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"The Religious Roots of Freedom"

by M. Stanton Evans
Director, National Journalism Center

In this issue, M. Stanton Evans makes the case that the Founders intended the First Amendment to protect religion from government. He offers compelling historical evidence to support this view and to refute the "liberal history lesson," which teaches that religion and freedom are in conflict.

Mr. Evans spoke before an audience of over 300 students, faculty, and guests during Hillsdale's Center for Constructive Alternatives seminar, "God and Man: Perspectives on Christianity in the 20th Century," last November.

As the renewed debate over prayer in the public schools suggests, the cultural conflict of the modern era finds vivid and enduring focus in the legal dispute about the place of religion in the civic order. Here the battle is overt, relentless, and pervasive–with traditional belief and custom retreating before a secularist onslaught in our courts and other public institutions.

During the past three decades, the U.S. Supreme Court has handed down a series of rulings that decree a "wall of separation" between affairs of state and the precepts of religion. In the most controverted of these cases, in 1962, the Court said an officially sponsored prayer recited in the New York public schools was an abridgement of our freedoms. This prayer read, in its entirety: "Almighty God, we acknowledge our dependence on Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country." In the Court's opinion, this supplication triggered the First Amendment ban against an "establishment of

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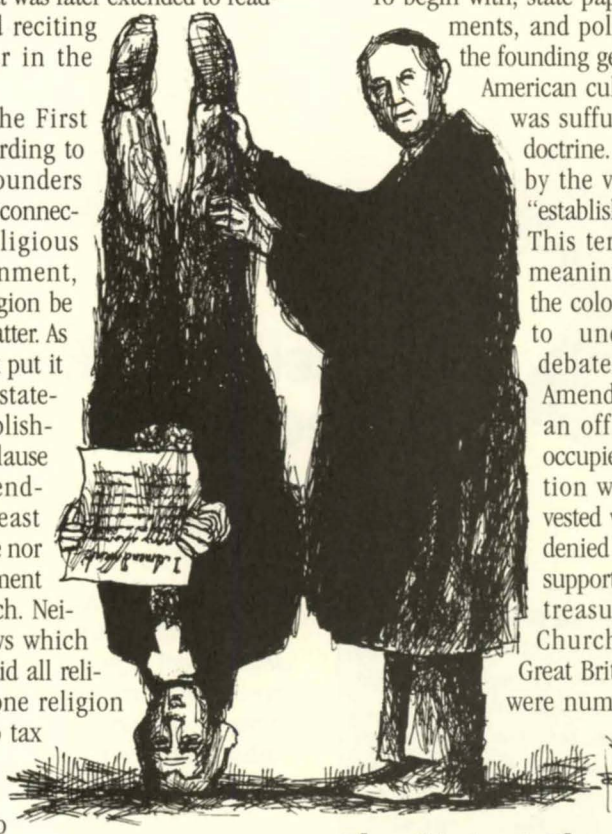
Mr. Evans has also served as managing editor of *Human Events*, associate editor of *National Review*, and editor of the *Indianapolis News*. For many years a syndicated columnist for the *Los Angeles Times*, he has written seven books, including: *Revolt on the Campus*, *The Future of Conservatism: From Taft to Reagan and Beyond*, and *Clear and Present Dangers: A Conservative's View of America's Government*. This article is adapted with permission from his book *The Theme Is Freedom: Religion, Politics, and the American Tradition* (Regnery, 1994) and also appeared in the January 23, 1995 issue of *National Review*.

religion," logic that was later extended to reading the Bible and reciting the Lord's Prayer in the classroom.

In adopting the First Amendment, according to the Court, the Founders meant to sever all connection between religious faith and government, requiring that religion be a purely private matter. As Justice Hugo Black put it in an oft-quoted statement: "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...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."



This doctrine has been affirmed and amplified in many rulings since. In support of it, Black and his successors (most recently Justice David Souter) have offered a reading of our history that supposedly shows the intentions of the people who devised the First Amendment. In a nutshell, this tells us that the Founders chiefly responsible for the Constitution's religion clauses were Madison and Jefferson; that they held views intensely hostile toward any governmental backing for religion; and that the amendment was a triumph for their separationist position.

Of Whole Cloth

The First Amendment depicted by Justice Black and other liberal jurists is, unfortunately, a fabrication. The Supreme Court's alleged history is a prime example of picking and choosing elements from the past to suit the ideological fashions of the present. If we consult the history of the nation's founding, we find that the Court and its supporters have misstated the material facts about the issue in every possible fashion.

To begin with, state papers, legal arrangements, and political comment of the founding generation show that American culture in that period was suffused with religious doctrine. The point is made by the very concept of an "establishment of religion." This term had a definite meaning in England and the colonies that is critical to understanding the debate about the First Amendment. It signified an official church that occupied a privileged position with the state, was vested with certain powers denied to others, and was supported from the public treasury. Such was the Church of England in Great Britain, and such also were numerous churches in the colonies at the beginning of our revolution.

The States' Churches

In 1775, no fewer than nine colonies had such arrangements. Massachusetts, Connecticut, and New Hampshire had systems of local church establishment in favor of the Congregationalists. In the South, from Maryland on down, the establishments were Episcopal. In New York, there was a system of locally supported Protestant clergy. Because of growing religious diversity within the states, pressure mounted to disestablish these official churches. In particular, increasingly numerous Baptists and Presbyterians made headway against the Anglican position, which was further weakened by the identification of many Episcopal ministers with the English.

Even so, at the time of the Constitutional Convention, the three New England states still had their Congregational establishments. In other states, there remained a network of official sanctions for religious belief, principally the requirement that one profess a certain kind of Christian doctrine to hold public office or enjoy other legal privilege. With local variations, these generally tended in the same direction, and they make instructive reading alongside the statements of Justices Black and Souter about the supposed history of our institutions.

In South Carolina, for example, the Constitution of 1778 said that "the Christian Protestant religion shall be deemed...the established religion of the state." It further said that no religious society could be considered a church unless it agreed "that there is one eternal God and a future state of rewards and punishment; that the Christian religion is the true religion; that the Holy Scriptures of the Old and New Testaments are of divine inspiration." South Carolina also asserted that "no person who denies the existence of a Supreme Being shall hold any office under this Constitution."

Similar statements can be gleaned from other state enactments of the period. The Maryland Constitution of 1776 decreed, for instance, "a general and equal tax for the support of the Christian religion." New Jersey that year expressed its idea of toleration by saying that "no Protestant inhabitant of this colony shall be denied the enjoyment of any civil right." Massachusetts, in 1780, authorized a special levy to support "public Protestant teachers of piety, religion and morality"–a formula adopted verbatim by New Hampshire.

Official support for religious faith and state religious requirements for public office persisted well after adoption of the First Amendment. The established church of Massachusetts was not abolished until 1833. In New Hampshire, the requirement that one had to be Protestant to serve in the legislature was continued until 1877. In New Jersey, Roman Catholics were not permitted to hold office until 1844. In Maryland, the stipulation that one had to be a Christian lasted until 1826. As late as 1835, one had to be a Protestant to take office in North Carolina; until 1868, the requirement was that one had to be a Christian; thereafter that one had to profess a belief in God.

The official sanction for religious belief provided by the states was equally apparent at the federal level, during and after the Revolution. Appeals for divine assistance, days of prayer and fasting, and other religious observance were common in the Continental Congress. Among its first items of business, in 1774, the Congress decided to appoint a chaplain and open its proceedings with a prayer. When it was objected that this might be a problem because of diversity in religious doctrine, Sam Adams answered: "I am not a bigot. I can hear a prayer from a man of piety and virtue, who is at the same time a friend of his country."

On June 12, 1775, the Congress called for "a day of public humiliation, fasting, and prayer," wherein "[we] offer up our joint supplications to the all-wise, omnipotent, and merciful disposer of all events." In observance of this fast day, Congress attended an Anglican service in the morning and a Presbyterian service in the afternoon.

During the Revolutionary War, Congress made provision for military chaplains, recommended that officers and men attend religious service, and threatened court martial for anyone who misbehaved on such occasions. It also adopted the Northwest Ordinance, stressing the need for "religion and morality," appropriated money for the Christian education of Indians, and encouraged the printing of a Bible. The Northwest Ordinance and the measures regarding chaplains, official prayer, and education of the Indians were re-adopted by the first Congress under the new Constitution and maintained for many years thereafter.

Crumbling Wall

Such was the body of doctrine and official practice that surrounded the First Amendment–immediately predating it, adopted while it was being discussed and voted on, and enduring long after it was on the books. The resulting picture is very different from any notion of America as a country run by secularists and Deists. Nor does it look very much like a country in which the governing powers were intent on creating a "wall of separation" between church and state, denying official support to the precepts of religion.

This was the background to Madison's motion on June 8, 1789, introducing a set of amendments to the Constitution, culled from the proposals of conventions. Among the measures that he offered was this pertaining to an establishment of religion: "The civil rights of none shall be abridged on account of religious belief, nor shall any national religion be established...." In view of the weight that has been given to Madison's personal opinions on the subject, his comments on this occasion are of special interest. For example, challenged by Roger Sherman as to why such guarantees were needed, given the doctrine of "enumerated powers," Madison said:

> *he apprehended the meaning of the words to be,* that Congress shall not establish a religion and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. *Whether the words are necessary or not, he did not mean to say, but they had been required by some of the state conventions, who seemed to entertain an opinion that*

> [under the "necessary and proper" clause]...Congress...might infringe the rights of conscience and establish a national religion; to prevent these effects *he presumed the amendment was intended,* and he thought it as well expressed as the nature of language would admit. [Italics added.]

In this and other exchanges, the House debate made two things clear about the Bill of Rights and its religion clauses: (1) Madison was introducing the amendments not because *he* thought they were needed but because others did, and because he had promised to act according to their wishes; (2) the aim was to prevent *Congress* from establishing a "national" religion that would threaten the religious diversity of the states. Given the varied practices we have noted, ranging from establishments and doctrinal requirements for public office to relative toleration, any "national" religion would have been a source of angry discord.

"The First Amendment was intended to be a prohibition against the *federal* government."

Against that backdrop, the meaning of the establishment clause as it came out of conference should be crystal clear: "Congress shall make no law respecting an establishment of religion." The agency prohibited from acting is the national legislature; what it is prevented from doing is passing any law *"respecting"* an establishment of religion. In other words, Congress was forbidden to legislate at all concerning church establishment–either for or against. It was prevented from setting up a national established church; equally to the point, *it was prevented from interfering with the established churches in the states.*

Shield Becomes Sword

Though this history is blurred or ignored, it is no secret, and its general features are sometimes acknowledged by liberal spokesmen. It may be conceded, for example, that the First Amendment was intended to be a prohibition against the *federal* government. But that guarantee was supposedly broadened by the Fourteenth Amendment, which "applied" the Bill of Rights against the states. Thus what was once prohibited only to the federal government is now also prohibited to the states.

Here we meet the Orwellian concept of "applying" a protection *of* the states *as a weapon against them*–using the First Amendment to achieve the very thing it was intended to prevent. The legitimacy of this reversal has been convincingly challenged by such constitutional scholars as Raoul Berger, Lino Graglia, and James McClellan. But for present purposes, let us simply *assume* the First Amendment restrictions on Congress were "applied" against the states. What then? What did this prohibit?

One thing we know for sure is that it *did not prohibit officially sponsored prayer.* As we have seen, Congress itself engaged in officially sponsored, tax-supported prayer, complete with paid official chaplains, from the very outset–and continues to do so to this day. Indeed, in one of the greatest ironies of this historical record, we see the practice closely linked with passage of the First Amendment–supplying a refutation of the Court's position that is as definitive as could be wished.

The language that had been debated off and on throughout the summer and then hammered out in conference finally passed the House of Representatives on September 24, 1789. *On the very next day,* the self-same House of Representatives passed a resolution calling for *a day of national prayer and thanksgiving.* Here is the language the House adopted: "We acknowledge with grateful hearts the many single favors of Almighty God, especially by affording them an opportunity peacefully to establish a constitutional government for their safety and happiness."

The House accordingly called on President Washington to issue a proclamation designating a national day of prayer and thanksgiving (the origin of our current legal holiday). This was Washington's response:

> It is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits, and humbly to implore His protection and favor....That great and glorious Being who is the beneficent author of all the good that was, that is, or that ever will be, that we may then unite in rendering unto Him our sincere and humble thanks for His kind care and protection of the people.

Such were the official sentiments of Congress and the president immediately after the adoption of the First Amendment. These statements are far more doctrinal and emphatic than the modest prayer schoolchildren are forbidden to recite because it allegedly violates the First Amendment. If we accept the reasoning of the modern Court, as Robert Cord observes, *both Congress and George Washington violated the intended meaning of the First Amendment from its inception.*

The more logical conclusion, of course, is that Congress knew much better what it meant by the language adopted the preceding day than does our self-consciously evolving Court two centuries later. And in the view of Congress, there was nothing either in law or in logic to bar it from engaging in officially sponsored, tax-supported prayer, then or ever. It follows that the amendment can't possibly bar the states from doing likewise.

> "If we accept the reasoning of the modern Court...both *Congress and George Washington violated the intended meaning of the First Amendment from its inception.*"

Madison and Jefferson

To all this, the liberal answer is, essentially: James Madison. Whatever the legislative history, we are informed, Madison in his subsequent writings took doctrinaire positions on church-state separation, and these should be read into the First Amendment. This, however, gets the matter topsy-turvy. Clearly, if the Congress that passed the First Amendment, and the states that ratified it, didn't agree with Madison's more stringent private notions, as they surely didn't, then these were *not* enacted. It is the common understanding of the relevant parties, not the ideas of a single individual, especially those expressed in other settings, that defines the purpose of a law or constitutional proviso.

Furthermore, the Court's obsession with the individual views of Madison is highly suspect. It contrasts strangely with judicial treatment of his disclaimers in the House debate, and of his opinions on other constitutional matters. Madison held strict-constructionist views on the extent of federal power, arguing that the Constitution reserved undelegated authority to the states. *These* views of Madison are dismissed entirely by the Court. Thus we get a curious inversion: Madison becomes the Court's authority on the First Amendment, even though the notions he later voiced about this subject were not endorsed by others involved in its adoption. On the other hand, he isn't cited on the residual powers of the states, even though his statements on this topic were fully endorsed by other supporters of the Constitution and relied on by the people who voted its approval. It is hard to find a thread of consistency in this–beyond the obvious one of serving liberal ideology.

As peculiar as the Court's selective use of Madison is its resort to Jefferson. The anomaly here is that Jefferson was not a member of the Constitutional Convention, or of the Congress that considered the Bill of Rights, or of the Virginia ratifying convention. But he had strongly separationist views (up to a point) and had worked with Madison for disestablishment and religious freedom in Virginia. For the Court, this proves the First Amendment embodied Jefferson's statement in 1802, in a letter to the Baptists of Connecticut, about a "wall of separation."

Again we pass over the Lewis Carroll logic–in this case deducing the intent of an amendment adopted in 1789 from a letter written 13 years later by a person who had no official role in its adoption. Rather than dwelling on this oddity, we shall simply go to the record and see what Jefferson actually said about the First Amendment and its religion clauses. In his second inaugural address, for example, he said:

> In matters of religion, I have considered that its free exercise is placed by the Constitution independent of the powers of the general government. I have therefore undertaken on no occasion to prescribe the religious exercises suited to it. But I have left them as the Constitution found them, under the direction or discipline of state or church authorities acknowledged by the several religious societies.

Jefferson made the same point a few years later to a Presbyterian clergyman, who inquired about his attitude toward Thanksgiving proclamations:

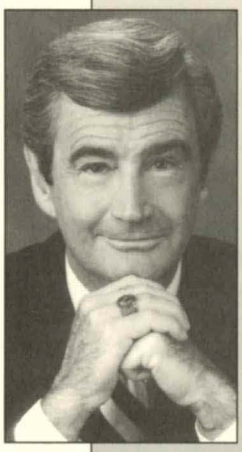
> I consider the government of the United States as interdicted from intermeddling with religious institutions,

their doctrines, discipline, or exercises. This results from the provision that no law shall be made respecting the establishment of religion or the free exercise thereof, but also from that which reserves to the states the powers not delegated to the United States. Certainly no power over religious discipline has been delegated to the general government. It must thus rest with the states as far as it can be in any human authority.

The irresistible conclusion is that there was no wall of separation between religious affirmation and civil government in the several states, nor could the First Amendment, with or without the Fourteenth Amendment, have been intended to create one. The wall of separation, instead, was between *the federal government and the states* and was meant to make sure the central authority didn't meddle with the customs of local jurisdictions.

As a matter of constitutional law, the Court's position in these religion cases is an intellectual shambles–results-oriented jurisprudence at its most flagrant. An even greater scandal is the extent to which the Justices have rewritten the official record to support a preconceived conclusion: a performance worthy of regimes in which history is tailored to the interests of the ruling powers. In point of fact, America's constitutional settlement–up to and including the First Amendment–was the work of people who believed in God, and who expressed their faith as a matter of course in public prayer and other governmental practice. ♟

D. James Kennedy is the most listened to Presbyterian minister in the world today. His television and radio broadcasts are heard in 25,000 cities and towns across America. He heads up five major ministries. He is the senior minister of the Coral Ridge Presbyterian Church, which has over 8,000 members and has been cited by *Decision* magazine as one of the top five churches in the nation. He is the president of Evangelism Explosion International, which trains laymen in evangelism in 190 countries and 300 denominations. He also oversees the Westminster Academy, a K-12 school for over 1000 students, and is chancellor of Knox Theological Seminary. Finally, he is president of Coral Ridge Ministries, a national network television ministry that was launched in 1978. Its one-hour telecast is broadcast on more than 470 stations and five cable networks and is also broadcast overseas. Its radio program is regularly heard on over 500 stations. ♟



"What If Jesus Had Never Been Born?"

*by D. James Kennedy**
Senior Minister,
Coral Ridge Presbyterian Church and
President, Coral Ridge Ministries

Reverend D. James Kennedy also participated in the November 1994 CCA, addressing an audience of over 1,500.

Some people have made transformational changes in one department of human learning or in one aspect of human life, and their names are forever enshrined in the annals of human history. But Jesus Christ, the greatest man who ever lived, has changed virtually every aspect of human life–and most people don't know it. The greatest tragedy of the Christmas holiday each year is not so much its commercialization (gross as that is), but its trivialization. How tragic it is that people have forgotten Him to whom they owe so very much.

Jesus says in Revelation 21:5, "Behold, I make all things new." (Behold! [*idou* in Greek]: "Note well," "look closely," "examine carefully.") Everything that Jesus Christ touched, He utterly transformed. He touched time when He was born into this world; He had a birthday, and that birthday utterly altered the way we measure time.

Someone has said He has turned aside the river of ages out of its course and lifted the centuries off their hinges. Now, the whole world counts time as Before Christ (B.C.) and A.D.

*With Jerry Newcombe. From *What If Jesus Had Never Been Born?* (Thomas Nelson Publishers, 1994)

Jesus said that the kingdom of heaven is like a mustard seed, which is tiny in and of itself; but, when fully grown, it provides shade and a resting place for many birds. This parable certainly applies to an individual who embraces Christ; it also applies to Christianity in the world.

Christianity's roots were small and humble–an itinerant rabbi preached and did miracles for three and a half years around the countryside of subjugated Israel. And today there are more than 1.8 billion professing believers in Him found in most of the nations on earth! There are tens of millions today who make it their life's aim to serve Him alone.

"Christianity's roots were small and humble – an itinerant rabbi preached and did miracles for three and a half years around the countryside of subjugated Israel."

Emperors and governors were the men with power in Christ's day. But now their bodies rot in their sepulchers, and their souls await the Final Judgment. They have no followers today. No one worships them. No one serves them or awaits their bidding.

Despite its humble origins, the Church has made more changes on earth for the good than any other movement or force in history.

But, the salvation of souls is the primary goal of the spread of Christianity. All other benefits are basically just by-products of what Christianity has often brought when applied to daily living. When Jesus took upon Himself the form of man, He imbued mankind with a dignity and inherent value that had never been dreamed of before. Whatever Jesus touched or whatever He did transformed that aspect of human life. Many people will read about the innumerable small incidents in the life of Christ while never dreaming that those casually mentioned "little" things were to transform the history of humankind.

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