

BOOK REVIEW

of

David Barton, *Original Intent: The Courts, the Constitution, and Religion*,
WallBuilder Press, 1997.

This book is a recent addition to the Evangel Library,
and this review is presented by Larry D. Paarmann.

David Barton was a school teacher for a number of years, teaching both math and science, and then served as a school principal and administrator. He founded, and is currently the president of, WallBuilders, which distributes historical, legal, and statistical information and helps educate citizens on how to become active in their local schools and communities. In the legal arena, Barton has spoken in numerous state legislatures, has served as a consultant to both state and federal legislators on a variety of bills, and has been involved in several cases at the U.S. Supreme Court.

The main argument of this book is that the study of historical documents can readily yield the *original intent* of the writers of the Constitution of the United States, and that it is the role of the U.S. Supreme Court to interpret and apply that original intent. By relying on thousands of primary sources, Barton documents (in the Founding Fathers' own words) that the plan set forth in the Constitution and Bill of Rights was for a limited government. The problem is that now, documented in the very words of Supreme Court justices, that the Supreme Court has become "a national theology board," "a super board of education," etc. The result has been a virtual rewriting of the liberties enumerated in the Constitution. For example, a direct victim of this judicial micromanagement has been the religious aspect of the First Amendment. Additional casualties of judicial activism have included protections for State's rights, local controls, separation of powers, and numerous other constitutional provisions. The book explains what has happened, why it has happened, and what can be done to recover and preserve the freedoms guaranteed in the Constitution. Barton applies this analysis especially to a better understanding of the separation of Church and State.

Barton contends that there are three historical phases in the way the courts, and especially the U.S. Supreme Court, have related to the U.S. Constitution. The first phase was safeguarding the original intent. That is, studying to ascertain what the writers of the Constitution and the Founding Fathers originally meant by a given article of, or amendment to, the Constitution. Having properly ascertained the original intent it was then the role of the court to apply the Constitution as it was originally intended. This has been the longest of the three historical phases.

The second phase was rewriting the original intent of the Constitution. Barton contends that in this phase the courts essentially abandoned the concept of original intent, and instead attempted to rewrite history and judicial precedence and imply that the Constitution really means something quite different from what used to be the interpretation. After reviewing some eight representative cases concerning the First Amendment, Barton concludes that "the current First Amendment is unlike the one originally delivered by the Founders. In its remaking of the First Amendment over the past three decades, the Court has created four different standards . . . Under the influence of the judiciary, the Constitution has indeed taken on a new 'form,' and even if an individual had absolutely no knowledge of our heritage or constitutional history, one must wonder at the logic behind the current interpretation."

The third phase, currently the case and overlapping with the second phase, is ignoring original intent. Now it appears that there is seldom any application of original intent, truly original or rewritten, at all, but rather referring only to recent court decisions. Barton writes: "Clearly, in its numerous rulings on religious issues since 1947, whether ruling for or against religious expressions, the Court now relies almost exclusively upon its own recent case-law precedents – the very precedents under which it has essentially rewritten the First Amendment."

Barton suggests that the main reason for the significant departure from the original intent of the Constitution is due to the significant departure of our society from the philosophy and religion of the Founding Fathers. Barton rather firmly establishes the powerful influence of the Bible upon their thinking, not only in personal matters but in other areas as well, such as politics and government. Barton says that the Founders cited, in their general writings, the Bible four times more often than they did either Montesquieu or Blackstone, the two political theorists most often cited. Would that our current political leaders might learn from their example.