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Hallowed Secularism

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### **July 6, 2008: For the Establishment of Religion: Where Are We Now?**

Bruce Ledewitz

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Title: For the Establishment of Religion: Where Are We Now?

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7/6/2008--Readers of this blog know that I am in the midst of the third book in the series—For the Establishment of Religion. The book argues that government should be permitted to “establish” religion, as opposed to any one religion, and that this is not inconsistent with secularism—of course of the Hallowed Secularism variety. In Chapter 1 of the book, I set forth where we are now in terms of the law of church and state. Where we are is parallel to the recent decision of the Supreme Court in the gun control case: *D.C. v. Heller*, in which the Supreme Court, 5-4, recognized for the first time a right in the individual to have a gun. The parallel is that in both religion and gun rights, history does not give a clear answer. History is contested as to whether the right in the Second Amendment is collective only (“militia”) or protects individuals as well. At least in a situation like that, deep political and cultural shifts can decide cases, perhaps always decide cases. The NRA won this argument not just on the Court, but in years of dominating political life. When the Democrats essentially gave up on gun control, *Heller* became either inevitable or unnecessary. In terms of church and state, in 1947 the Court first endorsed a genuine vision of separation of religion from American public life, in *Everson v. Board of Education*. That was the case that fully embraced Jefferson’s wall of separation between church and state. The Court called that wall “high and impregnable,” which Jefferson would have known better than to have done. By increasingly narrow majorities, that vision of a government required to be neutral about religion retained its dominant position in American constitutional law. But, again as in the case of gun rights, once the Democratic Party abandoned a genuinely separate vision of politics and religion—as surely the 2008 Presidential election demonstrates—an abandonment of the wall of separation would also happen—either formally, by overturning the metaphor, or indirectly, by abandoning it. To see this, note the difference between the role abortion and religion play in the 2008 election. Everyone knows that if Senator John McCain wins, *Roe v. Wade* may be overruled, whereas if Senator Barack Obama wins, that is much less likely to happen. The Court is that closely divided and the two parties that clear in commitment. On the other hand, in terms of church and state, though the Court is just as closely divided, no one is saying that if Senator Obama wins, the wall of separation will be safer. Some people may hope this is true, but there is not much indication of such a commitment from him. As I said in *American Religious Democracy*, I believe the days of the wall of separation are numbered. As I wrote in *Hallowed Secularism*, that is not only not a threat to secularism, it is perhaps a necessity for a new and healthier secularism. The question is, if not the wall, what comes next?