

The Christian Right Movement in Conflict with Constitution

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The Constitution of the United States acts to translate the ideals of a country and ensure the success of a democracy. The document was written in an era of hope, inspiration, and uncertainty. For over two centuries it has been revered as the supreme law of the land. Through this history, the Constitution has been deferred to for the most contentious social issues in America, often leading to contentious outcomes. Yet, its lasting preeminence in America makes the Constitution an enduring document. Anyone who wishes to contest the relationship between religion and government in the United States must first refer to the U.S. Constitution.

The modern Christian Right movement unequivocally contests the existing relationship between government and religion in the United States. However, their contention largely ignores or defies the convictions expressed by the Constitution. In three separate clauses, the Constitution and the Bill of Rights promulgate, among other things, the relationship between government and religion in America; the third section of Article VI and the first two clauses of the First Amendment. These specific clauses read as follows:

Article VI, Clause Three

*“The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.”*¹

First Amendment, Clause One and Two

¹ The United States Constitution. Article VI

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof”²

Together, these three references have engendered over two centuries of evolving law and court decisions, political and public policy debate, and scholarly dialogue. James Madison and Thomas Jefferson are widely known as the foremost founding fathers that argued for and inspired the passing of the religion clauses³. Thomas Jefferson, despite not being a signer of the Constitution, did draft a religious freedom act in Virginia in 1786 establishing secularism in the state. The act was passed the year before the Constitution was written, and many historians credit the Virginia Act as a model that the framers followed in writing the religion clauses of the U.S. Constitution⁴. James Madison, amongst his other contributions, is highly noted for drafting the original language of the Bill of Rights including the 1st amendment religion clauses (although it was revised before being fully accepted)⁵. Each of these founding fathers was especially concerned with the mixing of church and state and believed vigorously in the necessity to privatize religion. Although some of the other founders disagreed with their secular stance, Madison and Jefferson remained ardent about their beliefs. As Thomas Jefferson later wrote in a letter to the Danbury Baptist Church Association (sent in 1802, after the Constitution had been enacted), “Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should make no law

² The United States Constitution. Amendment 1

³ Levy, Leonard. *Original Intent and the Framers Constitution*. Ivan R. Dee Publisher. 2000

⁴ Jacoby, Susuan. *Freethinkers*. Henry Holt and Company. 2004. Pg. 25

⁵ Lambert, Frank. *Religion in American Politics*. Princeton University Press. 2008

respecting an establishment of religion, or prohibiting the free exercise thereof, thus building a wall of separation between church and state.”⁶ Later, this particular phrasing would be referenced and implemented in the Supreme Court’s 1947 *Everson v. Board of Education* decision (as will be addressed later in Section 1). Similarly, James Madison, the original drafter of the Bill of Rights, vigilantly urged the privatization of religion as the only means of ensuring the freedom of religion. In a letter Madison wrote to Edward Livingston in 1822, he declared, “Every new and successful example thereof of a perfect separation between ecclesiastical and civil matters is of importance. And I have no doubt that every new example, will succeed, as every past one has done, in shewing that religion & Govt. will both exist in greater purity, the less they are mixed together.”⁷

The perspectives of Jefferson and Madison represent the secular convictions that existed during the founding era of the country. Although these two leaders, with the help of other supporters, had to fight vigilantly to overcome sectarian agendas supported by other founding fathers, the outcome of a secular Constitution gives testimony to the prevailing success of secularism over sectarianism in the founding of America. Nonetheless, the constitution was passed in an era in which the country was largely religious, and as a result many scholars argue that the secular views of Jefferson and Madison do not accurately reflect the sentiments of the founders collectively or the country as a whole. In particular, Christian Conservatives insist that the country was founded to be a “Christian Nation”. In a book entitled, “Original Intent,” Christian Conservative David Barton argues that the members of Congress who drafted the First Amendment expected basic biblical principles and values to be present throughout public life

⁶ Thomas Jefferson, Letter to Banbury Baptist Church. 1802. <http://www.loc.gov/loc/lcib/9806/danpre.html>

⁷ James Madison letter to Livingston, 1822, from Leonard W. Levy- *The Establishment Clause, Religion and the First Amendment*, pg 124

and society⁸. However, a thorough analysis of empirical evidence as well as a sensible look at the language of the Constitution evinces a secular vision of the Constitution. As Robert Ingersoll, regarded by some as the most famous orator in the late 19th century, declared, the Constitution, “did away forever with the theological idea of government,” and vested supreme governmental authority in the hands of the people. He went on to praise the founders for establishing the “first secular government that was ever founded in the world.”⁹

Since the conception of the Constitution, scholars and justices alike have justified interpreting the document in different ways. For several reasons, the religion clauses have been particularly vulnerable to varied understandings. First, the specific language of the first amendment is broad, leaving vast room for interpretation and subjectivity. Second, the different attitudes of constitutional interpretation have caused different theories for religion clause application. Third, even within each individual interpretational ideology, such as the “Founders’ Intent” ideology, there exists conflicting theories as to, for example, what the intent of the founders actually was with regards to religion. This paper will be split into two sections. The first section will work through the dense discourse pertaining to the religion clauses. The section will scrutinize the language of the Constitution, analyze the various interpretational ideologies, and highlight the leading Supreme Court decisions addressing religious issues to demonstrate the secular binding of the Constitution and argue the propriety of a “Living Constitution” interpretation bound by a common law system. Further, Section 1 will begin to articulate how the modern Christian Right Movement in America fallaciously interprets the Constitution and ignores accepted precedent. Section 2 will dissect the development of the modern Christian Right movement and argue that their actions defy the principles of the Constitution and ideals of

⁸ Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007.

⁹ The Adams-Jefferson Letters, ed. LESTER J. Cappon (Hapel Hill, 1959), vol. 2 p.373.

America. Specifically, Section 2 will focus on the impact of the Christian Right rhetoric on public affairs, as well as analyze the movement's infiltration into government institutions with the expressed intention of pursuing a "Christian Nation."

Section 1

The modern Christian Right movement bases their views and actions on the conviction that America is a "Christian Nation". Former Alabama Justice Ray Moore, current leader in the Christian Right movement , epitomizes this argument when he declared, "the United States of America is a Christian nation, and the public acknowledgement of God is undeniable in our history. Our nation was founded on fundamental Judeo-Christian principles based on the Holy Bible."¹⁰ The basis for this line of thinking is delusive. The Constitution imparts a secular government and a distinct cleavage between church and state. The Constitution evokes religious pluralism, rather than religious favoritism. The text of the Constitution, the appropriate interpretation of the Constitution, and the development of judicial precedence each reinforce the secular foundation of America that is continually denied by the modern Christian Right movement. Although some recent court precedent has lessened the fortitude of this separation, no precedent or accepted understanding of the Constitution is in tandem with the convictions of the Christian Right movement.

¹⁰ Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007. Pg. 27

The actual text of the Constitution is the first indicator of the secular establishment in America. In fact, it is not just the specific wording of the religion clauses, but the Constitution as a whole, that speaks profoundly to the secular foundation of the document. Susan Jacoby wrote powerfully in her book, *Freethinkers*, “Without downgrading the importance of either the establishment clause or the constitutional ban on religious tests for officeholders, one can make a strong case that the omission of one word – God – played an even more important role in the construction of a secularist foundation for the new government.”¹¹ Not only does the Constitution never mention the word God, it likewise refrains from using the words “Christ”, “Jesus”, “Holy”, or any other ecclesiastical reference. This exclusion of divine language was not a mindless mistake by the framers of the Constitution- it was intentional. This is most evident by the context in which the Constitution was first drafted. For example, in comparison to the Articles of Confederation, the document the Constitution was written to replace, the change is clear. In the Articles of Confederation there is an acknowledgment to the beneficence of “the Great Governor of the World,” and references to specific dates as the “Year of our Lord.”¹² Even in Thomas Jefferson’s *Virginia Act for Establishing Religious Freedom* in 1786, the act many consider the basis for the secular U.S. Constitution, there is reference to a God. It states, “Well aware that Almighty God hath created the mind free.”¹³ However, the U.S. Constitution went beyond all previous American declarations and completely omitted any reference to a deity. By intentionally excluding any language of divinity, the U.S. Constitution became the first national testimony to a commitment to public secularism.

¹¹ Jacoby, Susan. *Freethinkers*. Henry Holt and Company. 2004. Pg. 28

¹² Articles of Confederation, Preamble. 1777 <http://www.usconstitution.net/articles.html#Preamble>

¹³ Virginia Act for Establish Religious Freedom. Thomas Jefferson, 1786.

When one analyzes the language of the three religious clauses, the same secular conviction is apparent. Article VI bans any religious test as a requirement for public office, and the first amendment bans any laws respecting a religious establishment by the federal government (later interpreted to apply to state and local government as well). Scholars who attempt to reject the secularist notions of the Constitution often insist that the sole reason for the exclusion of pious language in the Constitution and the existence of secular religion clauses is because the Framers intended to leave the issues of religion to state governments. Christian conservatives in particular, often argue this point. However, this line of thinking is specious. Certainly, the states originally did reserve the rights to enact their own religious legislation. Further, as many Christian Conservatives will often point out, there indeed were different religious acts passed by different states. For example, Massachusetts had in its original constitution a clause which conflicted with the religious principles outlined in the U.S. Constitution. In Article III of the Massachusetts Constitution of 1780 it said, “the people of this commonwealth have a right to invest their legislature with power to authorize and require...suitable provision, at their own expense, for the institution of the public worship of God.”¹⁴ However, the idea that the Constitution does not maintain a secular conviction because the states were initially allowed to circumvent the federal ban on a religious establishment law is highly fallacious. First of all, deferring to the intent of the founders as a basis to interpret the religion clauses is fundamentally problematic (as will be addressed later). Secondly, even if one does follow through the logic that the states originally had the rights to create their own religious laws, the contextual evidence still conveys a secular constitution. Perhaps some framers did sign the secular Constitution because they wanted to defer religious rights to the states. However, this

¹⁴ Constitution of Massachusetts, 1780. Article III. <http://www.nhinet.org/ccs/docs/ma-1780.htm>

does not underscore the fact that the Constitution itself remained secular. Given that the Constitution includes The Supremacy Clause of Article VI, which vests supreme power to the federal government over the states, one would think that had the founders collectively desired divinely inspired public institutions, they surely would have made some reference to this sentiment in the Constitution. Furthermore, by 1833, a mere 43 years after the Constitution was signed, every state had voluntarily disestablished their congregational churches¹⁵. This illustrates a national acceptance of secularized government throughout the country. Lastly, through the decisions in *Everson v. Board of Education* and *Cantwell v. Connecticut* that came in the 1940's, the states and local governments became constitutionally bound to the first amendment religion clauses. Therefore, any attempt to reject the secular nature of the Constitution by pointing to the initial ability of states to create their own religious laws is not only misleading, but also moot through the development of judicial precedence.

Nonetheless, the religion clauses are written with broad language. As a result, many different theories have emerged to explain how to appropriately apply them. Perhaps the greatest source of variance comes from the existence of different constitutional interpretational ideologies. Using different interpretational ideologies, scholars and justices have justified different applications for all different sections of the Constitution. Relevant to religion clause issues, there have been three prevalent ideologies that contribute to the majority of the discourse around religion clause application; the "Literalist" theory, the "Framer's Intent" theory, and the "Living Constitution" theory. Different groups will refer to different ideologies to support their perspective. For example, the contemporary Christian Right Movement often defends their views and actions by alluding to a particular form of "Framer's Intent" ideology which reinforces their

¹⁵ Lambert, Frank. *Religion in American Politics*. Princeton University Press. 2008. pg. 50

“Christian Nation” conviction, while the Courts have often taken a much more secular perspective. By examining the flaws in certain ideologies, the specious rhetoric of fallacious arguments becomes more apparent.

First is the “Literalist” ideology which expects judges to rely on the precise language of the constitution and is averse to the ability of a judge to infer intent or create evolving standards¹⁶. The Literalist interpretation is the most deficient, and rarely used, ideology of the three prominent attitudes. The pivotal goal of this ideology is to create one objective standard for the Constitution, thus eliminating the ability of judges to make inconsistent decisions based on personal values. In this ideology, the Constitution is evaluated solely based on the wording of clauses. In the leading religious Supreme Court cases, there is little evidence of a Literalist influence on Court decisions. In fact, several justices have articulated the impossibility of applying this ideology to certain issues¹⁷. Nevertheless, the Literalist ideology remains relevant because of its prominent use in many Christian conservative arguments. For example, Christian Conservatives often revert to a Literalist argument for certain issues, like abortion rights, insisting that because a privacy right is never directly stated in the Constitution, the right to an abortion should not exist¹⁸. Nevertheless, the fundamental problem with the Literalist ideology is that the Constitution is comprised of “majestically vague admonitions”¹⁹, meaning that in practical terms it is impossible to come up with one universal understanding of the Constitution based on the wording alone. For example, the first amendment’s, “Congress shall make no law respecting an establishment of religion,” could be interpreted in a variety of ways and have

¹⁶ Posner, Richard. *Originalism & Pragmatism*. Excerpts from *Overcoming Law*. 1995.

<http://law2.umkc.edu/faculty/projects/ftrials/conlaw/interp.html>

¹⁷ Majority Opinion. *Lemon v. Kurtzman*, 403 U.S. 602 (1971)

¹⁸ <http://global.factiva.com/ha/default.aspx>

¹⁹ Tribe, Lawrence & Dorf, Michael. *On Reading the Constitution; How not to read the Constitution*. President and Fellows of Harvard College. 1991. Pg. 6

multiple meanings. Furthermore, there are some clauses in the Constitution that, if applied literally, would have pernicious effects on society. For instance, the first amendment protects the right to free speech. However, the Supreme Court has ruled that, in practice, complete free speech cannot be fully guaranteed. In fact, there are many ways speech can be limited, including forms of libel, hate speech, pornography, and many more. A Literalist approach is impractical and problematic.

The second relevant ideology is, “Framer’s Intent”, which differs distinctively from a Literalist approach. In the Framer’s Intent approach, judges must discern the original intentions of the Framers for each clause to decide how the Constitution should be evaluated. This ideology is commonly applied in Supreme Court decisions involving religion. Donald Drakeman describes a particular group of historians, political scientists, and legal scholars who “share a fundamental belief in the interpretative principle enunciated in *Reynolds* and *Everson*...They believe that church-state relations can and should be resolved by reading the First Amendment in light of its original meaning.”²⁰ The primary purpose of this interpretive method is to create an objective standard for the Constitution that cannot be modified by the beliefs of new justices. Christian Conservatives use a skewed sense of “Framer’s Intent” to justify their “Christian Nation” argument.

The discussion of the original intent of the religion clauses is scholastically extensive yet fundamentally dubious. Primarily, the evidence needed to ascertain the intentions of each of the Framers is limited. In fact, during the drafting of the Constitution, religion was an issue that was briefly discussed. In one scholarly analysis, Donald Flowers implies a reticent attitude by the

²⁰ Drakemen, Donald. *Church, State, and Original Intent*. Cambridge University Press 2010. Pg 14

founders regarding religion. He writes in his book, “[The founders] recognized, given the multiplicity of religions in the new nation and the distressing history of government oppression in the name of religion, that it would be better for them to leave the question alone. To avoid getting involved in a quagmire of competing religious loyalties, the government should remain neutral.”²¹ A separate computerized analysis of the language used during debates at the Constitutional convention reinforces Flowers’s assertion. This research finds that words like “property”, “law”, “trade”, “natural rights”, “taxes”, “representation” were all used in excess of one hundred. Yet “Christ” and “Jesus” were never mentioned, and the word God was invoked just 12 times by the framers, many of which were from popular phrases such as “Good God.”²²

The historical record on the process of writing the religion clauses of the first amendment is also unclear²³. The record of the debate in the House of Representatives is brief, perhaps more a paraphrase or summary than a verbatim report²³. The Senate debate was conducted in secrecy²³. And yet, despite the scanty direct evidence of Framers’ intent, scholars have nonetheless attempted to extrapolate theories buttressed by more speculative evidence such as recorded debates outside the Constitutional Convention. Numerous theories have been conceived attempting to explain the precise intentions of the Framers with regard to the 1st Amendment religion clauses. For example, one popular theory asserts that the religion clauses, and in particular the establishment clause, were originally intended to take the powers of religion out of the hands of the federal government, and reserve them for the states. For instance, an article titled *First Amendment Religion Clause: A Historical Metamorphosis* from the Northwestern University Law Review argues that the establishment clause was meant to, “place all matters

²¹ Flowers, Donald. *That Godless Court?*. Library of Congress Cataloging. 1994. Pg. 16.

²² Lambert, Frank. *Religion in American Politics*. Princeton University Press. 2008. pg. 27

²³ Flowers, Donald. *That Godless Court?*. Library of Congress Cataloging. 1994. Pg. 16

concerning religion within the sphere of power of the states, beyond any Congressional control,” and that therefore the first amendment is at its core, “a theory of federalism.”²⁴ This particular notion has become a staple argument in Christian Right rhetoric. However, within the discourse of framers’ intent there is equally substantive scholarly work rejecting this interpretation, and instead asserting that the founders’ intentions were in creating a distinct severance between the government and religion. For example, Kent Greenwalt argues in his textbook from the Princeton University Press, “the federalism argument may be sound as far as it goes, but it definitely does not go as far as some scholars have intimated...If the establishment clause was purely jurisdictional, Congress could have created outright religious establishments within federal domains.”²⁵ Further, Justice Hugo Black opined in *Everson v. Board of Education* (1947), often regarded as the most important religion clause case in American history, that the founders intentions were to “erect a wall of separation” between church and state. Still more theories can be found, including the idea that the founders were simply being reticent about the religious issue because they viewed it as a contentious matter. Donald Flowers declares in his book, *That Godless Court*, “By [barely] mentioning religion, the founders were not expressing animosity toward religion, but rather keeping the sacred matter of religion from the reach of government.”²⁶

The variety of theories that exist with the Founder’s Intent approach resolves little in clarifying the collective intention of the founders. Retrospectively, historians can determine the views of individual founders, like Jefferson and Madison. However, asserting the collective

²⁴ See 3

²⁵ Greenwalt, Kent. *Religion and the Constitution, Volume 2 Establishment and Fairness*. Princeton University Press and Oxford. 2009.

²⁶ Flowers, Donald. *That Godless Court?*. Library of Congress Cataloging. 1994. Pg. 16.

intentions of all the founders is a futile task. Nevertheless, Christian Conservatives consistently insist on one version of Founder's Intent, and then justify the claim for a "Christian Nation". Not only is the Christian Right's assessment of the founder's intentions to create a Christian Nation fundamentally erroneous, the basic use of "Founders Intent" as a means to decide how to apply the religion clause is defective. Realistically, the multitude of "framers intent" ideas conform into a convoluted arena of speculative theories in which it is difficult to decipher which thesis has more legitimacy than another. In fact, the "framer's intent" interpretation does much more to reinforce the pre-conceived values and political ideas of its proponents and less to create an objective standard to judge the Constitution. Lief Carter writes in his book *Introduction to Constitutional Interpretation*, "People interpret texts in all sorts of ways, often to suit the result they have already reached on other, more personal grounds. They reach conflicting answers, and they then tend to fight to defend the correctness of their own reading."²⁷ This is widely apparent in the rhetoric of the Christian Right, as will be addressed in section 2. Nonetheless, the inherent reality of a "Framers intent" ideology is that it diametrically contradicts its primary purpose of deterring subjective Constitutional interpretations. The practice of "Framer's Intent" is in paradox to the ideologies' purpose because the promise of objectivity is not fulfilled.

There are additional compelling reasons articulating the defects of an "original intent" approach. First is the text of the ninth amendment of the Constitution. The ninth amendment says, "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."²⁸ By describing Constitutional rights that could be "retained by the people", the 9th amendment conveys a transient notion of Constitutional

²⁷ Carter, Lief. *Introduction to Constitutional Interpretation*. University of Georgia. 1991 pg. 3

²⁸ The United States Constitution. Amendment IX

protection that would suggest that the founder's intentions were in fact for constitutional jurisprudence to *avoid* reliance on an intransigent application of founder's intent. Evidence of this irony is reinforced by further empirical evidence. In fact, James Madison, known to many as the "quintessential founder", declared, "as a guide in expounding and applying the provisions of the Constitution, the debates and incidental decisions of the Convention can have no authoritative character."²⁹ Leonard Levy, a leading constitutional scholar reinforces this sentiment by further pointing out that had the founders wanted their intentions embroiled into constitutional jurisprudence, they would have certainly kept formidable notes during the Constitutional Convention. Instead the notes are scant and unofficial³⁰. As Mr. Levy declares in the opening of his erudite analysis of original intent, "James Madison, father of the Constitution and the Bill of Rights, rejected the doctrine that the original intent of those who framed the Constitution should be accepted as an authoritative guide to its meaning."³⁰ This evidence undermines the basis of the entire Christian Right Movement which claims support from the founding fathers. Without the ability to assert a desire by the founding fathers to establish a nation that would continuously and universally reflect the Christian values of the founders, then the call for a "Christian Nation" instantly becomes a hollow title.

There are more fundamental and moral reasons that undermine the propriety of an original intent ideology. Primarily, the practice of this ideology dictates that the judicial standards of this country in the 21st century be held to the values of the 18th century. Although this could stabilize judicial standards, it would also cement them from a time when the values of the country were far different than they are today. For instance, many of the founding fathers'

²⁹ Levy, Leonard. *Original Intent and the Framers Constitution*. Ivan R. Dee Publisher. 2000

³⁰ See 29

owned slaves and discredited rights to women. Further, the founding fathers had no conception of many contemporary dilemmas including those based on technologies that did not exist in the founding era. Beyond anything else, the practicality of an original intent ideology is supremely flawed.

The third prominent ideology is a “living constitution” interpretation. Scholars have described the “living constitution” ideology in various ways, and certainly there are different forms of it. However, the form I find most prominent and effective in practice is a “living constitution” bound by a common law system. In other words, the ideology interprets the Constitution as a framework meant to be filled by judicial standards that reflect contemporary values *and* incorporates a value for precedence and past practices. Unquestionably, many of the most historic Supreme Court decisions have utilized this ideology, including *Griswold v. Connecticut* which granted a right to privacy, and *Brown v. Board* which desegregated schools. Further, the “Living Constitution” ideology has also been repeatedly applied to landmark religion clause cases including in *School District of Abington Township v. Schempp*, *Sherbet v. Verner*, *Marsh v. Chambers*, *Lynch v. Donnelly*, and *County of Alleghany v. ACLU*³¹.

The “living constitution” debate is robust. Proponents praise the ideology for the historic decisions it has compelled, while critics assail the attitude for inducing political manipulation into the judicial system. On the proponent’s side, Justice Brennan argued throughout his judicial career that the Constitution is a living document subject to “contemporary ratification” and that the judiciary must interpret the text to promote human dignity in light of society’s changing

³¹ Adams, Arlin. Justice Brennan and The Religion Clauses: The Concept of a “Living Constitution”. University of Pennsylvania Law Review. Vol. 139, No.5, May 1991.

values and needs³². Conversely, associate Justice Antonin Scalia expressed his opposition to a “Living Constitution” ideology in a lecture at Princeton University in 2001. He denounced the ideology for “driv[ing] one issue after another off the stage of political debate ... Every time you insert into the Constitution - by speculation - new rights that aren't really there you are impoverishing democracy. You are pushing one issue after another off the democratic stage.”³³

Many, including Christian Conservatives, echo Justice Scalia’s criticisms in saying that the Living Constitution interpretation illegitimately imports politics into the judicial process. However, when the ideology is applied appropriately, judicial precedents are weighed strongly enough to allow room for adaptation and change, but only within certain limits and only within ways rooted in the past. David Strauss of the Chicago Law School commented on this balance and wrote, “A common law Constitution is a "living" Constitution, but it is also one that can protect fundamental principles against transient public opinion, and it is not one that judges (or anyone else) can simply manipulate to fit their own ideas.”³⁴ The application of this common law based “living Constitution” has been demonstrated in numerous landmark Supreme Court cases. For example, in the highly contentious abortion case, *Planned Parenthood Southeastern PA v. Casey* (1992), enormous political pressure existed to overturn the decision in *Roe v. Wade* to legalize abortions. There were numerous amicus curiae filings that opposed abortion rights as well as thousands of protesters who flooded the streets of DC to demand a new ruling. Much of the political dialogue suggested that the appointment of new politically conservative justices

³² Speech by Justice Brennan at Georgetown University. “The Constitution of the United States: Contemporary Ratifications” (Oct. 12 1985) reprinted in A. Mason & D. Stephenson, *American Constitutional Law* 607 (1987)

³³ Scalia, Antonin. Speech to Princeton University, 2001.

³⁴ Strauss, David. *The Living Constitution*. Alumni Magazine, The Record Online. 2010
<http://www.law.uchicago.edu/alumni/magazine/fall10/strauss>

would inevitably lead to the overturning of the *Roe. v. Wade* decision³⁵. However, the final decision upheld the ruling in *Roe. v. Wade*. Justice Anthony Kennedy, Sandra Day O'Connor, and David Souter cited a strong value for judicial precedence and past practices. In fact, the opinion directly states, "application of the doctrine of stare decisis confirms that Roe's essential holding should be reaffirmed"³⁶. Clearly in this case, politics had not overtaken the Court. In fact, many predicted because of the newly assigned "conservative" justices, that the Roe decision would be overturned. Since Roe incorporated a "living Constitution" approach (by utilizing a privacy right that was developed by judicial precedent) the ability of the judges to overturn it in favor of powerful political pressure was predicted. Instead, the "living Constitution" approach bound by a common law system produced a ruling that was not politically manipulated. This case also demonstrates the impracticality of the other two interpretational ideologies. The text of the Constitution, subsequent amendments, and records of the framers, produce minimal guidance on abortion issues. This exemplifies the impracticality of a Literalist or Original Intent approach.

Most importantly, the ideology of a "living constitution" provides the appropriate and necessary allowance for evolving judicial standards that meet contemporary values. To deny the flexibility of the Constitution is at its core a denial of the democratic ideals that define the United States. This is one reason why the Christian Right defies American values. This group insists on conforming society to a "Christian Nation", and cementing the Constitution to the values of one era. The ultimate form of power in this country is not supposed to rest in the hands of legislators, justices, or the Supreme Court- power is ultimately deferred to the people. Without a "living constitution" that allows for adaptability in Supreme Court standards and precedence,

³⁵ <http://www.enotes.com/supreme-court-drama/planned-parenthood-southeastern-pennsylvania-v>

³⁶ *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992)

ultimate power is lifted from the people, and cemented into an epoch of over two centuries ago. Furthermore, it was the intentions of the founders to allow for an evolving sense of justice. To deny the evolving character of the Constitution is to deny the Constitution itself.

The “Living Constitution” ideology bound by a common law system vindicates the secular notion of government. This is a system which relies heavily on the establishment of precedence that simultaneously weighs past practice with contemporary values. Universally, modern religion clause precedents maintain a respect for the concept of separation between church and state. Contrarily, as will be established in Section 2, the modern Christian Right Movement denounces this separation and works actively to destroy it.

The set of cases to establish modern religion clause precedent revolves around the passing of the fourteenth amendment. Although the amendment came as a result of the Civil War, and ostensibly worked to rid institutionalized racism, the language of the amendment was written with a more encompassing nature. Section 1 of the amendment says:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”³⁷

³⁷ U.S. Constitution. 14th Amendment

Most importantly for religion clause issues, the 14th amendment laid the constitutional foundation for incorporating the religion clauses of the first amendment to the states. Specifically, it was in 1940, when the first religion clause was officially incorporated by the decision in *Cantwell v. Connecticut*. In the case, the Court ruled on a group of Jehovah witnesses who were arrested for handing out pamphlets and information advocating their religious views. Justice Roberts wrote in for the Court's opinion that "the statute....deprives them of their liberty without due process of the law in contravention of the Fourteenth Amendment." The opinion then goes on to explain that the fourteenth amendment applies the liberties of the first amendment to the states, and then cites specifically that "first amendment declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."³⁸ Although theoretically, this sweeping language promulgated the incorporation of both the establishment clause and free practice clause, because the case pertained to a free practice issue, the Cantwell case is commonly regarded as the case which incorporated the free exercise of religion.

Seven years later, *Everson v. Board of Education* (1947), commonly regarded as the most important religion clause case, officially incorporated the establishment clause of the first amendment. In the opinion, Justice Black formally acknowledged the constitutional application of the due process clause to the establishment clause of the first amendment³⁹.

The two decisions to incorporate the religion clauses have been sustained and utilized as precedent since being handed down almost seven decades ago. Critics, including Christian

³⁹ Majority Opinion, *Everson v. Board of Education*, 330 U.S. 1 (1947)

conservatives, will often complain that the idea of incorporating the religion clauses was a judicial fabrication created by a particularly liberal set of justices in the 1940's⁴⁰. However, it must be noted that by the time the clauses were incorporated, every state had already established their own versions of religious freedom laws and disestablishment laws. Further, by maintaining almost seventy years of official court jurisprudence, an incorporated sense of the religion clauses has become embedded into the social fabric of America. In general, the concept of incorporation has been used for almost all protections in the Bill of Rights. To deny incorporation would mean to deny the implementation of many Constitutional amendments, including the 2nd amendment, one which many Christian Conservatives would be hesitant to un-incorporate.

The Everson case contributed to the secular conviction of the country in other ways besides incorporation. The opinion also became famous for instituting or beginning to develop judicial standards by which to judge the establishment clause. In doing so, the Court asserted a strong sense of separation between government and religion, and notably referenced Thomas Jefferson's letter to Danbury, which coined the term "wall of separation between church and state", as a basis for the decision. The following is one of the most famous excerpts from the opinion:

"The 'establishment of religion' clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious

⁴⁰ Formicola, Jo Rene & Hubert Morken. *Everson Revisited, Religion, Education, and Law at the Crossroads*. Rowman and Littlefield Publishers. 1997.

beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between Church and State.'⁴¹ 330 U.S. 1, 15-16.

The Everson decision comes completely at odds with the assertions of the contemporary Christian Right movement. The idea of a “Christian Nation” imposes a diametrically opposite ideology to the one established in Everson. In the majority opinion, Justice Black went into great detail to describe the American desire to escape sectarian government in the founding era of the country. He wrote, “A large proportion of the early settlers of this country came here from Europe to escape the bondage of laws which compelled them to support and attend government-favored churches.”⁴² Although Justice Black went on to cite a letter by Thomas Jefferson, the reference came after an extensive description of the historical conception of religious freedom in America. Therefore, the reasoning for the decision did not base around a theory of the intentions of the founding fathers. Rather, the description of the establishment clause devised in the Everson decision was based around the prevailing American ideals of religious freedom and religious pluralism.

The Everson decision laid the foundation for the contemporary understanding of the religion clauses. The next central establishment case was *Abington Township School District v.*

⁴¹ Everson opinion. ***Employment Division, Department of Human Resources of Oregon v. Smith***

⁴² Majority Opinion, *Everson v. Board of Education*, 330 U.S. 1 (1947)

Schempp in 1963, which dealt with public school prayer issues. In the case, the Court built off the *Everson* precedent and re-iterated that the government at all levels, as required by the Constitution, must remain neutral in matters of religion "while protecting all, prefer[ring] none, and disparag[ing] none"⁴³. Further, the Court had forcefully rejected "the contention by many that the establishment clause forbade only governmental preference of one faith over another."⁴⁴

Following the *Schempp* decision, the Supreme Court made another important decision in *Lemon v. Kurtzman* in 1971. Building off the *Schempp* and *Everson* decisions, this case established the a detailed test laying out criteria for Constitutional legislation that affects religion. Known as the "lemon test", it contains three prongs:

1. *The government's action must have a secular legislative purpose;*
2. *The government's action must not have the primary effect of either advancing or inhibiting religion;*
3. *The government's action must not result in an "excessive government entanglement" with religion.*⁴⁵

Over the next three decades the Lemon Test was implemented as the reigning test for establishment clause cases but not always now. This test made clear the impossibility of a "Christian Nation" adhering to the Constitution; such a concept fails every prong of the Lemon Test. Ironically though, it was over this same period that the development of the Modern Christian Right movement first began. In fact, in many ways the decision in *Lemon* became a

⁴³ *Abington Township School District v. Schempp*. 347 U.S. 203 (1963)

⁴⁴ *Abington Township School District v. Schempp*. 347 U.S. 203 (1963)

⁴⁵ *Lemon v Kurtzman*, 403 U.S. 602 (1971)

galvanizing icon for the movement.⁴⁶ Leaders, including Jerry Falwell, Pat Robertson, and Phyllis Schlafly continually pointed to the decision as a disgrace to American tradition⁴⁶. Instead, they began asserting the Christian Right version of American tradition, one based on religious absolutism, anti-democratic values, and Biblical tenet.

The quintessential institution symbolizing the conflict between sectarians and secularists is the public school system. In many ways, the public school systems represent the values of America. It is the tool by which society prepares future generations to lead the nation. The Courts have often been deferred to as the objective voice in these disputes pertaining to public schools. Most notably, the Supreme Court has made decisions on teaching creationism versus evolution, school prayer, student-initiated prayer, graduation prayer, religious holiday observance, and public aid for religious school. Ubiquitously, the Courts have emphasized a secular interpretation of the Constitution.

On the issue of creationism vs. evolutionary teaching in the public school system, the Court ruled in *Epperson v. Arkansas* (1968) that it is illegal to forbid the teaching of evolution⁴⁷. Nineteen years later, in *Edwards v. Aguillard* (1987), the Supreme Court ruled that a balanced teaching of Creationism and Evolution in public schools was unconstitutional, that in fact teaching creationism as a comparative scientific theory to evolution was in violation to the establishment clause⁴⁸. In 2005, a federal court decided in *Tammy Kitzmiller v. Dover Area School District*, that it was unconstitutional to teach intelligent design.

⁴⁶ Wacker, Grant. The Christian Right. Duke University Divinity School. National Humanities Center. http://nationalhumanitiescenter.org/tserve/twenty/tkeyinfo/chr_rght.htm

⁴⁷ *Epperson v. Arkansas*, 393 U.S. 97 (1968)

⁴⁸ *Edwards v. Aguillard*, 482 U.S. 578 (1987)

On the issue of school prayer, the Courts have consistently evinced a secular point. In *Engel v. Vitale* (1962), the court ruled rejected school-led prayers. In *Santa Fe Independent School Dist. v. Doe* (2000), the court rejected student-led prayers in schools in certain circumstances. In *Abington Township School District v. Schempp* (1963), the Court rejected Bible reading, when done as religious exercise, in public schools. In *Lee v. Weisman* (1992), the court rejected religious prayer by clergy members at public school ceremonies.

On the issue of public aid for private religious schools, the Court has issued wavering decisions over the last half century, mainly based on the judicial standards applied⁴⁹. However, the recent decisions, which are regarded as religiously lenient in compared to previous decisions, still hold that any public aid reaching sectarian schools must have a secular purpose⁵⁰.

In numerous fashions, the activities of the modern Christian Right Movement defy the Constitution. The Christian Right continually advocates for Biblical curriculums in public schools. The Christian Right continually advocates for prayer in public schools. The Christian Right continually advocates for public funding of religious schools. The Constitution was written with a secular nature and the Courts have followed this sentiment. Although some recent Court decisions may have lessened the extent of the separation between church and state (see *Van Orden v. Perry* (2005) which allowed the display of the Ten Commandments on public property), no Court precedent comes close to the fundamentalist ideals of the Christian Right Movement. Simply put, a “Christian Nation” formed to promote Christian fundamentalist ideals breaches Constitutional principle. The following section will explore the extent by which the Christian

⁴⁹ Brougher, Cynthia. *The Law of Church & State: Public Aid to Sectarian Schools*. Cornell University, 2010 [http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1791&context=key_workplace&seiredir=1#search="court+cases+for+public+aid+to+religious+schools"](http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1791&context=key_workplace&seiredir=1#search=)

⁵⁰ See 49

Right movement has acted on its fundamentalist ideals and will examine in particular the impact of its rhetorical strategies, as well as the impact of a matured political agenda engaged by Christian Conservatives over the last ten years.

Section 2

In March of 2011, the Supreme Court ruled in favor of a group of religious protestors picketing outside the scene of soldier's funeral. In *Snyder v Phelps* (2011), the Supreme Court dealt specifically with a protest by the Westboro Baptist Church (WBC), a small church headed by Fred Phelps. The church holds nearly 70 members, mostly consisting of Fred Phelps' large family⁵¹. The case addressed a protest that occurred adjacent to the site of the funeral of Matthew Snyder, a marine who died in the Iraq War in 2006. As part of the protest, picketers displayed signs that read, "America is doomed", "You're going to hell", "God Hates you", "Fag troops", and "Thank God for dead soldiers," amongst other inflammatory slogans⁵². The group justifies its actions on the belief, best expressed by its slogan, "God Hates Fags", that every tragedy in the world is an expression of God's disapproval for the world's acceptance of homosexuality. The group maintains that God hates gays above all other kinds of "sinners" and that homosexuality should be treated as a capital crime.⁵³

⁵¹ "[America's most hated family](http://news.bbc.co.uk/2/hi/uk_news/magazine/6507971.stm)". BBC News UK. Interview with [Louis Theroux](#). 30 March 2007. http://news.bbc.co.uk/2/hi/uk_news/magazine/6507971.stm

⁵² *Snyder v. Phelps*. No. 09-751 2010

⁵³ Westboro Baptist Church homepage. <http://godhatesfags.com/>

The case against the WBC attracted significant media attention and, in many ways, galvanized the American public in opposition to the kind of religious extremism exemplified by Phelps and his followers. Louis Theroux, a reporter for the BBC, captured this sentiment in a documentary about the Phelps family in 2007, which he unapologetically titled, *The Most Hated Family in America*.⁵⁴ Nevertheless, despite the universal rejection of the actions and beliefs of the WBC by the American public, the Supreme Court ruled almost unanimously (8-1) in favor of the right of Fred Phelps to engage in the controversial protests. In the decision, the court insisted on preserving the principles of the first amendment, even at the expense of tolerance for speech deemed abhorrent by contemporary social values.⁵⁵

Fred Phelps and his followers express their Christian Conservative views with brazen disregard for mainstream values or political correctness. As a result, the WBC has become an icon of public opprobrium. Even fellow Christian Conservatives contribute to the political ostracization of the WBC. Jerry Falwell, one of the most famous leaders of the Christian Right movement, called Fred Phelps, “A first class nut.”⁵⁶ However, a fairly rudimentary comparison of the views of the more politically refined Christian Right movement and the views of the WBC exposes startling similarities. Both groups attest to Christian Dominionism- a fundamentalist ideal which asserts that godly men have the responsibility to take over every aspect of society⁵⁷. Both groups believe that they have a special knowledge of and relationship to God, which allows them to impose what they take to be God’s will upon other people and, if necessary, punishing

⁵⁴ Theroux, Louis. *The Most Hated Family in America*. BBC, 2007. <http://www.documentarytube.com/the-most-hated-family-in-america>

⁵⁵ *Snyder v. Phelps*. No. 09-751 2010

⁵⁶ http://cjonline.com/webindepth/phelps/stories/102498_protests.shtml

⁵⁷ Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007.

agnostics for their disbelief⁵⁸. Both disagree with the idea of religious pluralism. And both zealously oppose abortion rights, gay rights, stem-cell research, and other issues that they argue should be judged according to the moral edicts contained in the Bible. However, there is a reason for the severance between the WBC and the modern Christian Right movement. The WBC does not attempt to appeal to the general public. In comparison, the Christian Right movement has developed a refined political strategy that allows it to make Christian Conservative values more appealing to the general public. Furthermore, the WBC limits its activities to protests and other forms of public expression that adhere to the Constitution (as confirmed by *Snyder v Phelps*). Contrarily, the Christian Right Movement actively works to impose their views throughout the population by infiltrating government institutions and effecting public policy. As Michelle Goldberg describes in an analysis of the movement, “the Christian nationalist movement claims that the Bible is absolutely and literally true. But it goes much farther, extrapolating a total political program...It claims supernatural sanction for its campaign of national renewal and speaks rapturously about vanquishing the millions of Americans who would stand in its way.”⁵⁹ It has become a staple of American democracy that in order to enjoy the richness of religious freedom, society must accept the ability of minorities to express socially unacceptable beliefs (see *Texas v. Johnson*⁶⁰). However, lines can be crossed when the expressions of one group of people infringe upon the rights of another.

⁵⁸ Perkin, Harold. *American Fundamentalism and the Selling of God*. The Political Quarterly. Blackwell Publishers. 2000

⁵⁹ Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007. pg. 6

⁶⁰ *Texas v. Johnson*, 491 U.S. 397 (1989)

The public actions of Fred Phelps and his church are loud and limited. Few sympathize with their ideals, limiting their opportunity to effectively influence government policy. Conversely, the strategies pursued by the contemporary Christian Right movement are extensive and very often more covert. With over thirty years of experience, the leaders have successfully transformed the movement from a disorganized coalition of various religious groups, to a unified and effective political player. Section One of this paper discussed the secular nature of the Constitution, and the secular conviction of judicial precedent. This section of the paper will explore how the Modern Christian Right defies these principles and engages a political agenda to infiltrate government to affect public policy. In particular, the paper will argue that the leaders of the Modern Christian Right implement varying rhetorical strategies to cover their anti-democratic ideals, that the movement has gradually developed more comprehensive strategies to influence government, and that their agenda attacks religious freedom, defies constitutional principle, and undermines American values.

The contemporary Christian Right movement is a social movement that can be most accurately described as a coalition of different Christian conservative groups that have been bound together to employ a political agenda based off Judeo-Christian values. The coalition's most prominent groups include Christian Evangelicals, Christian Nationalists, and Christian Reconstructionists. Each group share common Judeo-Christian values, but differ slightly on the perception of their role within government. Evangelicals work within the system, seek compromise with political leaders and ultimately accept the legitimacy of government as an

extent of God's plan⁶¹. Christian nationalists reject the notion that human governments have authority and seek separation from a secular influence. Reconstructionist Christians call for absolute religious totality. They advocate for an American theocracy in which the law is based on religion and religion is an inexorable part of the law⁶². Despite these ideological differences, in the late 1970's the groups were drawn together to employ a political agenda founded on common social beliefs. Various theories attempt to explain how the movement began, some calling it a reaction to a feminist movement in the 1960's⁶³, while others attribute the start to the founding of the Moral Majority by Jerry Falwell in the late 1970's (a political response to social issues and *Roe vs. Wade*⁶⁴). No matter what initiated the movement, the members are united by the basic belief that America is a "Christian Nation". Francis Scafeffer, one of the most famous early leaders of the Christian Right movement, helped establish this tenet, declaring in *A Christian Manifest* (1982), "This country was founded on a Christian base with all its freedom for everybody. Let me stress that. This country was founded on a Christian base ...I want to say to you, those of you who are Christians or even if you are not a Christian and you are troubled about the direction that our society is going in, that we must not concentrate merely on the bits and pieces. But we must understand that all of these dilemmas come on the basis of moving from the Judeo-Christian world view -- that the final reality is an infinite creator God -- over into this

⁶¹ Kemp, Morgan. *Blessed are the Born-Again. An Analysis of Christian Fundamentalists, The faith-based Initiative and the Establishment Clause*. HEIN Online. 2007
http://heinonline.org/HOL/Page?handle=hein.journals/hulr43&div=49&g_sent=1&collection=journals

⁶² See 61

⁶³ Brown, Ruth. *For a Christian America*. Prometheus Books. Library of Congress. 2002

⁶⁴ Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007.

other reality.”⁶⁵ The Christian Right movement was founded upon the “Christian Nation” ideal, and it also incorporates another defining characteristic: the active pursuit of spreading Judeo-Christian ideals using government as the means. As Tim LaHaye, another founding leader of Christian movement, implored, “We must remove all humanists from public office and replace them with pro-moral political leaders.”⁶⁶ The combination of these two principles – 1) America is a Christian Nation and, 2) A Christian duty to spread Biblical ideals throughout the country- became the basis for all the activity of the modern Christian Right movement.

Since the 1970’s, the movement has gone through waves of prominence⁶⁷. In the first twenty years of its existence, the movement made mainstream headlines in the early 1980’s with the election of Ronald Reagan, in the late 1980’s with the presidential campaign of Pat Robertson and his founding of the Christian Coalition, and once again in the mid 1990’s with the presidential campaigns of Ross Perot and Pat Buchanan. In between these periods of political prominence, the Christian Right movement continued to mature. As Mark Rozell and Clyde Wilcox document in their scholarly essay about the rise of the Christian Right movement, at the beginning, in the 1970’s, the movement was characterized by “disorganization, decentralization, and a lack of fully developed institutional structure”. Through the 1980’s, the movement went through a transition of political maturity, and by the 1990’s had “far more effective organizational structures, far larger and more inclusive coalitions, and...more pragmatic

⁶⁵ Schaeffer, Francis. *A Christian Manifesto*. Addressed at Coral Ridge Presbyterian Church. 1982

⁶⁶ LaHaye, Tim. *Battle for the Mind*. Old Tappan, N.J. Fleming H. Revell, 1980. Pg. 9

⁶⁷ Wilcox, Clyde & Rozell, Mark. *Second Coming, Strategies of the New Christian Right*. The Academy of Political Science. 1996.

strategies.”⁶⁸ As a result, by the turn of the millennium the Christian Right movement had developed its most efficient plan for spreading Biblical values and infiltrating government affairs. The remainder of this paper will illustrate the success of this refined political strategy by the Christian Right movement over the last decade. Particularly, the paper will highlight the impact of improved rhetorical strategies, the Christian influence during the Bush presidency, and finally the newly found allegiance between the Tea Party and the Christian Right Movement.

The Christian Right movement has developed a keen sense for how to employ various rhetorical strategies to influence public affairs. At the beginning of the movement, the group was led by charismatic leaders who bluntly voiced their appeals for a Christian Nation using radical and inflammatory language. Jerry Falwell, the face of the early Christian movement, once declared, “AIDS is not just God's punishment for homosexuals; it is God's punishment for the society that tolerates homosexuals.”⁶⁹ Such extreme language was the norm for early Christian conservative leaders, who aimed to inspire their constituents and did not concern themselves with the possible negative effects that might result from the indiscriminate use of radical language. However, as the initial popularity of the movement began to decline, it became apparent that the use of extreme and accusatory language was alienating many Americans and marginalizing the movement. Christian Right leaders soon determined that in order to revitalize the movement and begin effectively spreading Biblical values, new refined messages that didn't ostracize the mainstream public had to be developed. In fact, many Christian conservative

⁶⁸ Wilcox, Clyde & Rozell, Mark. *Second Coming, Strategies of the New Christian Right*. The Academy of Political Science. 1996.

⁶⁹ "Press: The Sad Legacy of Jerry Falwell". <http://www.milforddailynews.com/opinion/x1987843539>. Retrieved May 18, 2007.

leaders are quite candid about their efforts to strategically reframe their messages. Anne Kincaid, a political strategist for the Christian right, said in one interview, “I can remember using rhetoric that I don’t use anymore, that sounded inflammatory... Yes, the Bible says that ‘rebellion against men is of witchcraft.’ It’s all Biblical tenet, but the laymen doesn’t understand that.” She went on to say, “Unless you’re talking to a Christian audience, you don’t pull all the rhetoric out there that others won’t respond to. I learned this the hard way.”⁷⁰ Evidence of this politically motivated shift in rhetoric is robust. Ralph Reed, often described the Christian Right’s “shrewdest political strategist”⁷¹, once urged his followers to, “adopt strategies of persuasion, not domination,” and wrote that phrases like, “Religious war,” and “take-over” play to a stereo type of evangelicals as intolerant. Yet, in his earlier work for the Christian Coalition, Reed gained notoriety for exclaiming, “I do guerrilla warfare. I paint my face and travel by night. You don’t know it’s over until you’re in a body bag. You don’t know until election night.”⁷² Ned Ryun, director of Generation Joshua (a program launched in 2004 to train home schooled evangelicals to become politically active), articulates the new Christian rhetorical strategy best when he said, “God is not for same-sex marriage. God believes that the bible protects life,” in public though, “usually you have to use terms and facts that the other side accepts as reasonable. What I’m trying to do here with you people is, let’s take the Bible and the Constitution, and let’s look at

⁷⁰ Wilcox, Clyde & Rozell, Mark. *Second Coming, Strategies of the New Christian Right*. The Academy of Political Science. 1996.

⁷¹ Lictman, Allan. *Crisis and Change in the Christian Right Movement: Whither America Conservatism*. Part 1. 2007.
<http://webcache.googleusercontent.com/search?q=cache:ZqXdPuN9VpIJ:www.britannica.com/blogs/2007/11/crisis-and-change-with-the-christian-right-whither-american-conservatism-part-1/+reed+christian+right+movement&cd=1&hl=en&ct=clnk&gl=us&source=www.google.com>

⁷² Quoted in Jan Vertefeulle, “Religious Right Sets Sights on Virginia GOP,” *Lynchburg News & Daily Advance*. March 23, 1993.

current events. What does the Bible have to say about it. Let's get a firm, solid biblical worldview, and then learn how to communicate that in terms that the other side accepts.”⁷³

The words of Ned Ryun, who also served as a speech writer for former President George W. Bush, are antipathetic to secular Constitutional principles. Essentially, Ned Ryun describes a strategy to hide an overtly sectarian agenda that he understands mainstream society to reject, with political rhetoric that makes Christian Conservative values more appealing to the general public. Over the last decade, this strategy has achieved profound success. By refurbishing its messages with non-sectarian language, the Christian Right Movement has been able to make a pervading impact on contemporary issues.

The influence of Christian Right rhetoric is apparent in numerous social issues. Christian conservatives habitually describe gay marriage as a detriment to a “fundamental institution of society.” In Christian code, a “fundamental institutions of society” means a Biblical principle. In abortion debates, Christian conservatives commonly make the secular appeal that an abortion is an act of murder that defies secular law. Yet, the majority of Christian Right publications about abortion give deference to God's authority to declare when life begins; revealing the fundamentally pious basis for their belief. When it comes to public school education, Christian conservatives argue for implementing “secular” curriculums like intelligent design calling it a “scientific theory...not religion”⁷⁴. Yet the Courts defiantly declared the theory an exclusively Christian concept inappropriate for use in science classes from public schools. Even for fiscal policies, the Christian Right issues its opinions in a secular light, but fundamentally support them

⁷³ Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007

⁷⁴ Gillen, Patrick. *Kitzmiller v. Dover School District*. Closing Arguments. 2005

from a religious perspective. Many Christian Right fiscal views are based on the idea that any form of a welfare state is an extension of communism, which is a Godless ideology⁷⁵. In the public discourse, Christian movement leaders rarely reveal a sectarian agenda. As a result, the more secularly-refined arguments have been widely accepted by the American public. Thirty “defense of marriage” amendments have been passed in states to maintain a “fundamental institution of society”. Public funding for Planned Parenthood has been halted for criticisms that it supports “murder”⁷⁶. Public school programs like The National Council on Bible Curriculum in Public Schools have been able to institute “secular” Bible curriculums in 572 school districts in 38 states⁷⁷. The Christian Right movement has achieved great success in mainstreaming religious arguments with secular language, which consequently has had a profound impact not only public debate, but also on public action.

The Christian Right has become proficient in not only framing certain arguments so as to be politically acceptable, but has also conjured Constitutional arguments to support their positions. As discussed earlier, in Section One, the Constitution unequivocally established a secular interpretation of the place of religion in relation to government. The three religion clauses in the Constitution each contribute to religious privatization, and judicial precedent asserts a definite separation between church and state. Yet, the Christian Right habitually insists on constitutional support for their Judeo-Christian arguments. The National Council on Bible Curriculum in Public Schools declares, “the Bible was the foundation and blueprint for our

⁷⁵ Kemp, Morgan. *Blessed are the Born-Again. An Analysis of Christian Fundamentalists, The faith-based Initiative and the Establishment Clause*. HEIN Online. 2007
http://heinonline.org/HOL/Page?handle=hein.journals/hulr43&div=49&g_sent=1&collection=journals

⁷⁶ Dwyer, Devin. “Planned Parenthood at Center of Budget Shutdown Threat”. ABC News. 2011
<http://abcnews.go.com/Politics/planned-parenthood-center-budget-shutdown-threat/story?id=13328750>

⁷⁷ Homepage of National Council on Bible Curriculum in Public Schools. <http://www.bibleinschools.net/>

Constitution, Declaration of Independence, our educational system, and our entire history until the last 20 to 30 years.”⁷⁸ Most often, the Christian Right will subscribe to the “Founder’s Intent” method of Constitutional interpretation, and assert that the founders intentions were to make America a Christian Nation⁷⁹. Not only are there inherent problems with using the “Founder’s Intent” argument in general, it is even more questionable to also assert that the intentions of the founders were collectively to establish a “Christian Nation.” David Gibbs, a Christian conservative lawyer, epitomized the Christian Right perspective in a speech he made to other evangelicals; “How many here understand we were founded as one nation under God?” When the crowd murmured yes, Gibbs continued, “What does that mean? Well, to our founding fathers what that meant is they were going to take the word of God, and God has given us in the Bible his word, and they said in this book will always be true, and if there is ever a close call in policy, in leadership, in law, in society, if there’s ever a question, we want to look to the source of absolute truth. That’s why the Ten Commandments are so important. They were the original source of American law. The Bible was understood to be authoritative. When the founding fathers said, ‘One Nation under God,’ they made the decision that they would submit to what God had put forward in his law.”⁸⁰ Despite the confidence Gibb’s exerts, such convictions defy all modern judicial precedent and understanding of religious freedom rights. Nevertheless, these very arguments form the backbone for Christian Right messages.

⁷⁸ National Council on Bible Curriculum in Public Schools. <http://www.bibleinschools.net/Founding-Fathers>

⁷⁹ Kemp, Morgan. *Blessed are the Born-Again. An Analysis of Christian Fundamentalists, The faith-based Initiative and the Establishment Clause.* HEIN Online. 2007
http://heinonline.org/HOL/Page?handle=hein.journals/hulr43&div=49&g_sent=1&collection=journals

⁸⁰ Goldberg, Michelle. *Kingdom Coming.* W.W. Norton & Company. New York, 2007159

The Constitution promulgates the right to free speech, the right to peaceful assembly, and the right to free practice of religion. In this light, the rhetoric of the Christian Right Movement is constitutional. Just as Fred Phelps brazenly voiced his displeasure with homosexuals, the Christian Right Movement can make a call for a Christian Nation. However, the ideas of the Christian Right movement are nonetheless in conflict with constitutional principle and American values. Asserting the claim that America is a Christian Nation implies more to Christian Conservatives than a demographic reflection of the popularity of Christianity in America. It implies that the moral code of the country should mirror the Bible. It implies that Christianity should be publicly favored over other religions. R.J. Rushdoony, a Calvinist Philosopher credited with having considerable influence on the Christian Right, once wrote in an article, “The humanist West is our modern throne of iniquity, framing mischief by enacting law. We must return to God’s law. We must work towards a true Christendome. Thy kingdom come, O Lord!”⁸¹ These convictions are not isolated. Howard Phillips, an Oklahoma senator once declared, “the overarching question we face today is: ‘Who is America’s sovereign?’ and ‘What is his law?’...The holy Bible makes clear that Jesus Christ is our sovereign. He is king of kings, lord of lords, the ruler of all nations. America’s founding fathers understood and acted on this Biblical truth...Clearly, if the words of the framers are honored, Congress has no authority to restrict the establishment of Biblical religion.”⁸² These Christian nationalist ideals undermine a pillar of American democracy, religious pluralism, and conflict with Constitutional principles affirmed by Article VI and the establishment clause of the first amendment.

⁸¹ R.J. Rushdoony, “Christian Reconstructionism as a Movement,” *The Journal of Christian Reconstruction*, Fall 1996. Pg. 21

⁸² Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007. 167.

According to Supreme Court precedence, people have the Constitutional right to believe anything they like as well as a right to express their beliefs publicly. Accordingly, even if the ideals of the Christian Right conflict with the Constitution, it is not unlawful for them to believe or express such ideals. However, religious *actions* and certain forms of speech can be limited if they are found to be otherwise illegal.⁸³ When the Christian Right Movement transforms their nationalist ideals and political rhetoric into tangible action, it automatically becomes susceptible to Constitutional consideration. In many ways, the actions of the Christian Right breach tenets of the establishment clause. Although it can be difficult to establish a quantitative measure of the impact of Christian Right rhetoric on establishment clause principles, there are countless other practices by the Christian Right Movement which directly breach Constitutional sovereignty.

Over the last decade, the Christian Right Movement has benefited from matured political strategies that have led to prolific access into government institutions. With the election of George W. Bush in 2002, a new president, who sympathized with the Christian Conservative vision of America, had taken office. During this administration, the Christian Right actively pursued and infiltrated government institutions. When Barack Obama won the presidency eight years later, the Christian Right remodeled their efforts and once again gained political influence by tapping into a newly inspired Tea Party movement.

When George W. Bush was elected as president of the United States, the Washington Post carried an article asserting the, “ascendance of a new leader of the religious right in

⁸³ Engel v. Vitale & Wisconsin v. Yoder & Employment Division v. Smith.

America: George W. Bush.”⁸⁴ Many Christian Conservatives were ecstatic by his election. During primary season, George Bush had named Jesus Christ as his favorite philosopher. To many leaders of the Christian Right, his election meant an opportunity from the highest level of government to spread Judeo-Christian values. Ralph Reed, former executive director of the Christian Coalition, said in an interview that the Christian Right no longer needed to apply political pressure autonomously onto government. “You’re no longer throwing rocks at the building; you’re in the building,” Reed said.⁸⁵ In fact, during Bush’s eight years in office, religious influence on government grew to an unprecedented level, repeatedly overstepping established bounds of separation between government and religion.

Upon winning the presidency, George Bush did not take long to assert his allegiance with the Christian Right movement. At the presidential inauguration an exclusively Christian theme permeated the ceremony. The invocation, offered by Franklin Graham, son of famous evangelist Billy Graham, contained numerous references to "Lord" and concluded "in the name of the Father, and of the Son, the Lord Jesus Christ, and of the Holy Spirit."⁸⁶ On January 22, 2001, President Bush's first working day in office and the 28th anniversary of Roe v. Wade, the president issued an executive order ending all tax aid for private family planning groups that provide abortions overseas⁸⁷. In response, Jim Winkler, head of the United Methodist Board of Church and Society, wrote a letter to the president deploring, "You have imposed on the poorest

⁸⁴ *Bush has new role; de facto leader of religious right*. Religions and Theology Political Science. Church & State Volume 55, Issue 2. 2002.

⁸⁵ *See 84*.

⁸⁶ <http://search.proquest.com/religion/docview/219188174/12ED4BD6E6C430F5EDA/2?accountid=8285>

⁸⁷ <http://search.proquest.com/religion/docview/219188174/12ED4BD6E6C430F5EDA/2?accountid=8285>

women of the world a halt to information that women in the United States are guaranteed."⁸⁸ Yet Bush remained steadfast, as he would continually prove to be, in promoting the ideals of the Christian Right.

President Bush became the access point by which the Christian Right infiltrated government for the first eight years of the new millennium. Article VI of the Constitution bans any religious test for public office. However, an analysis of the Bush administration hiring practices suggests a definite breach to Article VI. When President Bush became president, he created a White House Office of Faith Based and Community Initiatives, and went on to set up similar offices in major government departments – Justice, Labor, Health and Human Services, Housing and Urban Development, Education, Agriculture, Commerce, Veterans Affairs, the U.S. Agency of International Development, and the Small Business Administration⁸⁹. Numerous members of these staffs were recruited directly from high-ranking member of the Christian Right movement including David Kuo, former deputy director of the Office of Faith Based and Community Initiatives and Deanna Carlson, the associate director of the faith-based office at the Department of Health and Human Services. Several of these prominent appointees took office with the blatant purpose of implementing Christian Right values. Not only did they work within their own departments to promote such values, but they also worked to extend the influence of Christianity throughout government by hiring Christian Conservatives in lower governmental positions. Regent University, a Christian based institution founded by Pat Robertson, boasts that over 150 of their graduates have worked under the Bush Administration since 2001⁹⁰. Regent

⁸⁸ <http://search.proquest.com/religion/docview/219188174/12ED4BD6E6C430F5EDA/2?accountid=8285>

⁸⁹ Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007.

⁹⁰ See 88

University has the stated mission, “to serve as a leading center of Christian thought and action providing an excellent education from a Biblical perspective and global context in pivotal professions to equip Christian leaders to change the world.”⁹¹ The dean of the school believes that “faith and politics should be mixed,” and proudly promotes teaching students to affect policy with a Biblical tilt⁹². John Ashcroft, the first U.S. Attorney General appointed by President Bush, was a former professor at Regent University and a dedicated Christian Conservative. Upon appointment, he instituted prayer meetings and bible study into the justice department. He also changed the hiring practices of the department. Instead of using career attorneys to head hiring operations, Ashcroft saw it fit to make political appointees head of hiring operations⁹³. As a result, sharp criticisms of religious discrimination favoring Christians began to emerge throughout the white house. The allegations included Monica Goodling, another Bush appointee, who eventually was forced to resign after she helped fire eight U.S. attorneys and helped hire other attorneys based on party affiliation, and perhaps more specifically, Christian affiliation. Upon her resignation, she wrote a letter to Attorney General Alberto Gonzales saying, “May God bless you richly as you continue your service to America.”⁹⁴

George W. Bush heavily favored Christian Conservatives in the makeup of his white house administration. He oversaw and complied with the prolific favoring of Christian Conservatives. The establishment clause is understood to deter government from advancing a

⁹¹ Regent University Homepage. http://www.regent.edu/about_us/overview/mission_statement.cfm

⁹² <http://digital.films.com/PortalViewVideo.aspx?xtid=37420>

⁹³ <http://digital.films.com/PortalViewVideo.aspx?xtid=37420>

⁹⁴ Jordan, Lara Jakes (2007-04-06). "[Gonzales aide Goodling resigns](#)". [Associated Press](#). Archived from [the original](#) on 2007-04-08.

particular religious belief. Current establishment clause precedent incorporates the three prongs from the Lemon Test established from *Lemon v. Kurtzman* (1971), the endorsement test from *Lynch v Donnelly* (1984), and a modified version of the Lemon test known as the Agostini test, which came from *Agostini v. Felton* (1997). The principles of these tests each act to negate the ability of government institutions to reflect one religious theory. This is the essence of the separation between church and state. When over 150 Regent University graduates, an inordinately proportioned number of students from one small law school, work in a government institution, like the white house, with the overt purpose of implementing Judeo-Christian values into public policy, a Constitutional breach exists. When the attorney general institutes prayer into the white house (George Bush was also said to have instituted prayer in the white house), a Constitutional breach exists. When members of the government are fired for not being affiliated with a certain party or religion, a Constitutional breach exists. The George Bush era illustrates the cooperation of a president and a religious group working together to impose Christian nationalist values onto a government institution, a direct penetration of the constitutionally established separation of church and state.

The most Constitutionally-infringing impact of the White House affiliation to the Christian Right movement during the Bush era was the advancement of faith based initiatives. As Michelle Goldberg commented in her book *Kingdom Coming*, “The diversion of billions of taxpayer dollars from secular social service organizations to such sectarian religious outfits has been one of the most underreported stories of the Bush presidency.” She goes on to lament how these initiatives became a, “spoils system for evangelical ministries, which are now involved in

everything from prison programs and job training to teenage pregnancy prevention.”⁹⁵ In 2005, Bush proudly announced that the federal government gave two billion dollars in grants to faith-based groups that year⁹⁶. In response to heavy criticism that such actions violated the establishment clause of the first amendment, Bush assured that the use of funds would not be used to promote religious ideals. He said in an interview, “It can fund the soup, it can fund the shelter. It shouldn’t fund the Bibles, and I think if we maintain that division, we’ll be in the right place.”⁹⁷ However, an examination of the programs receiving aid from the faith-based initiatives reveals that, in fact, there was copious funding directed towards sectarian programs. Metro Atlanta Youth for Christ received an annual grant of \$363,936 for three years, doubling its budget. The group used the money to hire three “abstinence educators” who required no specific credentials in public health, only that they had to be Christian⁹⁸. According to the Youth for Christ website, the mission of the group is to reach, “young people everywhere, working together with the local church and other likeminded partners to raise up lifelong followers of Jesus who lead by their godliness in lifestyle, devotion to the word of God and prayer, passion for sharing the love of Christ and commitment to social involvement.”⁹⁹ The White House also argued that the faith-based initiative would be open to all religions and thus would conform to the standards of the establishment clause. However, data shows that Christian programs benefited most heavily

⁹⁵ Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007.

⁹⁶ Transcript of Bush speech, “President Highlights Faith-Based Initiative at Leadership Conference,” White house website.

⁹⁷ Bush’s Faith Based Initiatives Launched. 2001
<http://usgovinfo.about.com/library/weekly/aa012901a.htm>

⁹⁸ See 95

⁹⁹ Youth for Christ Homepage. <http://www.yfc.net/about/mission/>

from the faith-based grants, and further that the religious neutrality justification is irrelevant because of the unavailability of any secular alternative¹⁰⁰. The faith based initiative launched by President Bush had the impermissible effect of advancing a particular religious belief. It therefore did not meet the requirements of the establishment clause and defied the Constitution.

When President Obama successfully won the presidency with the campaign slogan, “change”, the pervading influence of the Christian Right in government institutions abated. Obama represented a sharp break from the Bush approach¹⁰¹. During the election, Christian Conservative leaders were uniformly hostile to Obama, and backed his opponent John McCain¹⁰². James Dobson, a prominent leader of the Religious Right, announced, “What is happening in Washington right now is my greatest nightmare.” He went on to describe Obama’s work as regressive to twenty-five years of action by the Christian Movement¹⁰³. In response, leaders of the Christian Right Movement adjusted their political strategy. Christian Conservatives could no longer use the president as a central access point to infiltrate government institutions. Instead, the Christian Right Movement remodeled their efforts with a new focus on the appeals of the general public. Most significantly, the Christian Right began promoting economic messages that mainstream Americans could sympathize with, diverting attention away from the social issues they usually focus on.

The Christian Movements shift in strategy coincided closely with the emergence of the Tea Party movement. The Tea Party started out as a primarily Anti-Obama, anti-government,

¹⁰⁰ Kemp, Morgan. *Blessed are the Born-Again. An Analysis of Christian Fundamentalists, The faith-based Initiative and the Establishment Clause*. HEIN Online. 2007
http://heinonline.org/HOL/Page?handle=hein.journals/hulr43&div=49&g_sent=1&collection=journals

¹⁰¹ <http://search.proquest.com/religion/docview/219168267/12ED4A6818C3080F2E5/16?accountid=8285>

¹⁰² See 101

¹⁰³ See 101

anti-tax drive¹⁰⁴. In the media, the group promoted itself as largely secular and libertarian.¹⁰⁵ However, a survey by the Public Religion Research Institute found that Tea Party supporters are overwhelmingly Christian, with 81% indentifying with the faith. The poll also revealed Tea Party supporters share the Religious Rights views on social issues¹⁰⁶. As John Green, a political scientist at the University of Akron noted, for the Christian Right, the Tea Party came along just at the right time for the marginalized Christian Right Movement. He said, “There was an opening on the right for organizations and candidates and groups that could appeal to different elements of the religious coalition. In many ways the Tea Party has filled that niche.”¹⁰⁷

As the Tea Party movement grew politically, Christian Right leaders began tapping into the market of supporters. Christian Conservative groups like the American Family Association and the Family Research Council began promoting Tea Party events¹⁰⁸. Christian Conservative leaders began to focus their messages on the same fiscal policies that the Tea Party promoted. At a summit conference for Christian Conservatives held by a group called the Faith & Freedom Coalition, Ralph Reed headed a talk which focused on deficit spending, taxes, Obama’s healthcare reform, and the stimulus legislation¹⁰⁹. As an article from the Humanist suggests, “These aren’t traditional religious right issues, and their prominence at these gatherings was no accident: The religious right hopes to either co-opt the Tea Party or attach itself to that movement.”¹¹⁰

¹⁰⁴ <http://search.proquest.com/religion/docview/235285181/12ED4794D9436C23A55/10?accountid=8285>

¹⁰⁵ See 104

¹⁰⁶ <http://search.proquest.com/religion/docview/847198358/12ED4794D9436C23A55/2?accountid=8285>

¹⁰⁷ See 106

¹⁰⁸ See 104

¹⁰⁹ <http://search.proquest.com/religion/docprintview/760897444/12ED4794D9436C23A55/9?accountid=8285>

¹¹⁰ See 109

Since the rise of the Tea Party in 2009, the movement has achieved great success in making an impact on government. After the November mid-term elections in 2010, the Tea Party Caucus had fifty-five congressmen¹¹¹. Many of these legislators have direct ties to the Christian Right. Vicky Hartzler, a self-acclaimed Tea Party candidate, won Missouri's 4th congressional district in November. She campaigned primarily on the Tea Party agenda of lower taxes and smaller government, but her stance on religion and politics was a constant undercurrent¹¹². According to the National Catholic Reporter she boasted, "I'm 100 percent pro-life. I will uphold Christian values and beliefs in our country. My faith is first and foremost. I serve God through public service, but I answer first to God."¹¹³ In fact, many Tea Party candidates expressed their antipathy towards secularism during the campaign season. In the Delaware congressional race, Christine O'Donnell questioned church-state separation asking, "Where in the Constitution is separation of church and state?" In the contest for Delaware's lone U.S. House seat, Republican Glen Urquhart provided his own theory to O'Donnell's question. He said, "The exact phrase 'separation of church and state' came out of Adolf Hitler's mouth. That's where it comes from. So the next time your liberal friends talk about the separation of church and state, ask them why they're Nazis."¹¹⁴

The results of the mid-term elections demonstrated a distinct pattern. The Tea-Party candidates that promoted their sectarian beliefs more outwardly did worse than the Tea Party candidates who focused more on fiscal issues and less on promoting Christian faith. Joseph Conn commented in the Church & State journal, "[Tea party members] who were most publicly critical

¹¹¹ Tea Party Caucus Map <http://teapartynationalism.com/the-databri-report-data-and-visualizations/tea-party-caucus-map-a-table>

¹¹² <http://search.proquest.com/religion/docview/847316373/12ED48F217125F7C2D6/19?accountid=8285>

¹¹³ See 112

¹¹⁴ See 112

of church-state separation lost.”¹¹⁵ For example, Christine O’Donnell and Glen Urquhart both lost their races. Yet, the successful candidates, like Vicky Hartzler, who campaigned primarily on fiscal issues and were reticent about sectarian ideas, helped revive Christianity in the government. Not only was there an influx of new Tea Party members with strong Christian values, John Boehner was also appointed as the new Speaker of the House¹¹⁶. Boehner has close ties with the Christian Right and has proven to be a strong proponent of voucher subsidies for religious and other private schools. He also supports the right for faith-based charities to have the right to discriminate in hiring on religious grounds, and he has pushed for an “intelligent design” curriculum in public schools. Many pundits have suggested that the new Tea Party legislators would inevitably push for Christian reform. Barry Lynn, from the group Americans United, expects another campaign for, “religious school vouchers, publicly funded ‘faith bases’ hiring bias, creationism in the public schools, laws allowing electioneering by churches, ‘Christian Nation’ resolutions and other measures that undercut churchstate separation.” Lynn went on to say, “Voters sent a strong message that they want Congress to focus on fixing the economy, but the election results may inflict collateral damage on the Constitution. I think the Religious Right will seize this opportunity to advance its agenda in Congress.”¹¹⁷

In the few months since the 2010 midterm elections, the revitalized Christian Right movement has already been able to affect government affairs. In April of 2011, the federal government came within hours of shutting down because of a partisan disagreement over the

¹¹⁵ See 112

¹¹⁶ See 112

¹¹⁷ <http://search.proquest.com/religion/docview/847316373/12ED48F217125F7C2D6/19?accountid=8285>

federal budget¹¹⁸. The pivotal issue in dispute was the allocation of eighty million dollars for Planned Parenthood, a health care provider for low-income woman¹¹⁹. Ostensibly, most Republicans opposed the funding for fiscal reasons, citing a need to lower government spending. However, compared to the entire Federal Budget, the allocation for Planned Parenthood was miniscule. Instead, it became apparent that conservative legislators pushed to cut Planned Parenthood for moral reasons, arguing that Planned Parenthood practiced abortions, and therefore the government should not financially support the program¹²⁰. Senator Jon Kyl staunchly declared, abortions are, “well over 90% of what Planned Parenthood does,”¹²¹ also implying immorality that he argued the government should not support. In fact, 90% of Planned Parenthood activities are preventive, and just 3% of its activities are abortions (Kyl would later admit that his claim was not true). Further, the group observes that none of the federal money it is given goes towards their abortion services¹²². The reality of Planned Parenthood is that their health centers provide a wide range of safe, reliable health care which prevent unintended pregnancies through contraception, reduce the spread of sexually transmitted infections, and screen for cervical and other cancers¹²³. Nevertheless, much of Congress remained steadfast against public funding for the program, almost to the point of pushing the federal government out of operation. Unquestionably, the resistance to Planned Parenthood imparted by the government is an echo to the influence the Christian Right Movement has in government institutions.

¹¹⁸ Dyer Devin. Planned Parenthood at Center of Budget Shutdown Threat. Abc News. April 2011
<http://abcnews.go.com/Politics/planned-parenthood-center-budget-shutdown-threat/story?id=13328750>

¹¹⁹ Planned Parenthood homepage. <http://www.plannedparenthood.org/about-us/who-we-are-4648.htm>

¹²⁰ See 118

¹²¹ See 118

¹²² See 118

¹²³ See 119

The Planned Parenthood controversy has not been the sole impact of the Christian Right Movement on the new government. House Speaker John Boehner was recently criticized for hiring a law firm for \$500,000 to defend the Defense of Marriage Act, the federal law banning gay marriage¹²⁴. In Oklahoma, a referendum was passed to ban the use of Islamic religious law in court. Specifically, the amendment to the state constitution would invalidate private documents, such as wills, that are written in compliance with Muslim law¹²⁵. In Michigan, the Jackson City Council rejected an ordinance to expand the city's nondiscrimination laws to prevent people from being denied employment, housing or public accommodations on the basis of their sexual orientation and gender.¹²⁶ It is clear that the Christian Right movement has reestablished itself within the institutions of government and is actively affecting policy based on Christian nationalist ideals.

The United States was founded on the virtuous principles of religious freedom and religious pluralism. As Justice Black described in the majority opinion in *Everson*, the country was established as a means to escape religious dogma, discrimination, and tyranny. James Madison and Thomas Jefferson, two foremost founding fathers, captured these sentiments and worked adamantly to impart these convictions into the fabric of American society. This feat was accomplished with the signing of a secular Constitution, whose very first Amendment included two clauses that together directed the privatization of religion. The preeminence of the Constitution has forged a lasting impression of secularism on the country. As a result, America

¹²⁴ Pelosi Gets Fiscal Religion Over Boehner Hiring Attorney to Defend Gay Marriage Ban. Fox News <http://www.foxnews.com/politics/2011/04/23/pelosi-gets-fiscal-religion-boehner-hiring-attorney-defend-gay-marriage-ban/>

¹²⁵ *Muneer Awad v. Ziriax*. Case No. CIV-10- 1186- M <http://s3.amazonaws.com/content.newsok.com/documents/n29opinion.pdf>

¹²⁶ <http://search.proquest.com/docview/217265816?accountid=8285>

has become one of the most diverse, tolerant, and successful countries in the world. Furthermore, the religious neutrality that is guaranteed by the secular Constitution has proven to be far more beneficial to the prominence of religious belief, rather than imposing to it (as anti-secularists would suggest). In fact, the United States, which rates as one of the most institutionally secularized countries in the world, also has one of the most religious populations in the world¹²⁷. Proportionally, more Americans attest to a religious faith compared to most countries in the world. Most political scientists attest this phenomenon to the religious market inherently induced by a secular government.

The ideals of the Christian Right Movement explicitly defy the concept of religious pluralism and religious freedom. Although Christianity has always been the most popular religion in the country, historically only a benign minority of Christian-Americans have attested to the ideals of a “Christian Nation” in which the government must reflect an exclusively Biblical perspective. In 2004, a study by political scientist John Green, found that only 12.6 percent of Americans describe themselves as “traditionalist evangelicals”, the group, Green wrote, that comes, “closest to the religious right widely discussed in the media.”¹²⁸ However, since the inception of the Christian Right Movement nearly thirty years ago, this minority group of Christian nationalists have bound together and developed effective political strategies to implement their agenda. Over the last ten years, the Christian Right Movement has achieved its most impressive success in accessing government institutions and influencing policy. Along the

¹²⁷ Norris, Pippa & Inglehart, Ronald. *Sacred and Secular. Religion and Politics World Wide*. Cambridge Press. 2009

¹²⁸ Goldberg, Michelle. *Kingdom Coming*. W.W. Norton & Company. New York, 2007.
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way, the movement has trampled Constitutional principle and incrementally scarred fundamental American values.