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2-21-2019

### March 21, 2019: My op-ed on the Bladesburg Cross

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#### Repository Citation

Ledewitz, B. (2019). March 21, 2019: My op-ed on the Bladesburg Cross. Retrieved from <https://dsc.duq.edu/ledewitz-hallowedsecularism/1232>

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Title: My op-ed on the Bladensburg Cross

Date: 2019-03-21T06:24:00.000-04:00

3/21/2019--My [op-ed](#) on the peace cross appeared in the Washington Examiner today. Here is the original version (some minor changes and omissions in the paper).

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## How the Court Should Rule in Favor of the Cross

The cross in Bladensburg isn't going anywhere. That was clear from the oral argument in *The American Legion v. American Humanist Assoc.* The Court may even be unanimous that the cross can stay on public land.

That is not surprising. The cross is an almost hundred years old WWI memorial without further religious reference. Crosses have symbolized the dead of The Great War since John McCrae's epic 1915 poem, *Flanders Fields*.

What matters is how the cross stays—do the Justices add to American divisions or begin the process of healing?

Thanks to President Donald Trump, there is a pro-religion majority on the Court. That majority could abolish the requirement of a secular purpose in Establishment Clause cases—the Lemon test—and substitute a no coercion test. That would allow the government to endorse religion, and even endorse Christianity. This would be seen as a big win for one side in the culture wars.

Treating religion as either/or goes back a long way. The legal theorist Ronald Dworkin once asked whether America would be a religious country tolerating non-belief or a secular country accommodating believers. This is like asking who's the real American. You could hardly be more divisive.

Even Justice Antonin Scalia, much more sensitive to the clash of constitutional values, tended to see these matters as tragedy, in which some valid claims would have to be disregarded.

These cases pit believers against non-believers because the Court has never asked seriously what secular meaning a religious symbol can have. Religious symbols don't just endorse sectarian commitments. Religious symbols also, and just as clearly, stand for a whole set of other commitments.

The national motto, *In God We Trust*, for example, means the God of the Bible for the monotheistic believer. But it also means that we live in a trustworthy universe and not in chaos. That is the reason why John Dewey, not himself a religious believer, never gave up the word, God.

Those Ten Commandments displays that so often end up in court remind the religious believer that God is the foundation of human law. But they also proclaim that law must serve Truth. They echo Dr. Martin Luther King Jr.'s teaching that the arc of the moral universe bends toward justice. These displays are as much a rebuke to value-free originalism as they are to materialism.

Upholding religious imagery for its common, secular meaning is not bringing back the much derided “ceremonial deism,” which claims that religious symbols no longer have religious meaning. Nor is it the sanitized claim that religious imagery symbolizes a “religious heritage,” as if religion is now just a museum trip.

It is the claim instead that the real division in this country is not between religion and non-religion, but between those who see meaning and purpose at the heart of the universe and those who do not. Religious symbols communicate very well on this level to both believers and non-believers.

America is well on its way to becoming a secular society. The question is, what kind of secular society are we going to be? The opioid crisis, the spike in suicides, the general hopelessness and anger in American society, strongly suggest that our secularism will be nihilism. We will just have to get used to the idea that we are alone in an indifferent universe.

But there is another possibility. We can be secularists who still embrace transcendent norms. Many naturalists are experimenting with that kind of secularism.

Government should not be neutral with regard to the question of meaning. It should endorse cosmic purpose. It should proclaim hope. Religious symbols are not the only way to do that, but they are one way.

Any judicial decision in favor of religion versus non-religion will only be temporary. It will ensure that some future secular majority will insist on a naked public square. But a decision that fills that public square with common meaning for all of us will endure.

The Justices have a choice. They can participate in, and further, our divisions or they can help us find common ground and healing. It depends on how they rule in favor of the cross.