Religion, Race, and the American Constitutional Order

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> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights . . .
>
> --The Declaration of Independence

There is little controversy among scholars of American religion that the role of religion in American society has changed dramatically since the Civil War, even if the nature of that change is subject to debate. The fact of change, however, has only more recently been theorized in the context of the relationship of religion to America's public institutions. But by the beginning of the twentieth century, as conservative Protestantism was losing its monopoly on the production and maintenance of the symbols and rhetoric of public authority, the federal religio-political complex, or what I have called elsewhere the American constitutional order--that is, the rites, rules, myths, and rituals of authority and transcendence posited in the federal government--began to eclipse it (Handy 1984; Mazur 1999). As a result, the central tenets of the religio-political order had to be reconceptualized.

One of the by-products of this transformation has been a parallel one in conceptions of race. As Protestantism was replaced by a state-centered ideology as the public source of symbolic meaning construction and maintenance, the state benefited from a radical individualism that effectively eliminated competition and left it virtually unchecked as a source of authority in American culture. Group-based constructions of identity, including race no less than religion, gave way to this radical individualism, the logical conclusion of a Protestant dominant culture

but also a necessity of the state's authority in the U.S. American constitutional order. Writes historian of American religion Mark Noll (2008, 2), “rather than any specific configuration of race and religion, it has been the general interweaving of race and religion, along with a discernibly religious mode of public argument, that have pervaded the nation's political history.” As the "discernibly religious mode of public argument" has itself been transformed, so too has the way religion and race have been understood and themselves been communicated.

The proper analysis of this transformation, therefore, should take into account religion and race, examining their shared relationship to the constitutional order rather than as separate factors of change in American public culture. Notes Evelyn Simien (2007, 266) about studies of race and gender, these factors "cannot be reduced to individual attributes to be measured and assessed for their separate contributions in explaining political outcomes," and indeed, people are not, in her terms, "either black/white or male/female" (emphasis in the original). Rather, people are a blend of many characteristics, and these categories are so intimately integrated that no one cannot be fully appreciated without taking into account the others (Hancock 2007a, 2007b). In this essay I explore the relationship between religion and race in the U.S. American constitutional order by using some of the tools of "intersectionality," an approach that, as Simien (2007, 69) has written, "expects that such identity categories as race, class, and gender"--and, in our case, religion--"fuse to create distinct opportunities," providing us with "an avenue for investigating complex inequalities in the United States." By examining the Supreme Court's evolution as an institution of national ideology, its changing understanding of religion, and changes in the way it understood--or at least articulated an understanding about--race, we should be better able to understand how coincidental these trajectories have been. Following these changes through some of the Court's rulings on public education--particularly where they involve

race or religion, or both--will provide us with a window onto one of the most powerful instruments of government indoctrination since the second half of the nineteenth century. The rise of public education as a foundational institution in American society coincides not only with the expansion of religious diversity but also with the United States' confrontation with questions of race and the ascension of the American constitutional order. In the public arena, the intersection of religion and race has been one of the defining debates of the American constitutional order. In its decisions related to public education, we may better come to understand how the Supreme Court has negotiated that intersection.

American Religion as an Engine of Supreme Court Dynamism?

Political scientists and historians have long posited stages of institutional development with regard to the federal government. Robert McCloskey's (1960) analysis outlined three stages: the first (roughly from the nation's founding to the Civil War) was characterized by a preoccupation with federalism; the second stage (roughly from Dred Scott v. Sanford [60 U.S. 393 (1857)] through Lochner v. New York [198 U.S. 45 (1905)] to the presidency of Franklin D. Roosevelt) was preoccupied with individual economic rights; and the third stage (roughly from Gitlow v. New York [268 U.S. 652 (1925)] through the civil rights era) was preoccupied with civil rights and individual liberties. Karen Orren and Stephen Skowronek (2004, 143-55) apply categories from American political development to church-state relations, outlining three distinct orders: the religion order, the free exercise order, and (between the two) the order of political parties. However, these orders seem static--"an arrangement of coexisting or 'multiple' orders"--rather than dynamic stages of development that take into account institutional or cultural change. Mark

Noll (2008, 64) examines changes in the foundational support for the U.S. government--particularly related to religion and race--but does not relate these changes to the public institutions (like the Court) integral in the connections between the three factors.[1] My own work has sought to track this relationship, using Supreme Court litigation involving Native Americans, Mormons, and Jehovah's Witnesses as case studies (Mazur 1996, 1997, 1999, 2001, 2002b**.** This order was founded in a relatively homogeneous religious environment in which it was impossible to conceive of government, citizenship, and ethics apart from religion--specifically, Protestantism. Eventually, however, the order evolved separately from the Protestant dominant culture, with interests separate from (and at times opposite to) that culture.

Expressed particularly in the writings of Justice Joseph Story (on the Court from 1811 until his death in 1845), phase one expressed conceptions of federalism from an entirely Protestant point of view, that is, through the doctrine of faith versus works (Hammond, Machacek, and Mazur 2004, 58-60; "Freedom, Religious," forthcoming). Any citizen, regardless of his beliefs or the limits placed on him by any state constitution, could (in theory) participate in the federal government as long as he behaved properly: like a good Christian. Article 16 of the Virginia Declaration of Rights (ratified on June 12, 1776), for example, provided for the free exercise of religious beliefs, but also noted that it was "the mutual duty of all to practice Christian forbearance, love, and charity towards each other." Religious beliefs were protected by the federal Constitution; actions were regulated by the state. As Thomas Jefferson wrote in the Virginia Statute for Religious Freedom (ratified January 16, 1786): "Almighty God hath created the mind free"; but "it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order." "Peace and good order" were determined in the political arena, and therefore reflected a

distinctly Protestant sensibility. This American worldview placed significant control of people's actions in the hands of the state government, with the federal government and the authority of the American constitutional order serving as the guarantor of its citizens' various beliefs. Justice Story and others created a jurisprudence of religious liberty that protected every citizen's right to believe what he wanted, while preserving for the state the authority to moderate behavior. This left social order and police powers, as well as limits on political participation, to the states, but made the federal government the supreme guarantor of individual citizens' rights of conscience (Wilson 1990). It was the federal government (Article VI of the U.S. Constitution), and not the states, that prohibited religious tests for participation; a good number of the colonies-turned-states maintained political limitations on members of various religious communities for decades after the ratification of the Constitution.[2] The model Supreme Court decision reflective of this demeanor was authored by Justice Story in Vidal v. Girard's Executors (43 U.S. [2 Howard] 127 [1844]), a Pennsylvania probate case involving a will stipulating that part of a bequest be used to teach religion but prohibiting the use of clergy. Challenging this provision as anti-Christian, the descendants sought to invalidate the will. Justice Story, writing for the Court, noted that whereas "Christianity is part of the common law" of Pennsylvania, one need not be a member of the clergy to teach religion. The very Protestant tenet of the "priesthood of all believers" triumphed, and the challenge to the will failed (Hammond, Machacek, and Mazur 2004, 45-83).

In the second half of the nineteenth century, the Court transitioned from Protestant nationalism to (less specifically Protestant) Republican Protestantism. By this time, the conservative Protestant dominant culture's monopoly in American society was loosening, and an increasing level of diversity was having a noticeable impact on American public culture (Handy 1984, 1991). A marked increase in the public participation of Catholics and, to a lesser extent,

Jews, and new forms of Protestantism, including Mormons, Seventh-day Adventists, Jehovah's Witnesses, Christian Scientists, and Spiritualists, as well as fundamentalist, modernist, Pentecostal, and evangelical Protestant camps, threatened the façade of a public cultural monopoly once enjoyed by the largely Congregationalist (northern) and Episcopalian (southern) Protestant dominant culture (Hatch 1989). Coupled with a diminished post<n>Civil War need for the federal government to placate state concerns over issues like religion, this meant that a close connection between citizenship and Protestantism could no longer be assumed. The Union victory in the Civil War meant that the federal government no longer needed the states to affirm its authority, liberating it from nongovernmental systems, institutions, or ideologies--including the Protestant Christianity that had been established de facto if not de jure by the states--for its continued well-being. If relied on at all, the order was more likely to use the symbols and rhetoric of Protestant Christianity (in a more generally applicable form) to justify its actions after the fact (Handy 1991).

Not coincidentally, this second phase saw an increase in Supreme Court activity involving religion and religious institutions, representing an initial distancing of the government from its specifically Protestant foundation.[3] Although there were a number of pragmatic decisions involving religious individuals and institutions in conflicts over taxes, property ownership, and the like,[4] most often during this phase the Court adjudicated matters involving challenges to the government's corporate (i.e., collective yet hierarchical) authority to decide religion-related matters, and regularly affirmed the federal government's supremacy within the collective.[5] A good example of this developing theological self-confidence can be found in United States v. Macintosh (283 U.S. 605 [1931]), a case involving a Canadian Baptist whose application for American citizenship was rejected because he had refused--on religious grounds--

to promise to take up arms in defense of the nation if ever called upon to do so. Wrote Justice George Sutherland:

> We are a Christian people, according to one another the equal right of religious freedom, and acknowledging with reverence the duty of obedience to the will of God. But, also, we are a nation with the duty to survive; a nation whose Constitution contemplates war as well as peace; whose government must go forward upon the assumption, and safely can proceed upon no other, that unqualified allegiance to the nation and submission and obedience to the laws of the land, as well those made for war as those made for peace, are not inconsistent with the will of God. (1931, 625; internal references deleted; emphasis added)

For Justice Southerland and a majority of the Court, the will of the nation and the will of God were in complete agreement, religious sensibilities (including mainstream Protestant sensibilities like those of the Canadian Baptist) to the contrary notwithstanding.

By the beginning of World War II, conditions that had been present since the beginning of the century began to have a profound impact on how the Court understood religion. In large part because of the expansion of free speech protections, those who argued that their right to religious free exercise was related to an individual liberty right stood a much better chance of getting a sympathetic hearing before the Supreme Court. Jehovah's Witnesses, for example, who had argued unsuccessfully before the Court when they relied entirely on religious liberty grounds, were significantly more successful when they integrated (or relied entirely on) free speech justifications (Mazur 1999, 28-61; Hammond, Machacek, and Mazur 2004, 69-83).

Increasingly through the 1940s, and particularly by the 1960s, this would lead to an expansion in the protection of individual religious liberty, which grew in conjunction with expansions in the protection of other individual rights and liberties. Decisions of this later period represent a nearly complete break from Protestant sensibilities, affirming religious behavior as equally compelling as religious belief (Sherbert v. Verner, 374 U.S. 398 [1963]), and protecting nontheism (Torcaso v. Watkins, 367 U.S. 488 [1961]) and sincerely held nonspecific belief systems that were parallel to traditional religious beliefs (United States v. Seeger, 380 U.S. 163 [1965]). The fracturing of American Protestantism and the relative explosion of religious diversity more completely liberated the constitutional order from the need to protect increasingly heterogeneous Protestant sensibilities. Indeed, by becoming the undisputed arbiter of religious disputes via the First Amendment, the federal government--as definer and guarantor of religious liberty within the constitutional order--achieved authority over the divine.

The transformation of the Court's relationship to religion (from "Protestant nationalist" to "Republican Protestant" to "constitutional order") reflected the state's growing ideological independence; as it became more self-confident, it exercised its own theology of justification. Although remnants of the Protestant dominant culture could still be found in the underpinnings of the order, increasingly from the latter part of the nineteenth century and most forcefully by World War II the constitutional order had its own transcendent referent--itself. By the end of World War II, Protestant Christianity was still a significant part of American culture, but not the only part, and the independent authority of the American constitutional order--resting on an ideology of radical individualism--enabled the federal government to better incorporate those beyond the European American Protestant dominant culture--such as African Americans--who

were either moving to the United States in greater numbers or had been here and were just coming into their own politically.

American Protestantism as the Engine of Racial Dynamism?

In American history there has always been a close relationship between conceptions of religion (particularly Protestantism) and constructions of race. As Craig Prentiss (2003, 2) puts it, "any account of the social construction of race and ethnicity [would] be incomplete if it fail[ed] to consider the influence of religious traditions and narratives," and as Matthew Jacobson (1998, 4) puts it more directly, "Caucasians are made and not born." When the American constitutional order was synchronized most directly with Protestantism, particularly (but not exclusively) in the Protestant nationalist phase before the Civil War, argues sociologist Daniel Lee (2004, 85), "Many White Americans turned to religion as a source of racial and national unity." Well before, but also after, the Civil War, they used religion to construct the very notion of "whiteness." Racial distinctions were based on Old Testament interpretations, either drawn from the curse of Ham narrative (Genesis 9:22) or offered as an explanation for the two creation narratives in the first chapters of Genesis (see Winchell 1880). Lee (2004, 107) concludes:

> At the end of the Civil War, White Americans found it necessary to distinguish themselves from non-White Americans. Initially, they took it for granted that non-Whites were also non-Christians. . . . Thus, White people could safely divide America into two distinct populations: Christians and non-Christians.

Part of this had to do with the habit of understanding race as equivalent to "stock," or roughly what today might be considered "ethnicity." During the debates over the passage of the Civil Rights Act of 1866, members of Congress referred to Chinese, German, "Gypsie," Jewish, "Latin," Mexican, "Mongolian," Scandinavian, and Spanish--in addition to Anglo-Saxon--"races."[6] In this there is a hint that "race" was representative of religious difference; all of the mentioned "races" were predominantly non-Protestant, with the exception of the Scandinavian and German "races," who would have been primarily Lutheran (and, by implication, were either far enough from mainstream American Protestantism or--more significantly--close enough to Roman Catholicism to be considered "other"). This racialization of religion is also apparent in a landmark 1878 religious liberty decision affirming congressional authority to prohibit the Mormon ritual of plural marriage, in which the Court noted that "Polygamy has always been odious among the northern and western nations of Europe"--that is, white Protestants--"and, until the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and of African people"--that is, the nonwhite, non-Protestants (Reynolds v. U.S., 98 U.S. 145 [1878], 164). Forty-five years later, in United States v. Bhagat Singh Thind (261 U.S. 204 [1923]), the Court denied American citizenship to a resident noncitizen because of an exclusion of "non-Whites" that Congress had written into immigration law (Snow 2004). Common for the period but also reflective of the interchangeability of religion and race, the aggrieved party's religious identity (Sikh, but mistakenly identified throughout the decision as "high-caste Hindu") is used interchangeably with his national, ethnic, and ultimately his racial identity. One contemporary scholar justified the practice, noting that “each race, beside its special moral qualities, seems also to have special religious qualities, which cause it to tend toward some one

kind of religion more than to another kind. These religions are the flower of the race" (Clarke 1875, 16-17; see also Snow 2004, 269).

As late as 1987, the Court affirmed the close connection between religion and race. Ruling in two separate decisions that the concept of race was not limited to the traditional binary categories of black and white, it maintained a definition of "non-White" that included not only peoples of African descent but any peoples who might not have been considered "white" when the early statutes were first debated. In the first of the two decisions (Saint Francis College v. Al-Khazraji, 41 U.S. 604 [1987]), this meant people of a geographically based identity (an Arab man suing an employer for alleged racial discrimination); in the second (Shaare Tefila Congregation v. Cobb, 481 U.S. 615 [1987]), it meant people of a religion-based identity (a Jewish congregation prosecuting vandals for violating their civil rights).[7] Noted the Court (1987, 610-11) in the former decision:

> The understanding of "race" in the 19th century, however, was different. Plainly, all those who might be deemed Caucasian today were not thought to be of the same race at the time [42 U.S. §]1981 became law . . . It was not until the 20th century that dictionaries began referring to the Caucasian, Mongolian, and Negro races, or to race as involving divisions of mankind based upon different physical characteristics.[8]

The conflation of race (and ethnicity) and religion explains how American pluralism begins with the gradual integration of European "nonwhites"--Roman Catholics and Jews--who, though "racially" and ethnically marginal, could still "pass" in "white" (i.e., Protestant) society. From the anti-Catholic outbreaks of the nineteenth and early twentieth century to Senator John F.

Kennedy's victory in 1960, American Roman Catholics moved from margin to mainstream (Mazur 2008).[9] American Jews experienced a similar transition into American public culture, over roughly the same time span (Brodkin 1999). Starting slowly, but culminating just after World War II, the eventual public integration of Roman Catholics and Jews laid the foundation for the later gradual integration into that same society of non-European nonwhites--African Americans ("Americanization" 2008; "Pluralism" 2008), who, by the end of World War II, were slowly beginning to gain wider admission into American public culture. President Harry Truman's Executive Order 9981 to integrate the military--issued on July 26, 1948, but not operationalized until the Korean conflict--was one early step toward the integration of the African American community into the constitutional order.

One religio-racial community that did not seem to benefit from this evolution was the Native American population, but this may have as much to do with timing as anything else (Mazur 1999, 94-121). Considered unreligious, nonreligious, or inappropriately religious by early Spanish, French, and British settlers, Native American religious and political rights would not improve significantly until the end of the twentieth century. The relatively young American constitutional order worked to integrate willing Native Americans in its midst--and segregate the unwilling. The U.S. Constitution treated as citizens Native Americans living individualized, integrated lives among the former colonists, but treated as nonpersons those living on the "reservation"--identifying them as "Indians not taxed" in Article I §2, and "domestic dependent nations"--foreigners within--by the Supreme Court in Cherokee Nation v. Georgia (30 U.S. 1 [1831]). The Civil War, the passage of the Civil Right Act of 1866, and the passage of the post-Civil War Amendments (13, 14, 15) to the Constitution did nothing to change the collective status of Native Americans. By 1871, with responsibility for official interaction transferring from

the Senate to the House of Representatives, Native Americans went from being a foreign threat to being a domestic issue.[10] The General Allotment Act of 1887, also known as the Dawes Act, sought to transfer collective ("tribal") ownership of land to individual Native American landowners, but instead resulted in the wholesale gutting of Native American treaty lands, and finally ended with passage of the Indian Reorganization Act (Wheeler-Howard Act) of 1934. In 1919, U.S. citizenship was finally extended to Native American veterans living on reservations who had served in World War I, and in 1924 the Indian Citizenship Act extended citizenship to all Native Americans born in the United States. Finally, in 1968, the Indian Civil Rights Act extended to Native Americans living on the reservation most of the protections of the Bill of Rights--excluding (among other things) some elements of the Fifteenth Amendment, in recognition of the religio-racial aspect of tribal membership (Mazur 1999, 174n16).

It is because of this history of interaction between Native Americans and the U.S. American constitutional order that religious relations developed the way they did. From the first colonial encounter, Native Americans were seen as a religious threat in need of conversion. From Pope Paul III's 1537 papal encyclical Sublimus Dei, identifying Native Americans as human (and therefore worthy of evangelizing), to the "Peace Policy" of President Ulysses S. Grant (which provided federal funds to religious organizations for pacifying Native Americans on the frontier), Native American religions were subject to the overwhelming power of colonial authorities (Beaver 1962; Handy 1984, 1991). The devastation of the Ghost Dance movement in the late 1870s and the prohibition of the Sun Dance in the 1920s only increased the religious marginalization of Native Americans (Wenger 2009). Not until the 1980s would Native Americans bring a religious liberty case to the Supreme Court, and in all the years since, they have never won there (Bowen v. Roy, 476 U.S. 693 [1986]; Lyng v. Northwest Indian Cemetery

Protective Association, 485 U.S. 439 [1988]; Employment Division, Department of Human Resources of the State of Oregon v. Smith, 485 U.S. 60 [1988]; Employment Division, Department of Human Resources of Oregon v. Smith, 494 U.S. 872 [1990]). Precisely because of the transformation of the American constitutional order at the end of the first half of the twentieth century, Native Americans eventually ceased being a missionary field held captive by the federal government to serve vaguely Protestant designs. Later negotiations with Native American communities--understood more meaningfully as diverse across the religio-cultural spectrum--could thus be engaged to the satisfaction of the order, whether or not those ideals met the expectations of Protestant dominant culture; and while no one should argue that relations between Native Americans and the American constitutional order have become completely normalized, the religious imperative driving European American interaction with Native Americans has significantly diminished as far as the federal government is concerned. Federal legislation such as the American Indian Religious Freedom Act (1978), the Native American Graves Protection and Repatriation Act (1990), and even the Religious Land Use and Institutionalized Persons Act (2000) has sought to provide some relief to Native Americans practicing traditional religions.

The interchangeability of the categories of religion and race has been a two-edged sword; equating them permitted religious exclusions based on the prejudices of race, but required an expansion of racial rights when religio-political ideologies shifted. Fifteen years before the Court's decision in Bhagat Singh Thind, Justice John Marshall Harlan made this point explicit. In Berea College v. Commonwealth of Kentucky (211 U.S. 45 [1908]), a case involving the school's religiously motivated violation of Kentucky's racial segregation statute, Justice Harlan connected the protection of religious freedom with the rights of peoples of all races to participate

in U.S. society. We hear in Justice Harlan's dissent a blending of concerns about religion and race, highlighting now, in an American constitutional order increasingly independent of its roots in Protestant dominant culture, a new theology of how citizenship and participation could cross religio-racial lines.

Noting the commercial right to teach "especially, where the services are rendered for compensation," Justice Harland--who had been the lone dissenting vote in Plessy v. Ferguson (163 U.S. 537 [1896])--also identifies "the capacity to impart instruction to others," which is "given by the Almighty for beneficent purposes" which cannot be restricted by the government "unless such instruction is, in its nature, harmful to the public morals or imperils the public safety." He questions "what would stop Kentucky from separating children of different races in a church's Sabbath school" or "at a communion table in the same Christian church." "In the eye of the law," he argues,

> The right to enjoy one's religious belief, unmolested by any human power, is no more sacred nor more fully or distinctly recognized than is the right to impart and receive instruction not harmful to the public. The denial of either right would be an infringement of the liberty inherent in the freedom secured by the fundamental law. Again, if the views of the highest court of Kentucky be sound, that commonwealth may, without infringing the Constitution of the United States, forbid the association in the same private school of pupils of the Anglo-Saxon and Latin races respectively, or pupils of the Christian and Jewish faiths, respectively. Have we become so inoculated with prejudice of race that an American government, professedly based on the principles of freedom, and charged with the protection of all citizens alike, can make distinctions between such citizens in the

> matter of their voluntary meeting for innocent purposes, simply because of their respective races? (Berea College v. Commonwealth of Kentucky (1908, 67-69 [references omitted])

But of course, Justice Harlan's dissent had no immediately visible impact. At that time, the American constitutional order was unprepared to appreciate fully the concept of individual rights. The Court would remain in a more "corporate" phase until it reinterpreted the Fourteenth Amendment, expanding individual rights beyond the arena of economic interests and into the areas of free speech, freedom of religion, and, ultimately, civil rights (Hammond, Machacek, and Mazur 2004, 69-83). If race and religion were as closely connected as we have asserted, such interpretations would only be possible during the third religio-political phase of the American order's maturation, when transcendent reference was located in the state itself, and not during the first or second phase, when it depended--to varying degrees--on conservative Protestant Christianity as its source for definition.

American Public Education as an Engine of Religious and Racial Dynamism?

Developed within the religious world but transformed into a mechanism of state ideological inculcation, public education is a good place to measure the evolution of the state and the changing role of religion and race in U.S. society. In the earliest (Protestant nationalist) period, the education of America's youth was often located (physically and symbolically) in the Protestant church, and was understood entirely as the way in which good Christians became good citizens, and vice versa.[11] Throughout the first half of the nineteenth century conformity to

this model was enforced, and state courts adjudicated cases involving students (or their parents), who were punished for objecting to the overtly Protestant nature of public education, most often over the reading of the King James (i.e., the Protestant) version of the Bible in school (Michaelsen 1970, esp. chapts. 3 and 4; Way 1987).

However, concomitant with the American constitutional order's decreasing dependence on the Protestant dominant culture in the second half of the nineteenth century, the ideology of public education expanded beyond those (primarily Protestant) institutions supported by religious communities. Public intellectuals such as John Dewey promoted a theory of education that, although intended as a rebuttal to institutional religion, presented parallel truths supportive of many of the ideals that would be sympathetic to the American constitutional order: good citizenship, respect for authority, dedication to community, and the like (Michaelsen 1970, 135-59). Noted Dewey (1972, 87, emphasis added):

> Ours is the responsibility of conserving, transmitting, rectifying and expanding the heritage of values we have received that those who come after us may receive it more solid and secure, more widely accessible and more generously shared than we have received it. Here are all the elements for a religious faith that shall not be confined to sect, class, or race. Such a faith has always been implicitly the common faith of mankind.

Consistent with this, since the beginning of the twentieth century the Supreme Court has dismantled the competition--that is, the Protestant monopoly--over public education. In 1925, the Supreme Court struck down an Oregon law that, by prohibiting private (both religious and secular) education, had granted a de facto monopoly to the Protestant dominant culture in public

education at that time (Pierce v. Society of Sisters, 268 U.S. 510 [1925]). In 1947, seeing no violation of the separation of church and state, the Court approved public reimbursements to parents of children in private (secular and--de facto--primarily Catholic, but not for-profit) schools who had to take public transportation to get to and from school, Justice Jackson's vaguely anti-Catholic dissent notwithstanding (Everson v. Board of Education, 330 U.S. 1 [1947]). The next year, in a decision prohibiting formal religious instruction in public schools, Justice Frankfurter noted that:

> The public school is at once the symbol of our democracy and the most pervasive means for promoting our common destiny. In no activity of the State is it more vital to keep out divisive forces than in its schools, to avoid confusing, not to say fusing, what the Constitution sought to keep strictly apart. (McCollum v. Board of Education, 333 U.S. 203 [1948], 231)

Starting in 1962, the Court more profoundly disestablished religious (primarily Protestant) authority in education--particularly where the state asserted its own authority--by prohibiting school-sponsored prayer (Engel v. Vitale, 370 U.S. 421 [1962]), in-class organized Bible reading (Abington School District v. Schempp, 374 U.S. 203 [1963]), and state prohibitions of the teaching of evolution (Epperson v. Arkansas, 393 U.S. 97 [1968]). In 1972, the Court ruled that Amish parents could withdraw their children from public school--even though they were still young enough to be required by law to attend--in compliance with community religious sensibilities (Wisconsin v. Yoder, 406 U.S. 205 [1972]).[12] By 1980, it would prohibit the public posting of copies of the Ten Commandments (Stone v. Graham, 449

U.S. 39 [1980]). Three years later, in what can be seen as a vindication for Justice Harlan's dissent in the Berea College decision, the Supreme Court ruled that religious liberty was not necessarily a right superior to individual civil rights. The case pitted two conservative Christian schools--both of which used racially restrictive admissions policies--against the Internal Revenue Service in a fight over tax-exempt status and the enforcement of civil rights statutes (Bob Jones University v. United States, 461 U.S. 574 [1983]).[13] Seeming to affirm the independence of the American constitutional order from a Protestant ideological monopoly, the Supreme Court ruled against the schools, noting that while they had the religious right to maintain segregationist policies, they did not have a right to the tax exemptions given by the federal government to "charitable" institutions if they did so. Ultimately, school-sponsored prayers at graduate ceremonies, and even before high school football games, would be ruled unconstitutional (Lee v. Weisman, 505 U.S. 577 [1992]; Santa Fe Independent School District v. Doe, 530 U.S. 290 [2000]). And in 1994 the Supreme Court denied a religious community's desire to create an autonomous school district so that local Orthodox Jewish parents of children with special needs could still avail themselves of state services without violating the community's sensibilities related to improper interactions across religious and gender boundaries--that is, they wanted to maintain a form of religious segregation, and the Court said no (Board of Education of Kiryas Joel v. Grumet, 512 U.S. 687 [1994]).

The Court's trajectory with respect to the issue of race in public education was roughly parallel to that of religion, if delayed only slightly. Noted historian Mark Noll (2008, 176):

> [T]he Civil War solved the religion and slavery problem, but it did not solve the religion and race problem. Neither did Reconstruction nor the national or regional arrangements

that followed Reconstruction. To the extent that the race and religion problem has ever been solved in American life, it began to be addressed only after World War II when an aggressive expression of African-American religion was met by a federal government willing to exert broad national authority on behalf of civil rights.

If our analysis is correct, then the timetable is hardly coincidental. Definitions of religion and race--particularly designations of marginalization used by the Protestant majority--were tied to the relationship between the government and the dominant Protestant culture. As that relationship changed, so too did the definitions of key categories such as race. Once the U.S. constitutional order shed its reliance on a Protestant dominant culture's monopoly in the construction and maintenance of the meaning of public signs and symbols, it could assert a definition of religion and race more suited to its own political needs. Particularly in the area of race--and especially in the area of race and public education--the order increasingly asserted its state-centered ideology on "states rights" (primarily Protestant) southern states, ultimately disengaging the remnants of a relationship between race and religion.

Within two years of declaring in a 1952 decision involving religion and public education that "We are a religious people, whose institutions presuppose a Supreme Being" (Zorach v. Clauson, 343 U.S. 306 [1952], 313), the Court, in its decision in Brown v. Board of Education (347 U.S. 483 [1954]), overturned its decision in Plessy v. Ferguson (1896), which had affirmed the authority of the Civil Rights Act of 1866 to expand rights for nonwhites without dismantling the system of racial distinction that maintained political marginality--the doctrine of "separate but equal." In so doing, the Court also disengaged some of the official links between Protestantism, public education, and the government's definition of race. Nonetheless, the Court's

decision still relied on corporate categories of race, strongly suggesting that all African American schools (and by implication, their schoolteachers) were inherently inferior, and that the only way to "save" African American children was to integrate them into white schools. Wrote Chief Justice Earl Warren for a unanimous Court:

> Education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. (Brown v. Board of Education, 1954, 493)

In 1978, in a fragmented decision that had greater cultural and political impact than legal authority, a plurality of the Court ruled in University of California Regents v. Bakke (438 U.S. 265 [1978]) that public institutions could not discriminate in a reverse manner--that is, could not overcompensate African Americans as an undifferentiated social unit at the expense of individual European Americans--in their admissions process. And in 2002, in a decision hailed by many leaders in the African American community, the Court ruled that public funds could be used for "vouchers" to defray the cost of private primary and secondary school tuition--including religious school tuition--without offending the Constitution's "No Establishment" clause (Zelman

v. Simmons-Harris, 536 U.S. 639 [2002]). In fact, the government program would provide the funding to help citizens avoid sending their children to a public school in their area that was perceived as "failing" to provide a proper education. In a 2007 statement as direct as it is reflective of the growing individualism in social categories, Chief Justice Roberts concluded the Court's opinion in Parents Involved in Community Schools v. Seattle School District #1 (No. 05-908 [2007]) by noting that "the way to stop discrimination on the basis of race is to stop discriminating on the basis of race" (quoted in Greenhouse 2007). Indeed, the central conflict between the Court's majority and the minority in Parents Involved seems to be one over corporate and individual notions of identity.

Radical Individualism and the State[14]

Thus, over the course of the twentieth century, public education went from being controlled by a vaguely Protestant ideology to being an instrument of the state, whose participants went from being the ideal product of a European American Protestant world to being individual citizens (or citizens-to-be) in the American constitutional order, embodying the rise of the American constitutional order and its ideology of state-centered authority. In the act of defining race separately from the historic religio-racial standards of whiteness employed by the Protestant dominant culture, the state was asserting its authority to do so. The power to do so rested entirely on the state's emergence from public Protestantism's cultural dominance and into a position of ideological independence. The political value of being Protestant has diminished as far as the American constitutional order was concerned--not that it didn't matter, but that it had no extra cachet as long as the operation and ideology of the State was protected (Mazur 1999, 122-43).

Ironically, this trajectory is based on an element central to the Protestantism that was the original heart of the order (what we initially identified as "Protestant nationalism"), and is that ideology's logical extension. Notes American religion scholar Tracy Fessenden (2008, 139), "The ultimate issue of Protestantism is freedom of conscience, a freedom that leads inevitably to the democratic liberty thought to be the mark of secularism. This is a standard secularization narrative, one in which secularism is dependent on Protestantism and associated with freedom." When mixed with the individualism of democratic order, the Protestant tenets of the individual's relationship with the divine and the priesthood of all believers leads to the complete liberation of the individual, even from Protestantism.

This certainly serves the American constitutional order, which itself has become liberated from the cultural monopoly of public Protestantism. The order can best survive if it is populated by individuals seeking their individual pursuits, rather than if it is dominated by one (or even several) "blocs" monopolizing the instruments of authority. James Madison, in one of his contributions to the Federalist papers (1937, 339-40), noted the value of such a view, particularly in minimizing the risks of the tyranny of the majority. As he put it:

> Whilst all authority in [the society] will be derived from and dependent on the society, the society itself will be broken into so many parts, interests and classes of citizens, the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. In a free government the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases

> will depend on the number of interests and sects, and this may be presumed to depend on the extent of country and number of people comprehended under the same government.

The more competing "interests" there are, the more fluid the majority, and the greater the possibility everyone will get what he or she wants, sooner or later. That is an asset for participants; the liability is that, in such an environment, the American constitutional order as sole arbiter can govern virtually unchallenged ideologically.

And nothing could better ensure the dominance of the state, standing now as the lone institution of national, public authority of the construction and maintenance of symbols of meaning for its constituents. With the disestablishment of Protestantism--and for many, with all of religion representing a matter of personal choice--and the debate on constructions of race turning more toward individualist rather than group definitions, the state is without peer. Research from contemporary sociologists of religion suggests that this situation was inevitable. Starting with the cultural shifts of the 1960s--which were themselves a reaction to the establishmentarian 1940s and 1950s--American religion has become increasingly focused on the concerns of the individual, at the expense of corporate meaning construction and maintenance (Wuthnow 1998). In part because of the transformations of the "baby boom" generation, and in part because of the loss of moral and cultural authority of American public institutions in the post-civil rights, post-Vietnam, post-Watergate era, American religious institutions have not only lost their relative monopoly over the construction and maintenance of meaning but have in many ways become just another category of human activity competing for members (Hammond 1992; Roof 1993). Gone is the mediating buffer between the citizen and the government that was at the core of Alexis de Toqueville's nineteenth-century commentary on American society. Rather, and

in more Protestant terms, the citizen is now capable of having a much more personal relationship with the divine--only in the current situation, the divine is not the God of Christianity or even Judaism but the god of the American constitutional order.

If there is no competition for the construction and maintenance of meaning, it is no longer necessary to control the method by which citizens become good citizens. From the founding of the nation until the early decades of the twentieth century, being a good citizen meant being a good (white) Christian, and vice verse. For the bulk of the twentieth century, being a good citizen depended upon participating in the rites and rituals of public school (see Minersville School District v. Gobitis, 310 U.S. 586 [1940]). By disengaging good citizenship from public education (as in the Amish decision, or in Zelman), the Court is affirming the success of the state in its ascent as the dominant (and virtually unchallenged) political authority; by 1972, the American constitutional order was not as ideologically threatened by the challenges of the Amish as it had been in the 1930sby Jehovah's Witnesses who refused to acknowledge the authority of the order by refusing to salute the American flag,[15] or in the 1950s by segregationists who (at least in part) grounded their position in the political ideology of antifederalist states' rights. Today, home-schooling is an acceptable form of education and a method used most by members of the conservative Christian community who feel they have lost their control over the government; since aspects of home-schooling must be certified by some governmental office, it would appear that they are right.

Race, moving as it is toward greater dependence on individual definition, is not only following in the footsteps of religion but is in fact the beneficiary of the same forces that had acted on religious institutions.[16] The modern state, having disestablished religion and freed itself from its Protestant foundations, has as a result not only secured its own authority, it has as a by-

product also loosed other social institutions (such as race) from their group definition. Depending as it does on the radical independence of its citizenry to be freed from permanent group affiliations, the state can constantly triangulate the wishes and needs of its constituents while incorporating as many divergent positions as possible. This makes for a healthy democracy, to be sure, but it may also create a new transcendent entity with unchecked authority, never a welcome beast in the garden.

Coda

During the recent 2008 presidential campaign, both race and religion were part of the debate. Senator Obama was accused of being a "secret" Muslim (i.e., a non-Christian), a charge that connected in the minds of some with fears that he was also a "secret" Arab (that is, a nonwhite)--despite the African birth of his father. Others (National Public Radio 2008) described Obama as a "postracial" candidate--neutralizing concerns of some that he was neither European American nor African American (or, in reality, both) but some additional racial and religious "other." Several years earlier, the Census Bureau had expanded racial self-identification options, permitting respondents to identify themselves as being of more than one race ("Census Panel Suggests a Mixed-Race Solution" 1997). While no one could argue that race is no longer a factor in American public life, it seems to be a characteristic that is less authoritative in public discourse, even if it remains central to individual identity. This almost completely mirrors the situation with religion, a category that is not (but for a very few) ascribed. But the election of a man born of an African father would have been impossible before the Civil War and inconceivable before the civil rights era. President Obama's election is as much of a social

transformation as the election of the first non-Protestant, Senator John F. Kennedy, in 1960. No other Catholic has since been elected president, but for most Americans, the issue is no longer one of great significance.[17] So too might be the transformation of the Obama election. If so, the American constitutional order will have nearly fulfilled its promise articulated in the first thirteen words of the Declaration of Independence quoted at the beginning of this essay. In many ways, it will also have more nearly fulfilled its ascent to the highest reaches of authority suggested by the latter eleven, and assumed the role of the Creator, who endows rights.

Notes

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1. Noll (2008) identifies five stages of development: 1790-1860, in which religion and business predominated but the central government was "latent"; 1860-1876, in which the government was dominant and business influence was significant, but religion was latent; 1876-1932, in which business dominated, the government was "indecisive," and religion was "latent"; 1932-1954/5, in which the market and business predominated but religion was "latent"; and 1954<n>present, in which all three factors have been competing for dominance.

2. These limitations were common in state constitutions, although most were dismantled by the end of the nineteenth century (see Hammond 1998). They were not declared unconstitutional, however, until the Supreme Court decision in Torcaso v. Watkins (37 U.S. 488 [1961]).

3. From 1815 until the end of the Civil War in 1865, the Supreme Court issued decisions in at least fifteen cases related to religion, religious organizations, and religious liberty. From 1866 until FDR's election in 1932, the Court issued decisions related to religion in at least forty-five cases (see Mazur 2000a).

4. Some of the "economic" religion cases had to do with conducting business on the Sabbath (Hennington v. Georgia, 163 U.S. 299 [1896]) and church property taxes (Ponce v. Roman Catholic Apostolic Church, 210 U.S. 296 [1908]).

5. For example, from 1878 into the 1890s, the Supreme Court issued decisions in at least seventeen cases involving the Church of Jesus Christ of Latter-Day Saints and its adherents, in each strengthening the federal government's territorial authority. Ultimately, the Church was forced to abandon a central religious tenet (plural marriage) and cede political authority over territory in order to secure a place in the nation (statehood). The Church could remain in Utah, but it could no longer assert ultimate temporal control over the territory controlled by the federal government (see Mazur 1999, 62-93).

6. Congressional Globe (1866) shows the following terms: "Latin" (Representative Kasson, 238); "Spanish" (Senator Davis, 251); "Gypsie," "Mongolian," and "Scandinavian" (Senator Cowan, 498-99); Chinese (Senator Davis, 523); "Anglo-Saxon," "Jewish," and "Mexican" (Representative Dawson, 542); and "German" (Senator Shellabarger, 1294). The first section of the Civil Rights Act of 1866 (14 Stat. 27 [1866]) reads (in part): "all persons born in

the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding."

7. It is worth noting that in both cases the parties identified as "non-White" were seeking protection as racial minorities, and were not fighting a designation as "non-White" that might exclude them from a "white" majority.

8. 42 U.S. §1981 is the statutory embodiment of the Civil Rights Act of 1866 and the Voting Rights Act of 1870.

9. Historian of American religion Syndey Ahlstrom (1972) identified the period after Kennedy's election as the "post-Protestant" era.

10. The change occurred by legislative sleight-of-hand, when the Senate's authority to ratify treaties with Native Americans was usurped by a rider to a House of Representatives appropriation bill (see Mazur 1999, 104).

11. For example, the "Northwest Ordinance" reads (in part): "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged" (Congress of the Confederation, July 13, 1787,

An Ordinance for the Government of the Territory of the United States, Northwest of the River Ohio, Article III).

12. Since the American Revolution, the Amish had categorically been exempted from military service, along with other "Peace" churches such as the Mennonites and the Brethren. By the time the Court delivered its decision in Yoder, the practices related to conscientious exemption had undergone the same transformation outlined in this essay (see Flowers 2003).

13. One institution, Goldsboro Christian Schools, had a racially discriminatory admission policy. The other, Bob Jones University, admitted African American students but prohibited interracial dating and did not admit those who advocated interracial relationships. Both based these policies on their understanding of Christian scripture.

14. A portion of the material in this section is taken from two earlier collaborative works: Mazur and Ingersoll 1994 and Mazur and Mandel 1998. Thanks to the two co-authors for helping flesh out these ideas.

15. See Minersville School District v. Gobitis (1940). West Virginia Board of Education v. Barnette (319 U.S. 624 [1943]) was the first Supreme Court victory for Jehovah's Witnesses involving children in the public schools.

16. This is not to suggest that race has disappeared as a social category. As a genetic researcher put it, "You can tell people that race isn't real and doesn't matter, but they can't catch a cab. So unless we take that into account it makes us sound crazy" (Weiss 2005).

17. There was some debate during Senator John Kerry's 2004 presidential campaign, but mostly from fellow Catholics who felt his positions contradicted those of the Church. Little notice was taken of the fact that Senator Biden became the nation's first Catholic vice president.

References

Ahlstrom, Syndey E. 1972. Religious History of the American People. New Haven, CT: Yale University Press.

"Americanization." 2008. In Encyclopedia of Race, Ethnicity, and Society, ed. Richard Schaeffer, 1:62-64. Thousand Oaks, CA: Sage.

Beaver, R. Pierce. 1962. "The Churches and President Grant's Peace Policy." Journal of Church and State 4 (2): 174-90.

Brodkin, Karen. 1999. How Jews Became White Folks and What That Says About Race in America. New Brunswick, NJ: Rutgers University Press.

"Census Panel Suggests a Mixed-Race Solution." 1997. Salt Lake Tribune, August 25, A3.

Clarke, James Freeman. 1875. Ten Great Religions: An Essay in Comparative Theology. Boston: James R. Osgood.

Congressional Globe. 1866. 39th Congr., 1st Sess..

Dewey, John. 1972. A Common Faith. New Haven, CT: Yale University Press. First published 1934.

Fessenden, Tracy. 2008. "Disappearances: Race, Religion, and the Progress Narrative of U.S. Feminism." In Secularisms, ed. Janet R. Jakobsen and Ann Pellegrini, 139-61. Durham, NC: Duke University Press.

Flowers, Ronald B. 2003. To Defend the Constitution: Religion, Conscientious Objection, Naturalization, and the Supreme Court. Lanham, MD: Scarecrow Press.

"Freedom, Religious." 2010. Encyclopedia of Religion in America, ed. Charles Lippy and Peter Williams. Thousand Oaks, CA: Sage.

Greenhouse, Linda. 2007. "Justices, Voting 5-4, Limit the Use of Race in Integration Plans." New York Times, June 29**, 1.**

Hammond, Phillip E. 1992. Religion and Personal Autonomy: The Third Disestablishment in America. Columbia: University of South Carolina Press.

Hammond, Phillip E. 1998. With Liberty for All: Freedom of Religion in the United States. Louisville, KY: Westminster John Knox Press.

Hammond, Phillip E., David W. Machacek, and Eric Michael Mazur. 2004. Religion on Trial: How Supreme Court Trends Threaten the Freedom of Conscience in America. Walnut Creek, CA: AltaMira Press.

Hancock, Ange-Marie. 2007a. "Intersectionality as a Normative and Empirical Paradigm." Politics & Gender 3 (2): 248-54.

—. 2007b. "When Multiplication Doesn't Equal Quick Addition: Examining Intersectionality as a Research Paradigm." Perspectives on Politics 5 (1): 63-79.

Handy, Robert. 1984. A Christian America: Protestant Hopes and Historical Realities, 2nd ed. New York: Oxford University Press.

—. 1991. Undermined Establishment: Church-State Relations in America 1880-1920. Princeton, NJ: Princeton University Press.

Hatch, Nathan O. 1989. The Democratization of American Christianity. New Haven, CT: Yale University Press.

Jacobson, Matthew Frye. 1998. Whiteness of a Different Color: European Immigrants and the Alchemy of Race. Cambridge, MA: Harvard University Press.

Lee, Daniel B. 2004. "A Great Racial Commission: Religion and the Construction of White America." In Race, Nation, and Religion in the Americas, ed. Henry Goldschmidt and Elizabeth McAlister, 85-110. New York: Oxford University Press.

Madison, James. 1937. Federalist 51. In Alexander Hamilton, John Jay, and James Madison, The Federalist. New York: Random House. First published 1788.

Mazur, Eric Michael. 1996. "Constitutional Authority and Prospects for Social Justice for High-Tension Religious Communities." Social Justice Research 9 (3): 259-80.

—. 1997. "The Supreme Law of the Land: Sources of Conflict between Native Americans and the Constitutional Order." In American Indian Studies: An Interdisciplinary Approach to Contemporary Issues, ed. Dane Morrison, 233-59. Baltimore, MD: Peter Lang.

—. 1999. The Americanization of Religious Minorities: Confronting the Constitutional Order. Baltimore, MD: Johns Hopkins University Press.

—. 2001. "Religious Minorities and the Pressures of Americanization." Insights on Law and Society 1 (2): 8-10.

—. 2002a. "Examining the Canon in Church-State Studies." Paper presented at the annual meeting of the American Academy of Religion, Toronto, Canada (November 23-26).

—. 2002b. "Minority Religions and Limitations on Religious Freedom." Social Education 66 (3): 149-59.

—. 2008. "Going My Way? Crosby and Catholicism on the Road to America." In Going My Way: Bing Crosby and American Culture, ed. Ruth Prigozy and Walter Raubicheck, 17-33. Rochester, NY: University of Rochester Press.

Mazur, Eric Michael, and Julie Ingersoll. 1994. "Corpus Christi: The Holy War over the Body in Public Space." Paper presented at the annual meeting of the American Academy of Religion, Chicago, Illinois (November 19-22).

Mazur, Eric Michael, and William S. Mandel. 1998. "The Ramifications of a Conflict between Free Exercise and Affirmative Action." Paper presented at the annual meeting of the American Academy of Religion, Orlando, Florida (November 21-24).

McCloskey, Robert G. 1960. The American Supreme Court. Chicago: University of Chicago Press.

Michaelsen, Robert S. 1970. Piety in the Public School: Trends and Issues in the Relationship between Religion and the Public School in the United States. New York: Macmillan.

National Public Radio. 2008. All Things Considered. January 28. www.npr.org/templates/story/story.php?storyId=18489466.

Noll, Mark A. 2008. God and Race in American Politics: A Short History. Princeton, NJ: Princeton University Press.

Orren, Karen, and Stephen Skowronek. 2004. The Search for American Political Development. New York: Cambridge University Press.

"Pluralism." 2008. In Encyclopedia of Race, Ethnicity, and Society, ed. Richard Schaeffer, 2:1051-53. Thousand Oaks, CA: Sage.

Prentiss, Craig R., ed. 2003. Religion and the Creation of Race and Ethnicity: An Introduction. New York: New York University Press.

Roof, Wade Clark. 1993. A Generation of Seekers: The Spiritual Journeys of the Baby Boom Generation. New York: HarperCollins.

Simien, Evelyn M. 2007. "Doing Intersectionality Research: From Conceptual Issues to Practical Examples." Politics & Gender 3 (2): 264-71.

Snow, Jennifer. 2004. "The Civilization of White Men: The Race of the Hindu in United States v. Bhagat Singh Thind." In Race, Nation, and Religion in the Americas, ed. Henry Goldschmidt and Elizabeth McAlister, 259-80. New York: Oxford University Press.

Way, H. Frank. 1987. "Death of the Christian Nation: The Judiciary and Church-State Relations." Journal of Church and State 29 (3): 509-29.

Weiss, Rick. 2005. "A Tiny Mutation: Scientists Have Found a DNA Change That Accounts for White Skin." Washington Post, National Weekly Edition (December 26): 31.

Wenger, Tisa. 2009. We Have a Religion: The 1920s Pueblo Indian Dance Controversy and American Religious Freedom. Chapel Hill: University of North Carolina Press.

Wilson, John F. 1990. "Religion, Government, and Power in the New American Nation." In Religion and American Politics: From the Colonial Period to the 1980s, ed. Mark A. Noll, 77-91. New York: Oxford University Press.

Winchell, Alexander.1880. Preadamites: Or, a Demonstration of the Existence of Men before Adam, 2nd ed. London: Trübner & Co.

Wuthnow, Robert. 1998. After Heaven: Spirituality in America Since the 1950s. Berkeley: University of California Press.