CHURCH AND STATE IN AMERICA

This is an account of the ideas about and public policies relating to the relationship between government and religion from the settlement of Virginia in 1607 to the presidency of Andrew Jackson, 1829–1837. This book describes the impact of various events and legislative and judicial actions on church–state relations in America, including the English Toleration Act of 1689, the First and Second Great Awakenings, the Constitution of the United States, the Bill of Rights, and Jefferson’s Letter to the Danbury Baptists. Four principles were paramount in the American approach to government’s relation to religion: the importance of religion to public welfare; the resulting desirability of government support of religion (within the limitations of the political culture); liberty of conscience; and voluntarism, the requirement that religion be supported by freewill offerings, not taxation. James H. Hutson analyzes and describes the development and interplay of these principles and considers the relevance of the concept of the separation of church and state during this period.

James H. Hutson has been Chief of the Manuscripts Division at the Library of Congress since 1982. He has previously held positions as Coordinator of the American Revolution Bicentennial Programs at the Library of Congress and as lecturer at the College of William and Mary and Yale University. Among his many publications, Dr. Hutson has written Religion and the Founding of the American Republic (6th printing, 2002); Forgotten Features of the Founding: The Recovery of Religious Themes in Early American History (2003); and The Founders on Religion (2005).
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Series Editor’s Foreword

The First Amendment to the Constitution, embodied in the Bill of Rights proposed by Congress in 1789 and ratified by three-fourths of the states in 1791, concerned religion. The amendment simply states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” This amendment prevented the federal government from establishing a national religion and allowed people to freely exercise their religious beliefs and practices. The amendment appeared straightforward, but in practice it was ambiguous and increasingly controversial.

The establishment clause – that Congress shall make no law respecting the establishment of religion – appears at a minimum to prevent the newly established federal government from granting any denomination or religious sect the privileges enjoyed in England by the Anglican Church or in other European nations by the Roman Catholic Church. The amendment was not intended, it appears, to do away with established religious denominations then existing in the states. The question of state-established churches was left to the states.

Similarly, the free exercise clause was intended to prevent governmental persecution of dissenting religious sects and denominations as was common in England and other European countries. Congress
probably intended the free exercise clause to prevent the federal
government from imposing civil penalties on religious dissenters;
nevertheless, even after ratification of the First Amendment, many
states continued to impose civil restrictions on non-Protestants and
atheists.

Throughout the nineteenth century the First Amendment drew
little attention from the courts. Indeed, in the nineteenth century the
Supreme Court decided only two establishment clause cases. The
free exercise clause was tested in the Mormon polygamy cases, most
notably, *Reynolds v. United States* (1879), in which the Court ruled
that polygamous marriage was not a constitutional right founded in
the First Amendment.

The shift in interpretation of the separation of church–state
relations came in *Everson v. Board of Education* in 1947 when
the Supreme Court considered whether a city could pay for bus
transportation of school-aged children to parochial as well as pub-
lic schools. The Court ruled that public funding of school buses
for parochial schools was unconstitutional. Based on its review of
Virginia’s rejection of general taxation for the support of ministers
in 1785, the Supreme Court ruled that the establishment clause was
“intended to erect a ‘wall of separation’ between Church and State.”
The phrase “wall of separation” was taken from a letter Thomas
Jefferson had written to a group of Baptists who opposed the state of
Virginia’s use of general tax funds to support established ministers.
*Everson* was the first of a series of decisions undertaken by the Court
in determining the precise meaning of the establishment clause and
the free exercise clause.

Historian James Hutson revisits the meaning of religious toler-
ation as it developed in colonial America and the early Repub-
lic. Hutson presents a complex understanding of the historical
background for the First Amendment. He cogently argues that the rich tradition of religious pluralism in the colonies encouraged religious toleration in America. Religious toleration, he argues, was not the founding principle of the colonies, but evolved gradually as a wide array of religious denominations and religious groups blossomed in the colonies. In accomplishing this, Hutson sheds new light on the meaning of the separation of church and state at the time of the nation’s founding.

Hutson provides the reader with an historical understanding of a unique feature of the United States: religious freedom. The world he creates is far different from the secular world of the twentieth century, dominated by secular legal regimes in most countries. In this age of secularism, religious faith and secular law often appear in conflict and speak languages opaque to one another. The world that Hutson describes in colonial America was not any less complex or any less controversial than today, but the crisis of church and state that plagued Europe since the fierce religious wars of the sixteenth and seventeenth centuries appeared resolved in the American experience. The story of how this resolution came about is worth knowing because it tells us much about the founding of our nation and the meaning of toleration in this age of religious discord and hatred.

Donald T. Critchlow
General Series Editor,
Cambridge Essential Histories
The Seventeenth Century

Between the Accessions of James I in 1603 and William and Mary in 1689, Englishmen planted all the North American colonies (save Georgia), which in 1776 declared themselves to be the United States of America. The religious map of the colonies in 1689 resembled Joseph’s coat with its multiple hues and colors. In some colonies the state compelled obedience to one official church; in others it was stripped of all power over its citizens’ consciences. There were colonies in which religion was regulated in some places but not in others. And there were colonies in which the brand of religion supported by the state varied from place to place. In still other colonies the state refrained from regulating religion but signaled its intention to do so in the future.

Those colonies settled after the English Civil War of the 1640s benefited from the “new” idea of toleration, which emerged during that conflict. Prewar colonies, on the other hand, were defiantly intolerant, practicing a church–state policy – coercive uniformity – that was more than a thousand years old, traceable as far back as Christianity’s ascendancy in the Roman Empire in the fourth century A.D.

The traditional, coercive policy was carried to North America in 1607 by the settlers of Virginia. At that time there were three major
religious groups in England: Anglicans, Puritans, and Catholics (whose influence had plummeted since 1559). A fourth group, no more than a speck of the English population, renounced all the nation’s churches and separated itself from what it regarded as the pervasive religious rottenness by fleeing to the Netherlands; in 1620 some of these “separatists” sailed, as the Pilgrims, to Plymouth, Massachusetts. Although they were often at each others throats, Anglicans, Puritans, and Catholics agreed on a few ecclesiastical issues, one being the relationship of the state to the church. All believed that the state must assist the orthodox church in its jurisdiction, promoting its doctrines and suppressing dissent from them by force, if necessary.

Everyone in England assumed that state–church cooperation was ancient and “universal,” stretching back, according to one writer, to “the Infancy of Civil Society.” “Fathers of Families,” this early anthropologist theorized, “who always executed the Office of Priesthood, when they advanced or were called up, to the Administration of public affairs, carried the sacred Office with them into the Magistracy . . . and continued to execute both Functions in Person.” No one doubted that “all States of all Times . . . had an established religion.” In his famous plea for toleration, *The Bloudy Tenent of Persecution for Cause of Conscience* (London, 1644), Roger Williams, the founder of Rhode Island, asserted that the alliance of church and state was a constant in human history and that it had constantly repressed dissent. “It is true,” observed Williams, “that all magistrates do this: viz., encourage and protect the church or assembly of worshipers which they judge to be true and approve of; but not permitting other consciences than their own. It has come to pass in all ages.”

There was no need for Englishmen to rummage around in the mists of prehistory to discover the origins of church–state cooperation.
They knew their Roman history and knew that during the Roman Empire “state and religion were so mixed together that it was impossible not only to have the idea of a conflict between the two but even to distinguish the one from the other.” The Emperor embodied in his person the union of church and state, for he was both the chief magistrate and the chief priest, the pontifex maximus. The Roman practice of aligning the state with the church manifested itself as soon as Emperor Constantine made Christianity the official religion of the Empire. Only two years after his decisive victory at the Milvian Bridge (312 A.D.), Constantine and his lieutenants began “the tradition of persecution in the interests of orthodox conformity which was to mark the Christian Roman Empire and therefore its successor states, the medieval nations.” The rationale for the state’s employing force on behalf of the Roman Church, not always evident during the so-called Dark Ages and during periods when rogues and secular men headed the church, was the salvation of souls.

In striving to save souls, both the church and state were operating within the framework of what has been called the doctrine of exclusive salvation. This doctrine posited that there was an absolute truth necessary for salvation, that this truth was knowable, and that a particular church knew it. With unshakeable confidence, the Roman Church asserted that it was the “one universal church of the faithful, outside of which there is absolutely no salvation.” The doctrine of exclusive salvation assumed, as every reader of the apostle Paul’s letter to the Romans knew, that the office of the civil magistrate was instituted by God, a divine action that was considered to have authorized secular authorities to put their resources, including force, at the disposal of their clerical brethren to guide the body politic along the true path to salvation and to prevent competitors from leading the flock down the false path to perdition. The result
of the doctrine was, ideally, uniformity of faith – for if all were to be saved, all must believe the same truth – and persecution of dissent. “The case for theological persecution, is unanswerable,” wrote a distinguished expositor of the doctrine, “if we admit the fundamental supposition that one faith is known to be true and necessary for salvation.”

The leaders of the Protestant Reformation of the sixteenth century – Luther, Calvin, Zwingli, and their associates – agreed with the Church of Rome that there was a true faith and were certain that they knew it and had rescued it from centuries of chicanery and obfuscation by the Pope and his minions. The reformers also agreed with the Church of Rome about the proper relationship between church and state. With Calvin, they held “that it is the business of government to maintain true doctrine and right worship and to suppress heresy by force.” Calvin and his followers insisted on this doctrine so inflexibly that a scholar has compared them to the imperious Bishop Hildebrand, who became the mighty Pope Gregory VII in 1073. The Calvinist position has, consequently, been called the “Hildebrandine theory of the relation of church and state.”

Calvinism spread from Geneva to the British Isles from the middle of the sixteenth century onward and became the dominant theological persuasion in Scotland and England (at least until the Laudean reforms of the 1630s). With it came, with modifications, the doctrine of exclusive salvation, which a scholar once claimed was “no longer tenable,” in seventeenth-century England, as a “belief by minds open to reason.” “Which perhaps most minds were not,” the scholar immediately added, hastily reversing himself and offering as evidence of the prevailing mindset the words of a divine who in the 1630s denounced speculations about Catholics being saved as a “miserable weakness.” In the 1640s, Parliament, under the control