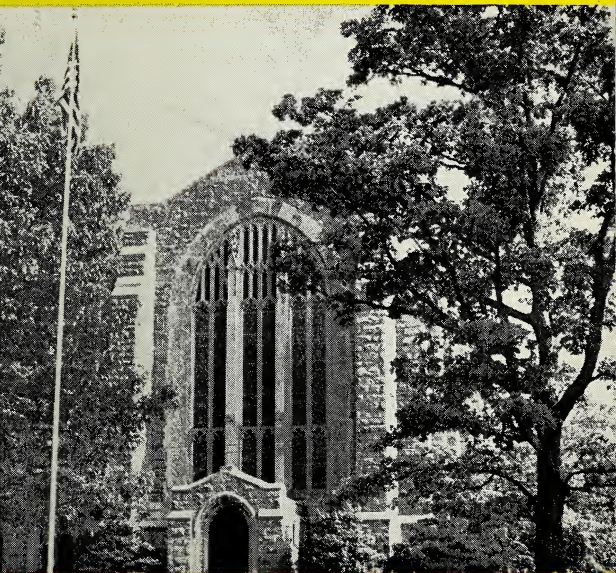


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RELIGION AND THE STATE

The **6** and the **94**



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RELIGION AND THE STATE

The Six and the Ninety-Four



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by

RICHARD GINDER



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IN many a European country they have what they call an "established" church — a State-church, officially favored by the government.

For instance, in England it's the Episcopal Church and the King of England by law must be an Episcopalian. If he were to become a Methodist or a Catholic, his action would throw the country into a furore, and, probably, bring about a constitutional crisis. He'd have to abdicate, as King Edward VIII was forced to do when he married Wally Simpson, an American divorcee.

In Scotland, the Presbyterian Church is known as "The Church of Scotland." In Sweden, it's the Lutheran Church. In Spain

the Catholic Church. Official favor in those countries takes the form of special privileges for the chosen church; it may be in tax-exemptions, payment by the government of salaries and pensions to the ministers of the "pet" church, etc. And while it doesn't mean that there is no liberty for creeds other than the established one, those other creeds are put at a comparative disadvantage. The favored church is given a head start or, one might better say, the other creeds are put under a handicap.

Up until the time of the American Revolution in 1776, only three of the original thirteen colonies were without State-churches. New York, New Jersey, Maryland, Virginia, North and South Carolina, and Georgia had established the "Church of England"—which, after the break with the mother-country, became known as the Episcopal Church; Massachusetts (including Maine), New Hampshire (including Vermont), and Connecticut, gave official favor to the Congregationalists. Only Rhode Island, Pennsylvania, and Delaware

were without an official "establishment," as such a setup was called.

"During the Revolution or shortly after, as was natural," writes Wilfrid Parsons in *The First Freedom*,* a treatise on the subject, "five of those States which had an established Anglican Church disestablished it—New York, New Jersey, Virginia, North Carolina and Georgia. Thus, at the time of the Constitutional Convention in 1787, five States—all of New England (except Rhode Island), Maryland, and South Carolina—had established churches, while eight did not.

"All of the States, however," he continues, "had religious tests for office of varying degrees of extent and intensity: Jews, Catholics, Quakers, Unitarians, and atheists were severally excluded from office in one or more of the States. Thus, even in those States which had no established churches, Protestants of various kinds were privileged and protected by the Constitutions."

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Thomas Jefferson's Influence

Such was the lay of the land when the Founding Fathers met in Philadelphia, 1787, for the purpose of framing a constitution. Complete liberty of religion was a new idea and was to face an uphill road. Thomas Jefferson, himself a Unitarian, was to be one of its staunchest backers.

It might be remarked here that Unitarians in those early days ranked only a notch above Catholics, Jews, and Moham-medans in the average Protestant mind. Most Protestants of that day considered the Catholic Church a superstitious mess, but they also had little use for anyone who didn't believe in the Blessed Trinity or who didn't believe that Jesus is God—and such, of course, are the Unitarians, Jews and Moslems.

Anyway, Jefferson was a Virginian, and he had always hated the idea and thought it unfair that his State should keep the Episcopal Church as its official pet. Well, when Virginia went to war with the other colonies against England, his State "dise-

tablished" the Episcopal Church — then known, as we said, and still known in England as the Church of England. But then in 1784, the Episcopalians of Virginia joined hands with the Presbyterians with the idea of getting some State funds for their own private religious purposes. Supported by George Washington, Patrick Henry, Richard Henry Lee, and John Marshall, they put forward what became known as the Assessment Bill.

The Battle Against State Favoritism

Jefferson was in France at the time, but James Madison took his place in fighting the bill tooth and nail. Madison had been educated at Princeton, a Presbyterian university, and had there become disgusted with the way the various Protestant churches snipe at and quarrel with one another. The result was that he became an implacable enemy of any "established" church—and he managed to have the Assessment Bill thrown out by a bare margin of three votes. Riding on this victory, he

persuaded the Virginia legislature to pass a bill guaranteeing full religious liberty. That happened on January 16, 1786.

On September 17 of the following year, the Constitutional Convention in Philadelphia unanimously adopted the clause forbidding religious tests for office. It comes in Article VI, Section 3:

“The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.”

That, in itself, was a victory. Previously, before taking office, a man might be required to swear, for instance, that he believed Jesus is God—which would leave out Jews and Unitarians. At least that much ground was gained in the battle for religious liberty. It must be noted, though,

that this applied only to Federal offices. It said nothing about religious tests as applied by the several States. And it was the only mention of religion made in the original Constitution, although the record shows that the Convention did not wish to express any lack of interest in religion or its welfare, "but rather spoke eloquently of the anxiety of the Framers to protect it, foster it, and preeminently, to leave it a local rather than a national matter."

Clamor for a "Bill of Rights"

But when the proposed Constitution went around for consideration among the colonies, a cry went up for a clear statement of the traditional rights of free men—freedom of religion, speech, the press, etc. Hence it was agreed that immediately following adoption of the Constitution establishing the United States of America, a Bill of Rights would be drawn up and submitted to the States in the form of proposed Amendments. So the first Congress, meeting in New York on September 25, 1789,

formulated this as the first of the Amendments:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.”

It's clear, first of all, that this applies only to the Federal Government. Nothing is said about the States. As the historian Charles A. Beard has summarized it:

“Before the Fourteenth Amendment was adopted in 1868, any State was constitutionally free to establish a church, impose religious tests on voters and office-holders, turn education over to parsons and priests, require everybody to attend church, and in fact to set up a religious monopoly about as strict as that which obtained in Western Europe during the Middle Ages. That is, as far as the Federal Constitution was concerned, a State could do all this.”

Wilfrid Parsons adds that "This is amply proved by the fact that Connecticut, for instance, did not disestablish its church until 1818, Massachusetts not until 1833, and New Hampshire by its Constitution to this day may legislate 'for adequate provision . . . for the support and maintenance of public Protestant teachers of piety, religion and morality.' "

An "Establishment of Religion"?

"Congress shall make no law respecting an establishment of religion."

But what, precisely, is "an establishment of religion"?—It's nothing more nor less than an official State-church. Over in England, they call the Episcopal Church the Church of England, or "The Establishment" and churchmen there are forever worried over the possibility of "disestablishment."

Webster's Collegiate Dictionary (1942) defines "establishment" in its religious sense as "A form of government; especially, an established church; hence THE ESTAB-

LISHMENT, the Church of England or the Presbyterian Church of Scotland."

Thus in their debates over the adoption of the Federal Constitution, both Virginia and North Carolina proposed an amendment, phrased in identical words, "that no *particular* religious sect or society ought to be favored or established by law *in preference to others.*"

And that is the sense of the First Amendment. It does not forbid the Government to favor all religions in general, as Congress has done, in fact, by exempting religious properties from taxation, ministers and priests from draft-laws, etc. The prohibition is against any one *form* of religion being favored above all others.

The members of Congress in that day were anxious to get the Constitution ratified. The Connecticut senators came from a State that was mainly Congregational, whereas North Carolina was predominantly Episcopalian. Now the Connecticut senators knew that the North Carolinians, for instance, would never accept Congrega-

tionalism as a State-Church, any more than the people of Connecticut would be content with the establishment of Episcopalianism. So they all agreed that the best policy for the Federal Government was "hands off," leaving it to the individual States to do as they pleased in the matter.

The Meaning of "Separation"

It's clear then that there was no doctrine or "principle" of separation between church and state as a motive behind the First Amendment. It was a matter of policy. The Senators had to get the Constitution adopted back home, and the First Amendment was a part of the price.

A careful study of the Amendment itself and of its background shows two ideas uppermost in the mind of the legislators: There was to be no official State-religion in the United States; and the Federal Government was to respect everyone's right to his own religion.

They said nothing about what the individual States might or might not do about

setting up an official church or supporting any particular creed within their own borders.

They certainly had no idea of forbidding impartial co-operation between the Federal Government and all religions. The Government could view the various churches as a mother regards her children, treating them all with equal favor and kindness.

Nor could they imagine a Government dehydrated as it were, of all religion and reduced to the level of an atheistic mechanism. To this day, from long tradition, the crier opens sessions of the Supreme Court with the prayer: "God save the United States and this Honorable Court." And judges instruct their witnesses on the nature of an oath: they remind their juries that they are sworn according to the revealed word of God. Sessions of Congress have always opened with prayer. The students at West Point and Annapolis have always been required to attend the chapel of their religious faith. Our money has al-

ways carried the emblem "In God We Trust."

If there is any "American principle of separation of church and state," it must be a fairly recent development, nor can it be extended to mean separation of religion and the state. Its only valid meaning is that no particular church is to enjoy favor before the law.

The Six and the Ninety-Four

We have presented these facts for your earnest consideration in view of the alarming tendency today to take God out of our Government. This tendency is being pushed and promoted by a noisy minority in our midst, the atheists. In April, 1948, the Gallup Poll revealed that 94% of the American people believe in God. Six-percent are either atheist or agnostic (i.e. they "can't make up their minds") and it's our guess that the agnostics far outnumber the atheists.

It is time for all believers in God to join hands and rally their forces in support of

the proposition that, by all our sacred traditions, ours is a religious nation; that for better than a century and a half, we have, all of us, lived peacefully and happily under a Government that encouraged and fostered all religions equally; and that national disaster can be the only consequences of a change in that policy.



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