

RELIGIOUS FREEDOM IN THE DOCK

Kenneth L. Grasso

The Rise and Decline of American Religious Freedom by Steven D. Smith
(Cambridge, MA: Harvard University Press, 2014)

The Twilight of the American Enlightenment by George M. Marsden
(New York: Basic Books, 2014)

The past several decades have witnessed a far-reaching transformation of American public life. We have witnessed the disintegration of the Judeo-Christian religious and moral consensus on which our society has historically traded and the ascendancy of a new ethic of human autonomy rooted in the radical Enlightenment. The result has been the bitter and seemingly endless culture war we see today.

The revisionist history contained in the two books under review here illuminates some of the developments in American political culture that set this transformation in motion. Steven D. Smith's *The Rise and Decline of American Religious Freedom* challenges the standard accounts of the origins and nature of American religious freedom and of America's historic "settlement" of the problem of religious pluralism, and explores

the contemporary threats to this freedom and this settlement; while George Marsden's *The Twilight of the American Enlightenment* examines the roots of this crisis in cultural contradictions of mid-twentieth-century America.

"The standard story of American religious freedom," Smith writes, "tells how, under the influence of the Enlightenment, the American founders broke away from the intolerance and dogmatism of Christendom and set out on a radical new experiment in religious liberty. More specifically, the founders adopted a Constitution that committed the nation to a separation of religion from government and thus to secular government that would be neutral toward religion."

Tragically, these noble "commitments were not immediately realized" due to an informal Protestant establishment that, from the early nineteenth century onward, came to

Kenneth L. Grasso is professor of political science at Texas State University and second vice president of the Society of Catholic Social Scientists. He has edited several books, including *Theology and Public Philosophy: Four Conversations* (coedited with Cecilia Castillo).

dominate American public life. In the mid-twentieth century, it continues, the Supreme Court courageously braved the hostility of “religious conservatives” to embrace the promise of the Founding by enshrining the Founders’ commitment to the privatization of religion and secular government in our public law (167). While “not wholly false,” Smith shows, this story is nevertheless “profoundly misleading” (1).

In reality, the intellectual roots of American religious freedom are to be found in ideas whose provenance is “distinctively Christian.” To begin with, in sharp contrast to the pagan world in which “political and religious authority were deliberately melded together,” Christianity affirmed “not just the existence of two types of concerns, temporal and spiritual, but of two different and independent authorities, or jurisdictions, each of which imposes legitimate obligations on us” (21).

Although this affirmation “did not have any immediate impact on the governance of the Roman Empire” and “could be pushed in an authoritarian direction” (22), it laid the groundwork for an insistence that respect for the principle of the freedom of the church—the church’s right to be independent of “secular control”—was a defining feature of a rightly ordered polity. Over time, this freedom developed into the “theme of freedom of the ‘inner church’ of conscience” (7).

Likewise, in equally sharp contrast to paganism, “Christianity was an internal religion” (26) central to which was the idea that a proper “relationship with the one true God can be achieved only by a freely held faith.” In the formulation of one early Christian writer, “no one can be required to worship what he does not will to worship” (27).

Against this backdrop, Smith concludes, America’s commitment to the separation of church and state and religious freedom must be understood not as a wholesale rejection

of the Christian heritage but as “a recovery, adaptation, and consolidation, under the fresh circumstances of the new world” of ancient Christian ideas. This is not to suggest Smith denies that the Enlightenment influenced early America’s thinking on religious freedom. He readily acknowledges this influence but insists both that “the Christian element was more essential” and that, to the extent that the Enlightenment was an influence, the currents within it that affected the Founding served as “a conduit” by which “distinctively Christian ideas” were “imported into the creation of the new Republic” (7).

Smith’s revisionist account of the origins of America’s commitment to freedom of conscience and the separation of church and state lays the groundwork for a revisionist account of the “American settlement” to the problem of religious pluralism (101), the problem of the coexistence within the same community of individuals and groups holding different and even incompatible conceptions of the ultimate meaning of human existence. Whereas the standard accounts assert that the modern democratic state’s solution to this problem consists in the separation “of religion from government” (9) through establishment of a wholly secular public sphere and consequently in the privatization of religion, Smith persuasively argues that America chose a more complex and less theoretically tidy course.

While the First Amendment originally reflected nothing more than federalism concerns, over time we came to view the separation of church and state—a very different thing, as Smith reminds us, from the separation of religion from government—and freedom of conscience as foundational principles of American democracy. But there was disagreement—between “Providentialists”

(like Washington and Lincoln), “proto-secularists” (like Jefferson and Madison), and “secularists” (like many members of the post–World War II Supreme Court and contemporary constitutional theorists like Ronald Dworkin)—about just what these principles meant in practice.

Confronted with this disagreement, prior to the mid-twentieth century, America chose to enshrine in our constitutional law only the “basic commitments” (101)—the common ground—on which all the parties agreed, while leaving each of them free to make the case for their particular understanding of what these commitments entail in the court of public opinion.

Under these arrangements, “most” of the controversial questions concerning the meaning of church-state separation and the scope of religious freedom were left to be resolved at the state and local level and, for the most part, through the normal political process. Operating in the context of America’s decentralized system of governance, what Smith calls “the principle of contestation” meant that “in different times and places one or the other interpretations might dominate as a cultural matter” but that no one of them “would be permitted to establish itself as *the* constitutional principle or, conversely, to banish the other as a legitimate interpretation of the American constitutional order” (101). Thus, there were no permanent winners and losers.

The American settlement, Smith concedes, is “theoretically uncouth” and messy and imperfect in practice (128). Nevertheless, “by embracing a commitment to religious freedom while leaving open to contestation the particular conception of that commitment, the American settlement worked to do what for many centuries had been thought impossible—namely, to . . . take groups embracing a multitude of different faiths and, without

suppressing their differences, to hold them together as a single community” (103).

Tragically, Smith argues, recent decades have witnessed both the dissolution of the American settlement and increasing threats to America’s historic commitment to religious freedom. To begin with, the modern Supreme Court’s First Amendment jurisprudence has elevated (albeit inconsistently) the secularist interpretation of church-state separation and religious freedom “to the status of hard constitutional law” (19). In doing so, it has failed to appreciate “the lesson that America had taken from the religious strife that had afflicted post-Reformation Europe, namely, that if among competing faiths one is to be singled out as the officially preferred position, the devotees of the various faiths will fight for that honor.” Thus, the Court’s jurisprudence has inadvertently produced the “rancorous political discourse” (123–24) and culture wars we see today.

At the same time, an increasing number of political theorists and constitutional lawyers are expressing doubts about whether the special place—the “preferred” status (141)—carved out for religion by the First Amendment is justified. To begin with, the highly theological character of many traditional justifications of religious freedom (including those offered by Jefferson, Madison, and Locke) makes it difficult for these justifications to get traction in our secular age. Many of these theological justifications, moreover, have proved to be self-subverting.

Madison’s famous defense of religious freedom, for example, includes an insistence that religion is “wholly exempt from [the state’s] cognizance” (142). If this is true, however, it would “seem to follow” that “the state is precluded” from embracing Madison’s theory inasmuch as that theory rests on religious “premises.” Some influential theological justifications of religious liberty, Smith con-

cludes, “are like the snake that circles around and swallows its own tail” (143). And, while secular justifications for this freedom can (and have) been offered, they tend neither to be as strong nor—conflating as they do religion with deeply held beliefs—as specific as the older theological theories.

More fundamentally, these doubts about the special status of religious freedom derive from the ascendancy of an ideology Smith dubs “secular egalitarianism” (152) or “contemporary liberal egalitarianism” (153). At the heart of this ideology are found an implicit vision of the human person and an insistence that treating persons with equal concern and respect—as it understands them—constitutes the defining principle of a rightly ordered society.

It is no accident that this ideology has come into conflict with Christianity. It is not simply that they are competitors in a struggle to shape America’s values or that liberal egalitarianism rejects Christian sexual morality. Rather, it is that contemporary liberal egalitarianism rejects as both wrong and immoral the very idea—characteristic not just of Christianity but of “strong religion” generally—that “some people’s deeply held beliefs are true while others are false,” that “some people are saved and others are not,” and that “some ways of living are acceptable to God while others are abhorrent.” Indeed, given contemporary liberal egalitarianism’s “commitment to ‘equal respect’ for all persons” and for all conceptions of the human good, Christianity and “traditional religion” in general are in “their very essence . . . a scandal and offense” to its “whole ethos” (153).

Contemporary liberal egalitarianism, furthermore, seeks to do nothing less than establish itself as our “new national orthodoxy with features reminiscent of those that characterized state supported orthodoxies during the centuries of Christendom” (142).

Like those earlier state establishments—but animated, of course, by a very different worldview—contemporary liberal egalitarianism not only attempts to establish a privileged position in both law and culture for its ethos, but “is not content [merely] to regulate outward conduct,” seeking instead “to penetrate into hearts and minds,” to shape the beliefs and values of the citizenry. Indeed, like those earlier establishments, it believes that “government should act on and impose a favored orthodoxy” (154). Secular egalitarianism’s ascendancy thus poses a fundamental threat to the freedom of Christians and other traditionally minded believers.

Indeed, this ascendancy means that “we may be living in the last chapter of the story of American (and Western, and indeed global) religious freedom” (166). Whether religious freedom endures, Smith concludes, will depend on the resilience of religious belief, and, in particular, the Christian faith. A society that believes religion is a snare and a delusion is unlikely to value religious freedom.

Marsden’s focus is simultaneously narrower and broader than Smith’s. His concern is with the way in which certain “characteristic assumptions” (xiv) of American culture in the 1950s helped to lay the groundwork for the cultural crisis that engulfed America in the following decade.

Marsden’s analysis of these assumptions, however, unfolds against the backdrop of a broader account of the nature of American civilization and of what he terms “the American enlightenment.” Briefly, Marsden’s argument is that at its inception, American culture was characterized by a “synthesis of Protestant and enlightenment principles,” by “a fusion of . . . Protestantism” with “a high regard for natural science, reason, common sense, self-evident rights, and ideals

of liberty” (xiii–xiv), albeit a synthesis that “owed more to America’s enlightenment heritage than it did to its Christian background” (112). While the more orthodox Protestants “usually saw the truths of reason and nature and the higher truths of faith and revelation as simply complementary,” their more progressive compatriots “had greater faith in the dictates of reason,” as understood by modern science, as the source of truth (xxiii–xiv).

This “unusual blend of Protestant and enlightenment ideals” (xxvii), Marsden suggests, was inherently unstable. Nevertheless, the cultural alliance between “the secular heirs of the enlightenment and the religious heirs of frontier revivalism” made possible a broad national consensus rooted in a body of “shared ideals” (121), “shared moral capital” (132), that helped enable America to build “a coherent voluntary civilization out of many competing subgroups” (xxiv).

It is against this backdrop, Marsden argues, that “the mainstream thinkers of the 1950s” must be understood. “They took for granted as self-evident,” Marsden notes, “many of the founders’ assumptions regarding human freedom, self-determination, and equality of rights,” and shared the Founders’ faith in the ability of “natural scientific methods” to establish incontrovertibly the principles of both right political order and human flourishing (xxi–xxii).

The intellectual and cultural groundwork, however, had shifted dramatically. On the one hand, the much commented upon religious revival of the 1950s notwithstanding, American culture had undergone a “striking” secularization, and, although incomplete, the privatization of religion “was already far advanced” (106); “most of the business of politics, learning, literature, and arts of the nation were conducted on essentially secular grounds” (123). At the same time, modernism had already made far-reaching inroads

in many of America’s religious communities, leading to a widespread rejection of doctrines that had been central to historic Christianity. Indeed, by the 1950s, Marsden suggests, echoing Marty Martin, “the underlying beliefs of most Americans, even though they might be expressed in Christian terms, were ‘essentially secular and humanistic’” (111).

On the other hand, there was failure of “enlightened science” (70) to fulfill the expectations of the founding generation by providing a secure foundation for a broad-based national consensus encompassing a body of “self-evident” moral and political “principles on which people of good will” could agree (48). By the 1950s it was slowly becoming obvious that the eighteenth century’s faith in scientific reason would not be vindicated and that, rather than supporting the moral truths at the heart of American culture, science threatened “conventional moralities” (88). Indeed, while the world of professional philosophy was increasingly dominated by various forms of positivism that combined a commitment to scientific reason with some type of moral emotivism, in popular culture the idea of “a higher moral order” accessible to the human mind was beginning to lose ground to “moral relativism” (46).

Faced with this state of affairs, intellectuals tended to become what Marsden, following Robert Booth Fowler, terms “believing skeptics.” They sought to reconcile a belief in “a purely naturalistic universe that did not furnish any absolute first principles” with an affirmation of a body of “morally” binding “principles” to which “they were passionately committed...such as individual freedom, free speech, human decency, justice, civil rights, community responsibilities...and so forth.”

They did so through the mechanism of some type of pragmatism that insisted “these principles had evolved historically

in the give and take of human experience” and “had proven themselves as contributing to human fulfillment” (59–60). They thus sought to “preserve the ideals of the American enlightenment”—both in the formal sense of the ideal of a broad-based national consensus embraced by all people of goodwill, and in the substantive sense of a shared commitment to the humane values championed by the Founders—“while discarding its foundations” (xv).

Where did all this leave the American culture of the 1950s? The most widely shared cultural commitments of America in the 1950s, Marsden maintains, were to scientific reason and individual autonomy and the quest for individual self-fulfillment. In a sense there was nothing new about this—these were the reigning ideals of the American enlightenment. The problem was the understanding of each of these ideals. To begin with, it was no longer apparent if these two commitments were compatible. Was there room for human freedom in the universe revealed by modern science? In an intellectual universe dominated by positivist epistemology, moreover, how could science vindicate the defining commitments of a free society or secure the moral and political consensus on which such a society depended for its stability or coherence?

Furthermore, whereas traditional American understandings of autonomy and self-fulfillment had taken for granted the existence of a body of “self-evident ‘goods’” (43) specifying the contents of “human flourishing” (42) that could and should guide the choices of individuals, the idea of such goods was becoming increasingly problematic. Absent such goods, autonomy tended to acquire a new and more radical meaning, namely, the idea that individuals should “become a law unto” themselves (132), that individuals had the right to make

of themselves and of the world whatever they choose.

Taken together, these developments acted both to erode the shared moral capital on which the unity of American society depended and on which we had historically traded, and to weaken “the subcultural communities” in which this capital had been “cultivated” (132). By the late 1960s this shared moral capital and the consensus it made possible had collapsed, leaving in its wake the America we see today—a society characterized by a corrosive individualism, fragmented into “numerous competing and often strident interest groups” (130) and experiencing debilitating and seemingly endless culture war. The seeds of the cultural revolution of the 1960s, in short, were to be found in the cultural contradictions of the 1950s.

Confronted with this situation, Marsden maintains, the task before us is that of coming to grips with diversity and, in particular, “the difficult question of religious diversity” (151). This was a problem that America’s historic commitment to the ideal of “a national consensus” built on the “ideologically neutral basis” of scientific reason had prevented us from recognizing, much less attempting to address (167).

Indeed, this is a problem that neither of the contending parties in today’s culture war has taken sufficiently seriously. Both today’s Christian conservatives and their secularized liberal opponents, he contends, remain captive, albeit it in different ways, to the heritage of the American enlightenment: the former seek to restore what they see as the Christian consensus of yesteryear; the latter, while embracing ethnic and racial diversity, insist on the privatization of religious belief and afford a hegemonic role in public life to “secular naturalism.” What needs to be recognized is that in the context of American pluralism “neither a religiously based nor a

naturalistically based consensus could ever be adequately inclusive" (172).

On the contrary, "a healthy society" must find a way to sustain "diverse, flourishing subcommunities that both retained their own identities and yet also participated in the mainstream public culture" (174). Toward this end, Marsden invokes the thought of the great Dutch neo-Calvinist thinker Abraham Kuyper, specifically Kuyper's idea of "confessional pluralism" (166). In the Kuyperian approach, there is no privileging of scientific reason. On the contrary, it denies that "modern scientific methods are objective," and thus provides "an ideologically neutral basis" for "public consensus."

Confessional pluralism recognizes that people are "divided by fundamental differences in underlying faiths and commitments, some of which have nontheistic naturalism as their starting points and some of which have various forms of theism and openness to the supernatural as their starting points." A healthy society must be "built around the recognition that varieties of viewpoints, including varieties of both religious and secular viewpoints, exist and ought to be included in a genuine pluralism" (167).

Given the irreducible pluralism of worldviews, how could people collaborate in a common social order? Kuyper's answer was that although "as a result of human sinfulness, people were sharply divided as to their first commitments," as creatures of God "they also shared some important elements of common rationality and moral sensibilities" that made it possible for them to discover "shared principles on which all can agree as a basis for working together" (169). The broad framework supplied by confessional pluralism, in short, provides us a way to reconcile the demands of social unity with the irreducible reality of religious diversity.

Taken together, the penetrating analyses offered by these two thoughtful volumes goes a long way toward explaining how we got where we are today and the nature of the crisis that confronts American society. To say this, however, is not to suggest that their analyses are always completely satisfying. As penetrating as Smith's deconstruction of contemporary liberal egalitarianism is, for example, one wishes that he had addressed further the nature of both this ideology and its conflict with "strong religion" and developed at greater length his account of it as a new state-enforced orthodoxy.

Likewise, one wishes Smith had addressed further something he simply alludes to in passing: namely, the consensus undergirding the American settlement of the problem of religious pluralism. Indeed, at times he makes this settlement sound like little more than an agreement to disagree. At other points, however, he recognizes that this settlement presupposed certain "basic" (101) moral and legal commitments as to the nature and implications of religious freedom. Their disagreements to the contrary notwithstanding, for instance, all the parties to the American settlement—providentialists, quasi-secularists, and secularists—rejected the type of state establishments that existed on the European continent and all agreed on the existence of a far-reaching right to the free exercise of religion ultimately deriving from the Christian tradition. One wishes, in short, that Smith had explored further the broader cultural context that made the American settlement possible.

Although given that he is writing for "the general reader," not "specialists," it is perhaps unfair to push him too hard, still one wishes that Marsden had pursued in a little more depth a variety of subjects that figure prominently in his account, including the nature and crisis of scientific reason, and the matrix

of convictions that together compose “the American enlightenment.” In particular, one wishes Marsden had addressed further the questions of how Kuyper’s insistence on the irreducible reality of a plurality of worldviews stemming from different starting points can be reconciled with his insistence on our ability to achieve consensus on the “shared principles” necessary to an orderly and decent social life, and of why his insistence on our ability to arrive at such a consensus is not just another example of the type of “consensus outlook” (172) he criticizes.

Marsden suggests that we are living at the twilight of the American enlightenment. While it is certainly true that we are living through the demise of the Enlightenment’s model of rationality, I would suggest that the conclusion toward which the analyses of these volumes point is that the age we are living in is best understood as the twilight of American Christendom. (After all, on the showing of Marsden’s own analysis, the loss of shared moral capital that defines the contemporary scene would seem to have as much to do with the hollowing out of American Christianity as with the failure of Enlightenment reason.)

By Christendom I mean a society whose culture is informed by the vision of God and man, world and society, issuing from Christian revelation. European Christendom died generations ago; now that same process is being repeated (with accidental variations) here: the gradual loss of the faith followed by the gradual rejection of the Christian vision of man and society, followed by the gradual—or not so gradual—rejection of Christian morality.

Indeed, the cultural revolution of the past fifty years has consisted in the gradual evacuation of the Christian substance of society, and its replacement by a new and

very different ethic rooted in a very different understanding of the nature and destiny of man. We may still be a nation most of whose inhabitants are still at least nominally Christians, but our public culture is no longer Christian. In fact, it is now clearly post- and, in some important respects, anti-Christian.

The waning of American Christendom, I would suggest, is the decisive political and cultural event of our time. Against this backdrop, the developments that worry our authors become explicable. It explains, for example, the collapse that Marsden so ably documents, of the cultural consensus, the shared moral capital, that the shared profession of the Christian faith made possible. The America of the 1950s was, to borrow a phrase from Renan, living on the perfume of the empty vase. In the decades since, that perfume gradually faded away. Insofar as Western man’s confidence in reason owes much to the Christian idea of God, moreover, it also helps explain the erosion of this faith.

The waning of American Christendom also goes a long way toward explaining the development that Smith laments, namely, the decline of American religious freedom. America’s commitment to religious liberty unfolded against the backdrop of a cultural horizon shaped by the revolution in human self-understanding wrought by Christianity, and absent such a horizon is neither workable nor intelligible. It is thus only to be expected that the waning of American Christendom would be followed by the waning of this commitment.

It also explains Smith’s other concern—the decline of the traditional American settlement of the problem of religious pluralism. The basic commitments this settlement presupposed and the flexibility on which it depended were made possible by the cultural context in which it unfolded. The post-Christian worldview that dominates the

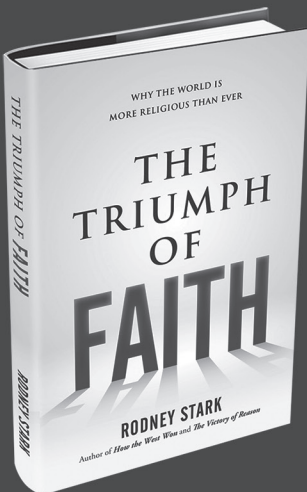
contemporary cultural landscape does not allow for these commitments or this flexibility. Indeed, it entails hostility toward what Smith calls strong religion and demands its systematic exclusion from public life.

Over and above bringing into focus the fading of American Christendom as perhaps the defining event of our time, these insight-

ful volumes remind us just how dependent the American experiment in self-government and ordered liberty has historically been on a body of shared moral capital derived from Christianity, and how radically different the post-Christian America that is rapidly emerging will be from the America that preceded it. †

“GOD IS NOT DEAD.”

—*Wall Street Journal*



You’ve read the headlines and seen the studies: people are abandoning religion, right?

Wrong. In this important, myth-busting book, acclaimed author and scholar Rodney Stark reveals that the world is more religious than it’s ever been—and why everyone gets the story wrong.

“Stark is one of the most prominent, respected, and consistently insightful sociologists of religion in the business. . . . I enthusiastically recommend this stimulating book.” —*Deseret News*

“Stark writes books that are models of popularly accessible scholarly writing.” —*World*

“Despite the predictions of academics and liberal religious leaders, the world is becoming more faith-filled, not less. . . . Stark pushes back against the secularization thesis.” —*Wall Street Journal*

Order today at www.isibooks.org

