the centuries, then the understanding of the developments in the history of natural law and natural rights concerns also metaphysics" (114). Here Saccenti cites Oakley's consolidation of all these elements: "The later Middle Ages, I would suggest, can helpfully be understood as a period distinguished, intellectually speaking, by a recrudescence … of the metaphysical grounding of the law of nature in both the moral/juridical order and the order of physical nature" (114). These thoughts contribute to the entire book and, again, deserve to be included in the narrative.

Scholars debate whether there was a significant break at some point in the understanding of natural law, particularly concerning natural rights. Recent discussion has centered on Locke's role, including how the English philosopher's view of natural rights relates to earlier sources: "Is Locke the father of what later became the doctrine of human rights? Or is he just the last heir of a tradition that goes back to the late Middle Ages that he reelaborated with respect to his own time?" (35). In the book's conclusion, Saccenti seems to identify the "long twelfth century" as the period that had the greatest influence on later developments, particularly those that occurred during the early thirteenth century, which saw "the reception into European culture of Aristotelian thought, whose major consequence for natural law theories was Thomas Aquinas's doctrine according to which *lex naturalis* is the participation of human reason in the eternal divine law" (78). This medieval resurgence of Aristotelian thought later provoked the nominalist reaction.

Changing understandings of *lex naturalis* and *ius naturale* stemmed from developments in politics, theology, philosophy, civil and canon law, and metaphysics. Despite its few shortcomings, *Debating Medieval Natural* Law gives readers a good idea of the modern debate on this topic, and Saccenti makes one eager for further study in this area.

Brian Welter

Brian Welter, DTh, has degrees in history and theology. He is a freelance writer and teaches English in Taiwan.

The Rise and Decline of American Religious Freedom
by Steven D. Smith

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240 pages, bibliographical references and index, ISBN 978-0-674-72475-4

One reviewer of Steven Smith's book on religious freedom, Andrew Koppelman, commented that Smith is "a tremendously erudite and subtle scholar"; this is surely true. Smith is a subtle doctor and uses *The Rise and Decline of American Religious Freedom* to give a nuanced diagnosis of the flaws in the standard liberal views on the rights of religious institutions in America. However, he never treats his arguments as if they provide slam-dunk conclusions, although many of his readers may decide that they do.

Some of Smith's more powerful yet still subtle points have to do with correcting the historical record. He considers the history of religious freedom all the way back to ancient Rome, arguing that religious liberty first emerged during the Catholic Church's struggle to free itself first from the persecutions of pagan Roman emperors and later from the machinations of medieval kings. American religious freedom harkens back to Christian ideas from those earlier periods and was not a completely new invention of the secular Enlightenment. Smith's chapter on this subject is particularly good and utilizes an impressive array of historical commentary from authors in different disciplines, including David Bentley Hart, Hugo Rahner, and Brian Tierney.

Smith offers some masterfully nuanced points about more recent history, especially the establishment and free exercise clauses of the First Amendment. He believes that Donald

Drakeman makes a persuasive argument about the meaning of the establishment clause when it was debated at the first Congress but adds a few insightful qualifications. For example, although the establishment clause was barely discussed and had almost entirely to do with maintaining state jurisdiction over religious matters, Drakeman should have considered it together with the free exercise clause—elsewhere James Madison calls the two a religion "clause" (singular). It is one clause with a double denial: first, the national government does not have the power to create a national church, and second, the government does not have power over free exercise generally. This is a subtle point but one worth making when the constitutional stakes are so high.

Although Smith spends much of *Rise and Decline* tweaking the standard historical narrative, he is equally comfortable critiquing recent trends and the direction that constitutional interpretation has taken on freedom of religion—hence, the "decline." Smith lays much of the blame for the deterioration of religious protections at the feet of the modern Supreme Court. Who he blames is especially interesting. The typical criticism, à la Philip Hamburger, focuses on Justice Hugo Black for enshrining a strict-separation view of establishment in *Everson v. Board of Education* (1947) and *McCullom v. Board of Education* (1948). However, Smith claims the true turn occurred in the 1960s school cases, such as *Engel v. Vitale* (1962) and *Abington School District v. Schempp* (1963). Justice Black's no-aid-to-religion standard damaged religious freedom but not nearly as severely as the "neutrality" and "secular purpose" standards that Justice William Brennan Jr. announced in his *Schempp* concurrence. To hold that the character of laws must be neither pro-religion nor anti-religion is an impossible standard according to Smith, and it inevitably tends to exclude religion from the public square. It is by means of this impossible standard that the establishment clause is being used against religion, which it was, of course, never intended to do; the theory of neutrality does much of the mischief.

Smith has insightful things to say about the modern Court's free exercise jurisprudence in *Employment Division v. Smith* (1990). There is a tendency to see this ruling, which announced that free exercise claims will not supersede neutral, generally applied laws, as merely harkening back to the standard set by *Reynolds v. United States* in 1878, but Smith points out an important difference. Even though *Reynolds* prohibited Mormon polygamy, it allowed accommodations and exemptions at the national level for many other religious beliefs, which are not allowed under *Employment Division*.

Smith tries to make the general point that the decline in religious liberty has been facilitated by the modern predilection to strictly enforce textual and non-textual constitutional rights. As he puts it, the big-C Constitution now invades all areas of society. In the past, respect for federalism and other factors made small-c constitutional discussions almost more important. This change has caused a decline in the amount of deliberation and compromise between the secular and religious elements of society, setting up a bitter culture war that shows no signs of truce.

In these times of fierce and bitter debate over whether there should be religious freedom at all, one is inclined to ask Smith, "Why the subtlety?" As a defender of religious freedom, one would expect him to write a book largely tearing down the plethora of bad arguments being made for the erasure of constitutional protections for religion. I think there are two possible answers. First, a subtle approach makes sense, given his view of the American compromise on freedom of religion. Second, subtlety is consistent with his philosophical ideas about historical narrative.

Smith believes that, historically, the key strength of the religious freedom arrangement in America, as opposed to other countries, was that religious and nonreligious Americans of all stripes were allowed to participate in the democratic process and compromise on the issue: sometimes laws were passed that a modern observer would consider "establishment"; sometimes they were not passed. The key was that the sovereign,

constitutional power never declared a final answer on the question. Smith makes one prediction at the end of the book: American protections for religious freedom will stand or fall on the basis of the strength of American religions themselves. It is perhaps a sad commentary on the state of constitutional law that such matters would be decided by the number of voters, but that is how he sees the situation. Smith encourages more legislative compromise, more difficult rules for bringing cases before the Supreme Court, and a more subtle discussion on the part of all parties.

Lastly, Smith frames his argument with a somewhat odd rhetorical device involving two meta-narratives: the standard view held by secular liberals and a revised view that favors religious liberty. The postmodern term meta-narrative is highly fashionable in contemporary philosophical circles, and perhaps Smith employs it to appeal to a postmodern audience. On the other hand, lawyers who read the book will probably laugh at a discussion of meta-narrative as philosophical nicety. It is strange for a constitutional historian to write that "no single, unitary story contains all the truth" (12). Clearly Smith believes that the revised narrative is the true history and the other narrative is false, but he will not say so. This "choosing narratives" trope elicits an interesting question from Smith at the end of the book, when he asks why opponents of religious freedom should even care about the story they tell if they do not care about religion, the hero of the story. Smith answers that everyone should care about the hero, since the inner jurisdiction religion deals with is common to everyone and is not captured by liberal conceptions of justice.

Christopher J. Wolfe

Christopher J. Wolfe, PhD, has a degree in political science and teaches politics in Irving, Texas.

Particles of Faith: A Catholic Guide to Navigating Science

by Stacy A. Trasancos

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Particles of Faith is a wonderful tour through the realm where science and religion interact. The unity of faith and science stands out very clearly, which is surely a surprise to many readers who would expect the two disciplines to be opposed. Stacy Trasancos has a genuine and honest way of expressing her thoughts that makes this book accessible to people far removed from the domain of science. Even by the time you have finished reading the very brief preface, you will say, I want to know more about this woman!

Trasancos begins by recounting her early career, which was totally focused on science. There was no room for religion in her busy, ambitious schedule. Earning a doctorate in chemistry called for intense concentration in a very specific corner of science: "We were only trying to simulate one electron transfer. One" (18). The reader need not understand any details at all but can readily grasp the intensity of focus that necessarily ruled Trasancos's life in those days. Writing about that phase, even her description of the details is engaging: "We visualized our [chemical structure] somewhat like lasagna noodles coated on squashes" (19). All that work led to an excellent position as a polymer chemist with DuPont.

But it was not complete. The big questions about meaning never go away, and a well-trained scientist is aware of the chasm between the little we know and the vastness of reality: "So when I decided to turn around and