

The Separation Between Church and State

Stephen Van Kuiken
Community Congregational U.C.C.
Pullman, WA
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*Congress shall make no law respecting an establishment of religion,
or prohibiting the free exercise thereof...*
—First Amendment to the Constitution of the United States of America

Reading: Matthew 22:34-40

Some years ago in Cobb County, Georgia, the school district voted to attach notes in high school science textbooks warning students that evolution was simply an unproven theory and that creationism should be given equal billing. The woman who helped organize this effort told reporters that the earth was created 6,000 years ago.

Now, that woman and others in Georgia have a right to believe their theology and bad science if they wish. But they should not be able to inflict these beliefs on others, especially students in the public schools.

Thankfully, the Supreme Court thought so, too. It upheld an earlier (1982) decision against “balanced treatment” for creationism and evolutionism. The high court stated that creation science was not science, but a religious belief, and this would violate the separation of church and state.

Thom Hartman has written that the founders and framers of this nation saw that there are four kinds of power: political, military, religious, and economic. And it was the merging of political power with the other three that produced three kinds of tyranny: warlord kings, theocratic popes and monopolistic corporations. So to avoid recreating the tyrannies of the past, the framers sought to separate political power from the others and place it in the hands of “we the people” in a secular democracy.

Many of the framers were not Christian. Benjamin Franklin, George Washington and Thomas Jefferson were all Deists, a philosophy that the Creator made the universe long ago and has since chosen not to interfere in any way. John Adams and John Quincy Adams were both Unitarians.

And so not only were many of the framers not Christian, but they deliberately drafted a constitution that is secular. The word “God” does not appear in the text of the Constitution of the United States.

People often point to the Declaration of Independence because it contains the word, “Creator.” But first of all, written by Jefferson, it is a deistic reference, but more importantly, the Declaration is not a legal document, as the founders were well aware. It is not the U.S. Constitution.

Jefferson, in fact, authored the First Amendment and championed the separation of church and state. As president, in 1802, he declared that the American people had erected a “wall of separation between church and state.”

Five years before Jefferson made this speech the U.S. Senate unanimously approved The Treaty of Tripoli, which states "As the government of the U.S.A. is not in any sense founded on the Christian religion . . ."

Jefferson himself refuted the claim that American law was based on the Bible and 10 Commandments. The reason was simple. British common law, on which American law was based, existed *before* Christianity had arrived in England!

The only things in common between the 10 Commandments and our laws are the prohibitions on killing and stealing, which have existed in every tribe on earth as far back as 60,000 years ago.

And so if Christianity wasn't the foundation of the country and its laws, what is?

Jefferson wrote in his "Notes on Virginia":

The legitimate powers of government extend to such acts only as are injurious to others.

In other words, the way you decide laws is to ask, *what injures people?* This is the true ethical basis for the law. It is based on *reasoned ethical thinking*.

This is why the laws passed banning same-sex marriage, for example, are really a violation of the freedom of religion and the separation of church and state. They are supported by an appeal to the Bible and to understandings about God, not by reasoned ethical thinking. It makes no difference whether a majority votes for these bans or not. It would be just as wrong, for example, as if the majority voted to enforce the Levitical prohibitions against eating pork or shellfish.

In June 1967, the U.S. Supreme Court (*Loving vs. Virginia*) struck down laws passed by the majorities in over a dozen states that banned interracial marriage. Sometimes the majority is simply wrong.

The merging of government and religion is always a dangerous thing. Not only were the founders concerned about the government being hijacked by religious groups, but they were also wary of religion being corrupted by the government.

James Madison said, "religion and government will both exist in greater purity the less they are mixed together." He objected even to the government giving money to churches to care for the poor. It would be the beginning of a dangerous mixture. In Madison's mind, caring for the poor was a public and civic duty, a function of the government.

It's also important to remember that some of the founders who were people of faith wanted to safeguard against the government favoring one religion over another.

I remember when we lived in Kentucky and they had this thing called the Weekday School of Religion. Many folks, including some of my parishioners, couldn't understand how I, a minister, could be opposed to it. This stand didn't earn me many popularity points with some members of my congregation. But my concern was that they were taking children out of school in the middle of the school day, taking them to a local church and giving them religious instruction using taxpayers' money! My concern was that they would force bad religious teaching upon my children. The ones who are happy about religion in public schools are always the ones in power, the ones calling the shots. They would change their tune in a minute if they were the minority and the religious majority was, say, Hindu. It is out of common respect—a respect we see in Jesus—that we resist imposing our religious perspectives on others. So we legislate neither good nor bad theology. We base our laws on reasoned ethical thinking.

I am convinced that Jesus would be against the establishment of a national religion. He was very clear that there are things that belong to Caesar and things that belong to God. He knew well the dangers of blurring that line. He was, after all, born into a situation of an oppressive state religion. Herod and the Temple served the Roman state and helped to silence any voices of dissent. Jesus' friend, John the Baptist, was beheaded for his criticism against the alliance between the Jewish Temple and the violent Roman government.

Something very similar happened in Germany when Adolf Hitler merged the German Protestant Church into the Reich with a decree in 1933, giving the Reich the legal authority to ordain priests. Jesus knew that a religion can be taken over and become a mouthpiece by a government in order to serve political purposes.

But Jesus would be against the opposite, as well. He would oppose a theocracy, a religion taking over a government for its own purposes.

When asked to summarize his religious tradition, Jesus said it all boils down to this: Love God, and love your neighbor. *And when you impose your religion on your neighbor, this shows neither love nor respect.* The question is, in a country that is composed of many different religious perspectives, how do we follow Jesus' priority of loving our neighbor? It is through respect and honoring each other. *Freedom of religion is something Jesus, himself, would champion.* And he would be aghast that forms of a religion—bearing his name—would be lorded over others.

This is an important reminder for the best of us. Even the Puritans, who escaped the persecution of the English church-state merger, were susceptible to the dangers and abuses themselves. Puritans banned Quakers from Massachusetts under pain of death, and, as Norman Cousins noted in his book about the faith of the Founders, *In God We Trust*,

And when Quakers persisted in returning [to Massachusetts] in defiance of law, and in practicing their religious faith, the Puritans made good the threat of death. Quaker women were burned at the stake."

And as Hartmann points out:

Even the oppressed Quakers got into the act in the 1700s. They finally found a haven in Pennsylvania where they infiltrated government and promptly passed a law that levied harsh fines on any person who didn't show up for church on Sunday or couldn't "prove" that s/he was home reading scripture on that holy day.

For Jesus, religion was not something to be legislated. It cannot and should not be enforced or coerced. However, the decency, respect and concern for others – *where all our religions should lead us* – can. This is where reasoned ethical thinking leads us.

Now, I'm not saying that religious belief shouldn't influence politics. Heavens, no! Religious conviction has been a positive force for things like the abolition of slavery, equality for women, public schools, and racial equality.

The reasons were religious, but—and this is important—the reasons were also ethical. The arguments for those positive changes were broader than just religious ones. So to be a good neighbor, a loving

neighbor in this pluralistic nation, we need to speak the language of ethics and reason if a law is going to be enforced upon *everyone*—all of our neighbors.

In 2010 when Judge Vaughn Walker overruled California’s gay marriage ban (Proposition 8) in district court, he said that the marriage ban amounted to adopting religious belief as law and that there was “no rational basis” for the ban. He spelled it out in capital letters in his decision:

A PRIVATE MORAL VIEW THAT SAME-SEX COUPLES ARE INFERIOR TO OPPOSITE-SEX COUPLES IS NOT A PROPER BASIS FOR LEGISLATION.

When Judge Walker asked the lead lawyer for the supporters of the ban, “What would be the harm of permitting gay men and lesbians to marry?” the lawyer replied, “Your Honor, my answer is: I don’t know... I don’t know.”

Later in Cincinnati, Jim Obergefell and his partner, John Arthur, flew to Maryland to get married because John was dying with ALS. Ohio wouldn’t recognize their marriage, and this led to the landmark Supreme Court Obergefell decision in 2015, bringing marriage equality for same-sex couples to the nation.

This week, we have seen the confirmation hearing for Supreme Court nominee, Amy Coney Barrett. Much has been made about her Christian fundamentalist views. But the issue isn’t that she is religious, but there are signs that she would impose her religious views on the nation by voting to overturn the Obergefell decision. Or to overturn *Roe v. Wade*, banning abortion. Because the conviction that an embryo or even a fertilized egg is a “person” is a religious view, not a scientific one. And such actions seek to enforce a theology on everyone else.

Now, individuals and churches have a right to their own “private moral view.” This is true. But they do not have a right to impose that view upon others. Jesus, I believe, would say this is no way to treat your neighbors. And so we are obligated to legislate ethics – justice, equality and fairness. And we are obligated *not* to enforce purely religious and theological views.

The framers and founders basically knew the difference. Let us pray also for the same wisdom.

Resources:

Center for Religion, Ethics and Social Policy at Cornell University at www.TheocracyWatch.org
Americans United for a Separation of Church and State at www.au.org