



FREEDOM OF RELIGION: DISESTABLISHMENT

INTRODUCTION: Many of the colonists who first settled in North America came to this country to escape persecution. This is true of the Congregationalists of Massachusetts (also known as Puritans) and the Quakers of Pennsylvania. Soon other colonies also developed strong religious identities, as the Baptists settled in Rhode Island, the Dutch Reformed located in New York, and the Catholics settled in Maryland. Colonies that had been settled by the English government, such as Virginia and South Carolina, accepted Anglicanism, the official religion of England, as the official religion of their colonies. The irony of this settlement process was that, as each colony increasingly became identified with a single religion, the colonists themselves often became the *persecutors* instead of the *persecuted*.

After the American Revolution and the signing of the Declaration of Independence in 1776, the newly liberated colonists faced the many issues of building a unified nation. One of the challenges to unification was how to deal with the question of religious differences, for in many cases religious affiliation was the central concept of colonial identity.

The solution—religious freedom—was formulated by Thomas Jefferson and pushed through the Virginia legislature by James Madison in 1786. Virginians Thomas Jefferson, James Madison and George Mason then persuaded members at the Constitutional Convention to encode this principle into national law. Freedom of religion was adopted as a constitutional guarantee in the First Amendment to the Constitution in 1789 and ratified in 1791.

The first principle in implementing religious freedom was that of disestablishment—the elimination of all *official religions*. Under the terms of this law, the government was prohibited from enacting legislation that favored one church over another or that created any *official* state church.

Icebreaker: How many people have learned that *antidisestablishmentarianism* is the longest word in the dictionary? How many know what it means?

Objective: What is the meaning of disestablishment? In the revolutionary era, who were the parties who supported disestablishment and what were their motives? Who opposed disestablishment and why? How do we evaluate the issue today as we strive to maintain the separation of church and state?

Learning Objectives: As the students examine the Virginia Statute for Religious Freedom and the First Amendment, they will:

- Learn about the traditional relationship between church and state—establishment of religion;
- Weigh the competing principles of establishment and disestablishment against one another;
- Identify the process and formulation of an intellectual concept by a philosopher in an original document, and see how it becomes a practical reality in law; and
- Examine instances of how this remains a controversial topic today, while assessing the specific example of President Bush’s Faith-Based and Community Initiatives program.

I. Historical Scope

Core Texts: Virginia Statute for Religious Freedom (1786)

Authored by Thomas Jefferson and passed into law through the persistence of James Madison in 1786, the Statute provides the basis for the religion clauses in the First Amendment. Both men considered the Virginia Statute to be one of the great achievements of their lives. Jefferson directed that on his tombstone he not be remembered as President of the United States or for other high offices he held, but that he, instead, be recognized as the author of the Declaration of Independence, the author of the Virginia Statute for Religious Freedom, and the father of the University of Virginia.

“Be it enacted by the General Assembly that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of Religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.”

Virginia Statute for Religious Freedom

The first 10 amendments to the Constitution of the United States are known as the Bill of Rights, ratified in Philadelphia at the Constitutional Convention of 1791. The freedom of religion was articulated in the First Amendment stating that:

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

Primary Sources:

SUGGESTION – Break students into groups or teams that will each discuss and identify the central issue in the document before them.

- A. James Madison's Memorial and Remonstrance and Patrick Henry on non-denominational Christianity (refer to Appendix 1);
- B. Voices in favor of Establishment-Congregationalism in Massachusetts (refer to Appendix 2).

SUGGESTION – Use the United States Archives checklist to evaluate these documents at: http://www.archives.gov/education/lessons/worksheets/written_document_analysis_worksheet.pdf. The questionnaire can be downloaded and printed.

II. Contemporary Debates – President Bush's Plan for Faith-Based and Community Initiatives

Class Exercise: Read and Role-Play Topic

Procedure

- A. Select five students to play the roles of:
 - 1. The President of the United States;
 - 2. Stanley Carlson-Thies, Fellow of the Center for Public Justice and former White House Associate Director for Cabinet Affairs;
 - 3. Barry Lynn, Executive Director for Americans United for Separation of Church and State;
 - 4. E. J. Dionne Jr., Senior Fellow of the Brookings Institution, Co-Chair of the Pew Forum, and Columnist for the *Washington Post*; and
 - 5. Richard Nathan, Director of the Rockefeller Institute of Government and Roundtable on Religion and Social Welfare Policy.
- B. Upon conclusion of the reading, break the students into small groups and have them address the questions that follow; then
- C. Have the groups reconvene for a general class discussion.

For details on the Faith-Based and Community Initiative see: <http://www.whitehouse.gov/news/releases/2001/01/20010129-2.html>

President reads the Executive Order, Section 1. Policy: Faith-based and other community organizations are indispensable in meeting the needs of poor Americans and distressed neighborhoods. Government cannot be replaced by such organizations, but it can and should welcome them as partners. The paramount goal is compassionate results, and private and charitable community groups, including religious ones, should have the fullest opportunity permitted by law to compete on a level playing field, so long as they achieve valid public purposes, such as curbing crime, conquering addiction, strengthening families and neighborhoods, and overcoming poverty. This delivery of social services must be results oriented and should value the bedrock principles of pluralism, nondiscrimination, evenhandedness, and neutrality.

**The Faith-Based Initiative Two Years Later
Examining its Potential, Progress and Problems
Wednesday, March 5, 2003**

Featured Speakers:

Stanley Carlson-Thies, Fellow of the Center for Public Justice and former White House Associate Director for Cabinet Affairs

Barry Lynn, Executive Director for Americans United for Separation of Church and State

Moderator:

E. J. Dionne Jr., Senior Fellow of the Brookings Institution, Co-Chair for the Pew Forum, and Columnist for the *Washington Post*

Welcome and Introduction:

Richard Nathan, Director of the Rockefeller Institute of Government and Roundtable on Religion and Social Welfare Policy

RICHARD NATHAN: Good morning. My name is Dick Nathan, and I am happy to welcome you on behalf of the Pew Forum on Religion in Public Life, co-chaired by E. J. Dionne and the Roundtable on Religion and Social Welfare Policy, a project of the Rockefeller Institute of Government, which I am proud to direct.

Without a doubt, the faith-based initiative has sparked an intense debate, producing both passionate supporters and passionate opponents. Those in favor of the idea say it makes sense because religious organizations have deep ties to their communities and an ability to reach people in ways that government agencies often can't reach people. On the other side, the concept of separation of church and state is cited, and people are concerned about using federal funds, using public moneys, to further religious ends.

So today we are looking at several questions: Does faith-based service work? What is happening? And what has changed?

MR. DIONNE: I want to ask parallel questions to each of you, and I'll start with Barry [Lynn]. What I don't understand fully is that we now have Medicare and Medicaid going to religious hospitals; we have government student loans going to students who go to Notre Dame, Baylor, Yeshiva, all kinds of religious institutions; there has been, as Stanley pointed out, lots of cooperation over many years with Catholic Charities, Lutheran Services, the Jewish Federations; the Child Care Act provides an awful lot of money – government money – to church-based childcare; and that Methodist home you talked about being funded with state funds, I doubt that has anything to do with the President's faith-based initiative. The question is, why is this initiative so different from what has gone on before?

MR. LYNN: People [used to understand] that if a specific program in their institution received tax dollars, that whole program could not engage in religious advocacy or instruction or worship, but you had to segregate [i.e. separate] in time and space those programs from others. That's why even the Salvation Army, which is a religious denomination and got hundreds of millions of dollars in its modern history from the government, did not take money for its counseling programs because it wanted those counseling programs to include its religious elements. So it did segregate.

Secondly, and just as importantly, nobody until recently thought that you could actually hire people, not on the basis of their competence, but on the basis of their religious affiliation and belief, if, in fact, you had a government grant or some government contract to do it.

This administration – and I think this is the fundamental answer – this administration is willing to take away the most important firewalls that prevented a complete co-mingling of the funds of the state and the church...

MR. CARLSON-THIES: Well, I find that fairly troubling. This is a nation in which it's completely constitutional and legal to believe deeply religious things, to exercise that in your work life, to be educated that way and so on and so on. And the United States is comprised of many people of many different faiths as well as secular convictions. That's the way they carry out their lives, and the choices they make and the way they vote, and everything else. And it seems to me what we have to be finding is ways to better accommodate that rather than to say, well, we're going to draw a line. Some of you, we just think you're too religious; you go in the corner someplace. I don't think that's necessary. I don't think we've actually done that in the past. We really are in the stage of trying to figure out, is there a better way, a better place to cut the line? Is there a better way to balance these things out?

You mentioned the importance, with the Salvation Army, of separating their religious instruction in time and space from the government-funded programs. Well, that's exactly what the Charitable Choice says, and part of the dispute about that has been, is that actually a good thing to do to programs that have an integral character and that's based on what will best help people? And that's why people are turning to things like vouchers, which the Supreme Court indicates you don't have to make that kind of a juggling act.

So I think this is not something entirely new. I think this is trying to decide, is there a better way to put these things together than we've been doing in the past, given that there have been, in the past, a lot of things that didn't fit in the model? And there's no good reason, in my view, to say, if we just were more strict, then we would solve this problem in a better way.

Excerpt of transcript sponsored by the Pew Forum on Religion and Public Life at: <http://www.whitehouse.gov/news/releases/2001/01/20010129-2.html>

Questions for analysis:

What is a faith-based initiative? How did this program come into existence?

What is the name of each speaker? What organizations does each represent? What side of the controversy, if any, does each speaker represent?

Can you summarize the positions of Mr. Lynn and Mr. Carlson-Thies?

What does each side argue with respect to faith-based initiatives in relation to the separation of church and state?

How would you use the traditional revolutionary era arguments that you have been examining to argue for or against this program?

09/06