Air Force Suspends Ethics Class

August 17, 2011

The Air Force suspended an ethics course that has been taught by its chaplains for more than twenty years because the material included passages from the Bible. The course in question carries the title “Christian Just War Theory.” It was taught by chaplains at the Vandenberg Air Force Base in California. Both Old Testament and New Testament verses were used.

The challenge to the class was brought by the Military Religious Freedom Foundation that argued that the course violated the constitutional separation of church and state. A spokesman for the Air Force said the purpose of the course was to help missile launch officers understand that “what they are embarking on is very difficult and you have to have a certain amount of ethics about what you are doing to do that job.” He went on to say that the class was suspended the same day the complaint was filed.

The class is currently under review by Air Force officials in order to determine whether to revise the material or end the class. Given the speed at which they suspended the class, I suspect that this will be the last we hear of a class on “Christian Just War Theory.”

Considering the current climate, I guess it is surprising that such a class lasted as long as it did. Various groups calling for freedom from religion have been challenging any teaching or event that could possibly be considered an unconstitutional establishment of religion.

David French, senior counsel at the American Center for Law and Justice, says there is not violation of the Constitution.

He has served in the military and reminds us that “Just War theory has been a vital part of American military history for the last several hundred years.” He believes it is “another attempt to cleanse American history of its religious realities.”

Yes, it does seem to be just another case of removing the Bible and biblical principles from public life. I’m Kerby Anderson, and that’s my point of view.

Challenges to Religious Liberty

Challenging Christian Publishers

As Christians we believe that there should be a place for Christian values, but we live in a society that often challenges and attempts to exclude Christianity in the public arena. I would like to document many of the challenges to religious liberty today.

We lament the fact that we often have a *naked* public square (where religious values are stripped from the public arena). But we are not calling for a *sacred* public square (where religious values are forced on others). What we want is an *open* public square (where various religious and secular values are given a fair hearing).

Sometimes the challenges to religious liberty seem frivolous, but they could easily establish a precedent that could be harmful to Christianity later on. One example of this is the man who sued two Christian publishers for emotional distress

and mental instability because of their Bible translations. He is a homosexual and blames them for his emotional problems, because their Bibles refer to homosexuality as a sin.

As I point out in my book *A Biblical Point of View on Homosexuality*, various denominations and gay theologians have been trying to rewrite the Bible concerning homosexuality.{1} I guess it was only a matter of time before someone would sue the publishers for their Bible translations.

The homosexual man bringing the lawsuit contends that the Bible translations refer to homosexuals as sinners and only reflect an individual opinion or a group's conclusion. In particular, he argues that deliberate changes made to 1 Corinthians 6:9 are to blame. They have, according to him, caused homosexuals "to endure verbal abuse, discrimination, episodes of hates, and physical violence."{2}

First, let me say that verbal or physical actions toward homosexuals or other people are wrong and should be condemned. But the Bible or a Bible translation should not be blamed for what sinful people do to others. Even when we may disagree with someone, we should always be gracious and always treat others with respect.

Second, we should take the Christian publishers at their word. One of the publishers stated that they do not translate the Bible nor even own the copyright for the translation. Instead, they "rely on the scholarly judgment of the highly respected and credible translation committees behind each translation."

The problem that this homosexual man and other gay activists have is not really with a Christian publisher. It is with the Word of God itself. God intended that sex is to be between a man and a woman in marriage. Any other sex outside of marriage is sinful and wrong.

Although this lawsuit might seem frivolous and without merit, it represents a growing movement to criminalize Christian

thought through hate crimes legislation and the legal recognition of same-sex marriage and homosexual behavior. As such, it is but one of many challenges to religious liberty.

The Praying Coach

Another place where religious liberty is challenged is the public schools.

Marcus Borden is a high school football coach in East Brunswich, New Jersey. He is also a recipient of the national Caring Coach of the Year award. And he is in lots of trouble. A spokesman for the ACLU says he has fostered a "destructive environment" for students. So what did he do to create such an environment?

He bowed his head silently during pre-game prayers. Sometimes he even silently knelt down on one knee. Now understand, he didn't pray with the student football players. He merely showed his respect for them silently. But that was enough to set off anyone who believes in the separation of church and state.

One student athletic trainer said it best: "The tradition of student-initiated prayer goes back many, many years. I think with all that is wrong in our schools today, gun violence, bullying, promiscuity, etc. that the energy being spent on Marcus Borden bowing his head and taking a knee is a waste. Here is a man trying to support the youth in his care and be a positive role model and all these administrative yahoos can worry about is his presence in a room with his players while they pray."{3}

I might mention that the tradition of student-initiated prayer has been part of the football program at this high school for more than a quarter century. The actual prayer is very short and simple. They pray that they will represent their families and communities well. And they pray that the players (on both

sides of the ball) will come out of the game unscathed and unhurt.

School officials passed a policy prohibiting school district representatives from participating in student-initiated prayer. They even ordered Borden to stand rather than take a knee and bow his head while his players recited pre-game prayers. If he disobeyed he would lose his job as coach and tenured teacher.

A federal district court judge ruled that the school district violated Borden's constitutional rights to free speech, freedom of association, and academic freedom. But common sense didn't last long. The U.S. Court of Appeals for the Third Circuit overturned the decision and ruled that Borden could not take a knee.

As we talk about the challenges to religious liberty, I think it is important to consider the impact these challenges have on society. I think all of us would agree that we need positive role models in high school athletics. Coach Borden was one of them. He set a positive example and should be applauded, not punished.

Challenge to Christian Teachers

The challenge to religious liberties is also felt in public school classrooms.

A recent case illustrates the challenge many Christian teachers face. For a number of weeks I had been hearing about a teacher who was suspended without pay because he refused to remove his Bible from his desk. The story sounded too incredible, so I had to check it out for myself.

John Freshwater is a science teacher in Ohio who has twice received a Teacher of the Year award.{4} He has had his Living Bible on his desk for twenty-one years, but it is not in a

prominent place. He told me that when he asked former students if they remember him having a Bible on his desk, many of them didn't remember that he did.

John Freshwater is an excellent teacher. In fact his science class was the only eighth grade class at the school to pass the Ohio Achievement Test. He has been accused of branding a student during a voluntary Tesla coil demonstration, but there doesn't seem to be much merit in this accusation.

When I interviewed him, he did mention that back in 2002-2003, he decided to follow some of the details in the "No Child Left Behind" legislation that allowed teachers to teach the controversy concerning evolution. He wonders if his willingness to talk about the problems with evolution is part of the reason for actions against him.

Freshwater pointed out that other teachers have religious items on their desk. And he was willing to remove a Ten Commandments poster from his classroom along with a box of Bibles that were stored in his office for the Fellowship of Christian Athletes.

So is he just a trouble-maker? I don't think so. I also interviewed his pastor who was most supportive of him, his character, and his teaching. As far as I can tell, he is the kind of teacher we would love to have to teach our children. He didn't deserve to be suspended, and he certainly didn't deserve to be fired.

His case is but one of many cases I have followed over the years of teachers who were reprimanded, suspended, or fired for having a Bible or a religious item on their desk or wall. It is amazing how far we have come when you consider that the Bible was the primary document in education not so long ago. Students read the Bible or else read about the Bible in their New England Primers or McGuffey Readers. How far we have come from the Bible being the center of education to a classroom

where even having a Bible on the desk is seen as a reason to suspend or fire a teacher. This is once again a significant challenge to religious liberty.

Challenging the Boy Scouts

Awhile back I had the governor of the state of Texas in my radio studio to talk about the Boy Scouts. You might wonder why Rick Perry wanted to talk about the Boy Scouts. Well, he credits much of his success to them, and so wrote the book *On My Honor: Why the American Values of the Boy Scouts are Worth Fighting For*.{5}

His story is pretty simple. He grew up in Paint Creek, Texas. Yes, the town is as small as it sounds. There was not much to do, but you could join the Boy Scouts. Rick Perry did and became an Eagle Scout. And he joined an elite group of people like Gerald Ford, Ross Perot, William Bennett, and U.S. Secretary of Defense Robert Gates who were all Eagle Scouts long before they became prominent, successful public figures. A significant part of the book focuses on the positive aspects of scouting.

But another part of the book is illustrated by the subtitle dealing with the values that are worth fighting for.{6} The Boy Scouts have been under siege for years. Radical groups and secularists have attacked it on three fronts: (1) that it requires Scouts and Scout leaders to believe in God, (2) that it limits adult Scout leadership on the basis of sexuality, and (3) that it limits participation to boys. Atheists have attacked its requirement that scouts believe in God. Militant homosexual groups have tried to force it to install homosexual Scout leaders. And feminists have challenged whether the Boy Scouts should be limited just to boys and thus exclude girls.

The Boy Scouts have had to defend themselves all the way to the Supreme Court. And the Boy Scouts have also been attacked

in the media and denied funding from various charitable organizations. They have been kicked off facilities that used to be provided for them. And in Philadelphia they were told to pay an exorbitant fee for a facility in the city the Scouts built eighty years ago and gave to the city for free.

While it is true that the Boy Scouts are not a religious organization, it is also true that many troops meet in churches. And they are often attacked for their belief in God. So I believe that these attacks on the Boy Scouts represent another challenge to religious liberty in this country.

But I also believe that the Boy Scouts illustrate the cultural decline in America. When the Boy Scouts were formed nearly a century ago, they were at the very center of American values. Today, they are one of the most vilified organizations in America. The Boy Scouts didn't change; America did.

Historical and Biblical Basis for Religious Liberty

What are the historical and religious bases for the religious liberty which is being challenged today?

The founders of this country wisely wanted to keep the institutions of church and state separate. But church/state separation does not mean that Christians cannot have an active role in politics.{7} We should be free to express our religious values in the public arena.

Thomas Jefferson declared that religious liberty is "the most inalienable and sacred of all human rights." After the Constitution was drafted, the Bill of Rights was added. The First Amendment specifically granted all citizens the free exercise of religion. Church historian Philip Schaff once called the First Amendment "the Magna Carta of religious freedom," and "the first example in history of a government

deliberately depriving itself of all legislative control over religion."{8}

The biblical basis for religious liberty rests on the fact that we are created in the image of God (Genesis 1:27-28) and thus have value and dignity. With that also comes liberty of conscience. We are free moral beings who can choose and have the right to express ourselves. In a very real sense, religious liberty is a gift from God.

Religious freedom is not something granted to us by a government. God grants us those rights, and it is the responsibility of governments to acknowledge those rights. The Declaration of Independence captures this idea in its most famous sentence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness."

Government is a divinely ordained institution (Romans 13:1-7) that has the responsibility to keep order (1 Peter 2:13-15). We are to obey those in authority (Romans 13:1) and we are to pray for those in authority (1 Timothy 2:1-2).

We also recognize that the church is separate from government. Those within the church are to preach the gospel (Acts 1:8). Church leaders are also to teach sound doctrine (Matthew 28:20) and to disciple believers (Ephesians 4:11-13).

We have seen that standing for our rights and our liberty can sometimes be costly and is an ongoing responsibility. As one nineteenth century activist put it: "Eternal vigilance is the price of liberty."{9}

Notes

1. Kerby Anderson, *A Biblical Point of View on Homosexuality* (Eugene, OR: Harvest House Publishers, 2008).
2. "Gay man sues publisher over Bible verses," *USA Today*, 9

July 2008.
3. John Whitehead, “The End of Freedom in America,” commentary, http://www.rutherford.org/articles_db/commentary.asp?record_id=529.
4. Bob Burney, “A battle over a Bible for a Teacher (and a Nation),” Townhall, 21 May 2008, http://tinyurl.com/54t5x2.
5. Rick Perry, *On My Honor: Why the American Values of the Boy Scouts are Worth Fighting For* (Macon, GA: Stroud & Hall Publishers, 2008).
6. Rick Perry, “On My Honor: Why I wrote this book,” *Human Events*, 20 February 2008, http://www.humanevents.com/article.php?id=25083.
7. See Kerby Anderson, “Separation of Church and State,” Probe Ministries, 2005, www.probe.org/separation-of-church-and-state/.
8. Robert Handy, “Minority-Majority Confrontations, Church-State Patterns, and the U.S. Supreme Court,” in Jonathan Sarna, ed., Minority Faiths and the American Protestant Mainstream (Champaign,, IL: University of Illinois Press, 1998), 306.
9. Wendell Phillips in a speech before the Massachusetts Antislavery Society in 1852.

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Crusader Terrorists? — How Should Christians Respond

In this day of multiculturalism and political correctness, Christians should have been prepared to learn that a New Jersey school district recently chose Christian Crusaders as

an imaginary terrorist group for its first live action hostage response drill. To portray the terrorists, the school district organizers made up a right-wing fundamentalist group that denies the separation of church and state. Then, they created a fake hostage situation instigated by the supposedly angry parent of a student expelled for praying.

The stated goal of the event was summarized nicely by the district superintendent. He claimed that “You perform as you practice. We need to practice under conditions as real as possible in order to evaluate our procedures and plans so that they’re as effective as possible.” While many comments could be made about the phrase as real as possible, the most critical aspect of this issue is a deeper consideration.

Sadly, just as the impact of the aforementioned PC dogma on our schools is predictable, so is the vehement response of the local Christian community to this perceived offense. One Christian demanded that a public apology be given by school officials, along with their resignations. Other critics pointed out the obvious bigotry against Christians and the absurdity of the scenario itself. Christians have the legal right to pray in schools, and they are far more likely to bring their lawyers than their guns.

Still others mentioned that this is not the first time a school district had deliberately steered clear of the obvious terrorist groups, deciding instead to pick on Christians. For example, three years ago a Michigan school district substituted a group of crazed Christian homeschoolers called Wackos Against Schools and Education for their mock terrorism drill to avoid offending any Muslims.

Unfair scenarios such as these have a lot of Christians upset, and in a perfect world, they have a right to be. But is this the best response to events such as these? How should an ambassador for Christ handle them? May I suggest an alternative?

Instead of the immediate declaration of how persecuted and indignant we Christians are, perhaps we should ask ourselves why school officials see the followers of Jesus in this light in the first place. Are we doing anything that prompts this kind of stereotyping? Unfortunately, many school administrators only hear from outraged believers when there is a problem. Rarely are Christians viewed as beneficial to the school and surrounding community.

I know of a small evangelical church in New Zealand that was marginalized as an almost cultish group until they decided to pick a school to bless each spring. Church members take one week each year to clean, paint, and repair at the church's expense whatever needs fixing at the selected school. Their Christ-like service has completely changed the surrounding communitys attitude regarding the church, and school officials have even attended services as a result of their gratitude. A similar scenario played out recently in a small village in China. An underground church went from being persecuted to being appreciated when they decided to restore a bridge vital to that city.

It is relatively easy and natural to respond to negative stereotyping, even persecution, with a demand for political rights and privileges. It is far more difficult and supernatural to bless those who curse you and pray for those who mistreat you.

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"I Have Some Questions on the

Separation of Church and State”

Mr. Anderson,

I read your article on the Separation of Church and State and have a few questions for you. At the end of your article you wrote of an “‘open public square’ (where government neither censors nor sponsors religion but accommodates religion).” First of all, I’m curious as to whether you feel that the architects of the First Amendment intended for the protection of religion in general (as in Christianity, Judaism, Islam, Buddhism, etc.), or for the protection of strictly Christianity, as many of them were Christians, or at least claimed to be Christians? In addition to the latter part of that question, do you feel it was added more to prevent the rights, morals, etc. of Christians from being infringed on by a future non-Christian president, or do you feel it was added in order that a Christian president did not infringe on the beliefs of those of other faiths? Secondly, I am wondering as to the purpose of an “open public square” in the context of religions other than Christianity. Ideally, how would you see something like that functioning?

Thank you for your questions about the separation of church and state. Let me try to answer them in order.

1. Did the architects of the First Amendment intend to protect religion in general?

Although the primary religious faith in the 18th century was Christianity, it certainly appears that the framers intended the First Amendment to be inclusive of all religious faiths. For example, in James Madison’s *Memorial and Remonstrance*, he says:

> *Because we hold it for a fundamental and undeniable truth,*

> *that religion or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and conviction, not by force or violence.*

He seems to be defining religion as the duty we owe to our Creator. I would take that to apply to nearly any religion, not just the Christian religion.

2. Was it added to prevent the rights and moral of Christians from being infringed?

Some who ratified the Constitution did not even want a Bill of Rights, but others would not ratify the Constitution unless there were specific protections to prevent the encroachment of the newly formed federal government. The framers clearly stated that Congress shall make no law meaning that the federal government can't tell citizens what to pray, what to read, what to think, or even where to assemble. These protections apply to all citizens, not just to Christians.

3. What is the purpose of an open public square?

As I mentioned in my article, I believe that this would be a world in which all religious perspectives would be given an opportunity to express themselves in the public square. Although we supposedly live in a society dedicated to tolerance and civility (see my article on this topic), religious values are often stripped from the public square. This naked public square only seems to permits secular ideas and values rather than all ideas and values.

A good example of an open public square would be the Equal Access Act passed by Congress in 1984. Religious students should have the same equal access to school facilities as non-religious students. If a school allows the debate club or the Spanish club to utilize the school facilities after school, they should also allow students who want to start a Bible club to have the same privileges.

Kerby Anderson

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Separation of Church and State

Wall of Separation

When Thomas Jefferson first used the phrase "wall of separation," it is certain that he never would have anticipated the controversy that surrounds that term two centuries later. The metaphor has become so powerful that more Americans are more familiar with Jefferson's phrase than with the actual language of the Constitution.{1}

In one sense, the idea of separation of church and state is an accurate description of what must take place between the two institutions. History is full of examples (e.g., the Inquisition) of the dangers that arise when the institutions of church and state become too intertwined.

But the contemporary concept of separation of church and state goes far beyond the recognition that the two institutions must be separate. The current version of this phrase has come to mean that there should be a complete separation between religion and public life.

At the outset, we should state the obvious: the phrase "separation of church and state" is not in the Constitution. Although that should be an obvious statement, it is amazing how many citizens (including lawyers and politicians) do not know that simple fact.

Since the phrase is not in the Constitution and not even significantly discussed by the framers (e.g., *The Federalist Papers*), it is open to wide interpretation and misinterpretation. The only clear statement about religion in the Constitution can be found in the First Amendment and we will look at its legislative history later in this article.

Thomas Jefferson used the phrase "separation of church and state" when he wrote to the Danbury Baptist Association in 1802. Then the phrase slipped into obscurity. In 1947, Justice Hugo Black revived it in the case of *Everson v. Board of Education*. He wrote that the First Amendment "was intended to erect a wall of separation between church and State." He added that this wall "must be kept high and impregnable."{2}

The wall metaphor revived by Justice Black has been misused ever since. For example, the wall of separation has been used to argue that nearly any religious activity (prayer, Bible reading, moment of silence) and any religious symbol (cross, creche, Ten Commandments, etc.) is impermissible outside of church and home. Most of these activities and symbols have been stripped from public arenas. As we will see, it doesn't appear that Jefferson intended anything of the sort with his metaphor.

It's also worth noting that six of the thirteen original states had official, state-sponsored churches. Some states (Connecticut, Georgia, Maryland, Massachusetts, New Hampshire, and South Carolina) even refused to ratify the new Constitution unless it included a prohibition of federal involvement in the state churches.

History of the Phrase (part one)

So what was the meaning of "separation of church and state" and how has it changed? Some history is in order.

The presidential campaign of 1800 was one of the most bitterly

contested presidential elections in American history. Republican Thomas Jefferson defeated Federalist John Adams (who served as Vice-President under George Washington). During the campaign, the Federalists attacked Jefferson's religious beliefs, arguing that he was an "atheist" and an "infidel." Some were so fearful of a Jefferson presidency, they buried their family Bibles or hid them in wells fearing that President Jefferson would confiscate them.{3}Timothy Dwight (President of Yale College) even warned a few years before that if Jefferson *were* elected, "we may see the Bible cast into a bonfire."{4} These concerns were unwarranted since Jefferson had written a great deal in the previous two decades about his support of religious liberty.

In the midst of these concerns, the loyal Republicans of the Danbury Baptist Association wrote to the president congratulating him on his election and his dedication to religious liberty. President Jefferson used the letter as an opportunity to explain why he did not declare days of public prayer and thanksgiving as Washington and Adams had done so before him.

In his letter to them on New Year's Day 1802, Jefferson agreed with their desire for religious freedom saying that religious faith was a matter between God and man. Jefferson also affirmed his belief in the First Amendment and went on to say that he believed it denied Congress (or the President) the right to dictate religious beliefs. He argued that the First Amendment denied the Federal government this power, "thus building a wall of separation between Church and State."

It appears that Jefferson's phrase actually came from the 1800 election. Federalist ministers spoke against Jefferson "often from their pulpits, excoriating his infidelity and deism."{5} Republicans therefore argued that clergymen should not preach about politics but maintain a separation between the two.

We might add that a century and a half before Jefferson wrote

to the Danbury Baptists, Roger Williams erected a "hedge or wall of separation" in a tract he wrote in 1644. Williams used the metaphor to illustrate the need to protect the church from the world, otherwise the garden of the church would turn into a wilderness.{6} While it might be possible that Jefferson borrowed the metaphor from Roger Williams, it appears that Jefferson was not familiar with Williams' use of the metaphor.{7}

Jefferson used his letter to the Danbury Baptists to make a key point about his executive power. In the letter, he argued that the president had no authority to proclaim a religious holiday. He believed that governmental authority belonged only to individual states. Essentially, Jefferson's wall of separation applied only to the national government.

History of the Phrase (part two)

Although the Danbury letter was published in newspapers, the "wall of separation" metaphor never gained much attention and essentially slipped into obscurity. In 1879 the metaphor entered the lexicon of American constitutional law in the case of *Reynolds v. United States*. The court stated that Jefferson's Danbury letter "may be accepted almost as an authoritative declaration of the scope and effects of the [First] Amendment thus secured."{8} Although it was mentioned in this opinion, there is good evidence to believe that Jefferson's metaphor "played no role" in the Supreme Court's decision.{9}

In 1947, Justice Hugo L. Black revived Jefferson's wall metaphor in the case of *Everson v. Board of Education*. He applied this phrase in a different way from Thomas Jefferson. Black said that the First Amendment "was intended to erect a wall of separation between church and State." He added that this wall "must be kept high and impregnable."{10}

Daniel Dreisbach, author of *Thomas Jefferson and the Wall of Separation Between Church and State*, shows that Black's wall differs from Jefferson's wall. "Although Justice Black credited the third president with building the 'wall of separation,' the barrier raised in *Everson* differs from Jefferson's in function and location."{11}

The wall erected by Justice Black is "high and impregnable." On the other hand, Jefferson "occasionally lowered the 'wall' if there were extenuating circumstances. For example, he approved treaties with Indian tribes which underwrote the 'propagation of the Gospel among the Heathen.'"{12}

There is also a difference in the location of the two walls. Whereas Jefferson's "wall" explicitly separated the institutions of church and state, Black's wall, more expansively, separates religion and all civil government. Moreover, Jefferson's "wall" separated church and the federal government only. By incorporating the First Amendment nonestablishment provision into the due process clause of the Fourteenth Amendment, Black's wall separates religion and civil government at all levels—federal, state, and local.{13}

Jefferson's metaphor was a statement about federalism (the relationship between the federal government and the states). But Black turned it into a wall between religion and government (which because of the incorporation of the Fourteenth Amendment could also be applied to state and local governments).

First Amendment

How did we get the wording of the First Amendment? Once we understand its legislative history, we can understand the perspective of those who drafted the Bill of Rights.{14}

James Madison (architect of the Constitution) is the one who first proposed the wording of what became the First Amendment.

On June 8, 1789 Madison proposed the following:

> *"The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed."*

The representatives debated this wording and then turned the task over to a committee consisting of Madison and ten other House members. They proposed a new version that read:

> *"No religion shall be established by law, nor shall the equal rights of conscience be infringed."*

This wording was debated. During the debate, Madison explained "he apprehended the meaning of the words to be, that Congress should 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."

Representative Benjamin Huntington complained that the proposed wording might "be taken in such latitude as to be extremely hurtful to the cause of religion." So Madison suggested inserting the word "national" before the word "religion." He believed that this would reduce the fears of those concerned over the establishment of a national religion. After all, some were concerned America might drift in the direction of Europe where countries have a state-sponsored religion that citizens were often compelled to accept and even fund.

Representative Gerry balked at the word "national," because, he argued, the Constitution created a federal government, not a national one. So Madison withdrew his latest proposal, but assured Congress his reference to a "national religion" had to do with a national religious establishment, not a national government.

A week later, the House again altered the wording to this:

> *"Congress shall make no law establishing religion, or to prevent the free exercise thereof, or to infringe the rights of conscience."*

Meanwhile, the Senate debated other versions of the same amendment and on Sept. 3, 1789, came up with this wording:

> *"Congress shall make no law establishing articles of faith or a mode of worship, or prohibiting the free exercise of religion."*

The House didn't like the Senate's changes and called for a conference, from which emerged the wording ultimately included in the Bill of Rights:

> *"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."*

As we can see, Congress was attempting to prevent the establishment of a national religion or a national church with their drafting of the First Amendment.

Separation, Sponsorship and Accommodation

How should the government relate to the church? Should there be a separation of church and state? Essentially there are three answers to these questions: separation, sponsorship, and accommodation.

At one end of the spectrum of opinion is strict separation of church and state. Proponents of this position advocate the complete separation of any religious activity (prayer, Bible reading) and any religious symbol (cross, Ten Commandments) from government settings. Richard John Neuhaus called this "the naked public square" because religious values are stripped from the public arena.{15}

Proponents of this view would oppose any direct or indirect benefit to religion or religious organizations from the government. This would include opposition to tuition tax credits, education vouchers, and government funding of faith-based organizations.

At the other end of the spectrum would be sponsorship of religious organizations. Proponents would support school prayer, Bible reading in public schools, and the posting of the Ten Commandments in classrooms and public places. Proponents would also support tuition tax credits, education vouchers, and funding of faith-based organizations.

Between these two views is accommodation. Proponents argue that government should not sponsor religion but neither should it be hostile to religion. Government can accommodate religious activities. Government should provide protection for the church and provide for the free expression of religion. But government should not favor a particular group or religion over another.

Proponents would oppose direct governmental support of religious schools but would support education vouchers since the parents would be free to use the voucher at a public, private school, or Christian school. Proponents would oppose mandated school prayer but support programs that provide equal access to students. Equal access argues that if students are allowed to start a debate club or chess club on campus, they should also be allowed to start a Bible club.

We should reject the idea of a “naked public square” (where religious values have been stripped from the public arena). And we should also reject the idea of a “sacred public square” (where religious ideas are sponsored by government). We should seek an “open public square” (where government neither censors nor sponsors religion but accommodates religion).

Government should not be hostile toward religion, but neither

should it sponsor religion or favor a particular faith over another. Government should maintain a benevolent neutrality toward religion and accommodate religious activities and symbols.

Notes

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2. *Everson v. Board of Education*, 330 U.S., 16, 18.
3. Dumas Malone, *Jefferson and His Time,* vol. 3, *Jefferson and the Ordeal of Liberty* (Boston: Little, Brown, 1962), 481.
4. Timothy Dwight, *The Duty of Americans, at the Present Crisis*, reprinted in Ellis Sandoz, ed., *Political Sermons of the American Founding Era, 1730-1805* (Indianapolis, IN: Liberty Press, 1991), 1382.
5. Philip Hamburger, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002) 111.
6. Roger Williams, "Mr. Cotton's Letter Lately Printed, Examined and Answered," in *The Complete Writings of Roger Williams* (Providence, RI: Providence Press, 1866), 1:392.
7. Edwin Gaustad, *Sworn on the Altar of God: A Religious Biography of Thomas Jefferson* (Grand Rapids, Mich.: William B Eerdmans, 1996), 72.
8. *Reynolds v. United States*, 98 U.S. 145, 164.
9. Robert M. Hutchins, "The Future of the Wall," in *The Wall between Church and State*, ed. Dallin H. Oaks (Chicago: University of Chicago Press, 1963), 17.
10. *Everson v. Board of Education*, 330 U.S., 16, 18.
11. Daniel Dreisbach, Thomas Jefferson and the Wall of Separation Between Church and State (New York: New York University Press, 2002), 125.
12. Derek H. Davis, "Wall of Separation Metaphor," *Journal of Church and State*, vol. 45(1), Winter 2003.
13. Dreisbach, Thomas Jefferson, 125.
14. The details of the debate on the First Amendment can be

found in the Annals of Congress. *The Debates and Proceedings in the Congress of the United States.* "History of Congress." 42 vols. Washington, D.C.: Gales & Seaton, 1834-1856.
15. Richard John Neuhaus, *The Naked Public Square: Religion and Democracy in America* (William B. Eerdmans Publishing Co., 1984).

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See Also:

- "I Have Some Questions on the Separation of Church and State"

Student Rights

Introduction

A number of years ago a school in Missouri was instructed by court order to sponsor school dances over the objections of parents and the school board because the court claimed that the opposition was of a religious nature thus violating separation of church and state. Students have been stopped from voluntarily praying before athletic events, informal Bible studies have been moved off campus, and traditions such as opening prayer and benedictions during graduation ceremonies have been halted by court order or administrative decrees. Textbooks have also been purged of Judeo- Christian values and teachers have been ordered to remove Bibles from their desks because of the potential harm to students that they represent. Have the schools created an environment that is hostile to Christian belief?

Stephen Carter, a Yale law professor (*The Culture of Disbelief*, Basic Books, 1993) argues that religion in America is being reduced to the level of a hobby, that fewer and fewer avenues are available for one's beliefs to find acceptable public expression. Our public schools are a prime example of this secularization. This has caused undue hardship for many Christian students. Some administrators, reacting to the heated debate surrounding public expressions of faith, have sought to create a neutral environment by excluding any reference to religious ideas or even ideas that might have a religious origin. The result has often been to create an environment hostile to belief, precisely what the Supreme Court has argued against in its cases which restricted practices of worship in the schools such as school-led prayer and Scripture reading. The fallout of removing a Christian influence from the marketplace of ideas on campus has been the promotion of a naturalistic worldview which assumes that the universe is the consequence of blind chance.

This whole area of student rights is a relatively recent one. In the past, the courts have been hesitant to interfere with the legislative powers of state assemblies and the authority of locally elected school boards. But since the sixties, more and more issues are being settled in court. This trend reflects the breakdown of a consensus of values in our society, and it is likely to get worse.

When public schools reinforce the values held in common by a majority of parents sending their children off to school, conflicts are likely to be resolved locally. But in recent decades school administrators have been less likely to support traditional Judeo- Christian values which are still popular with most parents. Instead, schools have often abandoned accommodating neutrality and purged Christian thought from the school setting. Parents and students have felt compelled to take legal action, claiming that their constitutional rights of free speech and religious expression have been violated.

How should the U. S. Constitution’s guarantee of freedom of religion be balanced with the growing diversity in our public schools? In a time of growing centralization in education, how can schools cope with the rights of students that are far more diversified than in the past?

In this pamphlet we will look at some of the specific issues surrounding the concept of student rights beginning with a definition of the often used phrase “separation of church and state.” Then we will cover equal access, freedom of expression, the distribution of religious materials, prayer, as well as the Hatch Amendment.

Separation of Church and State

In 1803 Thomas Jefferson helped to ratify a treaty with the Kaskaskia Indians resulting in the United States paying one hundred dollars a year to support a Catholic priest in the region, and contributing three hundred dollars to help the tribe build a church. Later, as president of the Washington, D.C., school board, Jefferson was the chief author of the first plan for public education in the city. Reports indicate that the Bible and the Watts Hymnal were the principal, if not the only books, used for reading in the city’s schools. Yet those who advocate a strict separation between church and state usually refer back to Thomas Jefferson’s use of the phrase in 1802 when speaking to the Danbury Baptist Association in Connecticut. By using this phrase did Jefferson hope to separate Christian thought and ideals from all of public life, including education? Actually, Jefferson was a very complex thinker and desired neither a purely secular nor a Christian education.

What then, does the phrase “separation of church and state” mean? More importantly, what did it mean to the Founding Fathers? This is a crucial issue! A common interpretation was recently expressed in a major newspaper’s editorial page. The writer argued that public school students using a classroom to

voluntarily study the Bible would be a violation of the establishment clause of the First Amendment, and that the mere presence of religious ideas and speech promotes religion. His reasoning was that the tax dollars spent to heat and light the room puts the government in the business of establishing a religion. Is this view consistent with a historical interpretation of the First Amendment?

Recent Supreme Court cases dealing with church/state controversies have resulted in some interesting comments by the justices. In the *Lynch vs. Donnelly* case in 1984, the court mentioned that in the very week that Congress approved the Establishment Clause as part of the Bill of Rights for submission to the states, it enacted legislation providing for paid chaplains for the House and Senate. The day after the First Amendment was proposed, Congress urged President Washington to proclaim a day of public thanksgiving and prayer. In *Abington vs. Schempp* the Court declared that the Founding Fathers believed devotedly that there was a God and that the unalienable rights of man were rooted in Him and that this is clearly evidenced in their writings, from the Mayflower Compact to the U. S. Constitution itself.

The Supreme Court has recognized that every establishment clause case must balance the tension between unnecessary intrusion of either the church or the state upon the other, and the reality that, as the Court has so often noted, total separation of the two is not possible. The Court has long maintained a doctrine of accommodating neutrality in regards to religion and the public school system. This is based on the case *Zorach vs. Clauson* in 1952 which stated that the U. S. Constitution does not require complete separation of church and state, and that it affirmatively mandates accommodation, not merely tolerance of all religions, forbidding hostility toward any.

Any concept of students' rights must include some accommodation by our public institutions in regards to

religious beliefs and practices. The primary purpose of the First Amendment, and its resulting “wall of separation” between church and state, is to secure religious liberty.

Equal Access

On the surface, this issue seems fairly uncomplicated. Do students have the right to meet voluntarily on a high school campus for the purpose of studying the Bible and prayer if other non-curricular clubs enjoy the same privilege? Yet this issue has been the focus of more than fifteen major court cases since 1975, the Equal Access Act passed by Congress in 1984, and finally a Supreme Court case in 1990.

To many, this subject involves blatant discrimination against students who participate in activities that include religious speech and ideas. By refusing to allow students to organize Bible clubs during regular club meeting times, administrators are singling out Christians merely because of the content of their speech.

To others, the idea of students voluntarily studying the Bible and praying presents a situation “too dangerous to permit.” Others see equal access as just another attempt to install prayer in the public schools, and they hold up the banner of separation of church and state in an attempt to ward off this evil violation of our Constitution.

Let’s review exactly what legal rights a student does enjoy thanks to the “Equal Access” bill and the Mergens Supreme Court decision in 1990. First, schools may not discriminate against Bible clubs if they allow other non-curricular clubs to meet. A non-curricular club or student group is defined as any group that does not directly relate to the courses offered by the school. Some examples might be chess clubs, stamp collecting clubs, or community service clubs. School policy must be consistent towards all clubs regardless of the content of their meetings. The specific guidelines established are:

- *The club must be student initiated and voluntary.*
- *The club cannot be sponsored by the school.*
- *School employees may not participate other than as invited guests or neutral supervisors.*
- *The club cannot interfere with normal school activities.*

It also goes without saying that these clubs must follow other normally expected codes of behavior established by the school. The federal government can cut off federal funding of any school that denies the right of students to organize such clubs. This is a substantial penalty given that title moneys for special education, vocational training, and library materials are a significant portion of many schools' income.

One would think that the passing of the Equal Access Bill and its affirmation by the Supreme Court would have settled this issue. It didn't. Mostly due to ignorance of the law and occasionally an anti-religion bias, school administrators sometimes still balk at allowing Bible clubs. Unfortunately, it may take a letter from a Christian legal service in order to bring some school administrators up to speed on the legality of the clubs. Even so, some schools are removing all non-curricular clubs in order to avoid having to allow Bible clubs. This is a remarkable position for school administrators to take and is yet another evidence of the polarization taking place in our society between religious and non-religious people.

The way that students utilize the right to equal access is important. The agenda for any such club should be (1) to encourage and challenge one another to strive for excellence in every area of life and (2) to be a source of light within the secular darkness covering much of our teenage culture today. Angry confrontation with administrators and other

students would ruin the positive witness such a club might otherwise accomplish.

Other Rights of Christian Students: Freedom of Speech

In 1969, two high school students and one junior high student who wore black arm bands in protest of the Vietnam war. They were warned of potential expulsion, an admonition which they ignored, and were subsequently removed from school.

The resulting court case made its way to the Supreme Court which determined that students do not shed their constitutional rights at the school house door. This landmark decision, known as the Tinker case, greatly affected the way school administrators deal with certain types of discipline problems. Since the students chose a non-aggressive, non-disruptive form of protest, and since there was no evidence that they in any way interfered with the learning environment of the school, the Court argued that the administrators could not forbid protest simply because they disagreed with the position taken by the students or because they feared that a disruption might occur.

A two-point test has been suggested as a result of the Tinker case. Before setting a policy that will forbid some student behavior, administrators must prove that the action will interfere with or disrupt the work of the school, or force beliefs upon another student. Christians that wear crosses or T-shirts with a Christian message violate neither test. The same idea applies to the spoken word. The Tinker decision embraced the idea that fear or apprehension of disturbance is not enough to overcome the right of freedom of expression. Words spoken in class, in the lunchroom, or on the campus may conflict with the views of others and contain the potential to cause a disturbance, but the Court argued that this hazardous freedom is foundational to our national strength.

The Supreme Court has affirmed the right of Christians to distribute literature on campus, with some qualifications. In the case *Martin vs. Struthers* the Court equated free speech with the right to hand out literature as long as the literature in question was not libelous, obscene, or disruptive. If the school has no specific policy concerning the distribution of literature by students, Christians may freely do so. If a policy exists, students must conform to it. This may include prior examination of the material, and distribution may be denied during assemblies and other school functions. Outsiders do not enjoy similar privileges. The literature must be selected and distributed by the students.

Although the Supreme Court has outlawed school-sponsored prayer and reading from the Bible, it has not moved to restrict individuals from doing so. Graduation prayers by students have created a legal battle which resulted in *Lee vs. Weisman*, a Supreme Court decision which found that a prayer which was guided and directed by the school's principal was unconstitutional. The Court basically said that the school cannot invite a professional clergyman to a school function in order to pray. Students or others on the program may pray voluntarily. The student body may choose a student to act as a chaplain. Another scenario might have parents or students creating the agenda for the graduation ceremony, thus removing the school from placing a prayer on the program. Students do not shed their constitutional right to free speech when they step to the podium.

Christian students on campus must remember that certain responsibilities coincide with these rights. Proverbs 15:1 states that, "A gentle answer turns away wrath, but a harsh word stirs up anger." If we use our rights and privileges in a Christlike manner we will indeed be His ambassadors, anything less would be contrary to His will.

Other Student Rights

In 1925, the Supreme Court case *Pierce vs. Society of Sisters* debated the right of parents to send their children to private schools. In that case, justice James McReynolds said, “The child is not the mere creature of the State; those who nurture him and direct his destiny have the right coupled with the high duty, to recognize and prepare him for additional obligations.” In 1984, Congress held a series of hearings on reported abuses by educators who were attempting to change the beliefs of their students in a way that might again be a challenge to parental authority. Congress found that some schools might be overstepping their traditional role by concentrating more on what students believe than on what they know.

The result of these hearings is a law commonly known as the Hatch Amendment. The law protects students from federally sponsored research and experimental programs that make inquiries into students’ personal sexual, family, and religious lives. The law stipulates that all materials, including manuals, audio-visuals, and texts are to be made available to parents for review. And secondly, students shall not be required to submit to psychiatric testing, psychological examination, or treatments which delve into personal areas that might be considered sensitive family matters. But there is one big problem with the law, it only covers federally funded experimental or research-driven programs. What about abusive course-work which isn’t funded directly by federal research?

In regards to day-to-day classwork, the courts have made a distinction between mere exposure to objectionable material and a school’s attempt to coerce its students to adopt a particular political or religious viewpoint. Parents who can prove that coercion is taking place will have a much greater chance in court of forcing the school to accommodate to their

beliefs by changing the school's practices. If coercion is not taking place, and a child is merely being exposed to objectionable material, being excused from the class is more likely.

On the positive side, Christian students do have the right to include religious topics and research in their school work when appropriate. In *Florey vs. Sioux Falls School District*, Circuit Judge McMillian clarified why students have the right to use religious materials in the classroom. He states that, "To allow students only to study and not to perform religious art, literature and music when such works have developed an independent secular and artistic significance would give students a truncated view of our culture." In another case titled the *Committee for Public Education vs. Nyquist*, the Supreme Court stated, "The First Amendment does not forbid all mention of religion in public schools. It is the advancement or inhibition of religion that is prohibited." When presented objectively any religious topic is fair game for both student and teacher. Indeed, both could make good use of this freedom in covering such topics as the religious views of our Founding Fathers, what role Christian thought has played in important issues such as slavery and abortion, and how Christian thought has been in conflict with other worldviews.

Students can be an effective instrument for reaching other students with the Gospel, but only if they are living consistently with what they believe. This is possible given the rights granted them by the U. S. Constitution. It is our job as parents to see that our schools protect the rights of our children not only to believe, but to live Christianly, for what good is freedom of religion if it covers only our private lives?

Resources

Carter, Stephen L. *The Culture of Disbelief*. New York, N.Y.: Basic Books, 1993.

Staver, Mathew D. *Faith & Freedom*. Wheaton, Ill.: Crossway Books, 1995.

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