



SCHOOL OF LAW
TEXAS A&M UNIVERSITY

Texas A&M University School of Law
Texas A&M Law Scholarship

Faculty Scholarship

1990

Book Review - Reviewing John Eidsmoe, Christianity and the Constitution: The Faith of Our Founding Fathers (1987)

Stephen R. Alton

Texas A&M University School of Law, salton@law.tamu.edu

Follow this and additional works at: <https://scholarship.law.tamu.edu/facscholar>



Part of the [Law Commons](#)

Recommended Citation

Stephen R. Alton, *Book Review - Reviewing John Eidsmoe, Christianity and the Constitution: The Faith of Our Founding Fathers (1987)*, 53 *Tex. B.J.* 1128 (1990).

Available at: <https://scholarship.law.tamu.edu/facscholar/2>

This Book Review is brought to you for free and open access by Texas A&M Law Scholarship. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of Texas A&M Law Scholarship. For more information, please contact sphillips64@law.tamu.edu.

CHRISTIANITY AND THE CONSTITUTION: THE FAITH OF OUR FOUNDING FATHERS

Eidsmoe, John, Grand Rapids, Michigan, MI: Baker Book House (P.O. Box 6487, 49506), 1987 415 pp., \$19.95 (paper).

Judging by its title, John Eidsmoe's *Christianity and the Constitution: The Faith of Our Founding Fathers*, appears to promise an historical look at the religious beliefs and backgrounds of America's founders. It does that—and more—with mixed results. To be sure, there is some good in this book: to the extent that it sticks to its nominal purpose and attempts to document the religious beliefs of some of this nation's founding fathers, Eidsmoe's work is useful.

Unfortunately, both the author's scholarship and his motives in writing this book are questionable. His scholarship suffers from his tendency to rely on secondary sources, rather than primary ones, for his citations to the words of the founders. As a result, the context of those original words is called into doubt.

More troubling, however, is the fact that Eidsmoe's title is not fully candid about the contents within: wandering well beyond the promised history of the founders' religious views, the author uses the book as a pulpit to preach his gospel that the United States Constitution was—and is—"a Christian document." (Eidsmoe, p. 359) Eidsmoe arrives at this conclusion circuitously and somewhat incredibly: he asserts that certain broad principles in the Constitution are not inconsistent with those of Christian morality (a broad assertion with which few could argue).

From this springboard, he takes a leap of faith and logic in claiming that this fact, in effect, renders the Constitution a Christian document. The writer further attempts to bolster his thesis by noting the various references to God in the Declaration of Independence and implying that those references are somehow incorporated, along with the general spirit of the Declaration, into the Constitution. As historical and constitutional scholarship, these arguments are, at best, tenuous.

The author betrays his own impatience with "scholars" who "often

come to non-Christian conclusions because they start with non-Christian presuppositions and use non-Christian sources." (Eidsmoe, p. 407) Eidsmoe overlooks the fact that scholarship depends on objective appraisals of all sources, viewpoints, and arguments on a particular issue: to frame scholarship in terms of "Christian" and "non-Christian" is to encourage un-scholarly polarization.

In his concluding chapter, Eidsmoe argues for a return to constitutional interpretation based on the intent of the framers and rejects the living document view of the Constitution. One of the main problems with the bedrock view of constitutional interpretation is that it is difficult to agree on just whose intent is most important. For example, take, as the author does, the establishment clause in the first amendment: should one look to the intent of the amendment's author (James Madison), the intent of the members of the first Congress, or that of the state legislators who ratified the amendment? Indeed, to the extent that one looks to the intent of all of the above, how do we treat the undoubtedly disparate views of the amendment's purpose and meaning held by these individuals?

Moreover, to the extent that Eidsmoe purports to divine the intent of the framers from the religious views held by the founding fathers profiled in this book, his problems are twofold: first, not all of the founders so profiled were present at the creation of the first amendment; second, even assuming that the majority of the framers were practicing Christians, it does not necessarily follow that they could not have intended "the wall of separation" between church and state referred to by Thomas Jefferson. After all, Eidsmoe admits, albeit in understatement, that Madison believed "that the church flourished better without the state's 'help'." (Eidsmoe, p. 110)

In his final chapter, the author summarizes and emphasizes his main point:

Church and state do have separate functions, but religion and politics cannot be totally separated. For every aspect of politics and law involves moral principles. . . . Morality cannot be separated from reli-

gion. . . . Morality always deals with ultimate values which find expression in some type of religion. The question is, which religion and what values—those of the Judeo-Christian tradition on which the nation was founded, or those of Secular Humanism, the New Age, or others? (Eidsmoe, p. 409)

Anyone who has even so much as skimmed an appreciable number of the previous 408 pages of *Christianity and the Constitution* can hardly doubt Eidsmoe's answer to that rhetorical question.

**Stephen R. Alton
Irving**

WHAT IS LAW?

Sinha, S. Prakash, New York, New York: Paragon House (90 5th Avenue, 10011), 1989, 274 pp., \$29.95.

The title of S.P. Sinha's book, *What Is Law?*, is somewhat deceptive, for the author ambitiously tries to do more than merely define the concept of law in well under 300 pages. After the introductory historical and philosophical overview of his initial chapter, Sinha uses the balance of his book to summarize the major theories of law, including how law arises, how it is applied, and why it is important in society. The work is less of an original attempt by its writer to answer the question posed by the title than it is an effort to seek such an answer by means of surveying—albeit briefly in each instance—the views of the major thinkers in this field.

In point of fact, the book is, by the author's own admission, least successful in arriving at a working definition of law. In his concluding chapter, Sinha offers three reasons for this difficulty. First, "the theories [of law surveyed by the author] attempt to define law, claiming to make a universal statement about it, for a universe whose civilizations do not share law as a central principle of social organ-

Book Appraisals are edited by Gary Hartman, Tarlton Law Library, 727 E. 26th St., Austin 78705-7726. If you are interested in reviewing a book, please call him at 512/471-7726.