

Public Financing of Religious Schools: James G. Blaine and Justice Clarence Thomas’ ‘Bigotry Thesis’

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ABSTRACT

United States Supreme Court Justice Clarence Thomas writing for a plurality of the Court in *Mitchell v. Helms* in 2000 advanced the idea that state constitutional prohibitions against public funding of religious schools were manifestations of anti-Catholic bigotry in the late 19th century. Thomas’ reading of history and law led him to believe that James G. Blaine a political leader in the United States of that era who advanced a proposed amendment to the U.S. Constitution that would have prohibited states from funding Catholic schools was himself imbued with anti-Catholic bigotry and that his proposed amendment was a well-spring of religious intolerance that today prevents public funding of Catholic schools. This article attempts to look further into the issue to determine whether Thomas’ understanding is accurate and whether it comports with the reality of conditions of the era and whether Blaine in fact had such motivations as ascribed to him by Justice Thomas. The article concludes that Thomas’ view is overly simplistic and is based on an insular perception of Protestant versus Catholic intolerance in the United States and leaves out of consideration the fact that the real and larger issue of the era in the western world was the struggle between secularism and sectarianism, modernity and tradition, science and superstition, and individual liberty and clerical control. Importantly, the article concludes that Thomas’ narrow thesis ignores international dimensions of conflicts of the era that pitted the impulse of nationalism and republican government against control of ecclesiastics regardless of whether they were Catholic or Protestant. Such conflicts’ prevailed especially over control of education, throughout Europe, as well as the United States, and were even more intense in countries that where the people were predominately Catholic, such as Italy and France, than in the United States and where the majority of the citizenry adhered to Protestantism. Thus, this paper concludes that the motivation of Blaine and others who sought to prevent religious control of education by denial of public funding to clerical institutions was part of a trend in the western world to advance nationalism and to reduce internal divisiveness, religious, ethnic or racial, to build unity - *e pluribus unum*.

INTRODUCTION

During the past decade religion and politics have been entwined as seldom before in America. Religion has embroiled government in the continuing battle to overturn *Roe v. Wade*, to control stem cell research, to restrain the teaching of natural selection in public schools, as well as in a host of so-called family value issues. Religious interests have even been invoked in attempts to debunk global warming and to paradoxically advance an unbridled form of self-interested capitalism. While these issues have taken center stage, the U.S. Supreme Court has methodically reversed the legal precedents that formed the foundation of the Establishment Clause of the First Amendment that had preserved the separation of church and state in America for 200 years.

The Rehnquist Court, case by case, effectively leveled the wall of separation ensured by earlier court interpretations of the Establishment Clause. By the time that Chief Justice Rehnquist died in 2005, the Court had not only negated virtually all constitutional barriers that prevented the use of public money for support of religious institutions, including the so-called faith-based enterprises, but had by *dictum* further suggested the feasibility of a federal constitutional rationale to strike down state constitutional prohibitions against the public funding of religious establishments as well. Rehnquist, along with Justices Thomas, Kennedy and Scalia, advanced the idea that those state constitutions that forbid the use of public funds to aid religious foundations, schools and institutions, effectively, by such denial, may violate the Free Exercise Clause of the U.S. Constitution.

Their reasoning suggests that neutrality toward religion may even require a state to aid religious schools if those same states provide funding for secular public schools. These justices reason that for a state to abjure from funding clerical institutions is, itself, a violation of the Constitution. This reasoning was advanced by Justice Clarence Thomas in writing for a plurality of the Supreme Court in *Mitchell v. Helms*.¹ Therein he ruled that not only can states constitutionally provide public funding to pervasively sectarian schools, but that not to do so manifests a hostility toward religion, and in particular, the Roman Catholic religion. Thomas based his reasoning on his belief that state constitutional provisions that prohibited government aid to religion had been enacted as Protestant manifestations of anti-Catholic bigotry of the Reconstruction Era in America. Thomas' "bigotry thesis" is grounded in his assumption that the strict separation provisions in post-reconstruction constitutions had emanated from the U.S. Congress in the 1870s, led by Speaker of the House, James G. Blaine, and by President Grant, both of whom Justice Thomas believes had strong and prejudiced anti-Catholic biases

THE BIGOTRY THESIS OF JUSTICE THOMAS

In *Helms*, Thomas castigated the so-called Blaine Amendment of 1875, as the result and, indeed, a progenitor of anti-catholic intolerance in America. Thomas's interpretation of the history of the proposed Amendment led him to conclude that rampant anti-clericalism was behind the proposed Amendment and that it was actually a subterfuge to specifically prohibit the use of public funds for Catholic schools. Thomas concludes in *Helms* that the states that now prohibit funding to religious schools were originally tainted and influenced by this anti-Catholic bigotry that permeated the thoughts and minds of both federal and state legislators in the late 1800s. In *Helms*, Thomas said that "consideration of the (Blaine) amendment arose at a time of pervasive hostility

to the Catholic Church and to Catholics in general.”² Thomas, thus, contends that any state constitutional provision that does not permit public monies to flow to religious schools probably violates the Federal Constitution because it discriminates specifically against those persons of the Catholic faith. Accordingly, Thomas concludes that state constitutional provisions that deny state tax funds to “pervasively sectarian schools” manifest a “doctrine, born of bigotry,” and “should be buried now.”³ Thus, Thomas reasons that those persons who in the late 19th century America sought to enforce separation of church and state by denying public funds to religious schools were actually motivated by a perverse American institutional bigotry to deprive Catholic schools access to public dollars. Justice Thomas, in expressing this position in *Helms*, was joined in the plurality decision by Rehnquist, Scalia, and Kennedy.⁴

In *Locke v. Davey*,⁵ 2004, a state of Washington case Justice Rehnquist, while lending credence to Thomas’ ‘bigotry thesis,’ concluded that the facts in *Davey* were not sufficient to document bigoted intent in this particular case. In a footnote of *Davey*, Rehnquist pointed out that the evidence regarding the wording in the State of Washington’s constitution did not in that instance support the bigotry thesis. Rehnquist, therefore, concluded that “neither *Davey* nor *Amici* have established a credible connection between the Blaine Amendment and Articles I and II of the Washington Constitution. Accordingly, the Blaine Amendment’s history is simply not before us.”⁶

From this important footnote, at least three conclusions become clear: first, Rehnquist vested credibility in Thomas’ “bigotry thesis.” Rehnquist did not question the “thesis;”, itself, rather, he concluded that the facts in this particular situation did not support the conclusion that the Washington state constitution was in some way materially influenced by rationale of the federal Blaine Amendment. Second, Rehnquist apparently accepted Thomas’ argument that Blaine was an anti-Catholic bigot, or at least that his motivations were founded in prejudice and religious intolerance. Moreover, by implication, it was apparently accepted by Rehnquist that, all members of Congress who voted for the proposed Blaine amendment in 1875 were presumably also motivated by anti-Catholic bigotry and, of course. Third, both Thomas’ and Rehnquist’s logic was premised on an implicit legal assumption that state constitutional provisions that forbid the giving of public money to Catholic schools are violative of the Free Exercise Clause of the First Amendment if there is historical evidence to show that the state constitutions post 1875 were influenced by the Reconstruction era Congress of Blaine and President Grant.

The death of Rehnquist and the retirement of O'Connor, of course, raise the question as to whether the "bigotry thesis" will prevail as the constitutional engine that will be used to justify the complete abrogation of that part of the legal doctrine of establishment as a constitutional basis for separation of church and state that has historically prohibited the flow of public monies to religious institutions. The new justices, Roberts and Alito, both constitutional conservatives, appear to be more in the Rehnquist, Scalia and Thomas molds than that of the more moderate O'Connor.

The question, therefore, arises as to when and by what legal and historical precedents that Thomas and colleagues on the Supreme Court reached the present position and the historical interpretation of the nineteenth century that will form the basis for its future rulings.

EXPLICATION OF THOMAS' BIGOTRY THESIS

Most states have church-state provisions that are explicitly stronger than the Establishment Clause of the First Amendment in prohibiting the use of public funds for churches, church schools, or other religious enterprises.⁷ The effect of Justice Thomas' "bigotry thesis" is that any state prohibition against public funding of religious schools constitutes "hostility" to religion.⁸ Justice Thomas, in *Helms*, points out that "opposition to aid for 'Catholic' schools acquired prominence in the 1870s with Congress's consideration (and near passage) of the Blaine Amendment, which would have amended the U.S. Constitution to bar any aid to sectarian institutions."⁹ Thomas contends in *Helms* that "it was an open secret that 'sectarian' was code for 'Catholic.'"¹⁰ Thomas's interpretation of the history of the 1870s is simply that a pervasive "nativist" and "know-nothing" anti-Catholic sentiment had so permeated society in the United States that present state legal prohibitions against public funding of religious schools are unconstitutional as contrary to either the Free Exercise Clause of the First Amendment, or, possibly, even the Equal Protection Clause of the Fourteenth Amendment, as well.

The so-called Blaine Amendment was proposed by James G. Blaine, Representative from Maine and Speaker of the House, on December 14, 1875, and was passed by an overwhelming majority of the House (180 votes in favor and 7 votes opposed) on August 4, 1876. It, however, failed to gain the two-thirds required vote in the U.S. Senate (28 votes in favor and 16 votes opposed). The failure of the Amendment in the Senate was directly attributable to the negative votes of the newly reinstated segregationist Democrats from the Confederate states.¹¹ Thomas' thesis assumes that a pervasive anti-Catholic enmity was inveterate and deep-seated in the culture of the American people and that the vast majority

of the population, the members of the U.S. Congress, House, and Senate were infected with this anti-clerical bias which later influenced state voters and members of state legislatures.

Justices Rehnquist, Thomas, and Scalia asserted in *Helms* and *Davey* that further historical scrutiny is desirable to specifically document the bigotry of that era and its connection as the motivating factor in the adoption of state constitutions that prohibit public funding of Catholic schools. If any such evidence is garnered, then it is presumed that this Supreme Court will entertain the opportunity to overthrow separation provisions in state constitutions.

BLAINE'S MOTIVATIONS

Who was James G. Blaine, a man that Justice Thomas believes was so influential, persuasive and powerful, with such a long bigoted coattail, that voters and legislators of most the states fell prey to his anti-Catholic septic sentiments? Blaine was an Abraham Lincoln¹² liberal Republican from the State of Maine. He was born in Pennsylvania and his ancestors were from Ireland; as a result of England's policy toward the Irish, he was always pro-Irish and generally anti-British in his political sentiments.¹³ He attended Washington College and briefly taught school in an affluent private segregationist academy in Kentucky where he instructed sons of wealthy planters and slaveholders.¹⁴ According to Crapol, one of his biographers, it was the three years' experience as a teacher in this private school that caused Blaine to abominate slavery and become a lifelong opponent of discrimination and inequality. In that school he observed firsthand the white supremacist ideology that prevailed in the South in that era. His observation and distaste of Southern racist views apparently influenced him to leave Kentucky and to move back north to Pennsylvania, where he taught school for an additional two years. He then moved farther north to Augusta, Maine, where he became part-owner and co-editor of the newspaper *The Kennebec Journal*.¹⁵ From this vantage point he earned a respected statewide reputation for positions he took in opposition to slavery, and in particular, his fervent opposition to the expansion of slavery to the west. In this regard he was considered to be a leading spokesman in the debate over the Kansas-Nebraska Act and the divisive issue of slavery.¹⁶

His political and human rights advocacy of free soil and free labor, as well as his consistent and diligent opposition to the expansion of slavery, led him to become one of the founders of the Republican Party of Maine. According to Crapol, Blaine's "organizational talents and charisma" made it obvious that he was to be a star in the emerging Republican Party. He was quickly elected to serve in the Maine legislature and within seven years he became speaker of the Maine House of Representatives. Nine years later, the voters of Maine

sent him to the U.S. Congress, where, in 1869, during his fourth term, he became Speaker of the U.S. House of Representatives.¹⁷

Blaine was an admirer of Henry Clay, Abraham Lincoln, John Quincy Adams, and William Seward, and followed in their philosophical footsteps. A charter member of the Republican Party in the United States, as well as in Maine, Blaine was inspired by Clay's earlier leadership of the Whigs and he was a full-fledged adherent to the Clay's idea of an "American system" that was based on nationhood and nation building. Blaine espoused Adams' anti-slavery sentiments and followed Clay's vision of a nation united. The American System advocated by Clay encompassed economic measures of tariffs to support the developing economy against more powerful European economies and to moderate the overwhelming influence of foreign competition.¹⁸ Blaine, in following in the steps of Clay, devoted himself to making the United States "the trade emporium of the hemisphere."¹⁹ Blaine's desire for the United States, in a nutshell, according to Crapol, was to achieve "national greatness" in competition and to exceed the growth of other nations.²⁰ Domestically, Blaine avidly sought to defend the American worker and the workers' high standard of living by opposing the immigration of Chinese laborers who drove down the wages of American workers, an issue of much familiarity and debate in the 2007 in the United States regarding Mexican immigrant laborers.

Blaine was also influenced by William H. Seward, another founder of the Republican Party, the Governor of New York, U.S. Senator and candidate for the Republican nomination for President in 1860. Seward's vision of an American empire prescribed Blaine's own "blueprints" for national unity and strength.²¹ Seward, like Blaine, in forming the Republican Party and in helping engineer the demise of the Whig party, sought to defeat the divisiveness caused by strife over slavery, religious intolerance, nativist biases; to devise labor oriented anti-immigration politics and to protect trade with selected tariffs.

BLAINE AND LINCOLN IDEALS

The greatest constitutional crisis to ever confront the United States, the Civil War, shaped and formed Blaine's view of the structure and viability of the nation. To the end of nation-building and unity in the post-Civil War years, Blaine followed Lincoln's lead in seeking to mend the nation by such measures as: infrastructure improvements, construction of railroads, tariffs²², public education, and promotion of a one-nation philosophy. He was a progressive who believed in the advancement of society and a "culture of progress," supported by means of national strength, "economic growth, technological advancement and market expansion."²³ Blaine's

enthusiastic support of Lincoln's prosecution of the Civil War was founded in his belief in a virtuous nation uncontaminated by the "scourge of slavery", divisiveness of religious discord, or the division of a self-interested southern aristocracy that had separated and torn the nation asunder.²⁴

Blaine's allegiance to Lincoln rested on the shared belief in a nation founded on "a new birth of freedom," and, as a congressman in the 38th Congress, Blaine advanced the vision of "national survival and glory."²⁵ Essential to Lincoln and Blaine's philosophy of nationhood was "oneness," "unity," and "one country, one Constitution, one destiny."²⁶ With the idea of national oneness, Blaine called for all measures that would "bind us more indissolubly together," in order that "we cannot fly apart."²⁷

Catholic and conservative Protestant churches generally opposed Abraham Lincoln's ideals of near religious devotion to the republic. In a famous passage in his "Address to the Young Men's Lyceum of Springfield, Illinois," Lincoln advanced what historians later called a "political religion."²⁸ Lincoln called for every American to "pledge his life, his property and his sacred honor" to the "reverence of the laws" of the state; "let it be taught in schools, in seminaries, and in colleges"..."let it be preached from the pulpit," let reverence for laws "become the *political religion* of the nation."²⁹ The Catholic Church and many Protestant right-wing churches abhorred the idea of "reverence" to man-made laws and ferociously opposed any notion of a secular political religion devoted to temporal laws of the state rather than to the ecclesiastical laws as prescribed by clerics.³⁰

Lincoln called for the inculcation of patriotism and devotion to the nation. For the Catholic Church, in particular, Lincoln's position was dangerous because it implicitly diminished the authority of clerics and reduced the status of the multi-national universal Catholic Church. The position of the Catholic Church and, emanating from St. Augustine, was that to elevate human law to compete with the canon doctrine is "impious and dangerous" because it replaces God with human, fallible rulers. At the core of Lincoln's political religion was a "universal human equality," a concept that had not been accepted by the prevailing views of either the Catholic or Protestant churches of that era.³¹ Blaine adhered to these Lincoln ideals of a republic founded in the principles of equality, liberty and unity.

BLAINE AND POST-WAR UNIFICATION

After Lincoln's death, Blaine opposed pro-Southern segregationist policies and, in particular, he strongly questioned the reconstruction policies of President Andrew Johnson, a Tennessee Democrat whose recalcitrance toward the progress of civil rights significantly retarded the

livelihood of African-Americans. Johnson's stifling of the Civil Rights Act of 1866 and other civil rights measures caused Blaine to vote for Johnson's impeachment in February of 1868.³² The last straw had been Johnson's opposition to the Fourteenth Amendment.³³

Blaine pointed out in his autobiography, *Twenty Years of Congress*,³⁴ that the principal defining characteristic of southern Democrats was always imbedded in the interest of slavery, first and foremost. The great issue of the day, territorial expansion, was permeated and motivated largely by the desire of the South to expand slavery before the Civil War and to retain racial segregation thereafter. In 1876, Blaine, as Speaker of the House, refused to support a proposal for amnesty for Jefferson Davis, reasoning that, as President of the Confederate States, Davis was responsible for the abuse of Union prisoners of war at Andersonville.³⁵

When Blaine became Speaker in 1869, the Democrats of the South had picked up forty-one seats in the House and added six seats in the Senate.³⁶ The segregationist had reorganized in the Southern states and had begun to build the foundation for the pervasive system of Jim Crow laws enacted by state legislatures that dominated southern politics in the oppression of blacks for another century. During the elections of 1870, there were widespread reports of violence against blacks in the South, and the paramilitary Ku Klux Klan, founded in 1866, actively intimidated blacks, preventing adults from voting, and black children attending school, and a host of other legalisms that prevented blacks from taking part in civil society.³⁷ Blaine and President Grant worked to control the "organized conspiracy" against blacks that was in existence in all the southern states.³⁸ Blaine, as Speaker, and Benjamin Butler of Massachusetts, with the support of President Grant, led a congressional initiative against the Klan. Butler observed that "If the federal government cannot pass laws to protect rights, liberty, and lives of the citizens of the United States in the States, why were guarantees of those fundamental rights put in the Constitution at all?"³⁹ Under Blaine's leadership, the House passed the Ku Klux Klan Act of 1871, which enabled the Attorney General of the United States to prosecute and convict Klan leaders throughout the South. The Act, according to Gould, drove the "Klan back into the shadows of Southern society."⁴⁰ The Klan Act was one of the most important achievements of Blaine's long and productive career. Foner has noted that the Act was one of the most notable of President Grant's achievements, as well.⁴¹ Yet, even after the passage of the Act, as the record shows, throughout the remainder of the 19th century, and until mid-20th century, the southern Democrats were able to repress the black voters by intimidation, coercion, and violence.⁴²

The language and passage of the Fourteenth Amendment in 1868 owed much to Blaine's leadership in Congress and his constance in support of the southern blacks who had been disenfranchised by southern white Democrats shortly after the War. Blaine directly modified the language of Section 2 of the Fourteenth Amendment to reduce a state's representation in proportion to the number of male inhabitants who are denied the right to vote bears to the number of voting age male citizens.⁴³ Although this provision was not enforced, it is testimony to Blaine's commitment to equality and civil rights.⁴⁴

Blaine became a U.S. Senator in July, 1876, and later failed in his bid to become the Republican nominee for President in June, 1876, losing to Rutherford B. Hayes. In 1880, when Garfield was elected President, he appointed Blaine to become Secretary of State. After Garfield's death in 1881, Blaine resigned the office. In June 1884, Blaine again became the Republican nominee for President. He engaged in a vigorous campaign, but lost his bid for the Presidency in November 1884 to Grover Cleveland. Blaine did not run for President again, but was appointed as Secretary of State for the second time in 1889 by Republican President Benjamin Harrison. Thus, Blaine, in his long career, had served as Speaker of the Maine House of Representatives, Speaker of the U.S. House of Representatives, U.S. Senator from Maine, U.S. Secretary of State, twice, and had been narrowly defeated by only 30,000 votes as the Republican candidate for President when Cleveland was elected.⁴⁵

BLAINE, UNITY, PROGRESS, AND RELIGIOUS TOLERANCE

Robert Kagan, in his 2006 bestseller *Dangerous Nation*⁴⁶, speaks of Blaine's leadership in his advocacy of national progress and his instrumental role in mending a nation that had been broken by the Civil War, and later rent by Jim Crow laws. According to Kagan, Blaine retained his faith in the future greatness of the American republic throughout the tribulations of the post-war era. Kagan observes that Blaine was "by far the most popular and dominant political figure from the 1870s to the early 1890s" in America and by virtue of leadership he not only sought to eradicate the vestiges of slavery, but he represented the "Republican vision of a more active and moralistic American foreign policy."⁴⁷

The historian Richard Welch points out that Blaine, in his domestic policies, took the lead in "constructive action" calling for improvement of the nation's waterways, the encouragement of foreign commerce, and a national protective-tariff system that would band together all sections and occupational groups."⁴⁸ Morton Keller, in his seminal history of the late nineteenth century America, placed Blaine in the vanguard of the northern Republican intellectuals, who defied southern racism and subscribed "to the ideal of a powerful, unified,

purposeful nation.”⁴⁹ Blaine, Seward, and other Republicans sought a foreign policy that would eventually “place the United States at the center of global influence”⁵⁰ and a domestic policy of cohesion, unity of purpose, and a revival of morality that had been so badly damaged by the rationalization of racial discrimination.

Blaine and Grant’s belief that the restoration of a global image of a moral American nation required both domestic and international adherence to basic principles of equality, due process of law, religious tolerance; generally those ideals encased in the Bill of Rights that had been revered in by the founders of the Republic. According to Kagan, Blaine believed that the United States had a “moral duty” not only to its own citizens,⁵¹ but importantly to stand as a nation in international affairs committed to certain ideals including, “the doctrines of religious freedom”⁵² and to the “proper protection of those citizens and tolerance for their creed, in foreign lands.”⁵³

In his international quest for religious tolerance, Blaine, in 1881, registered strong protests against Russia seeking an end to the pogroms that drove Jews into destitution, poverty, and dislocation, forcing great numbers to emigrate.⁵⁴ The image projected by the Grant and Blaine to Europeans after the Civil War was a nation of religious tolerance and separation of religious matters from those of temporal government. This national policy against religious intolerance became a beacon for most European states where endemic and historical intolerance remained an important factor in separating peoples,⁵⁵ and, indeed, dramatically feeding immigration to America.

Blaine believed that an educated people is not only more progressive but more moral and tolerant of the beliefs of others. In 1883, he proposed a revenue sharing plan whereby surplus revenues collected from a growing national economy could be used by state governments at their discretion to fund education and other services essential to an emerging and unified nation. This was Blaine’s alternative rather than submit to southern whites, mostly from North Carolina and Virginia, who “detested the Internal Revenue Service” and opposed tariffs to strengthen federal fiscal coffers.⁵⁶ The bill was also opposed by northern Republicans, who wished to further punish the South, and by northern Catholics who would not agree to any major federal programs that did not fund Catholic schools.

Henry Blair, New Hampshire’s senior senator, with the same motivation as Blaine to improve education, introduced a bill that would provide general aid for public schools in all states.⁵⁷ Blair envisioned a time when progress and intelligence would prevail and the nation would “wipe out ignorance.”⁵⁸ Blaine’s and Blair’s bills were opposed by southerners,

Democrats who harbored lingering fear of blacks, northern Catholic Democrats who always opposed public schools and certain conservative northern Republicans who did not trust southerners and the vesting of monetary discretion in legislatures of the South. These important pieces of legislation were defeated by these forces and any serious federal support for education from the had to wait until 1965 and President Lyndon Johnson's Elementary and Secondary Education Act.

NATIONAL UNITY, RELIGION AND THE KNOW NOTHINGS

Integral to Justice Thomas' "bigotry thesis" is that Blaine and Grant were part and parcel of the "know-nothingism" that had risen to substantial political prominence in the 1840s and 1850s. The "know-nothing" strength was built on a fear of the effects of immigration on the wages for labor, cultural differences and religion intolerance. A nativist narrowness that is familiar today in immigration policies of the United States most visible in the excessive insularity evidenced along the Rio Grande River.

The formation of the Republican party, led by Blaine and others, in the mid- 1850s, was the turning point that saw the demise of the "know-nothings." The knowing nothing decline as a political force was virtually complete when the Republicans convened in Chicago to select a candidate for President in 1860. There the "know- nothings" were no longer players with any significant consolidated political power and the new Republican Party of Lincoln, Seward, Morrill, Hamlin and Blaine prevailed with Lincoln's nomination. Holt points out that "know nothingism"⁵⁹ had proved lethal to the Whig party in the 1840s and 1850s; "Men could not remain simultaneously loyal to both the Whig party and the Know Nothing organization."⁶⁰

Thus, for all intents the 1860 Chicago convention ended the know-nothing organization as a critical political influence. The Know-Nothings had been indifferent in their opposition to slavery and too intense in their stridency toward immigrants, particularly Irish and German Catholics who arrived in the 1840s and 1850s. There was an attempt to bond together remnants of Know-Nothings of the old Whig Party with the formation of the American Party, creating a lightweight organization called the Constitutional Union Party, which ran John Bell from segregationist Tennessee as its presidential candidate. Bell was soundly trounced by Lincoln, who carried eighteen states, Breckenridge from Kentucky carried eleven slave states, and Bell carried only three border states.

From 1860 forward, the Republican Party of Lincoln, Seward, Blaine, et al evolved to become the party for the unity of the Republic. The Democrat Party remained the party of

separation, segregation, and southern states' rights.⁶¹ Even though the election of 1860 effectively ended the Know-Nothings' status as a separate viable political organization, the feelings that it engendered continued to exist and to erode the unity that Blaine and the Republican party sought to foster. The vestiges of know-nothingism remained opposed to immigration, inveighed against public financing of Catholic schools, remained suspicious of Catholic political control of government jobs in big cities, and, generally, fed fears of the watering down of nativism and national values.⁶²

This nativistic suspicion of other cultures and separation, as manifested principally in language and religion, continued to be a political issue in the reconstruction and post-reconstruction era of the United States, but national unity was the dominant issue that captured the mind of the country after being wrecked by the Civil War. The post-war Republicans, led by Grant and Blaine, sought, foremost, unification, solidarity and international economic power. Grant's and Blaine's motivation for oneness, unification and preservation of a special American identity was the driving force in the refounding of the republic.

RELIGIOUS DIVISION AND PUBLIC SCHOOLS

Grant and Blaine believed that religion, as well as race, could indelibly mark and separate the nation. Both men were convinced that unity could be threatened by the strident forces of religious intolerance. As described by Smith, "The issue had two dimensions: public funding for sectarian education, and religious exercises in public schools."⁶³ Division and discord between Catholics and Protestants were highly visible political issues as Catholics became the majority political force, in northern cities, voted their religion and petitioned state legislatures for public funding of Catholic schools.⁶⁴ Protestants countered in efforts to have state legislatures to prohibit state funding for Catholic schools.⁶⁵ The conflict escalated as Catholics challenged hymn singing, Bible reading and praying in the public schools as Protestant rituals.⁶⁶ Such religious exercises were in fact generally Protestant-oriented, using, for example, a Protestant version of the Bible rather than the Catholic Douay Bible. School boards in Cincinnati, Chicago, New York, Buffalo, Rochester, and several other major cities under concerted Catholic political pressure were able to purge such religious exercises from public schools.⁶⁷

In 1875, President Grant, in a speech to the veterans of the Army of the Tennessee, appealed for a unified nation, calling for equality of treatment and privilege between North and South. With cognizance of the religious political strife that was being waged between Catholics and Protestants, Grant asked the veterans to defend "free thought, free speech, a

free press, pure morals unfettered by religious sentiments, and of equal rights and privileges of all men, irrespective of nationality, color, or religion.”⁶⁸

On Grant’s mind was the need for unity and the mitigation of forces that would create internal separation and divisiveness. Directly addressing the issue of unity, he maintained that the greatest danger of dividing the nation was to be found in strife and intolerance among religious sects and he warned: “I predict that the dividing line will not be Mason and Dixon’s, but between patriotism and intelligence on the one side, and superstition, ambition, and ignorance on the other.”⁶⁹ Then Grant concluded, enunciating the rationale for a unified country. To him, the key was a “common school education” that advanced the knowledge of the people as the basis for a democracy that was Jeffersonian in thought and concept.

Smith affirms that the foundation for Grant’s state and democracy was “free public education.”⁷⁰ Grant’s ideals for liberty and equality could only be underpinned by a strong system of public common schools. Grant’s resolution of the Catholic versus Protestant conflict, as explained by Smith, was “evenhanded” and denied both of their zealous self-interested positions; “he belted Protestants and Catholics alike.”⁷¹ For the Catholics, he would provide no public funding for their parochial schools; for the Protestants, he would deny them religious services in the public school classroom and provide them with no public funding of their religious schools. He said to the veterans: “Resolve that neither the State nor the nation shall support institutions of learning other than those sufficient to afford to every child the opportunity of a good common school education, unmixed with sectarian, pagan, or atheistic dogmas. Leave the matter of religion to the family altar, the church, and the private school supported entirely by private contributions. Keep the church and state forever separate.”⁷²

On December 7, 1875, in his annual message to Congress, President Grant proposed a constitutional amendment that would require states to make schools entirely secular, banning religious exercises and the teaching of religion, and further, the amendment would prohibit states from providing aid to religious schools and institutions. He further proposed that church property should be taxed, a measure that neither Catholics nor Protestants particularly appreciated.⁷³ Much favorable press, both Catholic and Protestant, followed President Grant’s speech, and a week later, Speaker Blaine introduced a constitutional amendment into Congress that if passed and ratified would bring President Grant’s wishes to fruition.⁷⁴

GRANT AND BLAINE'S PROPOSED AMENDMENT

The Grant/Blaine proposed amendment in 1875 was designed to accomplish five important functions.⁷⁵ First, it would effectively apply the Establishment and Free Exercise Clauses of the First Amendment to the states. As written and ratified in 1791, the First amendment only applied to Congress. Second, it would reassert and define the meaning of “establishment” to comport more clearly with the intent that Madison and Jefferson had envisaged for the First Amendment. Third, it would restate the Free Exercise Clause and apply it to prevent majorities in states from using the public schools to advance their own particular brand of religious belief. The proposed amendment would directly prohibit any state from denying free exercise of religion. Per President Grant’s ideal, the provision was to ensure that public schools would be completely secular, entirely removed from the inculcation of any religious tenet or belief. The efficiency of the language in this provision has been borne out by Supreme Court precedents that have since completely secularized the public schools.⁷⁶

Fourth, because the Catholic versus Protestant conflict was rooted in education and the struggle to see which sect could obtain the advantage in inculcation of religious beliefs in the children’s minds of the next generation, the Grant and Blaine amendment was directed toward education specifically. The more generalized prohibitions of the First Amendment were made more pointed to ensure secularization of public schools and to prohibit the use of taxation to support schools of “any religious sect or denomination.” The prohibition applied to all sects in keeping with the wording of the First Amendment as defined by Jefferson and Madison.

Fifth, the proposed Amendment would prohibit public monies flowing to church schools and it would also prohibit the use of funds from the sale or rent of land grants from the national domain, reserved for education, to be used for religious purposes or institutions.

Importantly too, the amendment sought to reverse the rejuvenated southern “states’ rights” arguments that had survived the Civil War and still deprived individual rights and freedoms. According to Notre Dame’s eminent historian John I. McGreevy, both Catholics and southerners looked with a jaundiced eye upon any measure that strengthened the federal government to the detriment of states’ rights.⁷⁷ McGreevy says the “Catholics and southerners alike constantly warned of an expanding federal state.”⁷⁸ Throughout the era in which time period Justice Thomas founds his “bigotry thesis,” white southern Protestants and northern white Catholics combined forces in opposition to federal initiatives toward centralization and nationalism. McGreevy observes that; “the sources of Catholic and white

southern hostility to liberal nationalism differed” but, “the extent to which Catholic commentators on Reconstruction and Republican reform echoed their white counterparts in striking. Catholic editors...joined white southerners in opposing Reconstruction programs....”⁷⁹

In this regard, the proposed Grant/Blaine amendment was Hamiltonian in concept, invoking more central federal authority to correct injustices fostered by state action. Too, as had been vividly demonstrate confederated states could not be trusted to protect either individual rights or preserve the unity of the nation. Grant and Blaine had learned that even when the Constitution explicitly prohibited certain state offenses against the individual, the conservative U.S. Supreme Court could and did neuter the constitutional provision. This is exactly what had happened to the Fourteenth Amendment in the *Slaughter House Cases*,⁸⁰ in 1873, wherein the Supreme Court held that the basic rights of liberty and equality of the Fourteenth Amendment remained under the control of state legislatures. Moreover, the Court very narrowly defined privileges and immunities to restrict the Fourteenth Amendment’s effect on civil rights. Grant and Blaine had watched helplessly as the flagship of reconstruction, the Fourteenth Amendment, had been drastically curtailed and deprived of essential application “against state violations of fundamental guarantees of liberty.”⁸¹ Thus, in view of the Supreme Court’s neutering of the Fourteenth Amendment, Grant and Blaine sought in their proposed amendment to prevent the negation of the intent of Establishment and Free Exercise Clauses in the fashion that had befallen the great objectives of equal protection and due process of law. They, of course, could not have foreseen that much later in 1940 in *Cantwell v. Connecticut*,⁸² a more liberal Supreme Court would apply the First Amendment as a prohibition against state infringement on religious beliefs and freedoms.

Further, both Grant and Blaine meant to clarify the definition of “establishment of religion” by explicit language that would clearly prohibit states from giving financial support to any and all religions. The wording of the proposed amendment left little doubt that “to establish” meant, in Jefferson’s words, “to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical,”⁸³ and in Madison’s, “The same authority which can force a citizen to contribute three pence only of his property for the support of one establishment, may force him to conform to any other establishment in all cases whatsoever.”⁸⁴

In short, the amendment that Grant proposed and that Blaine sought to shepherd through the U.S. House was designed to deter religious intolerance and separation that

threatened the unity of the nation. Just as the Fourteenth Amendment was designed to effectuate unity and equality by preventing states from using state power and money to continue segregation of the races, the Grant/Blaine amendment was designed to prevent states from feeding religious discord by providing public financing of any and all religious schools.

RELIGIOUS HEGEMONY AND THE SECULAR STATE

As President Grant made clear to the veterans of the Army of the Tennessee, the issue in question was religious toleration in America and the Grant/Blaine proposed amendment to the U.S. Constitution was founded in that concern. Strife among Protestants, Catholics and secularists was rampant in America at that time as it was in most of the Western world. Public schools, their financing and curriculum control, became the field of battle for the competing religious interests. Proselytizing religious groups, seek to capture the minds of each succeeding generation and Christianity and Islam both aggressively pursue this end by controlling education of the youth. As Chadwick observes in his “The Secularization of the European Mind in the 19th Century,”⁸⁵ the struggle to limit and narrow the perspective of the younger generation with regard to its religious choices is played out in the realm of education. Protestants, Catholics, and Muslims have all three contrived to control the processes of education in order to perpetuate and expand their own particular spiritual perspectives. Because Islam was virtually nonexistent in the colonies and the America of the 19th century, conservative Protestants and Catholics were the principal competing forces for religious hegemony.

Yet, the conflict for religious hegemony between Protestants and Catholics in western Europe and North America, found additional vigorous and threatening competition from the rise of the anti-clericalism and the emergence of the secular state, nation states that were independent of religious control. Modernity, liberalism and secularization posed particular threats to established religions. The notion of liberty and independent thought for each individual was not fully advanced or explained until John Stuart Mill published his essay *On Liberty* in 1859, wherein he provided the philosophical grounds for a moral society independent of religious dogma. The year of 1859 was a doubly difficult year for clericalism in the western world in that it was in that same year that Darwin published *The Origin of Species*. Mill advanced the idea that liberal secular government itself advanced morality and good in effectuating happiness. Mill sought to “unseat consensus” including “inherited religious attitudes” and to “challenge pervading axioms.”⁸⁶ And Darwin’s explanation of

natural selection struck to the heart of simplistic religious and metaphysical explanations of man's existence.

All of this was extremely uncomfortable for Protestants, but was even more disturbing to the Catholic Church. Contemporaneous with the rise of individual liberty, the rise of science, and the march of modernity was the rejection of religious control as the sole source of the moral state. It was not just Abraham Lincoln who advanced the idea of "political religion" as the arbiter of the moral end, the movement was evident throughout Europe, as well.

Of particular importance was the unification and secularization of Italy in 1859- 1861 under the philosophical guidance of Mazzini,⁸⁷ and Cavour's and Garibaldi's⁸⁸ victory over the resistance of the Habsburg monarchy and the Catholic Church.⁸⁹ The papal states were reduced, the Catholic Church's military power was dissolved, and the papal temporal authority was restricted to the small state of the Vatican in Rome. The Italian peoples' rebellion against papal temporal sovereignty, popularly known internationally as the "Roman question," quickly produced a remonstrance from Pope Pius IX in the publication of "The Syllabus of Errors"⁹⁰ in which the Pope condemned Americanism, democracy, and public schools among other manifestations of modernity. The papal encyclical *Quanta cura* also lashed out at nationalism, "progress, liberalism, and modern civilization."⁹¹ Procacci points out that "The Syllabus was an out-and-out declaration of war on liberalism."⁹² The Syllabus, followed shortly thereafter by the Vatican's assertion of the doctrine of papal infallibility, elicited formal governmental responses from not only the Italian Parliament,⁹³ but from France, the former protector of papal temporal dominion in Italy,⁹⁴ and other countries as well.

Napoleon III declared the Gallican Church to be independent of the Vatican and he expanded the public schools of France in the face of strong Catholic opposition.⁹⁵ In England, Gladstone was much disturbed by The Syllabus and the pronouncement of papal infallibility, and he later consolidated his concerns into a pamphlet entitled "The Vatican Decrees in their Bearing on Civil Allegiance," wherein he questioned whether "the Catholic could be a completely loyal citizen in a non-Catholic state."⁹⁶ Gladstone found himself confronted with a similar dilemma as that of Grant and Blaine in America, when he confronted religion and education. In spite of the fact that the Church of England was the established church, he recognized the divisiveness of religion and sought to take measures to support only secular teaching in schools supported by local property tax rates.⁹⁷ which was an attempt to reinforce

his unification of Germany and to reduce the international influence of the Catholic Church over German citizens. *Kulturkampf*, in Bismarck's Germany of the 1870s, had its "origins not in Germany but in Italy, in the struggle between the papacy and the secular Italian State."⁹⁸ During the period from 1872-1875 anti-clerical legislation was passed in the Prussian parliament dealing with the secularization of education and all other matters of government interest,⁹⁹ and in the Reichstag there was legislation against the "medieval pretensions" of the Catholic Church, including legislation for the banishment of Jesuits.¹⁰⁰ The response to The Syllabus and infallibility became so intense that Bismarck even warned of the "dangers of an international Catholic conspiracy." The divisiveness of the religion became so intense that a Catholic political party, later called the Centre Party, was formed. The Centre Party, in addition to opposing *Kulturkampf*, fought against the ideals of national unity, the unification of Bismarck and sought to preserve a federal state's rights governmental organization.¹⁰¹

The religious and political issues in Europe were remarkably similar to those in the United States of the same era. Grant and Blaine were, of course, very much aware of the divisiveness of the church and state struggle in the European countries and saw its manifestations in the United States. The issue reduced itself to a contest between preservation of the dominion of an international religious ideology, so familiar to Europe, a force in competition with national interests of unification in America.

CONCLUSION

Blaine and Grant were products of their age in which worldwide nationalism and capitalism had taken firm hold in all the countries that counted as world powers. It was also the critical age when the multinational authority of the Catholic Church came in direct conflict with the ideals of nationalism in Italy, France, Germany, England, the United States and other developing nations. Unity and patriotism of a nation was the defining characteristic of the 19th century. Greenfeld has shown that the idea of the nation and nationalism was not confined to America. She observes that "The effect of nationalism on the economy in England was prodigious, for it was the redefinition of the English society as a nation which allowed the economy's emergence from its traditionally subordinate position in relation to political and religious institutions."¹⁰²

The national purpose of growth and economic strength became the fulcrum on which the standard of living of the common person was defined. Economic growth and national patriotism replaced monarchical government and ecclesiastical establishments that had sapped economic growth and retarded social well-being for hundreds of years.

Nationalism was the “new faith” and “gospel of a new civilization.”¹⁰³ This phenomenon was not just confined to the west; Japan’s nationalism by 1881 had removed the constraints of “religious tenets” and traditions of a feudal class system and had opened liberty and opportunity for the growth of the economy and modernization of the nation.¹⁰⁴

Moreover, very important to the era of the late 19th century, was the secularization of society and the reduction of the conservative hold of clericalism. Chadwick has observed that if liberty of man was to prevail, religion’s hold on man had to subside. In Chadwick’s words, the “decline of religion” in the late 19th century “rose less from decline of religion than from love of liberty.”¹⁰⁵ From this intellectual foundation, men began to oppose regimenting by clerics and the control of the monarchies. At the heart of liberty lay a belief in natural rights, to be free from imposition of control, whether it came from the clergy or the king. Religious toleration, first explained by Locke in the 17th century, called for the “ultimate freedom—liberty to worship God as the conscience called.”¹⁰⁶ A secular state was a condition precedent to a viable nation and could not be held under the restraint and thrall of a universal, international religious corporation.

Bigotry obviously existed during the 19th century, as it has in all ages at least since Constantine and the rise of monotheism, but what was new in the Blaine era was the spirit of nationalism, and the belief that the state could provide a moral foundation, and address, and rectify social and economic inequalities while ensuring new liberties for the common person.

In light of the pervasiveness and complexity of international religious conflict with emerging national governments and the many instances of extreme measures taken by both the Catholic Church and Protestant sects that created divisiveness and discord in the 19th century, the elemental “bigotry thesis” of Clarence Thomas appears to be poorly conceived and limited in its perception of context and historical circumstances. Importantly, the Thomas “bigotry thesis” implicitly threatens to define a legal parameter based on a mistaken interpretation of the totality of the encompassing questions of modernity, progress, and liberty in contradistinction to clericalism and religious dogma.

In this light, should the Thomas “bigotry thesis” be used as the rationale to abrogate state constitutional prohibitions against providing public money to religious institutions, the net effect would almost certainly be to place the power of the public purse behind a return to a form of Catholic and Protestant, clericalism strengthened by government resources. This would fit the unfortunate pattern that Garry Wills called, in 2004, the new fundamentalist

zeal (Protestant and Catholic) that rages against secularity and religious tolerance and instills a “fear and hatred for modernity.”¹⁰⁷

The Thomas “thesis” simply represents an up-to-date version of the war of ecclesiastics against secular public schools to acquire and justify the reallocating of taxpayer resources to private and parochial schools. Should the Thomas “thesis” prevail state legislatures would be free to place the fiscal strength of the state behind schools that are under clerical control.

ENDNOTES

¹ 530 U.S. 793, 120 S. Ct. 2530 (2000).

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ 540 v. 712, 124 S. Ct. 1307 (2004). The Plaintiff in Davey sought to have a state scholarship program declared unconstitutional as violative of the Free Exercise and Establishment Clauses because it excluded funding of scholarships for students pursuing devotional theology degrees. The plaintiff claimed that for the state not to give scholarship money for a religious purpose violated the U.S. Constitution. Even though the Court ruled against the plaintiff, the fact that the case was accepted by the Supreme Court and even considered evidences an important change in the Supreme Courts’ view of separation of church and state.

⁶ Washington is one of the states that has a very specific prohibition against aid to religion.

⁷ *Witters v. Washington Department of Services for the Blind*, 474 U.S. 481, 106 S. Ct. 748 (1986); *Zobrest v. Catalina Foothills School District*, 509 U.S. 1, 113 S. Ct. 2462 (1993); *Agostini v. Felton*, 521 U.S.203, 117 S. Ct. 1997 (1997); *Mitchell v. Helms*, 503 U.S. 793, 120 S. Ct. 2530 (2000); *Zelman v. Simmons-Harris*, 536 U.S. 639, 122 S. Ct. 2460 (2002).

⁸ *Mitchell v. Helms*, op cit.

⁹ Ibid.

¹⁰ Ibid.

¹¹ 44 Congressional Record, December 14, 1875, 44th Congress, 1st Session, Amendment Congressional Record, 1875.

¹² Edward P. Crapol, James G. Blaine: Architect of Empire, (Wilmington, Delaware: SR Books, 2000).

¹³ Ibid., p. 26.

¹⁴ Ibid., p. 4.

¹⁵ Ibid., p. 5.

¹⁶ Ibid., p. 4.

¹⁷ Ibid.

¹⁸ Liah Greenfeld, The Spirit of Capitalism: Nationalism and Economic Growth, (Cambridge: Harvard University Press, 2001) p. 418.

¹⁹ Crapol, op. cit., p. 65.

²⁰ Ibid., p. 56.

²¹ Ibid., p. 22.

²² Ibid. p. 5.

²³ Ibid., p. 19.

- ²⁴ Ibid., p. 19.
- ²⁵ Ibid., p. 20.
- ²⁶ Ibid., p. 20.
- ²⁷ Ibid., p. 21., See: Congressional Globe, 38th Congress, 1st Session, Part 2, (Washington, DC, 1864), pp. 1797-1800.
- ²⁸ Bruce P. Frohnen, "Lincoln and the Problem of Political Religion," in Lincoln's American Dream: Clashing Political Perspectives, edited by Kenneth L. Deutsch and Joseph R. Fornieri (Washington D.C., Potomac Books, Inc., 2005) p. 367.
- ²⁹ Ibid.
- ³⁰ Ibid., p. 368. See: Thomas Bokenkotter, A Concise History of the Catholic Church, (New York: Doubleday, 1990). p. 297-303.
- ³¹ Ibid., p. 371. See: Bokenkotter, op cit.
- ³² Lewis L. Gould, Grand Old Party: A History of the Republicans, (New York: Random House, 2003) p. 49.
- ³³ James G. Blaine, Twenty Year of Congress: From Lincoln to Garfield, 2 vols., (Norwich, CT.; Henry Bill Publishing Company, 1886) vol. 2, p. 340.
- ³⁴ Ibid. p. 340.
- ³⁵ Op cit., p. 239.
- ³⁶ Gould, op. cit., p. 63.
- ³⁷ Ibid., p. 64.
- ³⁸ Jean Edward Smith, Grant, (New York; Simon & Schuster, 2001), p. 456.
- ³⁹ Ibid. p. 64.
- ⁴⁰ Ibid. p. 65.
- ⁴¹ Eric Foner, Reconstruction: America's Unfinished Revolution 1863-1877, (New York: Harper & Row, 1988), p. 458.
- ⁴² Gould, op cit., p. 73.
- ⁴³ Amendment XIV, Sec. 2 (1868).
- ⁴⁴ Kenneth D. Ackerman, Dark Horse: The Surprise Election and Political Murder of President James A. Garfield, (New York: Carroll & Graf Publishers, 2004), p. 486.
- ⁴⁵ Gould, op. cit. p. 84.
- ⁴⁶ Robert Kagan, Dangerous Nation, (New York: Alfred A. Knopf, 2006).
- ⁴⁷ Ibid.
- ⁴⁸ Richard E. Welch, Jr., The Presidencies of Grover Cleveland, (Lawrence, Kan.: University Press of Kansas, 1988) p. 32.
- ⁴⁹ Morton Keller, Affairs of State: Public Life in Late Nineteenth Century America, (Cambridge, Mass.: Harvard University Press, 1977) p. 4.
- ⁵⁰ Kagan, op. cit., p. 281.
- ⁵¹ Ibid., pp. 287-288.
- ⁵² Cathal J. Nolan, The United States and Tsarist Anti-Semitism, 1865-1914, Diplomacy and Statecraft No. 3, (1992), p. 443.
- ⁵³ Ibid.
- ⁵⁴ Ibid.
- ⁵⁵ Henry Blumenthal, A Reappraisal of Franco-American Relations, 1830-1871, (Chapel Hill: University of North Carolina Press, 1959) p. 189.

- ⁵⁶ Mark Wahlgren Summers, Rum, Romanism, and Rebellion: The Making of a President, (Chapel Hill: University of North Carolina Press, 2000), pp. 96-97.
- ⁵⁷ Ibid. p. 97.
- ⁵⁹ Michael F. Holt, The Rise and Fall of the American Whig Party, (Oxford: Oxford University Press, 1999), p. 850.
- ⁶⁰ Ibid.
- ⁶¹ Robert V. Remini, The House: The History of the House of Representatives, (New York: The Library of Congress and HarperCollins Books, Inc., 2006) pp. 162-163.
- ⁶² Holt, op. cit., pp. 844-847.
- ⁶³ Smith, op. cit. pp. 568-569.
- ⁶⁴ Ibid.
- ⁶⁵ Ibid.
- ⁶⁶ Ibid., p. 569.
- ⁶⁷ Steven K. Green, "The Blaine Amendment Reconsidered," 36 American Journal of Legal History. pp. 38-39 (1992).
- ⁶⁸ Smith, op. cit., p. 569, cited from the text of Grant's speech to the Army of the Tennessee, Des Moines, Iowa, September 30, 1875, reprinted in Harper's Weekly, October 30, 1875.
- ⁶⁹ Ibid., p. 569, citing Grant, op. cit.
- ⁷⁰ Ibid., p. 569.
- ⁷¹ Ibid., p. 569.
- ⁷² Ibid., pp. 569-570, citing Grant's speech, op. cit.
- ⁷³ Ibid., p. 570.
- ⁷⁴ Ibid., p. 571.
- ⁷⁵ The text of the Blaine Amendment provided: No State shall make any law respecting an establishment of religion, or prohibiting the free exercise thereof; and no money raised by taxation in any State for the support of public schools, or derived from any public fund therefore, nor any public lands devoted thereto, shall ever be under the control of any religious sect or denomination; nor shall any money so raised or lands so devoted be divided between religious sects or denominations. This article shall not vest, enlarge, or diminish legislative power in the Congress.
- ⁷⁶ See: Santa Fe Independent School District v. Doe, 530 vs. 290 (2000), and Lee v. Weisman, 505 U.S. 577 (1992).
- ⁷⁷ John T. McGreevy, Catholicism and American Freedom, (New York: W.W. Norton and Company, 2003), pp. 110-111.
- ⁷⁸ Ibid., p.111.
- ⁷⁹ Ibid.
- ⁸⁰ Slaughterhouse Cases, 16 Wall. (83 U.S.) 36 (1873).
- ⁸¹ Kermit L. Hall, et al. (eds.), The Oxford Companion to the Supreme Court of the United States (New York: Oxford University Press, 1992), p. 310.
- ⁸² 310 U.S. 296 (1940).
- ⁸³ Thomas Jefferson, An Act for Establishing Religious Freedom written in 1779, enacted in 1786 in Virginia.
- ⁸⁴ James Madison, Memorial and Remonstrance against Religious Assessments, 1785, Virginia.
- ⁸⁵ Owen Chadwick, The Secularization of the European Mind in the 19th Century, (Cambridge: Cambridge University Press, 1975)
- ⁸⁶ Ibid.
- ⁸⁷ Dennis Mack Smith, Mazzini, (New Haven and London, Yale University Press, 1994).

⁸⁸ Giuliano Procacci, *History of the Italian People*, (London: Penguin Books, 1973).

⁸⁹ A.J.P. Taylor, *The Habsburg Monarchy, 1809-1918*, (London: Penguin Books, 1973).

⁹⁰ The Syllabus of Errors of Pope Pius IX, which remains in effect, enumerated 80 errors, including the following: it is error to believe that “The Roman Pontiff can, and ought to, reconcile himself, and come to terms with progress, liberalism and modern civilization” (80); it is error to believe that persons coming to reside... “in some Catholic countries”... “shall enjoy the public exercise of their own peculiar worship” (78); it is error to believe that “The Church ought to be separated from the State, and the State from the Church” (55); it is error to believe that “The entire government of public schools,...may and ought to appertain to the civil power, ...and that no other authority (presumably the Church) ...shall be recognized as having any right to interfere in the discipline of the schools, the arrangement of the studies, the conferring of degrees, in the choice or approval of teachers.” (45); it is error to believe that “The best theory of civil society requires that popular schools open to children of every class of the people...should be freed from all ecclesiastical authority, control and interference...”(47); it is error to believe that “Catholics may approve of the system of educating youth unconnected with Catholic faith and the power of the Church...” (48), it is error to believe that “The Church has not the power of using force, nor has she any temporal power, direct or indirect” (24). In 1907, Pope Pius X issued the Decree “*Lamentabili sane exitu*,” that condemned sixty-five propositions of “modernism”. The Encyclical, *Libertas*, of Pope Leo XIII, June 20, 1888, denounces “liberty” without Church guidance, temporal law must be obedient to the eternal law of God, the Church makes known the light of reason that temporal law must follow, lawful power is from God as interpreted by the Church, the Church is the only source of the teaching of mankind, ...”the divine teaching of the Church” is not an obstacle to the pursuit of learning” but “in reality brings sure and shining light”, separation of Church and State is a “fatal principle”, and youth should not be educated separated from the Church.

⁹¹ J.A.S. Grenville, *Europe Reshaped 1848-1878*, (Oxford: Blackwells Publishers, Inc., 2000) pg. 330.

⁹² Procacci, *Ibid*, p. 330.

⁹³ *Ibid*, p. 331.

⁹⁴ Grenville, *op. cit.* p. 291.

⁹⁵ *Ibid*.

⁹⁶ A.N. Wilson, *The Victorians* (London: Arrow Books, 2002), p. 374.

⁹⁷ Land and Education Bills of 1870, See: H.C.G. Matthew, *Gladstone 1809-1874* (Oxford: Oxford University Press, 1988), pp. 202-204.

⁹⁸ Grenville, *Ibid*, p. 329.

⁹⁹ Grenville, *Ibid*, p. 331.

¹⁰⁰ *Ibid*.

¹⁰¹ *Ibid*, pp. 330-331.

¹⁰² Greenfeld, *op cit.*, p. 57.

¹⁰³ *Ibid.*, p. 278.

¹⁰⁴ *Ibid.*, p. 292-293.

¹⁰⁵ Chadwick, *op. cit.* pp. 28-30

¹⁰⁶ *Ibid.*, p. 25.

¹⁰⁷ Garry Wills, “The Day the Enlightenment Went Out”, *The New York Times*, November 4, 2004.