

“Religion and the Constitution Confounded: Treating the First Amendment as a Theological Statement”

by Thomas J. Curry

The greatness, uniqueness, and exceptionalism of the American achievement in religious liberty derive from the fact that the Framers of the Constitution and those who enacted the First Amendment refused to make theological statements about Church and State. Indeed, insofar as they dealt with religious liberty within the meaning of the Constitution, they identified it by the absence of such statements. I will maintain that current disputes and confusion surrounding the history and application of this great American achievement of religious liberty stem precisely from the habit of turning the First Amendment into a theological statement. [This essay refers only to the religion provision of the Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”]

Although Americans at the time of the formation of the Constitution believed that it followed from self-evident truths, and although it was devised to achieve the exalted values of liberty, justice, and domestic tranquility, it did not require citizens to embrace those or any other beliefs. The Constitution prohibited test oaths, thus rejecting the notion that full citizenship should be based on conformity to any creed. It has been so successful because it relies on the people to promote voluntarily the values and attitudes the Framers knew would be essential to sustain the new Republic.

Americans were the first in history to take the risk of organizing an independent nation with no requirement that its citizens adhere to some belief, or at least engage in some unifying religious activity concerning a belief, e.g., swearing oaths or participating in religious ceremonies.

In doing so, America broke with Christendom; but it also broke with most of its own past. I use the word “most” because Americans were not flying completely blind. In their midst, Rhode Island, New Jersey, Delaware, and, above all, Pennsylvania had long prospered without an established religion, although all had used test oaths as a means of excluding Catholics, atheists, or non-Christians from full citizenship.

In America, religious liberty is a negative liberty, in the sense that the Constitution does not and cannot define it. Religious liberty within the meaning of the Constitution is achieved when government absents itself from – and refrains from exercising any power or jurisdiction over – religious belief or practice, thus leaving citizens free to define positively the substance of religious liberty for their own lives. As far as the Constitution is concerned, religious liberty – the free exercise of religion – results from the absence of government definition, control, or interference in religious matters.

In the context of 1789, this approach was astonishing, radical, and bold, and it remains so in 2003. However, from 1789 to our own time, this concept of the free exercise of religion has never been understood fully, accepted fully, or implemented fully.

In 1789, Americans abandoned Christendom in theory and in law, but they by no means abandoned it completely in practice, in thought, or in habits of mind. By Christendom, I mean the system of cooperation between Church and State – between the sacred and secular

powers – that embraces the totality of people’s lives – secular, religious, and cultural – and that came into being after Constantine legalized Christianity early in the fourth century. After the enactment of the Constitution, Americans by and large continued to believe there was a proper way to live one’s life – apart from simply obeying the secular laws – and that government should uphold, in the most broad-minded and tolerant fashion, a cultural-religious way of life they saw as essentially American. And government – on both state and federal levels – did just that.

The federal government proclaimed days of prayer and fasting and appointed chaplains to its own legislative bodies, as well as to the armed forces. The states enacted Sunday laws and made provisions for the proper religious-cultural instruction of children that involved Bible reading, prayers, and hymns acceptable to the majority of Americans. Thus, although the Constitution was silent as to religious requirements, Americans – with the assistance of government – nonetheless implemented them. Professor Martin Marty and others have shown that this informal establishment of religion – a patchwork of legislation dealing with Sabbath behavior and Bible reading in school, laws that people at that time considered as much social as religious – produced in nineteenth-century America a de facto establishment of religion even more effective than the de jure establishment in England at the time.

This de facto establishment continued to project the religious and cultural outlook of a majority of Americans in the decades following the ratification of the Constitution. They did not see it as oppressive, and it was not meant to be so. Rather, it was the outgrowth of non-denominational Protestantism, whose adherents believed it necessary to the maintenance of a civilized society and the liberties they had achieved. As a result, however, the fact that the nation had proclaimed a government that relied on no religious system and made no theological statement grew increasingly at odds with the reality of nineteenth-century America.

Returning now to the formation of the government: while I hold that government proclaimed no theology or religious belief, it is nevertheless clear to me that these contributed in a major way to its formation.

In 1965, Professor Mark DeWolfe Howe, in an elegant and important book, *The Garden and the Wilderness: Religion and Government in American Constitutional History*, took the U.S. Supreme Court to task for interpreting the First Amendment in a purely Jeffersonian way, i.e., in a secularist sense that was hostile to religion. In Howe’s words, “The evangelical principle of separation endorsed a host of favoring tributes to faith – tributes so substantive that they have produced in the aggregate what may be described as a de facto establishment of religion.” Thus he argued that because Christians had influenced the formation of the First Amendment, it had therefore to be read in a theological fashion, or from the point of view of the evangelical theology that had contributed so much to it.

I will argue that Protestant Evangelicals, in the broad sense – groups, including Quakers, that arose out of the Puritan Movement in England and wanted to reform it – made a major contribution, perhaps the dominant one, to the emergence of religious liberty as enshrined in the Constitution. I will also argue, however, that even though those same Evangelicals contributed so greatly to the formation of the First Amendment, it is not a statement of evangelical religious principles and should not be read that way.

When Professor Howe wrote of the “evangelical principle of separation” in the passage I just quoted, he was referring to Roger Williams’s imagery of a wall separating the “garden” of the Church from the “wilderness” of the world:

When they have opened a gap in the hedge or wall of separation between the garden of the church and the wilderness of the world, God hath ever broke down the wall itself, removed the candlestick, and made His garden a wilderness, as at this day.

The problem with the argument or assumption that the First Amendment somehow embodies this “wall of separation” is that, at the time of the passage of the Amendment, virtually no one was familiar with it. Roger Williams was an extraordinary man whose writings—composed in the mid-1600s—are still inspiring, but they had little effect on America, much less on the formation of the Constitution. Williams published all his books dealing with persecution and religious liberty in England; he published a controversy with Quakers in America. His arguments, so dear to modern America, were directed to an English audience. By the eighteenth century, his works had disappeared from America, and we can be reasonably certain that no one involved in the enactment of the First Amendment, including the citizens in the states that ratified it, had ever heard of Roger Williams, let alone read his writings.

I emphasize this point in order to make a comment on modern historical writing on the topic of Church and State. Numerous books about Williams have been published, and he has been invoked innumerable times in attempts to explain the First Amendment. Historically, however, he was unknown in America. His books did not appear in American catalogues, and he had no influence on the Amendment. Moreover, I believe the fact that he is quoted so frequently indicates why the history of American Church-State relations is in such disrepute.

Commentators, including judges and scholars, have engaged—as the Roger Williams example illustrates—in a post hoc, ergo propter hoc, kind of reasoning. However, if history is to play a useful role, we must do more than this. For example, it is not enough simply to find evidence to support a position, unless one can demonstrate reasonably that such evidence had some influence in the development of religious liberty or the formation of the First Amendment. That historians and legal scholars could make so much of Williams without connecting him with any actual historical development in America symbolizes the failure of modern American scholarship that has contributed to the confusion that characterizes present-day interpretation of the historical background of the First Amendment.

However, even if Roger Williams did not exercise much influence on the emergence of religious liberty in America, the evangelical movement—of which he was a part—certainly did. But participants in that movement never used or even discussed his image of a “wall of separation” between the garden of the Church and the wilderness of the world. The evangelical thrust for religious liberty arose out of the deep conviction that only God and the Spirit could provide true conversion and reform, and that State interference would lead only to persecution and to the manipulation of religion for secular, political purposes. They wanted religion to be free so that it could permeate and influence society.

That evangelical spirit had influenced the formation of four colonies—Rhode Island, New Jersey, Delaware, and Pennsylvania. The growth and prosperity of Pennsylvania, especially, demonstrated that a society could flourish without the security of an established religion. The conviction that instead of declining, religion would prosper if government refrained from establishing it may well have been the principal impetus for the new federal government’s limiting itself to specified secular functions.

In any event, the new federal government included no theological statement. It forbade test oaths and limited itself to what was secular, and the First Amendment restated and reinforced that understanding. However, at the time of the formation of the Constitution—and

for three or four decades thereafter – some Americans, especially in New England, continued to believe that without government backing for religion, society itself would disintegrate and their numbers would shrink progressively.

It is important to keep in mind that the First Amendment is a statement of power *not* given: “Congress shall make *no* law . . .” Thus the First Amendment does not create or guarantee the right to religious liberty. Rather, it is a reminder that such liberty and guarantee already exist by way of natural right. The first and primary guarantee of the Amendment is that government will not interfere with that natural right, that – for the purposes of this essay – it will refrain from making theological statements.

The modern controversy that has engulfed discussion of the historical meaning of the First Amendment dates back to the decision in the *Everson* case in 1947. In that controversy, one of the mainstay arguments advanced by opponents of the decision is that the position I have just taken, i.e., that the federal government has no power to make theological statements or involve itself in religious matters, flies in the face of the historical experience of the United States in the decades following the enactment of the Bill of Rights. I agree. The facts are not in dispute. Subsequent to the enactment of the Constitution and the Bill of Rights, presidents, senators, congressmen, and candidates for office repeatedly invoked God and made religious pronouncements, and government continued to support religion in a multitude of ways.

How does one cope with this anomaly? Does the practice of the times following the enactment of the Constitution, particularly the practice of those who participated in that enactment process, become normative for interpretation of the Constitution and/or the First Amendment?

My response to that question is no. We do not look to the practice of the time as normative for what we mean by the statement in the Declaration of Independence that “all men are created equal,” or for how we are to deal with minorities, or with women. Nor do we seek out past practices to ascertain what the objectives mentioned in the Preamble of the Constitution – justice, domestic tranquility, the common defense, the general welfare, or the blessings of liberty – mean for us in our time. Rather, I believe that the principle embodied in the First Amendment – that government has no power or jurisdiction in religious matters – was enunciated within a particular historical context that shaped and limited people’s understanding of it. Within our own different historical and cultural context, we, too, have to endeavor to recover and apply that principle in a way that results in maximum liberty and promotes the common welfare.

Although Americans, in the years from 1789 to 1791, adopted the radical principle that government has no power in religion, their cultural understanding and experience limited the application of that principle. They applied it in those areas of Church and State that particularly engaged them, and that had been clarified in their understanding by the experience of conflict, specifically religious persecution and the financial support of churches and ministers by way of public taxation. Those topics – especially taxation for religion – were realities that troubled America. Having solved them, the vast majority of Americans saw no other existing obstacles to religious liberty. In a largely homogeneously Protestant nation, few people could even imagine, let alone challenge, practices that others would view negatively as religious and sectarian. For most, such practices were part and parcel of the common coin of civilized living.

Despite having made a very public proclamation that their new government was powerless in religion, that there was no proper American way of being religious, Americans proceeded to assume that there was indeed an “American” way. They came to believe what Professor Howe would argue almost two centuries later: that since American religious liberty

had largely emerged out of American religious evangelism, the Amendment had to be read in the context of the theology of that evangelism – that absent State support of the religion that created it, religious freedom would wither and die. Hence they did not see the de facto establishment of religion they created (a modern description, not theirs) – one based on a common cultural-religious experience, democratic or congregational churches, a shared interpretation of history, common religious devotions, and Bible reading – as religiously oppressive, but rather as the context necessary for the preservation of the religious liberty they had brought into being.

Only conflict could broaden Americans' understanding of religious liberty and clarify the meaning of the First Amendment for a more pluralistic, diverse America. And conflict soon came – by way of Catholic immigrants, who, by the 1820s, began to arrive in significant numbers.

Coming from a different worldview, a different religious experience, and a different interpretation of history, Catholic immigrants experienced America's prevailing religious-cultural system as coercive and religiously oppressive. As a result of the clashes that followed upon their continuing arrival throughout the nineteenth century and well into the twentieth, America would abandon much of its de facto establishment of religion.

This long conflict – often, but by no means always, manifested in its most intense form in the public schools – led to two major developments.

First, it led to the evolution of a country and a government much more secular than those which Catholic immigrants had experienced when they first began to arrive. This secularization took place in the public schools, in the way people observed the Sabbath, and generally in the culture of the nation. I have argued that the coming of Catholic immigrants transformed America and made it more open to the diversity of immigrants who would arrive in waves in the nineteenth century and up until the First World War.

This development, however, coincided with a deepening conviction on the part of the dominant American culture that religious freedom was in danger. It arose from the belief that religious liberty was the product of Protestantism, and that its survival depended on that religion. To those who thought in these terms, the coming of what they perceived as veritable hordes of Catholics and foreigners threatened American liberties – and particularly American religious liberty. The more Catholics altered the religious and cultural status quo, the more they demonstrated that there was no American way of being religious, and the more their critics were convinced that the religion and theology on which the Constitution and the First Amendment depended were being eroded.

The conviction that since Protestantism had contributed so much to the Constitution and religious liberty it was essential to both and was embedded in the First Amendment – i.e., that America and Protestantism were somehow connected – entered deeply into the minds and attitudes of Americans in the nineteenth century. Indeed, as late as 1998, Professor Phillip E. Hammond of the University of California at Santa Barbara could write that “protestantized religious faith . . . lies behind the Constitution. It is a faith more in process than in substance, but a discernible substance is nonetheless there” (*With Liberty for All: Freedom of Religion in the United States*, xv).

In 1971, Justice William O. Douglas exemplified the persistence of this thinking from the nineteenth century in his concurring opinion in *Lemon v. Kurtzman*. Douglas quoted Loraine Boettner's *Roman Catholicism* (1962) in characterizing Catholic schools:

Their purpose is not so much to educate, but to indoctrinate and train, not to teach Scripture truths and Americanism, but to make loyal Roman Catholics. The children are regimented, and are told what to wear, what to do, and what to think.

The statement captures an attitude and way of thinking that prevailed in nineteenth-century America. It equates Scripture truths with Americanism and contrasts both with “loyal Roman Catholics” who, according to that definition, cannot be true Americans. Catholics came to be seen as regimented foot soldiers, intent on imposing on the country a Church that would destroy American liberties. This belief provided renewed vigor to the revival of the notion of separation of Church and State. In his recent, superb study, *Separation of Church and State* (2002), Professor Philip Hamburger of the University of Chicago Law School has added profoundly to our understanding of Church and State and the development of those terms.

In fact, for much of nineteenth-century America, the separation of Church and State came to mean the separation and isolation of the Catholic Church, so that the true American religion – what Douglas and Boettner referred to as “Scripture truths and Americanism” – could prosper. Contemporary Americans rightly believed that evangelical Protestantism had contributed immensely to the emergence of religious liberty. However, the presence among them of large numbers of Catholics also convinced them that religious liberty would survive only if the State upheld and protected the theology and religious practice that had led to the creation of that freedom. The Church that was to be “separated” was the Catholic Church, so that what they thought of as the religion and theology necessary to religious freedom – what they regarded as ecumenical and not really amounting to a Church – could flourish and be sustained by government. Thus did the rallying cry “Separation of Church and State” come to be an utterly theological statement.

The “wall of separation” was enshrined in constitutional interpretation by the Supreme Court in 1947, when Justice Black wrote: “In the words of Jefferson, the clause against establishment of religion by law was intended to erect a wall of separation between Church and State.” The theology underpinning this phrase has changed over the years, but what has not changed is that the concept of the separation of Church and State is essentially religious and theological.

Whether written by Roger Williams or Thomas Jefferson, the phrase is, of course, profoundly and specifically theological. (Jefferson defined religion as “a matter which lies solely between man and his God.”) It adheres to a religion of dualism, a strict dichotomy between what is religious and what is secular, and it endows government with the power to define and impose the boundary between the two. It represents a quasi-Manichean, dualistic approach to life and reality. It envisages not a limited government, but an all-powerful one that can divide up the totality of human life, that can erect a barrier cutting through people’s lives and the life of society, assigning Church to one side of the barrier and telling people that, within the sphere defined by the State, they can freely exercise their religion.

America created a secular government – limited, as Thomas Jefferson also said, to civil matters – with power over part of the secular world. To argue that a secular government has power to determine the scope and sphere of the Church is to give the government religious and theological authority. To claim that what is secular is not religious and that what is religious is not secular is to adhere to a particular theology and view of religion.

For example, the existence of religious or parochial schools flies in the face of the notion of the separation of Church and State. In setting up religious schools, the Church engages in a

religious activity, one that it sees as an essential part of its mission and one that is thoroughly religious. On its part, the State accepts this activity as secular, as performing a public service and fulfilling a mandated State requirement – the education of children. This can happen because the government does not impose a theology – a way of thinking. As distinct from countries that do impose a theology or ideology, America does not impose a belief system on education. It looks for overt acts – the ability to read and write. Whether students acquire that ability by studying religious materials or non-religious materials is immaterial to the State.

In America, churches use public – State – parks to carry out religious ceremonies; religious organizations carry out government contracts to perform social services; believers use the public street to evangelize; and Church and State intersect in innumerable other ways. The First Amendment is not about separating Church and State, about organizing the totality of society and consigning different human activities to realms defined by government. Rather, it is a warning to government to confine itself to the secular spheres to which it has been assigned. It says nothing about the Church, except that government may not use its jurisdiction to make theological statements or to promote or enforce religious belief or action.

How can government refrain from interfering in what it is forbidden to define? Within the meaning of the Constitution, the free exercise of religion lacks substance – government cannot define it. Free exercise of religion is “what happens” when the State limits itself to the powers assigned to it. Within the meaning of the Constitution, free exercise is not the right to choose our religion freely. That is a “natural right,” anterior to government and never surrendered to it.

The First Amendment is a guarantee that government will confine itself to its own limited and specified powers, and by doing so, the people will be free to define for themselves the substance of religious freedom.

Our modern problem arises from the fact that government – the Supreme Court especially – has determined that the free exercise of religion is something guaranteed by government, that courts are to define and protect. As a result, understanding of the First Amendment is in utter disarray. Because judges assume themselves to be the protectors of religious liberty – rather than a threat to it, as the Amendment proclaims – they assume that they are the judges of what comprises that religious liberty. Thus they read the Amendment as containing substantive theological statements, of which there are currently two major contending theological interpretations.

First is the one I have been referring to: The interpretation of the First Amendment as creating a “wall of separation between Church and State” is based on a very definite theology. Repeatedly, the justices who support that interpretation have stated: “We have staked the very existence of our country on the faith that complete separation between state and religion is best for the state and best for religion” (Everson, McCollum, Torcaso). The statement that the State and religion should be completely separate leads to the conclusion that government is not merely forbidden to promote or decide religious matters, but that it is to ensure that no religious activity whatsoever is to take place within its realm. All religious activities, even if only engaged in freely by individuals, are to be confined behind a wall of government’s making. That interpretation would mean that not only could government not promote prayer or Bible reading in public schools, but also that students themselves could not engage in voluntary prayer or any religious activity in public schools, because those schools belong to the realm of the State, from which religion is separated.

Opponents of the “wall of separation” imagery advance the second theological position. They see that interpretation – correctly – as using the power of government to impose such a

belief, a “faith,” as the Court has said, a theology on individuals and society. Justice Kennedy has opposed what he referred to as the “relentless extirpation of all contact between government and religion” (County of Allegheny). Unfortunately, however, this group would impose another theological approach, one that would re-impose a form of Christendom. Its proponents would endow government with the power to sponsor non-coercive, non-denominational religion, with themselves, of course, as judges of the essentially religious question of what is non-coercive and what is non-denominational.

The solution to endowing government with power to banish all religion from the sphere of the State is *not* to endow that same State with power to create a State-sponsored religion.

Although I oppose both theological interpretations of the First Amendment, I am focusing on the “wall of separation” interpretation because the theology associated with it has come to dominate all judicial thinking, even that of those who opposed the image of the “wall.”

The actual “wall of separation” image is no longer much invoked by the Court, and, as an image, it has fallen on harder times in judicial circles, although not in scholarly writing or journalism. The fact that no one can define or describe that metaphor does present those who use it with a certain difficulty. However, even if the figure of speech itself has fallen away, the system of theology it represents is still very much in effect. Indeed, I argue that it has captured even those who are most opposed to the actual term.

The fundamental propositions that make up the theology associated with the “wall of separation” metaphor can be found in the Everson decision that equated it with the First Amendment. The decision put forth three fundamentally theological propositions.

First, the Court decided that the subject of the First Amendment was “aid” to religion, that it prohibits government from aiding or impeding religion. The result of this proposition is to render the justices experts in religious matters. Whereas the Amendment is a reminder to government to confine itself to its own limited, secular authority, deciding what aids or hinders religion, rather than what is secular, has become the focus of the justices’ concern, i.e., a religious question has become their primary focus. It makes them – rather than religious believers – arbiters of what aids or hinders religion, a decision the First Amendment guarantees they will not make.

Second, if judges are to determine what aids or hinders religion, they must assure themselves of their own fairness and impartiality. Thus they proclaim themselves to be neutral and assign themselves power to judge what is religiously neutral, i.e., to take over from religious believers the ability to determine the consequences of secular laws for religious organizations. All the justices equally accept this system of theology. In the recent *Zelman* case, wherein the Supreme Court upheld Cleveland’s voucher program, the opinions used the words “neutral” or “neutrality” with regard to religion seventy times.

The result is that instead of being confined and limited, this theology of neutrality in religion presumes omniscience and omnicompetence on the part of the Court. In a country of such religious diversity as the United States, there may be no law that some group of believers will not find either helpful or hindering. Certainly, one that provides for vouchers for private and religious schools is a good example. The free exercise of religion is a guarantee that believers are to decide what is religiously neutral, what assists or hinders their religion. How religious groups define their schools will determine how they evaluate the effect of vouchers upon them. The role of the Court, on the other hand, is to determine whether a law is secular and within the limited and specified powers of government, i.e., whether it will involve government in making religious judgments and decisions. Whether it will help or hinder

religion is a religious issue, one reserved for believers and protected from government interference and second-guessing by the First Amendment.

The third proposition is the one I quoted earlier that states: “We have staked the very existence of our country on the faith that complete separation between state and religion is best for the state and best for religion.” With that, we come full circle back to the argument that the First Amendment is a theological statement, that not only did evangelical theology or some other theology contribute to its passage, but that the Amendment itself incorporates and propagates a theology, i.e., what is best for religion. This would mean that government proclaims what is in the interest of religion, and legislators and judges, not religious believers, make the theological assessment of what is best for religion.

This determination of the State to proclaim a faith about what is best for the Church brings us back to where I began – the fact that the Constitution requires no belief, no faith, no theology. Yet, despite the clarity and force with which this is stated in the Constitution, in the proclamation against test oaths in the First, Ninth, and Tenth Amendments, Americans have always found it difficult to abandon an official theology, to accept that, in the United States, there is no proper or required way of being religious.

Nineteenth-century Catholic immigrants faced the challenge of proving they could be truly American without subscribing to the theology, customs, and practices their opponents told them they had to accept. By resisting that theology, they clarified, deepened, and broadened the great Protestant heritage of religious liberty, and, in the process, transformed the nation.

Catholic historians and others who write of Catholicism in America have generally been unable to grasp this history, because they have, to a considerable extent, internalized the attitudes of the critics of Catholicism. Catholic historical scholarship exhibits a good deal of evidence of the Stockholm Syndrome – the identification of hostages with their captors. Although Catholic immigrants fiercely resisted the idea that there was a particularly American way of being religious, Catholic historians have spent their energies searching for “American Catholicism” and asking if Catholicism has really become American. Collectively, their activity amounts to the question, “Are we there yet?”

For example, they tend to see what they perceive as a truly American Catholicism that was emerging around 1800 as having been inundated by the hordes of Catholic immigrants. They are inclined to interpret the failure of what is called the Trustee movement in Catholicism in nineteenth-century America as a failure to democratize Catholicism. In reality, that movement represented an attempt to impose on Catholicism one of the principal tenets of the de facto establishment of the time – that the only proper way for churches to be in America was congregational. [My opposition here is not to church participation by its members but to Whig history.]

The controversy over a movement known as Americanism, which was condemned by the Vatican but to which historians claim no one ever adhered, has assumed an enormous role in Catholic scholarship. In general, the focus of that scholarship has been on how Catholics adapted, adjusted, and were assimilated into American life and culture. It is a tacit admission that although Catholics transformed America in practice, historians have accepted the theology of their critics, i.e., that there is an American way of being religious, that the First Amendment is a theological statement, and that Catholics need to adjust to that American theology.

The way out of the present confusion in thinking about Church and State lies in returning to the abandonment of the First Amendment as a theological statement. We can celebrate Roger Williams, William Penn, and the wonderful influence and achievement of

evangelical Protestantism and still say that the Constitution does not incorporate any theology. As the Supreme Court explained so well in its 1943 Flag Salute decision:

We think the action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control.

The sphere of intellect and spirit is beyond government adjudication, and that sphere embraces what assists or hinders religion, what is religiously neutral, and what is best for religion. Members of government, including judges, are to confine themselves to determining what is secular and within their competence, and the First Amendment is a proclamation that when they do so, the people will be able to exercise their natural right to enjoy the free exercise of religion, free of government interference and theology.

Bishop Curry delivered this essay as a lecture in Swift Lecture Hall at the University of Chicago on March 14, 2003.