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9-18-2019

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Recommended Citation

John W Compton, *The Third Disestablishment: Church, State, and American Culture, 1940-1975*. By Steven K. Green, *Journal of Church and State*, Volume 61, Issue 4, Autumn 2019, Pages 719–721, <https://doi.org/10.1093/jcs/csz072>

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Review of *The Third Disestablishment: Church, State, and American Culture, 1940-1975*. By Steven K. Green

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This is a pre-copy-editing, author-produced PDF of a book review accepted for publication in *Journal of Church and State*, volume 61, issue 4, in 2019. The definitive publisher-authenticated version is available online at <https://doi.org/10.1093/jcs/csz072>.

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Oxford University Press

The Third Disestablishment: Church, State, and American Culture, 1940-1975. By Steven K. Green. New York: Oxford University Press, 2019. 442pp. \$39.95 hardcover.

Steven K. Green, the author of several well-received books on U.S. church-state relations in the nineteenth and early twentieth centuries, has now turned his attention to the post-World War II period. In *The Third Disestablishment*, he examines the critical three-decade period, beginning with *Everson v. Board of Education* (1947), in which the Supreme Court effectively ended teacher-led prayer and Bible-reading in the public schools, imposed new restrictions on the public funding of religious entities, and barred religious groups from censoring films and literature. This is familiar territory for law and religion scholars, but Green argues persuasively that previous studies have either missed or mischaracterized crucial aspects of the story. His revisionist reading of the material is both subtle and profound.

Green's first innovative move is to conceptualize the postwar justices as participants in a broader societal debate concerning the role of religion in American public life. The 1940s and 1950s, he points out, witnessed an explosion of popular and academic commentary on church-state issues: Popular periodicals devoted space to such seemingly arcane subjects as the appointment of a U.S. emissary to the Vatican, and books dealing with church-state themes often became surprise bestsellers. Green adroitly maps the resulting debates, showing how the key players – from Paul Blanshard, to John Courtney Murray, to Reinhold Niebuhr – adjusted and refined their arguments as they struggled to keep pace with a rapidly changing cultural and political environment. More to the point, he demonstrates that this elite-level discussion effectively set the terms of the constitutional debate. Far from writing on a blank slate, the justices of the Vinson and Warren Courts were forced to work out the meaning of a principle –

church-state separation – that had become “embedded in the national ethos” even as disagreement about its meaning abounded (11).

Like a number of previous scholars, Green observes that separationism’s emergence as a national ideal was partly an outgrowth of Protestant-Catholic tensions. Yet he adds a good of nuance to this familiar story. For example, he shows that Protestant elites’ anxieties concerning Catholicism were rooted less in nativism or xenophobia – as had been the case during the 1920s – than in a series of concrete policy disagreements concerning such issues as film censorship, “hybrid” school arrangements (in which the Catholic Church took over the operation of local school districts), and the indirect public support of parochial schools. If Protestant concerns about “Catholic power” reached fever pitch in the late 1940s, it was in part because Catholic entities were, in fact, exerting more political and legal influence than ever before.

Green also shows, however, that Protestant elites’ views of Catholicism varied radically over time, and he uses this insight to construct a novel periodization of the Court’s Establishment Clause jurisprudence. In conventional versions of the story, the *Everson* decision is said to have launched a trend toward strict separation that ended only in the 1980s and 1990s, when the liberal giants of the Warren Court were replaced by conservative Reagan and George H.W. Bush appointees. In contrast, the hinge point of Green’s narrative occurs in the early 1960s, when Protestant elites traded their insistence on “strict separation” for a pluralist understanding of American democracy, and when the Catholic hierarchy revised church teachings concerning religious toleration. Green traces these shifts to a number of factors: the election and subsequent assassination of a popular Catholic President, the reforms of Vatican II, and – perhaps most importantly – the emergence of a vibrant ecumenical movement in which Protestant, Jewish, and

Catholic groups joined forces to pursue such shared goals as the enactment of the Civil Rights and Voting Rights Acts.

According to Green, contemporary observers, consumed by the conservative reaction against the Court's rulings on school prayer and Bible-reading, largely failed to notice that the justices were thinking along the same lines as ecumenical-minded church leaders. And yet, close inspection of decisions such as *Board of Education v. Allen* (1965) and *Walz v. Tax Commission* (1970) – in which even the liberal justices William Brennan and Thurgood Marshall implicitly endorsed the indirect public funding of religious entities that served broader public purposes – would have revealed that pluralism, not separationism, was now the Court's preferred theory of church-state relations. Hence, Green concludes with the provocative observation that modern-day advocates of strict separation have been directing their critical fire at the wrong target. The demise of separationism, he writes, “would likely have occurred without the conservative ‘Reagan Revolution’ and the rise of the Religious Right.... [I]t died chiefly from internal causes, rather than from external forces” (363).

It is impossible, in such a short space, to do justice what is easily one of the most important books on the postwar religion cases to appear in many years. In addition to the power of his central narrative, Green deserves praise for integrating a wide range of source material – court decisions, legislative debates, theological writings, popular periodicals – into a coherent whole. Few existing studies have so successfully demonstrated the extent to which constitutional law both shapes, and is in turn shaped by, the wider cultural and political landscape.

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