelling narrative. I found Noah Feldman’s Divided By God on Amazon and bought it hoping that it would have a more focused approach to the theme.

Unfortunately, it too was a bit pedagogic, but not to a fault. In discussing the separation of church and state, Feldman takes the safest approach and frames it historically before returning to its present day situation. Overall, the book is more of a historical breakdown than a look at its current lot, relegating the subtitle “And What We Should Do About It” to a few pages towards the end. Fortunately, the history is remarkable. Many secularists, progressives and atheists tend to view James Madison and Thomas Jefferson as political visionaries, often showing contempt for religion.

However, Feldman shows that there was much more than a protosecular attitude behind their revolutionary decision to keep the titular institutions separate. For one, the decision didn’t stem as much from religion’s deleterious effects on public policy but on the Lockean philosophical rejection of the coercion of conscience, which states that it is morally wrong for the state to coerce or manipulate a person’s moral code. The second big, but also related consideration involved taxation – how could a government decide to which of many denominations give the taxes it collected? Going along with the idea of coercion of conscience, the founders deemed it wrong to ask a populace to give tax money to organizations whose beliefs did not match their own.

Even more interesting was the perspective of Baptist Roger Williams, who originally coined the phrase “wall of separation”. He looked at separation as a way to protect *religion* from the intervention of the government and not the other way around as the theme is popularly treated.

Feldman continues into the 19th century with a discussion of Mormonism or how the federal government and religion became more heavily involved in issues of marriage. Around the same time, a confluence of events led to the rise of secularism, including Darwin’s publication of The Origin of Species, rapid industrialization and the emergence of various public figures such as Robert Ingersoll and later Clarence Darrow. With this rise in secularism comes an opposition in the form of Christian fundamentalism and the most well known clash between them, the Scopes Trial of 1925. As secularism refined itself in the 1950’s into legal secularism, a concept Feldman coined because the Supreme Court was resolving the hot-button church/state issues, so did Christian fundamentalism in the shape of Values Evangelism. As opposed to their earlier incarnations, evangelists established schools, think tanks and even sent their own Jimmy Carter to the White House.

Noah Feldman is a professor of law, so it makes sense that his book is very heavy on legal issues, which means it can sound a bit lawyerly at times. But once the history is done, Feldman does very little to keep the discussion going in current events. For example, a big issue that goes untouched is the idea suggested by polls that an atheist would never reach the presidency with today’s electorate. Tackling issues like this would have improved the book in my view. However, there’s plenty here to enjoy, most notably one of Sandra Day O’Connor’s interpretations of the Establishment Clause, which I believe sums up the complexity of the topic. She noted that it “prohibits government from making adherence to a religion relevant in any way to a person’s standing in the political community” (203). To go from “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof” to her view takes a lot of history, and this book explains it.

Other notable topics discussed: the church/state gray areas such as charities, school vouchers and hospitals; political discussions of abortion; the controversial cases of *Roe v Wade, Lynch v Donnell* and *Lemon v Kurtzman*.

Alicia J says

A bit too dry at times, but overall extremely informative and well written. I learned exactly what I was hoping to learn from it, but the textbook-style writing made it hard to get into.

Kaitlyn says

Skimmed through most of it, a lot more historical than I thought it would be. I would love a recent discussion of where church and state is at but this book is a bit historical for me.

Krishna Kumar says

Good analysis of the history of religion and politics in the United States since Independence. However, the recommendation offered by the author is not very well thought out. It may be impractical and even if

implemented, could cause different types of problems.

James says

I finally finished this book. It's pretty tough sledding; took me months to get through just 250 pages. But it's a complete education on church / state politics and legal challenges throughout American history. Feldman says America has tried four frameworks to deal with the First Amendment conundrum the framers left us with: nonsectarianism, strong secularism, legal secularism, and values evangelicalism. The latter two are still in play and deeply dividing the nation. He describes each in detail and declares that none of them are an adequate solution. If you can't bring yourself to push through the whole thing, I recommend reading the penultimate chapter, Reconciliation and the American Experiment, wherein Feldman lays out his recommendation: more freedom and tolerance in religious speech and symbolism in exchange for zero funding for religious institutions.

Eric says

An instructive read for those interested in the topic. The author reviews the history of the church-state relationship in the United States (in my opinion, the most valuable contribution) and in the final chapter proposes a solution. The analysis seemed thorough, but the solution, while it may be a good one, was described in the ideal, without any suggestions as to how it might be brought about.

AskHistorians says

Though intended for the public as a whole, rather than any expert community of lawyers or historians, Professor Feldman's book gives a high-level overview of the tradition of religious freedom culminating in and explaining the First Amendment. For the academic, it is best viewed as a summary, and a guide to further sources.

Peter Kelly says

Another great book by Feldman. It was a nice summary of the developments in our understanding of the church\state division and the strands of thought related to it. The book had a good balance between historical information and the modern debates regarding both religion's role in government and government's position towards religion.

Mary Ellen says

So basically, Feldman profffers that the answer to the problems causes by our church/state separation would be solved if only we: a) adhered to a strict separation in the legislative sense, but b) allowed for the free parade of religios symbols to be displayed in public spaces. In other words, don't use the words "In God We

Trust" in federal currency, but let christmas trees, menorahs, and whatever else adorn the lawns in front of court houses.

It's ok. Interesting read but way less life-changing than he thinks he is.
