



FREEDOM OF RELIGION: DISESTABLISHMENT

INTRODUCTION: Many of the colonists who first settled in North America came to this country to escape persecution. This is true of the Congregationalists of Massachusetts (also known as Puritans) and the Quakers of Pennsylvania. Soon other colonies also developed strong religious identities. The Baptists settled in Rhode Island. The Dutch Reformed located in New York. The Catholics settled in Maryland. Colonies that had been settled by the English government, such as Virginia and South Carolina, accepted Anglicanism, the official religion of England, as the official religion of their colonies. The irony of this settlement process was that, as each colony increasingly became identified with a single religion, the colonists themselves often became the *persecutors* instead of the *persecuted*.

After the American Revolution and the signing of the Declaration of Independence in 1776, the newly liberated colonists faced the many issues of building a unified nation. One of the challenges to unification was how to deal with the question of religious differences, for in many cases, religious affiliation was the central concept of colonial identity.

The solution—religious freedom! Thomas Jefferson’s Virginia Statute for Religious Freedom, the first law of absolute religious freedom enacted in the colonies, was championed into Virginia law through the efforts of James Madison in 1786. Jefferson, Madison and George Mason then persuaded members at the Constitutional Convention to encode this principle into national law, and freedom of religion was adopted as a constitutional guarantee in the First Amendment to the United States Constitution in 1789 and ratified in 1791. (This guarantee had limited application, however. The United States Constitution applied only to the federal government and not to state and local governments. It was not until the mid Twentieth Century, after the United States Supreme Court extended the interpretation of the word “liberty” in the Fourteenth Amendment’s due process clause to other freedoms in the Bill of Rights, that the guarantee of religious freedom was expanded to the state and local level.)

The first principle of religious freedom, as stated in the Bill of Rights, was that of disestablishment—the elimination of all *official religions*. Under the terms of this law, the government was prohibited from enacting legislation that favored one church over another or that created any *official* state church.

Icebreaker: How many people have learned that *antidisestablishmentarianism* is the longest word in the dictionary? How many know what it means?

Objective: What is the meaning of disestablishment? In the Revolutionary Era, who were the parties who supported disestablishment and what were their motives? Who opposed disestablishment and why? How do we evaluate the issue today as we strive to maintain the separation of religion and government?

Learning Objectives: As the students examine the Virginia Statute for Religious Freedom and the First Amendment, they will:

- Learn about the traditional relationship between religion and government— establishment of religion;
- Weigh the competing principles of establishment and disestablishment against one another;
- Identify the process and formulation of an intellectual concept by a philosopher in an original document, and see how it becomes a practical reality in law; and
- Examine instances of how this remains a controversial topic today.

I. Historical Scope

Core Texts: Virginia Statute for Religious Freedom (1786)

Authored by Thomas Jefferson and passed into law through the persistence of James Madison in 1786, the Statute provides the basis for the religion clauses in the First Amendment. Both men considered the Virginia Statute to be one of the great achievements of their lives. Jefferson directed that on his tombstone he not be remembered as President of the United States or for other high offices he held, but that he, instead, be recognized as the author of the Declaration of Independence, the author of the Virginia Statute for Religious Freedom, and the father of the University of Virginia.

“Be it enacted by the General Assembly that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of Religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.”

Virginia Statute for Religious Freedom

The first 10 amendments to the Constitution of the United States are known as the Bill of Rights, ratified in Philadelphia at the Constitutional Convention of 1791. The freedom of religion was articulated in the First Amendment stating that:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . .”

Primary Sources:

SUGGESTION – Break students into four teams and have each group select a spokesperson. Two groups will discuss Appendix 1 with the other two groups addressing Appendix 2. Give each student a copy of his or her group’s assigned document (Appendix 1 or Appendix 2). Also give each spokesperson a copy of the Analysis Worksheet (refer to Appendix 3).

Appendix 1: James Madison’s Memorial and Remonstrance and Patrick Henry on non-denominational Christianity

Appendix 2: Voices in favor of Establishment-Congregationalism in Massachusetts

The teacher makes two columns on the board, one labeled *Establishment* and the other labeled *Disestablishment*. After the groups have a few minutes to meet and discuss their assignment, guided by the Analysis Worksheet questions, have the spokespersons report the analysis. As each spokesperson reports, the teacher jots significant points on the board in the *Establishment* or *Disestablishment* column as they pertain to each.

II. Contemporary Debate: Chaplains—Prayer in Whose Name?**Class Exercise: Teacher Introduction**

United States military chaplains are commissioned officers who offer spiritual support, oversee unit and base worship services, organize volunteer efforts, and ensure the free exercise of religion for military personnel. They generally work one-on-one with troops, their families, or in a small group outside of the public eye. A chaplain is ordained and represents his or her own religion, but is also employed by and representing the government. He or she is sworn to obey orders and to work in a religiously diverse environment to accommodate and respect members of all faiths, while not compromising his or her own beliefs.

Sometimes chaplains are also asked to pray at secular events, such as at a banquet, a ship christening or a change-of-command ceremony, where the audience will be diverse in religious practice and belief. Chaplains can, of course, pray according to the traditions of their own religion at worship services where attendance is voluntary; but controversy has been stirred in recent years when prayer at secular and mandatory functions has been specific to one religious tradition, such as closing “in the name of Jesus Christ.”

2006, United States Government: A bill was in discussion to set the Pentagon’s spending levels. The House added to their version of the bill a provision to allow military chaplains offering prayers at nondenominational military events to pray according to the dictates of their own faith tradition. The Senate version of the spending bill (the National Defense Authorization Act) contained no such language.

Opponents of the House provision, including some chaplains, stated that at mandatory events, offering a nonsectarian prayer (such as referencing God rather than being specific with references to Jesus Christ, Allah, etc.), had been the long-standing practice, and that chaplains exercising their own faith tradition could generate discomfort for troops of other faiths who were required to attend these events. The Defense Department wrote in an appeal to Congress that: "Such erosion of unit cohesion is avoided by the military's present insistence on inclusive prayer at interfaith gatherings."

Supporters of the resolution, however, stated that refusing chaplains the right to pray according to the dictates of their own conscience infringed on their religious freedom and free exercise rights.

Ultimately, the prayer provision was cut from the bill.



On the local level, there are also chaplains that officially represent state or community governments in official capacities, such as state police.

2008, Virginia State Government: A Virginia bill (House Bill 2314) proposed that volunteer chaplains serving in the State Police force be permitted to pray according to the dictates of their faith tradition. This would undo a policy adopted the year prior requiring State Police troopers, who serve as voluntary chaplains, to deliver prayers that are not specific or limited to a particular religious tradition at certain diverse public events. The House of Delegates' bill was, however, killed by the Virginia Senate Courts of Justice committee.

Those who supported the Virginia House bill, including some chaplains, equated the Senate committee's decision to censorship, bigotry towards the Christian faith, and an attempt to establish a "no-god religion." In protest, six of the 17 troopers, who served as chaplains, resigned the religious portion of their trooper duties. On the other hand, opponents of the House bill, including other chaplains, saw it as the appropriate way to represent the government and to be inclusive of a diverse audience.

Later that year, the 4th U.S. Circuit Court of Appeals upheld the legality of the regulation.

NOTE TO THE TEACHER: If you have had similar debates in your state or city/county, include those in your discussion.

Class Exercise: Student Activity

2009, United States Government:

In January 2009, a 111th Congress House resolution was introduced to amend Title 10 of the United States Code for military chaplains. The provision would authorize military chaplains to close a prayer according to their own faith tradition at any event (House Resolution 268). The resolution is still in its early phase of the legislative process and will go to additional committees for investigation, deliberation and revision. (General HR 268 information website: <http://www.govit.com/vote/congress.aspx?bill=2009-hr-268>; to track the bill's progress: <http://www.govtrack.us/congress/bill.xpd?bill=h111-268>)

Scenario: The students are members of congressional committees about to review and debate HR 268. Have them divide back into their original four teams with the same spokesperson or a new spokesperson. Have each spokesperson draw which side of the debate his/her team will be on and then lead his/her group in preparation for the committee (class) discussion. (Refer to Appendix 4)

As the group preparation time is coming to a close, erase the prior points listed on the board under *Establishment* and *Disestablishment*. As the students present their arguments to the class, write relevant points in the appropriate columns.

The teacher should not demonstrative a preference regarding HR 268, and the teacher should help students recognize the challenge that government and citizens face in defining and determining appropriate religious freedom protection in our religiously diverse nation.

Encourage students to visit <http://www.govtrack.us/congress/bill.xpd?bill=h111-268> to track the progress of the resolution.

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