The New Christian Right and the Death of Secularism as Neutrality in the United States

Over recent years religious conservatives in the United States have fervently contested the idea of a liberal, secular public sphere. This article urges scholars to consider that contest in light of the history of the New Christian Right (NCR) of the late 1970s and 1980s. NCR activists, intellectuals, lawyers, and government officials advanced a critique of Rawlsian political liberalism, one charging that public institutions were not the bastions of neutrality supposed by American liberals. Contrary to the U.S. Constitution’s ban on an establishment of religion, this critique alleged, cultural elites and judges had lifted the “religion” of secular humanism up to a preferred status while attempting to purge the public sphere of Christianity. Focusing on a pair of federal court cases from the 1980s, this article considers one of the NCR’s most fascinating strategies—defining as a “religion” the very secularism meant to contain religion to private life.

In the United States, over the past few years, activists have waged celebrated efforts to Christianize the public sphere. The chief justice of the Alabama Supreme Court hauled a huge granite monument of the Ten Commandments into the courthouse during the night and refused to remove it; Congress noisily championed the cause of parents trying to prevent the removal of a life-support system from their brain-dead adult daughter; a local school board mandated that “intelligent design” be taught alongside scientific explanations of the world’s origins; a right-wing president nominated to the U.S. Supreme Court a candidate whose only apparent qualification was that she was an evangelical.1

These pressures have been building for about thirty years. Beginning in the late 1970s, the New Christian Right (NCR) began trying to reform American political culture, which it considered to be infested with licentious art, depraved sexual expression, and decadent public education. NCR activism was motivated largely by the belief that, in trying to maintain a religiously-neutral public landscape, the American government injured Christians, who, even in public life, were obliged to act always as Christians. This paper looks at the NCR’s critique of public-sphere secularism, which Reagan-era reli-
religious conservatives denounced as a “religion” of sorts—one that was alien to and intolerant of biblical Christianity.  

Nothing drew the ire of American religious conservative like the U.S. Supreme Court. In the decades after WWII, for the first time, the Court had applied the U.S. Constitution’s ban on religious establishment directly to the individual states and ordered them to stop conducting religious exercises in their public schools. That directive gradually convinced the Christian Right that liberal values had displaced Christian morality in the classroom. In the 1970s and 1980s parents of public-school students tried to shield their children from the corrosive effects of “humanism” and even tried to stop local schools from promoting an allegedly anti-Christian worldview in the classroom. Evangelical attorneys, for the first time, pursued specifically Christian cause lawyering. Activists throughout the U.S.—but especially in the South and West—pressured textbook publishers to balance modern “humanistic” perspectives with Christian ones. And, while conservative senators attempted to strip the federal courts of jurisdiction over school prayer and abortion, the New Christian Right’s biggest hero—Ronald Reagan—vowed to win passage of a constitutional amendment legalizing school prayer.

During these same years conservative writers openly complained that American society’s liberal norms had ostracized and marginalized Christians embracing traditional moral views. In The Culture of Disbelief, Stephen L. Carter famously charged that liberal laws and social prescriptions trivialized religion in general and treated it as something of which people ought to feel ashamed. Carter condemned liberal political and constitutional theorists for urging that religiously-justified positions be barred from public institutions. When religious citizens are prohibited from acting publicly on the basis of religious reasons, he asserted, society ceased to be inclusive. The law ceased to be fair. When government demanded that public institutions maintain religious neutrality, it not only tread over the rights of religious citizens but also deprived society of the moral multivocality to which it otherwise enjoyed access. “What is needed is not a requirement that the religiously devout choose a form of dialogue that liberalism accepts, but that liberalism develop a politics that accepts whatever form of dialogue a member of the public offers. Epistemic diversity, like diversity of other kinds, should be cherished, not ignored, and certainly not abolished. What is needed, then, is a willingness to listen, not because the speaker has the right voice but because the speaker has the right to speak (229-30; italics in original).”

Writers, such as Carter, who articulated the NCR’s critique of American liberalism subtly wove together two distinct charges into a coherent critique. While accusing liberalism of trivializing and marginalizing Christians (or conservative Christians, who seemed to count most as “Christians”), those writers also condemned liberalism for its moral bankruptcy. Liberalism, it would appear, harmed “Christians” both because it imposed its own distinct moral worldview onto an entire society and because that worldview lacked moral content. NCR scholars argued that behind the liberal policies of the Supreme Court and the liberal curricula and methods of the public schools lay an ideology—a political and moral orientation toward the world so coherent that it could be accurately categorized only as a religion. Its opponents alternately referred to this religion as “humanism” and “secular humanism.” In the rhetoric of the NCR, the religion of secular humanism became the scourge of all devoted Christians who sought merely to raise children and to live lives according to their own preferred religious values. Secular humanism signified, all at once, the absence of religious value and the presence of an alien, anti-Christian religion that silenced all competitors. Its NCR critics characterized humanism as thoroughly “secular” and fundamentally “religious.”

To be sure, this conception of humanism as a secular religion had circulated since at least the 1960s. In a footnote to Torcaso v. Watkins (1961) the U.S. Supreme Court plainly referred to secular humanism as a religion. In his dissent in Abington v. Schempp (1963), Justice Potter Stewart insisted that “a refusal to permit religious exercises” in the classroom should be “seen, not as the realization of state neutrality, but rather as the establishment of a religion of secularism.” The influential social critic Rousas John Rushdoony complained in
the early Sixties that American public schools served as organs of an Enlightenment-based, humanistic religion incompatible with biblical Christianity. Rushdoony urged followers to reassert the dominance of Christianity over the human-centered religion that had been established by the federal government and the public schools that functioned as its church. In the early Eighties a cadre of writers published works that would develop and popularize those ideas. Especially prominent were Tim LaHaye’s *Battle for the Mind*, Francis A. Schaeffer’s *A Christian Manifesto*, John W. Whitehead’s *The Second American Revolution*, and James Hitchcock’s *What Is Secular Humanism?* With these and other works the NCR grounded, in its own indigenous literature, a concept of religion operating through a Christian/humanist dichotomy.11

The emergence of this literature affected more than the world of ideas. Its impact was practical, affecting even the United States government. In 1978, Rushdoony wrote an essay charging the U.S. with violating its own ban against religious establishment by establishing the religion of secular humanism. This essay stirred Rushdoony’s protégé, attorney John W. Whitehead, who would later, with Rushdoony’s assistance, create the Rutherford Institute, the nation’s most important provider of legal services for conservative evangelical causes. Soon after Rushdoony’s piece appeared, Whitehead published a law-review article, “The Establishment of the Religion of Secular Humanism and Its First Amendment Implications.” Whitehead’s piece resonated widely in NCR intellectual circles, just as his legal brief submitted in *Widmar v. Vincent* (1981) helped persuade the Court to reverse thirty-five years of interpreting the First Amendment’s establishment clause as demanding secularization of the public sphere through an impenetrable “wall of separation” to keep religion out of public institutions. Beginning with *Widmar*, the Court embraced an alternative interpretation of the establishment clause, one requiring that religious citizens and institutions be guaranteed “equal access” to state-run facilities and programs. That is, public institutions could no longer discriminate against religious speech or practice; to accommodate secular organizations but not religious organizations was possibly to violate the Establishment Clause. From this time forward, the Court has balanced its earlier secularization standard with its more recent equal-access standard. The logic driving Whitehead’s article and legal brief gained tremendous traction within legal, academic, and government circles.12

The affects of *Widmar*—and the writings of Rushdoony, Whitehead, LaHaye, and Schaeffer—can be traced throughout U.S. politics and culture during the upcoming years. Prominent right-wing organizations, such as the Moral Majority, Concerned Women for America, and the Christian Coalition, would energetically defend religious citizens’ equal access to public goods and services. Likewise, they would continue to deny that secular norms secured a religiously-neutral environment. Secularism-as-neutrality, they insisted, discriminated against religious speech and exercise. Employing this rationale, the U.S. Congress passed the 1984 Equal Access Act, which required public high schools to extend to religious extracurricular groups the same access to school facilities that it granted to groups whose purpose was not explicitly religious. Six years later, in *Board v. Mergens*, the Court confirmed “that the Equal Access Act does not on its face contravene the Establishment Clause.” Reiterating its *Widmar* ruling, the Court insisted that “Congress’ avowed purpose—to prevent discrimination against religious and other types of speech—is undeniably secular.” For a school to accommodate its “Christian Club” as completely as it accommodated all other extracurricular groups was to execute a fully proper, secular policy.13

Church-state separation would be refuted most eloquently by an upcoming generation of theorists who attacked not only the Court’s secularism-as-neutrality doctrine but its underlying liberal theory as epitomized by the work of John Rawls. Since the late 1980s those scholars have reworked the NCR position, rendering it more subtle and reasonable by trying to ensure that the U.S. be, not a Christian state, but a pluralistic state accommodating its ideologically diverse citizenry. Secularism-as-neutrality continues to withstand attack as a ruse obscuring the suppression by liberals of religious citizens’ constitutional rights. Christian conservatives urge government
instead to assume a “genuine” neutrality that would neither silence nor support religion, and that would no more endorse secular humanist values than theistic ones.\textsuperscript{14}

As political liberalism withstands assault, the church-state separation that it supports continues to erode. This erosion can best be grasped in its historical context. The New Christian Right of the 1980s disrupted American political, cultural, and constitutional history. Prior to the NCR’s emergence secularism was widely regarded as neutral, fair, and inclusive—the only ethos wholly suitable to the public sphere. Prior to the NCR’s emergence, few Americans ever talked of “secular humanism.” Virtually no one suggested that it might constitute a religion. Today, these notions are commonplace among conservative-s-. Only by examining the religious-conservative activism of the Reagan era can we fathom the trajectory and implications of today’s “culture wars.” A brief look at one such moment is instructive.

Early in 1982, Ishmael Jaffree bristled upon discovering that his three young public-school children took part in daily recitation of prayers in their Mobile, Alabama, classrooms. This riled Jaffree, a transplant from Cleveland, Ohio. Jaffree had rejected the fervent Christianity of his upbringing and, as a college student and then law student, had embraced a free-thinking agnosticism toward religion. Learning of his children’s “indoctrination,” Jaffree repeatedly asked his children’s teachers, their principals, and the superintendent of schools to cease the prayers. Not only were his attempts to no avail; they incited staunch local resistance. The Mobile County school board elected to defend its teachers’ rights to free religious exercise against Jaffree’s lawsuit, filed in May 1982. In response Gov. Fob James won passage of a law sanctioning classroom prayer and promptly got named as a co-defendant in the suit. The judge, Brevard Hand of Mobile, shared McClellan’s conviction that decades of liberal judicial activism had butchered the U.S. Constitution and endangered American democracy. Hand was easily persuaded by McClellan’s arguments about the First Amendment and about the role of judges, who, McClellan insisted, were bound to uphold, not Supreme Court precedent, but only the Constitution’s precise text and the history of its adoption. Hand’s ruling brazenly announced that “this Court’s independent review of the relevant historical documents and its reading of the scholarly analysis convinces it that the United States Supreme Court has erred in its reading of history.” Basing his decision largely on McClellan’s testimony and writings, Hand determined that the actions of neither the state of Alabama nor its schools were constrained by the U.S. Bill of Rights. Accordingly, Hand dismissed Jaffree’s complaint.\textsuperscript{16}

The Jaffree trial demonstrated much that was distinctive about the NCR. Defense lawyers boldly argued that, notwithstanding forty years of U.S. case law, the First Amendment’s proscription against an establishment of religion did not apply to the individual states. The defense made this argument through an expert witness, James McClellan, an advisor to several U.S. senators and a prominent conservative constitutional scholar and legal activist. The judge, Brevard Hand of Mobile, shared McClellan’s conviction that decades of liberal judicial activism had butchered the U.S. Constitution and endangered American democracy. Hand was easily persuaded by McClellan’s arguments about the First Amendment and about the role of judges, who, McClellan insisted, were bound to uphold, not Supreme Court precedent, but only the Constitution’s precise text and the history of its adoption. Hand’s ruling brazenly announced that “this Court’s independent review of the relevant historical documents and its reading of the scholarly analysis convinces it that the United States Supreme Court has erred in its reading of history.” Basing his decision largely on McClellan’s testimony and writings, Hand determined that the actions of neither the state of Alabama nor its schools were constrained by the U.S. Bill of Rights. Accordingly, Hand dismissed Jaffree’s complaint.\textsuperscript{17}

The judge promised that, in the likely event of his reversal on appeal, “this Court will look again at the record in this case and reach conclusions which it is not now forced to reach.” What “conclusions” did he foresee reaching? The arguments of the intervenors had persuaded Hand. Those argu-
ments did not play a primary role in his Jaffree decision: Since he ruled the Establishment Clause inapplicable to the individual states, there was no immediate need to determine whether it had been properly applied in this case—whether, as the intervenors argued, the Establishment Clause actually protected Christianity’s place in the classroom. Should he eventually be forced to render that determination, Hand warned, he would return to the intervenors’ claims, claims that he looked favorably on.

Throughout the trial the intervenors had asserted that the real victims of religious discrimination by the Alabama public schools were not the Jaffree children. Christian students were the real victims, the intervenors contended. Religion did per- vade the textbooks and curricula, to be sure, but it was the religion of secular humanism—and not Christianity—that was pervasive. Testifying for the intervenors was R. J. Rushdoony, who betrayed none of his theocratic extremism. On the witness stand Rushdoony spoke as a religious pluralist wishing merely to see Christianity provided equal treatment with humanism. Rushdoony spun the usual Establishment Clause argument around: The government, through its schools, had established the religion of humanism and had denied Christians their religious liberty. Controlled by humanists, the government had tread over the pluralism that once made America great. The government granted religious freedom to humanists but not to others. “If there were freedom for a variety of groups,” Rushdoony maintained, “there would be more understanding and a greater ability to live together in appreciation of what each group contributes to a pluralistic society.” In a society such as ours, schoolteachers needed to act “as fairly as possible,” to accord “respect for varying positions,” to nurture “a free market of ideas.”

So it went with the intervenors’ several expert witnesses, including the well-known televangelist James Kennedy. Each argued that school prayer should be permitted, not because an establishment of Christianity was desirable or permissible, but because the current establishment of humanism could most easily be countered by opening the classroom up to competing religious influences. The “free market of ideas,” the intervenors hoped, might effectively disestablish humanism. These arguments impressed Judge Hand, whose opinion noted “that the curriculum in the public schools of Mobile County is rife with efforts at teaching or encouraging secular humanism—all without opposition from any other ethic—to such an extent that it becomes a brainwashing effort.” If he was prohibited from opening up the classroom to competing religious influences, then he would be forced to consider alternative means of disestablishing humanism. Hand promised that, “if this Court is compelled to purge [prayer] from the classroom, then this Court must also purge from the classroom those things that serve to teach that salvation is through one’s self rather than through a deity.” If the higher courts would not let Christianity in, then Judge Hand would see to it that humanism were forced out.

The higher courts, indeed, would not let Christianity in. The Eleventh Circuit Court of Appeals reversed the judge’s decision and rebuked his disregard for Supreme Court precedent. It pointed out that the Supreme Court has unambiguously determined that the Establishment Clause attaches to the states and prohibits its administrators and teachers from authorizing prayer. Although the Supreme Court may choose to revisit and even amend its own past decisions, no district court judge may challenge high Court case law. Several months later, the Supreme Court affirmed, without a hearing, most parts of the Circuit Court’s holding. It did agree to hear arguments on a single element of the case—an Alabama statute that authorized “voluntary” silent prayer—but even that did not pass constitutional muster, the Court ruled in a 6-3 decision in June 1985.

The intervenors, Judge Hand, and the state of Alabama could gain solace only from Justice Rehnquist’s dissent, which questioned the constitutionality of strict separation between church and state. “The Establishment Clause did not require government neutrality between religion and irreligion,” Rehnquist held, insisting that “there is simply no historical foundation for the proposition that the Framers intended to build the ‘wall of separation’ that was constitutionalized in [the] Everson [case of 1947].” When the case ended up back
in Hand’s courtroom and the judge was forced to implement the proscriptions implied by the Establishment Clause, he had a new “Supreme Court precedent” from which to draw—one that did not construe those proscriptions as prohibitions against all religious expression in public schools.25

In August 1985 Brevard Hand realigned the Jaffree parties. The erstwhile defendant-intervenors now became plaintiffs, and, like the plaintiffs in the prior case, they complained that religion had been routinely, systematically advanced in Mobile County classrooms, in violation of the Establishment Clause. Unlike Ishmael Jaffree, the new plaintiffs charged the schools with promoting the religion of secular humanism. Of the three parties named as defendants, two—the Mobile County Board of School Commissioners and the governor of Alabama—admitted to the plaintiffs’ charges and agreed to cease promoting secular humanism within public schools. Only the Alabama Board of Education chose to go to trial and defend itself. Its legal expenses were paid by the American Civil Liberties Union and the People for the American Way, while most of the plaintiffs’ expenses were covered by Rev. Pat Robertson’s National Legal Foundation. So began the saga’s second round, Smith v. Board, which commenced in Hand’s courtroom on October 6, 1986.24

Once again, the conservative evangelicals (now plaintiffs) provided most of the expert witnesses. Once again, their witnesses argued at great length that secular humanism was a religion; that its values derived from anthropocentrism and thus conflicted with Judeo-Christian values; that it permeated the textbooks and curricula employed in Mobile schools; and that its ubiquity in public education, combined with the near absence of theism, created an establishment of religion. Theologians, psychologists, sociologists, philosophers, and historians lined up to testify to what they considered a grave injustice against millions of religious Americans unable to express their religious beliefs alongside their humanist fellows. Several of these witnesses noted that they had defined “religion” functionally rather than substantively, precluding any requirements of sacredness or supernaturalism.25 As sociologist James Davison Hunter explained, “the functional approach defines religion according to what it does. . . . For the individual, religion provides a sense of meaning, a sense of order, a sense of place in life and in the cosmos, a sense of direction and meaning in life. It also provides moral coordinates by which individuals can live everyday life, a means by which they can know right from wrong, correct from incorrect, appropriate from inappropriate, and so on.”26

The plaintiffs’ expert witnesses insisted that humanism so completely encompassed its adherents that it could only be considered a religion, one whose “core notion,” in the words of witness James Hitchcock, was “the central importance of man in the scheme of reality, and that man’s dignity, man’s self-fulfillment, and man’s power are all dependent upon . . . the exclusion of meaningful belief in God.” Ethicist Richard Baer reported that all of the textbooks he examined for the trial “reflect[ed] a position that value judgments are all subjective, relative, and irrational.” Parents wanting their children to accept God’s absolute moral law would thus be countered by textbooks and teachers preaching moral relativism. And, tragically, this moral relativism had been allowed to avoid censure as a religion and so operated with impunity in America’s public schools.27

Not surprisingly, Judge Hand ruled in the plaintiffs’ favor. Forced now to hold the Establishment Clause against Alabama schools, he interpreted it to prohibit any single religion from dominating the classroom, to require that an even-handed, pluralistic environment be maintained. For the sake of religious neutrality, Hand claimed, he had to treat all moral ideologies equally. To privilege secularism was to condone establishment. “The promotion and advancement of a religious system occurs when one faith-theory is taught to the exclusion of others, and this is prohibited by the first amendment religion clauses. . . . For purposes of the first amendment, secular humanism is a religious belief system, entitled to the protections of, and subject to the prohibitions of, the religion clauses.”28

Accordingly, Hand ruled that the forty-four textbooks examined during the trial be removed from use in the Mobile school system. Strewn throughout with humanistic values, their continued use would violate the U.S. Constitution.29
Once again, Hand was overturned on appeal.30 His equality-between-ideologies argument stood up in the higher courts no better than had his states’ rights argument. Nonetheless, Hand’s Jaffree and Smith rulings, along with the testimony of several well-prepared scholars, bequeathed to religious conservatives a compelling understanding of worldview, neutrality, and religious establishment. These cases tell us much about the decline of post-WWII liberalism in the U.S. By defining “religion” functionally, Hand and the witnesses before him suggested that, in upcoming decades, the idea of religious neutrality might fall on hard times.31 Jaffree and Smith remind scholars from across all disciplines that the history of the New Christian Right in the U.S.—a history just now starting to be written—enriches immeasurably our understanding of current-day religious fundamentalism and its threat to Enlightenment rationalism.

These events challenge historians to adopt new analytical concepts. By claiming “worldview” as a locus of injustice, religious conservatives in the U.S. emphasized its importance as a source of identity. To understand these actors, historians of Reagan-era America will need to supplement their standard tools of analysis—race, class, gender, and sexuality—with “worldview” or “moral ideology.” Historians would do well to borrow the conceptual lenses of James Davison Hunter and of linguist George Lakoff, who states plainly that “contemporary American politics is about worldview.” Historians might also heed cultural theorist Timothy Brennan, who points out that “communities of political belief are themselves forms of identity” and “possess their own proper cultures.”32 Histories of the NCR will likewise gain much from works in political theory that trace connections between citizens’ comprehensive moral doctrines and the larger processes of political compromise.33 Identity politics may dominate post-Sixties society, but identity politics undoubtedly has acquired a religious dimension—an ideological dimension. To a great extent the NCR gained for “Christianity” a political currency not unlike “color” or “queerness.” This, beyond all else, is the legacy of Reagan-era religious conservatism. Only by reckoning with its proponents in their own terms—rather than dismissing their behavior as conditioned by “mere ideology,” the product of “false consciousness”—will historians produce the rich, nuanced history of the New Christian Right that surely awaits them.
Notes:


9. Ibid., 229-30; emphasis in original text.


22 Jaffree v. Board, 1129n41.


24 Wallace v. Jaffree, 106.


29 Smith v. Board, 982.

30 Ibid., 988.

31 Board of School Commissioners of Mobile County v. Smith et al., 827 F2d 684 (1987).
