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“Favoritism Cannot Be Tolerated”: Challenging Protestantism in America’s Public Schools and Promoting the Neutral State

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In 1951, the Gideons of Passaic and Bergen counties approached the Board of Education of Rutherford, New Jersey, with an offer. The Gideons proposed “to furnish, free of charge, a volume containing the book of Psalms, Proverbs and the New Testament to each of the children in the schools of Rutherford from the fifth grade up to the eighth grade, and High School.” Besides Protestant proselytizing, which the Gideons did not deny, the letter also claimed that giving out the so-called Gideon Bible would be socially useful: “If God’s word is heard and heeded, if it is read and believed, we believe that this is the answer to the problem of juvenile delinquency.” The letter also offered to help work out the thorny details of distributing the Bibles to the Rutherford schoolchildren. Having seen several attempts to infuse religion into the public arena stumble because of poor distribution plans, the Gideons did not want to take the chance that their mission would be foiled by a faulty method of delivery.¹

On November 5, 1951, the Rutherford school board held a public meeting to consider the Gideons’ proposal. The hearing started peacefully enough, but quickly a Catholic priest and a Jewish rabbi protested. Both men argued that the Gideon Bible was an overtly sectarian book forbidden under the laws of their respective religions. Then, as now, the Gideon Bible consists of all the New Testament, all the Book of Psalms (from the Old Testament), and all the Book of Proverbs (also from the Old Testament). Each followed the style and manner of the 1611 King James, or Protestant, version. And, despite the direct importation of several parts of the Old Testament, the Gideons excluded any reference to the Old Testament in their Bible. For obvious reasons, then, the Gideon Bible was offensive to Jews, who denied the validity of much of the New Testament, and to Catholics, who used a different version of the Bible, called the Douay Bible.

In addition to the claim of devotional incompatibility, the rabbi and the priest also argued that the unsystematic content of the Gideon Bible could not be considered a legitimate part of the grand tradition of greater Christendom and therefore could not be accepted by the school board based on a claim that the Gideon Bible was an important part of the Western tradition, which might have made it applicable for educational purposes. The Gideons' only motive, they argued, was proselytizing the Protestant faith to New Jersey's schoolchildren, and this, in postwar America, when Catholics and Jews were making considerable headway toward crafting a truly pluralistic society, was unacceptable.²

Despite these pleas, the Rutherford Board of Education voted with only one dissenter to allow the Gideons onto public school grounds to distribute their Bible. Nervously, the school board crafted a complex distribution plan that was supposed to minimize any publicity the affair might generate. The board stipulated that the Gideons would be allowed to distribute their Bibles only to students whose parents had signed request forms several weeks prior to the Gideons' arrival. At the urging of legal counsel, the board added that the Gideons could use only the names of pupils whose parents had signed for the Bibles in any announcement of the event and that any announcement about distribution of the Bibles was not allowed to refer to the event's purpose. Finally, the board added that distribution would happen after school, when no other children would be around to witness the event and potentially feel excluded. The board's clear intent was to remove the possibility that it was advocating one religion at the expense of any other.³

The numerous precautions did not slow criticism. Under the banner of defending their faith and their nation, Catholic and Jewish civic and religious organizations mounted complaints. They were joined by a collection of liberal civil rights organizations, including the American Civil Liberties Union (ACLU), and several of the civic unity groups that had emerged during the Second World War. In early 1952, just prior to the scheduled distribution of the Gideons' Bibles, a Catholic parent named Ralph Lecoque and a Jewish parent named Bernard Tudor filed a joint injunction against the Rutherford Board of Education, hoping to get the school board to stop the affair until the matter could be sorted out by the courts. After the initial filing, the near-immediate presence of the American Jewish Committee and several Catholic diocesan authorities made it obvious that Lecoque and Tudor were mere figureheads for the national religious groups that had a stake in the case—an accusation made more than once by the defendants' attorneys, who, at one point, called

the plaintiff a “dummy” being used to institute the suit on behalf of “the real moving party.” To the defendants, this was a case of two aggressive religious upstarts challenging Protestant hegemony.⁴

The fact that neither plaintiff showed up during the early rounds of the trial buttressed the defendants’ claim of absenteeism, but that charge turned out to be moot because the plaintiff’s accusation was substantial. As reported in court records, the plaintiffs’ chief argument was that the Gideon Bible was “a sectarian work of peculiar religious value and significance to the Protestant faith,” and each complainant claimed that its distribution violated “the teachings, tenets and principles” of their religions. Therefore, its presence, with direct sanctioning from the state in the form of the school board, constituted not only a breach in the wall of separation between church and state, but an offense to religious minorities. In pluralist postwar America, this could not stand.⁵

Or could it? By early twenty-first-century standards, the Gideons’ campaign sounds well beyond the realm of what is legal. Like now, however, such matters were under heavy debate during the midcentury years. Indeed, between 1947 and 1963, five major cases concerning the exact parameters of the wall of separation worked their way through the U.S. court system, each of them eventually ending up in front of the Supreme Court. The decisions of these five cases (known mostly, but not always, by the names of the plaintiffs: *Everton*, *McCullum*, *Zorach*, *Engel*, and *Schempp*) demonstrate the United States Supreme Court’s definitive entrance into the debate about religion in the public sphere and its subsequent conclusion that there should exist a firm line between religious advocacy and U.S. public schools. Although religion was a significant component of good Americanism, the Court claimed that it was better for both religion and the state if the two realms remained relatively separate. The last of these cases (*Schempp*) was decided in 1963, meaning that when the Gideons approached the Rutherford Board of Education in late 1951, the question of whether proselytes could be allowed on public school grounds was still open. What would the courts decide? What would be their rationale? What would be that decision’s legacy?⁶

The purpose of this essay is to use the relatively obscure case of the Gideons to show that postwar Catholics and Jews were instrumental in the creation of what Michael J. Sandel has labeled a “procedural republic.” In 1996, Sandel, a professor of government at Harvard University, published *Democracy’s*

Discontent: America in Search of a Public Philosophy. The book contrasted two public philosophies that had competed for hegemony in American life since the nation's founding. The first was civic republicanism, a public philosophy based on an awareness of one's membership within a larger society, and a commitment to consider the duties and responsibilities inherent to belonging to that society. According to Sandel, civic republicanism and its emphasis on duties and responsibilities dominated American life throughout the eighteenth and nineteenth centuries. In the middle of the twentieth century, however, civic republicanism was eclipsed by a second tradition, commonly known as rights-based liberalism. This second philosophy, which also has a long history, embraces individual rights and a neutral state whose main responsibility is to protect these rights.

Sandel is not the only author to cite the middle of the twentieth century as the time when rights-based liberalism rose to prominence in the United States (others include Alan Brinkley, William E. Nelson, and John D. Skrentny), but Sandel is the strongest in arguing that there is no civic commitment in this second public philosophy, only the disparate sense that what it means to be an American is purely ideological, boiling down to the passionate possession of a few individual rights. Being a communitarian interested in creating (he would say *re-creating*) a national sense of belonging, Sandel denigrates the good that has come from rights-based liberalism (since, as he says, liberalism "offered no way to reinvigorate civic life, no hope for reconstituting the political economy of citizenship"), and, indeed, in the Whig history that makes up the second half of Sandel's book, he ignores the very causes that led to liberal individualism's triumph, opting to emphasize the expansion of wage labor (which "conceded as unavoidable the broader condition of dependence") and the decline of community life (which led to "dislocation" as "men and women groped for bearings"), while failing to give credit to the numerous minorities who forthrightly advocated the neutrality needed for fair play and equal treatment. The civil rights movement, for example, makes no substantial appearance. Sensing that the "disuniting of America" reached its culmination with the rise of ethnic and especially racial particularism in the 1960s and 1970s, Sandel views the procedural republic as a dangerous concept, breeding divisiveness and discontent, creating a rights-demanding society that has prevented the United States from creating some much needed solidarity.⁷

Democracy's Discontent is one of many critiques of the "procedural republic" and the general stress on liberal individualism that has arisen since World War II. For instance, Christopher Shannon's *A World Made Safe for Differences: Cold*

War Intellectuals and the Politics of Identity (2001) argues that “the internalization of authority” at the individual level has incited the creation of numerous “alien norms” that have dismantled the possibility of a unified communal order. In other words, the primacy of liberal individualism during and after World War II has led to the self-deluding triumph of the notion that each man is his own master, which by definition prevents the creation of solidarity. Wilfred McClay gave this theme a name in his book *The Masterless: Self and Society in Modern America* (1994), which argued that U.S. intellectuals, always pondering the tension between lionizing the individual and yearning for national solidarity, have conflated the two ideals since the Second World War, thus justifying the triumph of liberal rights-based individualism as a community-making ideal. From a purely philosophical perspective, Alasdair MacIntyre and Charles Taylor have persistently cautioned against too strong a commitment to individualism, with MacIntyre going so far as to dismiss liberal individualism as a “social order” removed from the stabilizing forces of tradition, which thus denies the ability of liberalism to create unity based on a “common good.”⁸

There are many merits to Sandel and others’ calls for increased national solidarity. For instance, it is hard to deny that the expansion of the industrial state and the growth of the federal government have led to the decline of community and the rise of the sense that people cannot control the events that surround them. And it is also true that a stronger commitment to the duties inherent to being a part of a national community could do much good toward making the United States a kinder, more egalitarian nation. In fact, there is recent evidence that many U.S. citizens would embrace such commitments, if only they had a systematic way to do so. When events prompted the federal government and other institutions to facilitate hard work in the name of the national community (such as after 9/11 and Hurricane Katrina), Americans overwhelmingly responded. The trouble has been with sustaining this sense of solidarity.

My intention here is to provide a bit of context to the history of the triumph of American liberal individualism. At root, I take for granted that rights-based liberalism has actually wrought much good, bringing about things like female suffrage and African American political equality, as well as restrictions on anti-Semitism, anti-Catholicism, and other forms of overt nativism. More specifically, however, this essay demonstrates that the procedural republic did not emerge out of the dislocation brought on by increasing industrialization, but that it was shaped by post-World War II civil rights liberals seeking to

delineate and create a pluralistic nation. Foremost in this collection of civil rights liberals were everyday Catholics and Jews working to establish a society that enabled them to be true to their unique characteristics while still granting them the latitude to be labeled Americans.

That religious minorities were vital to the creation of the procedural republic is often forgotten; those derisive of liberal individualism usually cite the divisions of black power and the cultural politics that followed it as principal provocateurs. In the thinking of these critics, the identities that shaped “identity politics” were racial, sexual, or gendered. But it should not be too much of a surprise to find that religious minorities were some of the key groups in deciphering the acceptable boundaries of postwar pluralism. After all, the twentieth century’s five signal court cases concerning the separation between church and state occurred immediately after the Second World War but just before the widespread embrace of the civil rights movement, in 1963. Catholics and Jews had different notions of what pluralism would look like, and this often placed them on competing sides of political debates in the 1940s and ’50s. This essay, however, examines one case in which Catholics and Jews came together to deny a persistent notion of civic republicanism grounded in a singular founding quality, Protestantism. In the case of the *Gideons*, Catholics and Jews united to demonstrate that pluralism demands a neutral state and an ideological (not racial, religious, or ethnic) definition of what it means to be an American. This case also suggests that the procedural republic emerged as much from demands by American minority groups searching for equal rights and fair treatment as from anywhere else. And in postwar America, when liberal individualism began its rapid ascent, no groups were more important to this pursuit than religious ones.

The immediate context of the *Gideon* case was the emerging cold war, when calls for increased religious education and inculcation were on the rise. After a century of struggle that began during the initial expansion of public education in the 1830s, by the 1920s and ’30s, most public schools ceased to take direction from a culturally Protestant hegemonic presence, favoring instead rationalization and the scientific method as primary sources of knowledge. In the years between the First and Second World Wars, Bibles were not often distributed to students and prayers were rarely said in public schools. The teaching of evolution went on trial during the *Scopes* case of 1925, the overall

result being that Christian fundamentalists largely retreated from public activism and that textbooks removed both God and Darwin from their content. Nevertheless, some atavistic laws still existed, and in the early 1940s, thirteen states required that school be opened with Bible reading and/or prayer, and thirty-seven states allowed some form of religious observance on public school grounds. But for the most part, U.S. public schools found the light through John Dewey rather than Jesus Christ.⁹

With the rise of the cold war, many in the United States sought to increase the religious content of public education. “Today,” said Will Herberg after describing the growth of “progressive” education in public schools, “the climate of opinion is again changing . . . There is a mounting demand that religion be given some sort of place in the program of public education. This sentiment is nation-wide.” Polls bear out the assessment. According to a Gallup poll from the early 1960s, 79 percent of people in the United States approved of having religious observances in school. Reciting the Twenty-third Psalm or the Lord’s Prayer became relatively commonplace. Mangers began appearing on school lawns. Proposals advocating placing plaques bearing the Ten Commandments on public school campuses rose throughout the decade. For many, reasserting the United States’ Christian foundation was the best antidote to communism.¹⁰

How much religion was actually being taught in U.S. public schools during the postwar period? Quite a bit, in fact. In 1949, the National Education Association (NEA) sent a questionnaire to more than 5,000 superintendents of schools in all regions of the country, asking just this question. More than 2,600 responses came back, revealing that nearly half the school systems in America’s large cities (having more than 100,000 residents) had a formal program of religious education, usually taught by a religious leader from one or more faith community. Smaller cities had fewer programs, although one can surmise from circumstantial evidence that schools in smaller communities provided a more implicit form of religious education. Of the more than 700 school systems with formal programs in religious instruction, 15 percent held classes on school grounds during regular school hours despite this being prohibited by federal law. Around 5 percent allowed public school buildings to be used after school. Nearly 500 school districts had created some sort of released-time arrangement, whereby students were free to leave school during school hours to obtain religious training. A remaining 4 percent of school systems occasionally released pupils for an entire day, presumably so they could obtain religious training outside school. The final 10 percent of dis-

tricts that admitted to having a formal plan of religious education could not be classified under any of these categories. The bottom line was that in 1949 there was a lot of religion being taught in America's schools. In addition, the numbers presented by the NEA survey are probably low because the survey occurred within a year of the Supreme Court's momentous *McCollum v. Board of Education* decision, which outlawed religious education on school grounds during regular hours. (The *McCollum* decision was specifically mentioned by more than 300 superintendents, each of whom said they had dropped formal religious programs from their schools in the twelve months between *McCollum* and the survey.)¹¹

In addition to this large amount of religious instruction and inculcation (it is difficult to tell the difference between the two based on the NEA's questionnaire), many Americans felt the need to increase the amount of religion in public schools. But the question was, of course, if, as Supreme Court Justice William O. Douglas said in 1952, "we are a religious people whose institutions presuppose a Supreme Being," how could that idea be institutionalized without the public sanctioning of any particular faith? As a letter from the general assembly of the National Council of Churches of Christ in the U.S.A. put it, "in some constitutional way, provision should be made for the inculcation of the principles of religion, whether within or outside the precincts of the school, but always within the regular schedule of a pupil's working day." How to do this legally was the paramount question.¹²

Protestants most often sought a bland form of Protestantism, such as the Lord's Prayer or the Twenty-third Psalm, which, they hoped, was ecumenical enough not to stir debate. Many times this hope was misplaced, as a Catholic, Jew, or secularist often opposed it. In early 1947, for example, New York City councilman Hugh Quinn introduced a resolution to the New York City Council permitting the reading of the Lord's Prayer at general assemblies in the New York City Public School District. The proposal provoked strong debate, and more than a hundred attendees showed up at the public hearing. Those who were for allowing the Lord's Prayer into public schools suggested that the action would "pave the way to create a better religious atmosphere in public schools and build up the morale of the city's youth." Those against it said the resolution would inject a dose of sectarianism into the school system, the Lord's Prayer being, in their opinion, a Christian prayer. Many clergymen opposed the resolution, as did the ACLU, the Congress of Industrial Organizations (CIO), and several Jewish groups, including the powerful New York Board of Rabbis. Sectarian matters had made the issue divisive. The city council deferred action on the motion, hoping it would go away.¹³

It didn't. In November 1951, the New York State Board of Regents recommended that each school day open with a prayer. Leery of the sectarian issues that would undoubtedly arise, perhaps not more than 300 of the 3,000 school districts in the state adopted the regents' suggestion. The New York City School Board recognized at once the explosive character of the issue, and attempted to craft a compromise in January 1953 whereby New York City schools would sing the fourth stanza of “America,” the patriotic hymn, in lieu of any prayer more commonly associated with a particular creed. The compromise placated Protestants, and the Catholic weekly *America* echoed general Catholic approval. Jews, however, were less persuaded, and the New York Board of Rabbis once again objected, this time arguing that the fourth stanza, taken alone, constituted a Protestant prayer. Sectarian divisions again killed the proposal. (The fourth stanza reads: “Our fathers' God to thee/Author of Liberty/To Thee we sing./Long may our land be bright/With Freedom's holy light/protect us by thy might/Great God, our King.”)¹⁴

Indeed, sectarianism was a contentious issue throughout postwar America, and schools were often the battlegrounds. The challenges of Catholics and Jews forced Protestants to search, often in vain, for a plausible religious middle ground. The frustrated *Time* magnate Henry R. Luce, son of Protestant missionaries, suggested to the Church Federation of Greater Chicago, “It is certainly time that Protestants, if they don't do anything else, should unite on a program to bring the knowledge of God to our boys and girls at school.” But he offered no solution beyond this plea. At the same time, bills authorizing Bible reading were defeated after hotly contested debates in California in January 1953 and in Illinois in June 1953. Sectarianism was a crucial battleground of postwar pluralism. In struggling to determine how American society could create a nation respectful of minorities while still being reverent toward its dominant character, the courts were left to debate and decide the correct height of the wall of separation between church and state.

This sectarianism, and the subsequent fight for pluralism by Catholic and Jewish minorities, is the necessary context of all of the major United States Supreme Court cases of the postwar years. As *Life* put it in 1955, the “wall of separation” was in reality “an uneasy four-way truce among Catholics, Protestants, Jews and secularists.” Will Herberg commented on this in his 1952 essay on “The Sectarian Conflict Over Church and State.” In the early 1950s, the wall of separation was not entirely about keeping politics and religion apart for the sanctity of both (as the rhetoric of the debate had been) or about maintaining Protestant hegemony (as the reality of the debate had been), but about making pluralism.¹⁵

This represented a dramatic and largely unrecognized shift in the rhetoric and justification of the separation of church and state. As historian Philip Hamburger has shown, despite the fact that the First Amendment often comes up in debates about church and state, the principle of separation has very little constitutional foundation and, furthermore, arguments that have suggested that the principle of separation was developed in order to prevent the intrusion of the state into church matters simply masks an uglier history. Rather, the doctrine of separation emerged shortly after the nation's founding as a result of growing fears of churches, especially the Catholic Church. The doctrine first clearly entered public debate in 1800 as a way for Jeffersonian Republicans to criticize and intimidate Federalist clergymen (Jefferson's famous coining of the phrase "wall of separation between Church and State" came in 1802, not during the period when the founders drafted the Constitution). Then, in the middle of the nineteenth century, nativists and, more broadly, American Protestants adopted the principle of separation as a way to keep newly arrived Irish Catholics from obtaining the same social and political rights that Americans with a longer North American pedigree possessed. Protestants argued that a unified and powerful Catholic bloc might attempt to overturn republican government in favor of one controlled by the pope. Thus, to prevent Catholics from capturing free government, Protestants felt they had to deny Catholics equal civil and political rights.

The anti-Catholic tenor of separation discourse lasted until the 1950s, when a secular argument for separation emerged (although the anti-Catholic strain continued to exist at least until after John F. Kennedy's election to the presidency in 1960). This secular defense of separation, which Hamburger does not describe, emerged primarily as a defense of religious pluralism. In midcentury America, Catholics and Jews were clamoring to find a peaceable solution to the problem of pluralism, where minorities with diverse conceptions of the good sought first-class status and social and cultural authority without having to give up all that made them unique. One method they embraced—especially Jews but also, upon occasion, Catholics too—was the principle of separation.¹⁶

This, of course, led to a conflict between the cold war desire to add religion to the public sphere and the quest to create a nation that could maintain ideological unity while honoring religious diversity. The contentious cases made headlines. Most often, however, short religious devotionals were quietly added to the daily routine of public school children, leaving Catholics and Jews to wonder which cases were worth fighting. Christmas and Easter were celebrated lavishly. The holiday carols chosen for presentation were usually religious. Bibles

began to appear more regularly on public school grounds. Despite occasional Catholic approval, the Protestant cast of this type of education was not missed by many. In July 1995, Howard Squadron, whose parents were part of the turn-of-the-century Jewish Diaspora, described at a House of Representatives hearing what it was like growing up in the 1950s:

Let me recall to you what the public schools I attended were like. They had an overtly Protestant cast. Prayers and bible passages were recited daily. Prayer is not a generic form of expression and bible passages (and translations) were not, are not, and should not be, theologically neutral. The public school religion I encountered had in every case specific theological roots and forms. The prayers said in the public school I attended were distinctly Protestant in content.

Squadron also commented on what he saw as the cultural content of this religiosity. As he saw it:

The use of Protestant religion was a part of a deliberate effort by the public schools to suggest to the American children of Jewish immigrants that these Protestant rituals represented true Americanism, that the rituals and rhythms of our parents' houses were alien and foreign, worse, to children who desperately wished to be accepted, even “un-American.” This use of religion as a means of acculturating aliens caused many painful gaps between parent and child.

A leading historian of religion and education in the United States concluded that Squadron “captured more clearly than most the ways in which many schools operated in the United States.”¹⁷

Catholics and Jews were torn by the increasing religiosity demanded in cold war America. Both groups were fighting for religious pluralism, but they were doing so from different perspectives. In general, Catholics felt religion was a vital component of a child's development, and the leading Catholic organizations wanted sanctioned religion in public schools. However, they did not want that religion to have a Protestant cast. In 1952, the Catholic Bishops of America adopted a resolution warning that the nation faced a grave danger from the “irreligious decay” of its most important institutions, pointedly criticizing public schools for ignoring the importance of religion in the lives of children. But they also worried about the reemphasis of Protestantism in the public schools—the very issue that prompted the formation of Catholic parochial schools in the first place, during the nineteenth century. These fears led to a reaffirmation of parochial schools. Reporting that Catholic schools were “growing at a rapid rate,” a front-page report in the *New York Times* claimed in 1952 that Catholic

schools had grown by 35 percent between 1942 and 1952, making the total enrollment 4 million, and leading the National Catholic Welfare Conference to organize a quarter-billion-dollar expansion of the Catholic school system. Furthermore, “the increase is expected to continue,” wrote the *Times*. Reflecting their rising socioeconomic status, postwar Catholics also began developing a network of private academies in which elite Catholics could enroll their children. Of course, the growth of parochial education led to increased claims of Catholic separatism, so their pluralistic position came at a cost.¹⁸

Jews were also divided. For the most part, they were suspicious about any religion in the public schools, although the leading Jewish organizations were split over how far Jews should go to fight its presence. The American Jewish Committee and the Anti-Defamation League of B’nai B’rith—two of the more moderate Jewish civic organizations—generally sought a reconciliation of Jewish observances with Christian ones and were less aggressive about the addition of ecumenical prayers in the school day. These organizations, for instance, advocated the celebration of Hanukkah services alongside Christmas ones in public schools. In 1946, they helped Cleveland become a pioneer in crafting joint Hanukkah-Christmas celebrations. A similar situation was crafted at the Dundee Elementary School in Omaha, Nebraska, a public school active in the intergroup relations movement. Historian Edward S. Shapiro has discussed the “elevation of the erstwhile minor holiday of Hanukkah into one of the most widely observed celebrations on the Jewish calendar” during these years, describing the ironic process by which a nationalistic Jewish holiday was transformed into an ecumenical celebration of religious pluralism. Hanukkah’s main appeal, concludes Shapiro, is that it comes in December, so Hanukkah’s timing coincided with Christmas. Plus, because it focused on children receiving gifts, Hanukkah accorded with the material nature of Christmas celebrations. Hanukkah was also family oriented, did not place barriers between Christians and Jews, and did not require special accommodations that marked Jews as culturally different from their Christian peers. Hanukkah’s transformation in these years represented part of what Shapiro has called “the Protestantization of American Judaism.”¹⁹

The American Jewish Congress, on the other hand, was more adamantly against any incursion of religion in the public sphere and, during the midcentury years, it was the most vocal Jewish organization in America. “Separation of Church and State is indispensable if we are to immunize our schools from sectarian divisiveness and strife,” the Jewish Congress wrote in a forcefully worded pamphlet. “The principal of separation of Church and State, particu-

larly in the field of public education, is not something abstract and theoretical; it is a necessary and practical guardian and protector of the welfare of American children, and particularly children adhering to minority faiths.” Thus, the fight for a high wall of separation between church and state had everything to do with the rights of minorities. “Experience has shown,” the pamphlet continued, “that whenever religion intrudes into the public school, sooner or later Jewish children will be hurt.”²⁰

When the Catholic and Jewish ideals of pluralism clashed, fireworks erupted. Regarding the question of how best to celebrate religious holidays in public schools, one (Catholic) diocesan newspaper declared, “We believe that the time has come for Christians in the public school system and everywhere else to declare in outright fashion that *the United States by culture, tradition, and full right is a Christian country* and must not be allowed to change. For that reason, Christmas in schools must be kept a distinctly Christian feast with a Christian purpose.” The paper added: “Non-Christian religious groups [read: Jews], prompted by the presence of many of their children in public schools, are seeking to dilute or to eliminate Christ from Christmas. They are aided and abetted by the secularizing tendency in American life. If both pressures are not resisted, Christmas will lose its whole and wholly Christian meaning.” This quotation supports the claim of recent scholarship that one way Catholics proved their credentials as good Americans was by trumpeting the anticommunist, Christian core of the meaning of America. If America was noncommunist and Christian, then Catholics were undoubtedly American.²¹

Similarly contentious debates occurred in New Hyde Park, New York, and Newark, New Jersey, concerning the posting of a plaque of the Ten Commandments. In Ossining, New York, tensions erupted over the placement of a manger at one public school. Examples of other conflicts are numerous. Both Catholics and Jews were fighting for pluralism; they were just using different, self-interested tactics to do so. Most Jews said that successful pluralism depended on a religiously neutral state; being a small minority, this made sense. Catholics, meanwhile, were more comfortable with a form of pluralism that was respectful and even supportive of various groups’ religious expressions, even if those expressions occasionally made them look like separatists. This likewise made sense, considering first, that they, like the Protestant majority, were Christians, and second, that because roughly 25 percent of all U.S. citizens considered themselves Catholic, there seemed little chance that Catholics could be easily homogenized.²² However, their pluralism was often narrower than that of the Jews, and, unlike even the more accommodationist Jews who

avored multiple religious celebrations, many midcentury Catholics probably would not have supported celebrating Jewish holidays in schools. They were mostly interested in asserting the Christian foundations of the United States, which would, of course, make them full-fledged members. These differences led Catholics and Jews to oppose one another on numerous issues regarding public schools, including federal funding debates, released-time programs, and the observance of religious holidays. Understanding their struggle for pluralism as a root cause of their contentiousness adds some much-needed context to the public school battles of this era, which have usually been interpreted as a simple quest to keep the state free from religion, and religion free from the state. The battles were instead a struggle about the exact dynamic of pluralism that would create civic peace in a multicultural America.

In this atmosphere, the Gideons were obviously something of nuisance. With the heightened awareness of America's religious pluralism, any religious organization that aggressively sought converts was bound to become contentious. And, in light of the child-focused nature of the postwar suburbs, any attempt to proselytize to children was doubly suspect. The Gideons offended on both accounts. Their unsubtle mission declared an intent to "win men and women for the Lord Jesus Christ" by distributing a Gideon Bible to every person in the nation—a calling they took seriously. And in the immediate aftermath of the Second World War, the Gideons embarked on an ambitious "national campaign . . . to furnish the Word of God free to young people." The idea was to present their bound gift to students at every high school and every middle school in the country.²³

They were, of course, fought. By 1952, the Gideons were denied access to schools in Rutland, Vermont; Akron, Ohio; York, Pennsylvania; and Oakland, California. Protestant proselytes had no place in America's public schools, these school boards declared, often at the collective urging of Catholic and Jewish parents joining forces to keep the Protestant hegemony from reasserting itself. But the Gideons continued to pursue their mission, and their implacability inevitably landed them in court. Catholic and Jewish litigants came together to fight the Gideons' hardheaded intrusion and the first test case emerged from Rutherford, New Jersey. *Ralph Lecoque and Bernard Tudor v. Board of Education and the Gideons International* was the case, and the key question was whether or not honoring pluralism meant allowing religious advocacy into America's

public schools at all. The case worked its way to the United States Supreme Court and has stood as the final word on proselytizing on public school grounds since the Court handed down the decision in 1952.²⁴

When the Catholic and Jewish parents sued the Rutherford Board of Education for accepting the Gideons’ proposal, the state court upheld the injunction. There was much to discuss before the Gideons could be allowed to proceed. In an order dated February 29, 1952, the Gideons were formally restrained from distributing their Bibles until the case was thrashed out in court. The Gideons had a right to the nation’s sidewalks, its parks, and even its hospitals and its military, but as to the public schools, the answer was less clear.²⁵

In early 1953, the case finally went to court. The Gideons signed on as codefendants with the Rutherford Board of Education, and, by that time, the child of Ralph Lecoque had transferred to a parochial school. Lecoque’s departure affirmed the plaintiffs’ argument that reinforcing Protestantism was necessarily divisive, but it was also a blow to the plaintiffs, who had sought to frame the case as two respectful minorities fighting for dignity and respect. Efforts to replace Lecoque with another Catholic parent (a Mrs. Walter Natyniak) were rejected as coming too late. The case, therefore, became simply *Tudor v. Board of Education of Rutherford and the Gideons International*.²⁶

In March 1953, New Jersey trial judge J. Wallis Leyden heard testimony. Suggesting the depth of companionship that Catholics and Jews felt regarding the case, the American Jewish Congress and the diocesan authority of the Roman Catholic Church joined forces to prosecute on behalf of Bernard Tudor. They retained Leo Pfeffer to prosecute the case, which was an unsurprising choice considering Pfeffer’s long-standing ties to the American Jewish Congress, but it was a bold move nonetheless. Pfeffer was a polemical author and attorney who, in the late 1940s and early 1950s, had become a well-known figure in defending a high wall of separation between church and state. Indeed, Pfeffer sometimes came off as an unbending defender of an implacable wall of separation, but as the author of several leading books on the subject, there was little doubt about his expertise. Pfeffer’s presence meant the case was sure to become an important testing ground for the extent to which advocated Protestantism could be brought anywhere near public school classrooms.²⁷

The testimony Pfeffer brought forward consisted of a host of religious experts who described the exact points of conflict that Catholics and Jews had with the Gideon Bible. For Jews, the argument was simple. “[The New Testament] presupposes the concept of Jesus of Nazareth as a divinity, a concept which we do not accept,” testified Rabbi Joachim Prinz. Several other rabbis testi-

fied similarly. Meanwhile, although not of strict legal importance because the Catholic plaintiff had been removed from the case, the prosecutors nevertheless quoted the canon law of the Roman Catholic Church, which holds that “editions of the original text of the sacred scriptures published by non-Catholics are forbidden *ipso jure*.” According to canon law of the Catholic Church, reading an alternative form of the Bible is proscribed as a sin.²⁸

All this was irrelevant if Pfeffer could not paint the board of education’s decision as an “effort to uphold Protestant Christianity through the public school system.” If the distribution of Bibles was done carefully enough so as not to antagonize a Catholic or a Jew, what did it matter if the minorities found the Gideon Bible offensive? Completely ignoring the numerous stipulations the board had drafted regarding distribution of the Bibles, Pfeffer said the board’s decision to allow the Gideons onto campus was in “direct contradiction” to “democratic education,” which, he said, was an educational system based on the notion that, in the words of one witness, “the school people must treat each group with full respect for personality, and where they have differences, [school officials] must respect those differences.” This type of “democratic education” was being lionized in the aftermath of World War II as the training ground for young, ideologically sound Americans. Pfeffer conveniently skipped over the fact that many in the United States considered publicly proclaiming faith in God an ideologically sound component of good Americanism too. He nevertheless asserted that the sanctioning of Protestantism was nothing but divisive, and that the board’s actions had created an “unconstitutional preference . . . to the Protestant denomination,” which was an obvious “infringement of the religious liberty of Catholic and Jewish public school children.” Giving state sanction to the Gideons was a dangerous throwback to the early nineteenth-century days of Protestant hegemony, said Pfeffer, and much had changed since then.²⁹

The brief submitted upon appeal said as much, and it reads like a “greatest hits” of religious intolerance in the United States. Citing Charles Beard, Ray Billington, and Gustavus Myers as prominent historians of American bigotry, Pfeffer argued that “in the past, Catholic children in the public schools have been subjected to severe persecution for adhering to this dogma of the Church and refusing to commit sin by participating in the reading of the King James Bible.” He referred to an instance when more than one hundred Catholic children were expelled from Boston public schools for refusing to read the King James Bible. He cited another case where a priest’s challenge to a legislative mandate requiring Bible reading led the “infuriated Protestant community”

to tar and feather the priest and run him out of town. Pfeffer paralleled the Rutherford Board of Education’s decision regarding the Gideons to actions during the period of the “anti-Catholic nativism and ‘know-nothingness’ which disgraced American history in the nineteenth century.”³⁰

In the case, Pfeffer was at a tactical advantage because the school board had in fact approved access only to the Gideons. It did not matter that no other group had applied. The board’s stipulation, as Pfeffer hastened to point out, “is clearly and expressly limited to the Gideons and authorizes only the distribution of their Bible to the public school children.” He showed that even the defendant’s own witnesses had conceded this point when the superintendent of schools admitted that the “resolution was not authority for me to distribute the Douay Version of the Bible.”³¹

Pfeffer concluded his argument by bringing forward several child psychologists who painted a vivid picture of the millions of “minority” children who might have adverse psychological effects because the Gideons had come to their campus to proselytize, sanctioned, as they were, by the school, and therefore, by the state. These “minority” children would be identified as different and would encounter pressures to conform to the majority. Speaking specifically of Jewish children, the prominent New York University psychologist Isador Chein said that “when the New Testament is given to [children] by sources which they consider to be respectable, and . . . from whom they are expected to learn, I think that there can be little question but that a great many Jewish children will be thrown into a state of conflict, perplexity, confusion, and to some extent guilty feeling.” Another expert suggested that the school board decision would “leave the left handed implication that the school thought this was preferential in terms of what is the divine word, and that backing of the State would inevitably be interpreted as being behind it.” How demoralizing, concluded Pfeffer. What was a child to do when the two chief authorities in his or her life—parent and teacher—conflicted, all because the Rutherford School Board had allowed the Gideons to distribute Bibles on public school grounds?³²

It is worth noting Pfeffer’s use of the term *minority* here, obviously referring to Catholic and Jewish schoolchildren. His ultimate claim was that Catholics and Jews were doing their part to accommodate to the ideological demands of mainstream society. They were not demanding separate schools or unique divisions within the schools; they simply wanted the state to remain religiously neutral. Shouldn’t mainstream society do its part to accommodate their access to the mainstream? How many more children would be driven to attend pa-

rochial schools because of divisive Protestant biases? Wasn't the United States beyond the bigotry and favoritism of yesteryear?

The defense team thought these arguments were inflated—which they were. But the defense could not mount much of a defense. They perpetually cited the case of *Doremus v. Hawthorne*, a case in which the New Jersey Supreme Court upheld the reading of the Lord's Prayer in public schools. *Doremus* was an important precedent, the defense argued, because it demonstrated the Supreme Court's willingness to allow the New Testament onto campus. Pfeffer quickly dispatched the claim on two grounds: first, it was clear that the New Testament consists of much more than simply the Lord's Prayer; and second, *Doremus* did not deal with diversity, which, he said, was the most important issue in the *Tudor* case. "That was a suit brought by some atheists, some individual trouble makers, and so on," Pfeffer said. In the Gideon case, sectarianism was "the basic issue," and, he implied, when good religious Americans disagreed, diversity had to be honored. Mainstream society was what had to bend.³³

But the central argument put forward by the defense was that the New Testament was not sectarian but a universal book of the Western world, especially important in understanding the creation of American democracy. Claiming that their responsibility was to the parent, not to any religious denomination, the school superintendent, Dr. Guy L. Hilleboe, claimed that "when we have an opportunity to give those parents that kind of literature which is basic in the whole development of our democracy, from its beginnings—even before that; from the founding, from Plymouth Rock to the present time . . . I feel that there is nothing contrary, either morally or legally, in the provision of such materials." And "if any group presents to the schools material which will aid the child to better understand, not only himself, but those around him . . . our obligation is to the parent."³⁴

Showing some quick thinking, Pfeffer countered this claim by pointing out that *Das Kapital* was also part of the Western tradition. Would Hilleboe distribute it too? Hilleboe stumbled in his answer. Pfeffer then made his sentiment plain, asking that, since Hilleboe had lent "the facilities of the public school to The Gideon International," would he "not do the same for the Communist International?" Hilleboe meekly said no. This allowed Pfeffer to make the point that the school did in fact have discretion as to which groups would be allowed on campus, and, in the case of the Gideons, it had adjudicated favorably. Allowing just Protestants access could not, according to Pfeffer, be approved. Catholics and Jews, as minorities on the frontline of the diversity debate, deserved protection. At risk, he added, were America's children.³⁵

By the end of formal argument, Judge Leyden was clearly sympathetic to Pfeffer’s case. Unfortunately for Pfeffer, Leyden also found it beside the point. On March 14, 1953, Leyden ruled that the action of the Rutherford School Board might be “bad policy,” but it was constitutional. “I can see no illegal or unconstitutional interference by what is proposed by the Board of Education, with the religious liberty or freedom of the plaintiff or his child, nor can I see any particular preference granted to the Protestant faith.”³⁶ The board was right to allow the Gideons onto school property, said Leyden, because Catholics and Jews and any other religious minority had a right to do so as well. If Americans really were “a religious people whose institutions presuppose[d] a Supreme Being,” keeping God off of school grounds did not make much sense. To Leyden, it was the various groups who brought Him there that deserved protection.

As would be pointed out on appeal, Leyden’s decision may well have been on solid constitutional grounds, but it was somewhat ignorant of reality. Although the picture Pfeffer painted was overdrawn—with vulnerable students incurring irreparable damage because of their potential but unlikely exposure to a member of the Gideon Society walking across campus after school—Protestants did have the overwhelming numerical advantage in most American school districts (and on most American school boards). Therefore, sanctioning distribution of the Gideons’ Bible did seem to be playing favorites. More telling, however, was the fact that the decision arrived at roughly the same time as numerous Protestant complaints about Catholic intrusion onto public school grounds—a claim that, more than anything else, stirred the pot of anti-Catholic animosity in postwar America. In Wisconsin, for example, fourteen school districts had battled over what to do with several public schools that sat in predominantly Catholic neighborhoods. The state chose to cut aid to the schools on the grounds that teachers were given a religious test before they could teach there, that Catholic instruction was included in the curriculum, and that the schools were not operated beyond the eighth grade. Although this is an extreme comparison, was there a difference if the majority population was Catholic or Protestant? Could Protestants have advocates on campus while Catholics could not?³⁷

A similar case emerged from New Mexico in 1951. In *Zellers v. Huff*, Lydia C. Zellers sued the state of New Mexico for allowing several of the state’s public schools to become effectively parochial schools. Importantly, she was joined by an upstart group called Protestants and Other Americans United for the Separation of Church and State (POAU), which funded and directed Zellers’s

legal campaign. Upon uncovering that as many as 25 of the public schools in Santa Fe were simultaneously listed as public schools *and* parochial schools, that all of the teachers at these schools were nuns of the same order, that they all taught while wearing traditional habits and insignia, that the nuns were chosen by their religious superiors rather than a secular school board, and that students attended Mass several mornings each week. The court enjoined the 139 nuns from teaching, denied the schools access to public funds, and shut down public schools that sat on church property. The Protestant plaintiffs carried the day. Again, although the case was extreme, Leyden's decision did not fit well with these realities. Why hadn't the court protected the rights of Catholics to bring their religion onto campus? Where was the line that demarcated the differences between these cases of proselytes?³⁸

Meanwhile, the Gideon case was creating strange bedfellows—a fact that testified to the widespread appeal of the neutral state in a multicultural America. For example, the Catholic organizations protesting Leyden's decision were joined by two famously aggressive anti-Catholics, Paul Blanshard and POAU. Blanshard was an intellectual and attorney who, in 1949, released a collection of essays called *American Freedom and Catholic Power*, a book that probed the question of how Catholics, under ecclesiastical control, could possess the capacity for the kind of free thinking required in a democracy. His main argument was that lay Catholics could accomplish this only by ignoring the dictates of their church. The book became a runaway best seller, and it defined the terms of American anti-Catholicism for the next decade. Of course, not everyone was happy with the book. The Jesuit theologian John Courtney Murray, S. J., American Catholicism's ablest defender, described Blanshard as the figurehead of the "New Nativism." Will Herberg referred to the increasing anti-Catholicism in postwar America simply as "Blanshardism." But the book still won important converts: John Dewey, for example, led the liberal embrace of Blanshard's ideas by praising the book's "exemplary scholarship, good judgment, and tact."³⁹

The second anti-Catholic presence to side with the Catholics in the Gideon case was a group of politicized Protestant leaders who strongly advocated the separation of church and state. Founded in 1949, Protestants and Other Americans United for the Separation of Church and State emerged out of fears that U.S. Catholic institutions were becoming strong enough to challenge the moral authority of the Protestant mainstream, and, as Philip Hamburger has shown, the principle of separation has long been a weapon used to keep upstart religious minorities in check by denying them the capacity to make

national claims.⁴⁰ In short, POAU sought to counter Catholic unity by creating a unified Protestant opponent and reasserting its power. In an editorial in the *Christian Century*, editor Charles Clayton Morrison, a charter member of POAU, wrote, “Catholicism, with its parochial schools in which not only knowledge about their religion is imparted, but religious devotion is inculcated, is in a position to take advantage of the vacuum in the general culture, and it is acting accordingly. Until Protestantism awakens to the fact that its position is vulnerable to Catholicism on the one hand, and to secularism on the other, its hope of winning America is a blind illusion.” “That men do not move over graciously,” Thomas F. O’Dea warned elsewhere, “is one of the few undeniable generalizations from history,” and thus emerged POAU.⁴¹ That Paul Blanshard and POAU received such widespread support signified the importance of religion in the debates about American pluralism in the 1950s. That they could find common cause with American Catholics in this period indicates the power of the argument for separation.

In the context of the wide-open debates about church and state in the 1940s and ’50s, one cannot help but wonder if Leyden wanted his decision appealed. There was at that point considerable wiggle room in the Supreme Court’s interpretation of the amount and manner of religious education in public schools, but allowing the Gideons onto public school grounds was something different. And Leyden had to have known that these religious minorities would fight what they saw as a sectarian attempt to insert Protestantism into public education. Perhaps Leyden’s decision was deliberately meant to be provocative? Considering, however, that few judges like to have their decisions overturned, it is likely that Leyden’s decision was one of conscience.

As everyone expected, the American Jewish Congress and its plaintiff, Bernard Tudor, immediately appealed Leyden’s decision. The Gideons agreed to continue the injunction until the matter was finally settled. By now, the case had become something of a testing ground for the Gideons, who were interested in having it play out in the courts so they could know their exact boundaries.⁴²

Play out it did. On its own initiative, on October 2, 1953, the New Jersey Supreme Court withdrew the case from the Appellate Division of the Superior Court and placed it on its own calendar, to be argued just three days later. There was no time for the attorneys to do anything but recapitulate the original

arguments, meaning that the arguments heard by the New Jersey Supreme Court were the same ones weighed by Leyden. *Amici curiae* from the Synagogue Council of America and the (Jewish) National Community Relations Advisory Council were rushed in, and the New Jersey Supreme Court came down with its decision in early December.⁴³

In the end, the New Jersey Supreme Court was considerably more sympathetic to Pfeffer's arguments than Leyden had been. Ruling unanimously, the Supreme Court claimed the board of education had indeed shown preference to one religion over another. By inviting the Gideons on school grounds, "the board of education has placed its stamp of approval upon" Protestant proselytes. The court sympathetically quoted one of the professional witnesses in the case, Dr. William Heard Kilpatrick, who said that non-Protestant students were "not quite as free as the statement on that slip says; in other words, that he will be something of an outcast and a pariah if he does not go along with this procedure." Chief Justice Arthur T. Vanderbilt, who wrote the opinion, powerfully concluded: "Such favoritism cannot be tolerated and must be disapproved as a clear violation of the Bill of Rights." Vanderbilt openly acknowledged that Leyden's decision "ignores the realities of life," and, concluding that the Gideon Bible was undoubtedly a Protestant document, Vanderbilt declared that any attempt to employ "the public school system as a medium of distribution" of the Bibles was ignoring the pluralism that had come to inhabit the meaning of separation of church and state in the early 1950s.⁴⁴

Vanderbilt recognized that the key question in the case was how best to honor pluralism. "The full force of the violation," Vanderbilt wrote, "is revealed when we perceive what might happen if a single school board were besieged by three separate applications for the distribution of Bibles—one from Protestants as here, another from Catholics for the distribution of the Douay Bible, and a third from Jews for the same privilege for their Bible." The question was left unanswered, leaving readers to infer that the obvious reaction would have been against any attempt to have children hear from Jewish or Catholic proselytes. The use of the word "besieged," however, also implies that if the doors of distribution were open, who knows how many sects would come to push their view? And what about communists and atheists, as Pfeffer had suggested? This, presumably, would be worse. The court's point was that schools should not become battlegrounds for ideological groups, and the allowance of the distribution of Bibles, even by the majority, opened the door to controversy. In a pluralistic nation, the state would have to remain neutral.⁴⁵

In the end, the court believed that Pfeffer was on the right track when he pointed out that the United States was finally overcoming its history of

religious bigotry. Vanderbilt devoted more than two-thirds of the decision to recapping religious bigotry from AD 313 (when Constantine and Licinius proclaimed the Edict of Milan) to modern America. Vanderbilt’s claim was that mid-twentieth-century Americans had finally begun to achieve the goal of tolerance in the name of pluralism. “It took us over 14 centuries and an incalculable amount of persecution to gain the religious tolerance and freedom expounded in 313 A.D. by the rulers of the Roman world,” said Vanderbilt, adding that to allow the Gideons to distribute their Bibles on public school grounds “would be to cast aside all the progress made in the United States . . . in the field of religious toleration and freedom. We would be renewing the ancient struggles among the various religious faiths to the detriment of all. This we must decline to do.”⁴⁶

The decision was a strong one, well argued, and broad in scope. In 1954, the Gideons appealed the decision to the United States Supreme Court, but, in October of that year, the court chose not to hear the case (*certiorari denied*) which, by law, upheld the New Jersey decision. In the case of religious advocacy in America’s public schools, Jews and Catholics could not be sidelined in favor of Protestants, even if that meant limiting the access anyone had to public schools. If diversity could not be adequately recognized, access would have to suffer. The separation between church and state had to be a solid one because to do otherwise would be to allow majority rule, and in the new, more tolerant United States, this was not acceptable.

The Gideon case, in turn, served as an ideological predecessor to the more famous cases that arose in the late 1950s and early 1960s, when the courts made the wall of separation between church and state increasingly high—all in the name of pluralism (the *Tudor* case, for example, was repeatedly cited in the United States Supreme Court’s decision in *Schempp*, which outlawed school-sponsored Bible reading). In answering the question of who would have to bend to honor diversity, more and more throughout the 1950s the courts were rejecting the assimilationist ideal, saying mainstream society would have to bend to accommodate its minorities.⁴⁷

On the surface, then, the issue the Gideons seemed to provoke was about shaving the line between church and state just a tiny bit more. What the case underscores, however, is that each of the midcentury challenges to putting religion in the public schools had deep sectarian roots. “One particularly reassuring aspect of the case,” wrote the American Jewish Congress after the decision was handed down, “was the cooperation of the local diocesan authorities of the Roman Catholic Church throughout the litigation.” Despite the different means by which Catholics and Jews struggled to make pluralism, they came

together to fight any reassertion of Protestant hegemony. The American Jewish Congress added: “We believe that this decision will stand as a landmark in the history of religious liberty in this country,” and it reprinted the decision in its entirety as an easily distributed pamphlet.⁴⁸

The Gideon case reminds us that sectarian issues were the fundamental context of the numerous United States Supreme Court cases that rose to prominence in the postwar years. It also reminds us that, during the years between the Second World War and the rise of the civil rights movement in the early 1960s, religious divisions—especially those between Protestants, Catholics, and Jews—were the acceptable grounds for hashing out the limits of diversity and for the affirmation that a neutral state that protects the rights of minorities is the most acceptable form of government in a multicultural nation—even if the result is what its opponents have labeled as a heartless “procedural republic.” In light of the new kinds of religious pluralism that have emerged since the alteration of America’s immigration laws in 1965, the difficulties of accommodation rather than neutrality seem only more relevant.⁴⁹ Furthermore, because most of the recent debates about pluralism have focused on—and become entangled with—racial, sexual, or gendered divisions, the “identity” of today’s “identity politics” is usually viewed as racial, and sometimes gendered and sometimes sexual. It is, however, often forgotten that the calls for individual dignity that ground identity politics were hashed out earlier, and when this was done in the middle of the twentieth century, no groups were more important to the process than religious ones. This is worth remembering today more than ever, especially as the battle lines of the current culture war reignite debates about the proper contours of religious pluralism, both in the United States and abroad.

Notes

1. The letter is Exhibit P-1 in the “Appendix to Appellant’s Brief,” *Ralph Lecoque and Bernard Tudor v. Board of Education of the Borough of Rutherford and the Gideons International*, 14 N.J. 31, 100 A.2d 857 (1953), found in State of New Jersey, *Supreme Court of New Jersey*, vol. 305 (Newark, N.J.: Adams Press, 1954), 99a–100a.
2. *Ibid.*, “Brief for Plaintiff-Appellant,” 4.
3. *Ibid.*, “Appendix to Appellant’s Brief,” 9a, 100a, 71a–73a, 101a.
4. *Ibid.*, 24a.
5. *Ibid.*, 3a.
6. The five cases are *Everson v. Board of Education of Ewing Township*, 330 U.S. 1 (1947); Illinois ex rel. *McCullum v. Board of Education* 330 U.S. 203 (1948); *Zorach v. Clauson* 343 U.S. 306 (1952); *Engel v. Vitale*, 370 U.S. 421 (1962); and *Abington School District v. Schempp*, 374 U.S. 203 (1963).

7. Michael J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, Mass.: Harvard University Press, 1996), quotations on 315, 200, and 205. For minorities as part of the problem, see 279–80 and 294–97. Regarding the case's relative obscurity, the only secondary source I know of is four paragraphs in Naomi W. Cohen, *Jews in Christian America: The Pursuit of Religious Equality* (New York, 1992), 191–92. Regarding the rise of rights-based liberalism in the middle of the twentieth century, see Alan Brinkley, *The End of Reform: New Deal Liberalism in Recession and War* (New York: Knopf, 1995), and William Edward Nelson, *The Legalist Reformation: Law, Politics, and Ideology in New York, 1920–1980* (Chapel Hill: University of North Carolina Press, 2001); for its fulfillment from 1965–1975, see John D. Skrentny, *The Minority Rights Revolution* (Cambridge, Mass.: Harvard University Press, 2002).
8. Christopher Shannon, *A World Made Safe for Differences: Cold War Intellectuals and the Politics of Identity* (Lanham, Md.: Rowman & Littlefield, 2001), xvii; Wilfred M. McClay, *The Masterless: Self and Society in Modern America* (Chapel Hill: University of North Carolina Press, 1994); Alasdair C. MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, Ind.: University of Notre Dame Press, 1988), quotation on 347; Alasdair C. MacIntyre, *Three Rival Versions of Moral Enquiry: Encyclopaedia, Genealogy, and Tradition* (Notre Dame, Ind.: University of Notre Dame Press, 1990); and Charles Taylor, *Sources of the Self: The Making of Modern Identity* (Cambridge, Mass.: Harvard University Press, 1989), esp. 495–521.
9. James W. Fraser, *Between Church and State: Religion and Public Education in a Multicultural America* (New York: St. Martin's Press, 1999), 131–44; R. Laurence Moore, “Bible Reading and Nonsectarian Schooling: The Failure of Religious Instruction in Nineteenth-Century Public Education,” *Journal of American History* 86 (March 2000): 1581–99; and David Tyack and Elisabeth Hansot, *Managers of Virtue: Public School Leadership in America, 1820–1980* (New York: Basic Books, 1982).
10. Will Herberg, “Summary Statement on ‘the American Tradition on Church and State,’” Articles Unpublished File, RG 14.2, Will Herberg Papers, Will Herberg Collection, Drew University (Madison, N.J.); George Gallup et al., *The Gallup Poll: Public Opinion*, vol. 3 (Wilmington, Del.: Scholarly Resources, 1972), 1779. The most famous crèche, legally speaking, was that in Ossining, New York, which first appeared in 1956; on Ten Commandment plaques, see Leo Pfeffer, “Memo of Law in Opposition,” May 15, 1957, “CLSA Materials Jan.-June 1957” (New York: American Jewish Congress). Thanks to Marc Stern for granting me access to these files.
11. The NEA data is reprinted in the *American Jewish Year Book, 1951* (New York: American Jewish Committee, 1951), 48–49.
12. Douglas's famous quotation comes from his opinion in *Zorach v. Clauson*. For the National Council of Churches of Christ quotation, see the *American Jewish Year Book, 1954* (New York: American Jewish Committee, 1954), 50.
13. *New York Times*, March 1, 1947, 16. For the argument of the New York Board of Rabbis, see Harold H. Gordon, “Letter to the editor,” *New York Times*, March 5, 1947, 24.
14. The story is recounted in the *American Jewish Year Book, 1954*, 52–53, and *America*, January 31, 1953, 471.
15. Luce is quoted in the *American Jewish Year Book, 1947–1948* (New York: American Jewish Committee, 1948), 25; the 1953 Bible reading bills are discussed in the *American Jewish Year Book, 1954*, 52; *Life*, December 26, 1955, 56; and Will Herberg, “The Sectarian Conflict Over Church and State,” *Commentary* 14 (November 1952): 450–64.
16. Philip Hamburger, *Separation of Church and State* (Cambridge, Mass.: Harvard University Press, 2002). See also Gregg Ivers, *To Build a Wall: American Jews and the Separation of Church and State* (Charlottesville: University of Virginia Press, 1995).
17. Fraser, *Between Church and State*, 144–45.
18. For the Catholic Bishops of America quotation, see the *American Jewish Year Book, 1954*, 49; Benjamin Fine, “Catholic Schools Raise Enrollment to 4,000,000 Peak,” *New York Times*, May 30, 1952, 1; and for the development of elite Catholic schools, see Milton M. Gordon, *Assimilation in American Life: The Role of Race, Religion, and National Origins* (New York: Oxford University Press, 1964), 210–12.
19. The Cleveland case and the Dundee Elementary School are discussed in the *American Jewish Year Book, 1951*, 50–51. Regarding “the Protestantization of American Judaism,” Shapiro also emphasizes the changing nature of Jewish worship and the timing of sermons. Edward S. Shapiro, *A Time for Healing: American Jewry since World War II* (Baltimore: Johns Hopkins University Press, 1992), 166–68.
20. Leo Pfeffer and Phil Blum, “Public School Sectarianism and the Jewish Child,” May 1957, 2, in “CLSA Materials Jan.-June 1957.”

21. Quoted from Pfeffer and Blum, "Public School Sectarianism," 11. For Catholics' credentials as good Americans, see John T. McGreevey, *Catholicism and American Freedom: A History* (New York: Norton, 2003), 211–12.
22. For these numbers and for an elaboration of these arguments, see Kevin M. Schultz, "Religion as Identity in Postwar America: The Story of the Last Serious Attempt to Put a Question on Religion in the United States Census," *Journal of American History* 93 (September 2006): 359–84.
23. The quotation comes from the Constitution and By-Laws of the Gideons International, included as Exhibit P–7 in "Appendix to Appellant's Brief," *Tudor v. Board*, 105a.
24. In addition to the various school districts listed here, the Gideons were protested in Boston, Sandwich, and Bourne, Massachusetts, and in the Connecticut State Board of Education. See "Brief for Plaintiff-Appellant," *Tudor v. Board*, 13. For the case's place as the final word, see Marc D. Stern, *Religion and the Public Schools: A Summary of the Law* (New York: American Jewish Congress, 1993), 20.
25. J. Wallace Leyden, "Order for Stay Pending Determination," February 29, 1952, reprinted in "Appendix to Appellant's Brief," *Tudor v. Board*, 7a.
26. "Appendix to Appellant's Brief," *Tudor v. Board*, 24a–25a.
27. On Catholics and Jews joining forces, *New York Times*, October 4, 1953, 65; Will Maslow and Shad Polier, two prominent attorneys from Jewish organizations, joined Pfeffer when the *Tudor* case was appealed to the U.S. Supreme Court.
28. "Appendix to Appellant's Brief," *Tudor v. Board*, 28a–29a.
29. On "democratic education," see *ibid.*, 58a–59a; on the "unconstitutional preference," see "Brief for Plaintiff-Appellant," *Tudor v. Board*, 6.
30. "Brief for Plaintiff-Appellant," *Tudor v. Board*, 11–13.
31. *Ibid.*, 8–9.
32. For Chein's quotation, see "Appendix to Appellant's Brief," *Tudor v. Board*, 42a–43a; for the second expert, *ibid.*, 56a.
33. *Doremus et al. v. Board of Education of the Borough of Hawthorne et al.*, 342 U.S. 429 (1952); for its use in the *Tudor* case, see "Appendix to Appellant's Brief," *Tudor v. Board*, 65a–66a.
34. "Appendix to Appellant's Brief," *Tudor v. Board*, 75a–76a.
35. *Ibid.*, 81a–91a.
36. *Ibid.*, 96a.
37. The public reaction to the schools in Wisconsin is noteworthy: the response was the formation of the Protestant Bill of Rights Committee, which sought to have the state disown these public schools. The story is retold in the *American Jewish Year Book, 1953* (New York: American Jewish Committee, 1953), 46.
38. *Zellers v. Huff*, 55 N.M. 501 (1951). For POAU's involvement in the case, see Sarah Barringer Gordon, "The Almighty and the Dollar: Catholics, Protestants, and School Funding at Mid-Century," working paper, quoted with permission of the author, 29–31.
39. Paul Blanshard, *American Freedom and Catholic Power* (Boston: Beacon Press, 1949). For the book's place in midcentury intellectual life, see John T. McGreevey, "Thinking on One's Own: Catholicism in the American Intellectual Imagination, 1928–1960," *Journal of American History* 84 (June 1997): 97–131. See also John Courtney Murray, "Paul Blanshard and the New Nativism," *The Month* (April 1951): 214–25, quotation on 216; and Herberg, "The Sectarian Conflict Over Church and State," 456. The Dewey quotation is found in McGreevey, "Thinking on One's Own," 97.
40. Hamburger, *Separation of Church and State*, esp. 479–83.
41. *The Christian Century*, April 17, 1946, 493; Thomas F. Odea, "The Missing Dialogue," in *Facing Protestant-Catholic Tensions*, ed. Wayne Cowan (New York: Associated Press, 1960), 57–58. In POAU, Morrison was joined by John Mackay, president of the Princeton Theological Seminary; Edwin McNeill Poteat, president of the Colgate-Rochester Divinity School; and the Methodist bishop G. Bromley Oxnam. This was respectable company, consisting of powerful interests in American intellectual life. See "Protestant v. Catholics," *Time*, April 8, 1946, 68–69, and "Unbrotherly Division," *Time*, November 5, 1945, 61.
42. *New York Times*, October 4, 1953, 65.
43. *Ibid.*
44. *Bernard Tudor v. Board of Education of the Borough of Rutherford and the Gideons International* 14 N.J. 31 (1953).

45. Ibid.
46. Ibid.
47. In 1962, the U.S. Supreme Court outlawed “innocuous” prayer in the case of *Engel v. Vitale*. In 1963, it removed school-sponsored Bible reading in the case of *Abington v. Schempp*.
48. American Jewish Congress, “In Defense of Religious Liberty,” Church + State Misc. File, Box 37, RG I-77, Papers of the American Jewish Congress, American Jewish Historical Society, New York.
49. For a vivid account of America’s post-1965 religious diversity, see Diana L. Eck, *A New Religious America: How a “Christian Country” Has Become the World’s Most Religiously Diverse Nation* (San Francisco: HarperSanFrancisco, 2001).