CROSSED SWORDS: ENTANGLEMENTS BETWEEN

Í

CHURCH AND STATE IN AMERICA

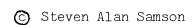
by STEVEN ALAN SAMSON

A DISSERTATION

Presented to the Department of Political Science and the Graduate School of the University of Oregon in partial fulfillment of the requirements for the degree of Doctor of Philosophy

June 1984

APPROVED: ______ James Klonoski



NAME OF AUTHOR: Steven Alan Samson

PLACE OF BIRTH: Portland, Oregon

DATE OF BIRTH: June 25, 1948

UNDERGRADUATE AND GRADUATE SCHOOLS ATTENDED:

University of Colorado Western Oregon State College University of Oregon Portland State University

DEGREES AWARDED:

Bachelor of Arts, 1969, University of Colorado Master of Arts, 1974, University of Colorado Doctor of Philosophy, 1984, University of Oregon

AREAS OF SPECIAL INTEREST:

American Political Thought Constitutional Law Policy Analysis Political Theory

PROFESSIONAL EXPERIENCE:

- Instructor, Department of Social Science, Chemeketa Community College, Salem, 1977-80
- Instructor, Department of Social Science, Portland Community College, Portland, 1979-84
- Instructor, Department of History, George Fox College, Newberg, 1979

Instructor, Department of Social Science, Mt. Hood Community College, Gresham, 1979-81

VITA

ACKNOWLEDGMENTS

I wish to thank my family and friends for their considerable support during the research and writing of this dissertation. Special thanks go to Americans United for Separation of Church and State, the Association of Christian Schools International, William Ball, the Bill of Rights Legal Foundation, Samuel Boyle, Carolina Capistrano, Wylie Caskey, David Chilton, the Christian Law Association, The Christian Legal Society, the Committee for Public Education, Gary DeMar, Samuel Ericsson, Marshall Foster, Edward Gaffney, Gammon and Grange, David Gibbs, Good Shepherd Community Church, Verna Hall, William Hosmer, Harry Jackson, Archie Jones, Douglas Kelly, Douglas Kresse, Joe Lutz, Robert Metcalf, John Olson, Walfred Peterson, Reformation Covenant Church, James Rose, R. J. Rushdoony, SaltShakers, Inc., Rosalie Slater, Herbert Titus, Town Center Baptist Church, Charles Wolfe, Elliott Wright, and the members of my dissertation committee.

Finally, a special word is due to Sally, who bore her double burden graciously, and to Andrew, my silent partner during the first nine months of this writing, my midnight watch companion during the last four, and a rod of discipline throughout. If ever a child fathered the man, the evidence may be found in these pages. Soli Deo gloria.

--May, 1984

vii

TABLE OF CONTENTS

INTRODUCT	CION	1
	Notes	11
Chapter		
I.	THE IMPRINT OF CULTURE	13
	Religion and Politics. Church, State, and Sovereignty. A Cautionary Tale. The Dynamics of the Problem. Notes.	13 16 31 38 42
II.	BIBLICAL ROOTS	52
	Origins. Israel. The Covenant Law. The Monarchy. Rival Theologies. The Church. Notes.	52 53 55 60 62 68 84
III.	EARLY CHRISTENDOM	87
	Rise of the Roman Empire The Two Sovereignties Notes	88 98 115
IV.	EUROPEAN BACKGROUND	120
	Emergence of National States British Constitutionalism. Church and State in Medieval England The Reformation Notes.	121 124 130 137 146
V .	THE AMERICAN COMMONWEALTH	151
	The Pilgrims and the Puritans Transition	

	The Struggle for Liberty.163The Perfect Law of Liberty.170The Founding Documents.174The Idea of a Christian Republic.179Notes.184
VI.	EARLY CONSTITUTIONAL ISSUES 194
	Disestablishment. 198 The Myth of Neutrality. 204 The Religion Clauses. 208 Interpretations. 219 Transformation. 236 Notes. 242
VII.	THE SUPREME COURT AS A GUARDIAN 258
	Accommodation
VIII.	THE SUPREME COURT AS A VANGUARD 309
	The Free Exercise Clause.310The Establishment Clause.345The Incorporation Theory.356Tension Between the Clauses.375Notes.378
IX.	RECENT CONSTITUTIONAL ISSUES
	Doctrinal Entanglements
Χ.	FISCAL REGULATION
	Background.434Income Taxation.445Property Taxation.453Cases and Controversies.455Subsidies.459Conclusions.464Notes.469
XI.	SCHOLASTIC POLITICS 483
	The Public Education Movement

Cases and Controversies	8
XII. SOCIAL REGULATION	6
Church Polity and Doctrines	4 7 3 6 7
CONCLUSION	6
Notes	5
BIBLIOGRAPHY 61	9

An Abstract of the Dissertation of

Steven Alan Samson for the degree of Doctor of Philosophy in the Department of Political Science to be taken June 1984 Title: CROSSED SWORDS: ENTANGLEMENTS BETWEEN CHURCH AND STATE IN AMERICA

Approved:

James Klonoski

The purpose of this study is to identify and assess a number of political, economic, and religious factors that have defined and redefined the historical accommodation between church and state. Particular attention is given to the effects of fiscal, educational, and social regulations on the free exercise of religion.

Religious liberty in America is commonly thought to be secured by a constitutional wall of separation between church and state. Its character is best understood in the context of an original Protestant Christian cultural consensus which underlay the plurality of competing sects. The findings of this study are that, first, American law and custom still preserve elements of an earlier state church tradition despite the historical coincidence between the framing of the Constitution and the disestablishment of religion. The political and religious perspective of the founders is in fact so strongly impressed upon the constitutional system that, second, discrepancies between the basic doctrines of Christianity and the expectations of diverse religious and secular subcultures are among the major sources of conflict within the political arena. But, third, changing interpretations of the constitutional provisions respecting religion and a growing state presence in all areas of social and economic life tend to reduce the formal role of religion in public life, leading some religious leaders to express public concern over losses of liberty and influence by the church. Current litigation indicates that churches are faced with unaccustomed restrictions on the corporate powers, tax immunities, internal operations, teaching ministries, and missionary activities of their organizations.

This study analyzes the relationship of church and state in America against the background of early Christianity, the emergence of nationalism in Europe, the settlement of America, and the framing of the Constitution. Its central feature is a chronological and topical study of the Supreme Court rulings on religious issues.

v