

may not advance religion, but neither may it inhibit.

Mr. Justice Brennan, concurring in *Murray v. Curlett*, *supra*, tried to show that certain practices are to be considered constitutional: among them, churches and chaplains at military bases; "In God We Trust" on currency; tax exemptions for churches; draft exemptions for seminary students; and "one nation, under God" in the pledge of allegiance.¹⁶³ (However, again, other members of the Court have voiced opposing statements.)¹⁶⁴ That nothing more than a firmly bipartisan relationship of state to church was intended by the Founding Fathers, when viewed in the light of history, seems a well-grounded conclusion. As one commentator has pointed out:

"The separation of government from religion represents a definite departure from the intent of the Founding Fathers, who never intended to purge public life in America entirely of religion. They never intended to establish irreligion, nor was that the purpose of the First Amendment. Those who founded our nation did not hesitate to declare their dependence upon God, to mention Him in public utterance, to open Congress with prayer, to set up chaplaincies, and to ask the President to call a day of prayer and thanksgiving to God. They did not feel that this was inconsistent with the principle of 'a free Church in a free State.' As a matter of fact, they knew that the very concept of religious and civil liberty was founded upon

¹⁶³ 374 U.S. 203, 295-304 (1963). See also Kauper, *supra* note 145 at 115.

¹⁶⁴ See Note, 17 S.C.L. REV. 778 at 780 (1965).

Christian principles and teachings."¹⁶⁵

On the other hand, the argument that the Framers intended that an inviolable wall of separation be erected between church and state, is not without merit.¹⁶⁶ Of course, since the Constitution is a living instrument and must be interpreted in the light of contemporary standards and policies it may be (and has been) validly argued that the intent of the Framers is not necessarily relevant. Under this view advocates of strict separation voice strong arguments and convincing logic.¹⁶⁷

The only real conclusion reached here is that, as of now, the questions have not been conclusively decided; and the only real argument offered here is that, when the time comes for decision, government's nondiscriminatory participation in matters of religion is an entirely defensible policy.

RECOMMENDATIONS

The church-state problem is a difficult one, and there are no easy solutions to the continuing questions, for example, whether the federal government can

¹⁶⁵ J. KIK, CHURCH & STATE 130 (1963).

"... a regard for the separation principle should not obscure the fundamental consideration that there is a necessary interdependence of religion and government, that religion and the churches have a role to play with respect to the public order and the common life, that government has a role to perform in the protection and advancement of religious liberty, and that government and the churches share some overlapping concerns and functions." P. KAUPER, RELIGION AND THE CONSTITUTION 118 (1964). See also W. KATZ, RELIGION AND AMERICAN CONSTITUTIONS 30 (1963).

¹⁶⁶ See note 164 and accompanying text.

¹⁶⁷ See, e.g., W. DOUGLAS, THE BIBLE AND THE SCHOOLS (1966), and ANTIFEAU, DOWNEY & ROBERTS, *supra* note 152 at 132-42.