

according to BU Provost David Campbell, is a reliable peer review of all its articles. Campbell, who is an editor for two subscription-based journals — *Physics Reports* (published by Elsevier) and *Chaos* (published by the American Institute of Physics) — acknowledges that most well-known open-access journals ensure high-quality peer review and also that subscription journals are not immune to mistakes and shaky science. But, he says, as open-access journals proliferate, readers will have to do a little more research to ensure that the scholarship comes from a credible source.

According to online directories, there are currently more than 4,000 open-access journals and more than 1,300 open-access repositories, up from about 800 repositories in early 2007. A 2007 editorial in *Environmental Health*, coauthored by Ozonoff, estimated that only about 10 percent of published scientific articles are published without restrictions. But Ozonoff now predicts that open access will be the norm in scholarly publishing within five years. “Even the for-profit publishers see the handwriting on the wall,” he says, noting that Springer purchased BioMed Central in early 2009.

Many publishers are also experimenting with offering both subscription and open-access content. Some, such as Springer, give authors the option to pay extra for open access. Other publishers allow open access after an embargo period.

Of course, open-access repositories, such as the one at BU, will contain peer-reviewed articles as well as things such as data sets, dissertations, curricula, lectures, and creative works, both text and multimedia. The University will likely hire a manager for the repository, and vetting will be done by library staff who input electronic submissions from faculty and students.

Hudson admits that no strict guidelines have yet been established about what will be admitted to the archive and what won't. But, he says, “It's not our intent to have people self-publish on this repository. If somebody says, ‘Here's my very loosely written piece on X,’ we're not going to be doing that.”

As Millen puts it, “We want this to represent the best of BU.” She believes the open-access archive will bring “greater recognition to the ongoing work of our faculty and will stimulate a lot more cross-disciplinary, cross-campus, and even cross-border collaborations.” In addition, she says, “we want to create as much access as possible to the great work of this university and a more dynamic interchange, which is really what this is all about.”

Raising Cain at the Supreme Court

LAW'S JAY WEXLER TOURED CHURCH-STATE BATTLEGROUND
BY JESSICA ULLIAN

In 2006, a lawyer walked into a bar and came out with a Santería priest, an Amish farmer, a Hasidic school superintendent, and a man who sued the state of Texas over the Ten Commandments.

The lawyer was Jay Wexler, a School of Law professor, the bar was Grendel's Den in Cambridge, Massachusetts — and technically speaking, the religious motley crew didn't actually follow him out the door. But a barroom conversation about a 1982 U.S. Supreme Court case that pitted Grendel's against a local church seeking to revoke its liquor license prompted Wexler to think about the people and places that have figured in Supreme Court cases about separation of church and state.

The Amish farmer, for example, Adin Yutzy, is the last living plaintiff in *Wisconsin v. Yoder*, a 1972 case about whether Amish children could claim exemption from compulsory education laws. (They can.) Ernesto Pichardo, the Santería priest, figured prominently in *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, a 1993 dispute over whether to allow South Florida's Santería practitioners to kill animals for ritual purposes. (The court ruled that the city's effort to create an ordinance banning only ritual killings was unconstitutional.)

That chat in Grendel's Den ultimately resulted in *Holy Hullabaloo: A Road Trip to the Battlegrounds of the Church/State Wars*, published in June by Beacon Press. Part travelogue, part legal analysis, the book is Wexler's account of a 2007 road trip to eight sites around the country where religion and law have collided and the Supreme Court has intervened. Wexler, who has a master's in religious studies from the University of Chicago Divinity School and clerked for Supreme Court Justice Ruth Bader Ginsburg, says he hoped to get a firsthand look at the disputes he's taught in the classroom, all of which have emerged from the religion clause of the First Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” As he points out in *Holy Hullabaloo*, it's a short sentence that has probably caused more controversy than any other in American history.

“The main issues are, first, when can a minority religious group with a unique practice or belief get out of a general law?” Wexler explains. “The other issue is how much can the state support religions? Can the state put up a monument of the Ten Commandments or a crèche at Christmas? Can it teach religious ideas in a classroom, like creation science? Can there be government-sponsored religious exercise, like prayer at high school football games?”

Six months and thousands of miles later, Wexler's views about keeping church and state separate — and whether the Supreme Court has ruled correctly — had changed only a little.



Jay Wexler spent six months traveling around the country to meet the people involved in the Supreme Court's most contentious church-state cases.

But his beliefs about the need for an ongoing (and if possible, lighthearted) dialogue about religion and law were stronger than ever. He spoke to *Bostonia* about why drawing the line between the two causes such a ruckus.

BOSTONIA: The Supreme Court cases on church-state boundaries often are over public education. Why does that issue incite people?

WEXLER: The schools are where we get to say what we believe in and what we want our children to learn, so it

makes for a really fertile battleground. We have this ideal of public education, and that's where we instill values in our kids — but inevitably, those values will conflict with someone else's values. And then there's a battle over who gets to instill what values, and is there an exit from the system, and if so, who's going to pay for it.

But you don't think it's possible for government to take a totally neutral position on religion in education?

People have this idea that schools should be neutral to religion, but the fact is that people believe all sorts of things, so it's impossible for the government, which takes all sorts of value positions, to be neutral and respect all of those beliefs. Teaching about evolution is not neutral to people whose

religious beliefs tell them evolution did not occur. If they believe that the world was created in seven days and that people were created in the form they're in today, teaching them about evolution is contrary to their beliefs. There's no way around it.

You visited the sites having a clear perspective on whether the Supreme Court decisions were right or wrong. Did anything change?

My view on Kiryas Joel [a village in Orange County, New York, founded by Orthodox Jews of the Satmar Hasidic sect]. I'd always imagined it was a place with a lot of Satmar Hasidic Jews and a small population of people who were not Satmar, so I always thought the arrangement to let the village operate its own school district was problematic, because it gave the Satmars political power over people in the community who were not Satmars. Now I don't think that's the case at all — it's a completely homogeneous, completely unique place. When I teach it now, I don't make the suggestion that the court was wrong.

Did making the trips and meeting these people affect your teaching in other ways?

To hang out with the Amish in Wisconsin and the Santería church in Florida makes it come to life. Now, when I teach the cases, I have these people in my head — I'm teaching the Yoder case, and I'm imagining the guy I met in Missouri who tried to convert me. And rarely am I ever in a living room where there's a machete out and a Santería ritual going on in the back room. I don't know if my students care or not, but for me, it's impossible to think about the cases without thinking about that.

What did you learn that might surprise the general public?

People definitely don't know that the Senate starts off with a prayer every day, and there's a Senate chaplain who leads Bible studies that the senators go to. The chaplain's a great guy, and his prayers are really nice — I just don't think they should be in the Senate.

And the guy in Texas who sued to have the Ten Commandments monument removed from the capital grounds in Austin — I'm sure some people think anyone who sues over the Commandments thinks all religion's terrible, but that's not what this guy thought at all. He really struggled over whether to bring the suit. He just thought it wasn't appropriate for the government to be endorsing this one religious belief.

Religion can be a touchy topic — do you expect the book to upset people?

My guess is religious people will think that I'm too critical of religion, and atheists and separationists will think I'm too kind to religion. But I'm trying to suggest that it's possible to talk about these issues without getting too angry, that we can talk about them like we talk about anything else, and hopefully with a sense of humor. ■

WEBEXTRA
Through July, LAW's Jay Wexler will answer questions about church-state controversies at www.bu.edu/bostonia.