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RFRA [Religious Freedom Restoration Act] [1]

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Taken from The Complete Jefferson, 1943

The quote was from an address to the general meeting of correspondents of the six Baptist associations represented at Chesterfield, Virginia on November 21, 1808.



Thomas Jefferson on Politics & Government

51. Freedom of Religion

Because religious belief, or non-belief, is such an important part of every person's life, freedom of religion affects every individual. State churches that use government power to support themselves and force their views on persons of other faiths undermine all our civil rights. Moreover, state support of the church tends to make the clergy unresponsive to the people and leads to corruption within religion. Erecting the "wall of separation between church and state," therefore, is absolutely essential in a free society.

"We have solved...the great and interesting question whether freedom of religion is compatible with order in government and obedience to the laws. And we have experienced the quiet as well as the comfort which results from leaving every one to profess freely and openly those principles of religion which are the inductions of his own reason and the serious convictions of his own inquiries." --Thomas Jefferson to Virginia Baptists, 1808.

"Among the most inestimable of our blessings is that... of liberty to worship our Creator in the way we think most agreeable to His will; a liberty deemed in other countries incompatible with good government and yet proved by our experience to be its best support." --Thomas Jefferson: Reply to Baptist Address, 1807.

"From the dissensions among Sects themselves arise necessarily a right of choosing and necessity of deliberating to which we will conform. But if we choose for ourselves, we must allow others to choose also, and so reciprocally, this establishes religious liberty." --Thomas Jefferson: Notes on Religion, 1776. Papers, 1:545

"The rights [to religious freedom] are of the natural rights of mankind, and... if any act shall be... passed to repeal [an act granting those rights] or to narrow its operation, such act will be an infringement of natural right." --Thomas Jefferson: Statute for Religious Freedom, 1779. (*) Papers, 2:546

Government Intermeddling

"Religion is a subject on which I have ever been most scrupulously reserved. I have considered it as a matter between every man and his Maker in which no other, and far less the public, had a right to intermeddle." --Thomas Jefferson to Richard Rush, 1813.

"I consider the government of the United States as interdicted by the Constitution from intermeddling in religious institutions, their doctrines, discipline, or exercises. This results not only from the provision that no law shall be made respecting the establishment, or free exercise, of religion, but from that also which reserves to the states the powers not delegated to the United States. Certainly, no power to prescribe any religious exercise or to assume authority in religious discipline has been delegated to the General Government. It must then rest with the states, as far as it can be in any human authority." --Thomas Jefferson to Samuel Miller, 1808.

"In matters of religion, I have considered that its free exercise is placed by the Constitution independent of the powers of the general government. I have therefore undertaken on no occasion to prescribe the religious exercises suited to it; but have left them as the Constitution found them, under the direction and discipline of State or Church authorities acknowledged by the several religious societies." --Thomas Jefferson: 2nd Inaugural Address, 1805.

"Our Constitution... has not left the religion of its citizens under the power of its public functionaries, were it possible that any of these should consider a conquest over the conscience of men either attainable or applicable to any desirable purpose." --Thomas Jefferson: Reply to New London Methodists, 1809.

"I do not believe it is for the interest of religion to invite the civil magistrate to direct its exercises, its discipline, or its doctrines; nor of the religious societies that the general government should be invested with the power of effecting any uniformity of time or matter among them. Fasting and prayer are religious exercises. The enjoining them, an act of discipline. Every religious society has a right to determine for itself the times for these exercises and the objects proper for them according to their own particular tenets; and this right can never be safer than in their own hands where the Constitution has deposited it... Every one must act according to the dictates of his own reason, and mine tells me that civil powers alone have been given to the President of the United States, and no authority to direct the religious exercises of his constituents." --Thomas Jefferson to Samuel Miller, 1808.

"To suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment and approve or condemn the sentiments of others only as they shall square with or differ from his own." --Thomas Jefferson: Statute for Religious Freedom, 1779. Papers, 2: 546

"Our particular principles of religion are a subject of accountability to God alone." --Thomas Jefferson to Miles King, 1814.

Establishments of Religion

"The clergy, by getting themselves established by law and ingrafted into the machine of government, have been a very formidable engine against the civil and religious rights of man." --Thomas Jefferson to Jeremiah Moor, 1800.

"But a short time elapsed after the death of the great reformer of the Jewish religion, before his principles were departed from by those who professed to be his special servants, and perverted into an engine for enslaving mankind, and aggrandizing their oppressors in Church and State." --Thomas Jefferson to Samuel Kercheval, 1810.

"[If] the nature of... government [were] a subordination of the civil to the ecclesiastical power, I [would] consider it as desperate for long years to come. Their steady habits [will] exclude the advances of information, and they [will] seem exactly where they [have always been]. And there [the] clergy will always keep them if they can. [They] will follow the bark of liberty only by the help of a tow-rope." --Thomas Jefferson to Pierpont Edwards, Jul 1801. (*)

"This doctrine ["that the condition of man cannot be ameliorated, that what has been must ever be, and that to secure ourselves where we are we must tread with awful reverence in the footsteps of our fathers"] is the genuine fruit of the alliance between Church and State, the tenants of which finding themselves but too well in their present condition, oppose all advances which might unmask their usurpations and monopolies

condition, oppose all advances which might unmask their usurpations and monopolies of honors, wealth and power, and fear every change as endangering the comforts they now hold." --Thomas Jefferson: Report for University of Virginia, 1818.

"I am for freedom of religion, and against all maneuvers to bring about a legal ascendancy of one sect over another." --Thomas Jefferson to Elbridge Gerry, 1799.

"The clergy...believe that any portion of power confided to me [as President] will be exerted in opposition to their schemes. And they believe rightly: for I have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of man. But this is all they have to fear from me: and enough, too, in their opinion." --Thomas Jefferson to Benjamin Rush, 1800.

"To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical." --Thomas Jefferson: Statute for Religious Freedom, 1779. Papers, 1:545

"Believing that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their Legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between Church and State." --Thomas Jefferson to Danbury Baptists, 1802.

"History, I believe, furnishes no example of a priest-ridden people maintaining a free civil government. This marks the lowest grade of ignorance of which their civil as well as religious leaders will always avail themselves for their own purposes." --Thomas Jefferson to Alexander von Humboldt, 1813.

"In every country and in every age, the priest has been hostile to liberty. He is always in alliance with the despot, abetting his abuses in return for protection to his own." --Thomas Jefferson to Horatio G. Spafford, 1814.

"The Christian religion, when divested of the rags in which they [the clergy] have enveloped it, and brought to the original purity and simplicity of it's benevolent institutor, is a religion of all others most friendly to liberty, science, and the freest expansion of the human mind." --Thomas Jefferson to Moses Robinson, 1801.

The Benefits of Religious Freedom

"The law for religious freedom... [has] put down the aristocracy of the clergy and restored to the citizen the freedom of the mind." --Thomas Jefferson to John Adams, 1813.

"[When] the [Virginia] bill for establishing religious freedom... was finally passed,... a singular proposition proved that its protection of opinion was meant to be universal. Where the preamble declares that coercion is a departure from the plan of the holy author of our religion, an amendment was proposed, by inserting the word "Jesus Christ," so that it should read "a departure from the plan of Jesus Christ, the holy author of our religion." The insertion was rejected by a great majority, in proof that they meant to comprehend within the mantle of its protection the Jew and the Gentile, the Christian and Mahometan, the Hindoo and infidel of every denomination." --Thomas Jefferson: Autobiography, 1821.

"No man [should] be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor [should he] be enforced, restrained, molested, or burthened in his body or goods, nor... otherwise suffer on account of his religious opinions or

in his body or goods, nor... otherwise suffer on account of his religious opinions or belief... All men [should] be free to profess and by argument to maintain their opinions in matters of religion, and... the same [should] in no wise diminish, enlarge, or affect their civil capacities." --Thomas Jefferson: Statute for Religious Freedom, 1779. (*) Papers, 1:546

"Our civil rights have no dependence upon our religious opinions more than our opinions in physics or geometry." --Thomas Jefferson: Statute for Religious Freedom, 1779. Papers, 2:545

"We have no right to prejudice another in his *civil* enjoyments because he is of another church." --Thomas Jefferson: Notes on Religion, 1776. Papers, 1:546

"The proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument unless he profess or renounce this or that religious opinion is depriving him injuriously of those privileges and advantages to which, in common with his fellow citizens, he has a natural right." --Thomas Jefferson: Statute for Religious Freedom, 1779. Papers, 2:546

Religious Illegality

"If a sect arises whose tenets would subvert morals, good sense has fair play and reasons and laughs it out of doors without suffering the State to be troubled with it." --Thomas Jefferson: Notes on Virginia, 1782.

"The declaration that religious faith shall be unpunished does not give immunity to criminal acts dictated by religious error." --Thomas Jefferson to James Madison, 1788

"If anything pass in a religious meeting seditiously and contrary to the public peace, let it be punished in the same manner and no otherwise than as if it had happened in a fair or market." --Thomas Jefferson: Notes on Religion, 1776. Papers, 1:548

"It is time enough for the rightful purposes of civil government, for its officers to interfere [in the propagation of religious teachings] when principles break out into overt acts against peace and good order." --Thomas Jefferson: Statute for Religious Freedom, 1779. Papers, 2:546

"Whatsoever is lawful in the Commonwealth or permitted to the subject in the ordinary way cannot be forbidden to him for religious uses; and whatsoever is prejudicial to the Commonwealth in their ordinary uses and, therefore, prohibited by the laws, ought not to be permitted to churches in their sacred rites. For instance, it is unlawful in the ordinary course of things or in a private house to murder a child; it should not be permitted any sect then to sacrifice children. It is ordinarily lawful (or temporarily lawful) to kill calves or lambs; they may, therefore, be religiously sacrificed. But if the good of the State required a temporary suspension of killing lambs, as during a siege, sacrifices of them may then be rightfully suspended also. This is the true extent of toleration." --Thomas Jefferson: Notes on Religion, 1776. Papers, 1:547

Cross References

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PRESIDENT WILLIAM J. CLINTON
RELIGIOUS FREEDOM IN THE FEDERAL WORKPLACE
THE WHITE HOUSE
AUGUST 14, 1997

Acknowledgements: Rep. Floyd Flake; Rep. Ben Cardin; ladies and gentlemen...

The specific reason we are here is to announce the issuance of guidelines on religious expression in the federal workplace. But the broader issue of religious freedom is one that has shaped our national identity more than any other these past 220 years. Religious freedom is, of course, one of the founding principles of our great democracy. Thomas Jefferson wrote, "We have solved...the great and interesting question whether freedom of religion is compatible with order in government and obedience to the laws. And we have experienced the quiet as well as the comfort which results from leaving every one to profess freely and openly those principles of religion which are the inductions of his own reason and the serious convictions of his own inquiries."

Our founders understood that religious freedom was a two-sided coin. The Constitution protected the free exercise of religion, but also prohibited the establishment of religion by the state. This careful balance is the genius of the First Amendment. It does not, as some have implied, make us a religion-free country. Just the opposite -- because we are free to worship according to our own conscience, Americans worship deeply and in great numbers. Throughout our history, men and women have come to this nation to escape religious persecution and secure this precious freedom. They and others have built a nation in which religious practices and religious institutions have thrived. And these religious institutions have become an integral part of the fabric of our nation. Our churches, synagogues and mosques are not only houses of worship, they are centers of service, compassion and community life and we are stronger because of them.

In that spirit, we have continued to be a leader in promoting religious rights throughout the world, through the establishment last year of the Secretary of State's Advisory Committee on Religious Freedom Abroad, as well as our willingness to press for religious freedom at the United Nations and in our relations with other nations.

Last month, Secretary Albright released a report that underscores our commitment to helping people of all faiths live free of persecution and to worship in the freedom that is their birthright. This commitment is a key part of our human rights policy and an important focus of our diplomacy and we will continue to pursue it.

We have also worked hard in support of religious freedom here at home. In the four-and-a-half years I have served as President, nothing has given me greater joy than the efforts of this Administration, in tandem with a broad coalition of individuals and organizations from practically every faith, to support freedom of religion here in America. I want to thank all the members of the coalition for your guidance and support.

I especially want to thank Steve McFarlane [McFar-lin] of the Christian Legal Society, Marc Stern of the American Jewish Congress, Eliot Minberg of People for the American Way, Oliver Thomas, formerly of the Baptist Joint Committee on Public Affairs and Rabbi David Saperstein of the Religious Action Center for all you have done to make today's announcement possible. You, and the other members of the coalition, are the living embodiment of what we mean when we talk about One America -- people coming together across the lines of race and ideology and faith to protect our precious American liberties. For those who think that people of different beliefs cannot work together for the good of America, these guidelines and all of the work we've done together, prove them wrong.

You stood with us in 1993, when I was proud to affirm the rightful and historic place of religion throughout our society by signing the Religious Freedom Restoration Act. I am disappointed that the Supreme Court struck down parts of that Act in June. But, we are pleased that its provisions still apply to federal agencies, entities and institutions.

You stood with us in 1995, when we issued guidelines reaffirming that our young people did not have to leave their religious beliefs at the schoolhouse door. With the First Amendment as our guide, we clarified the religious expression permitted in schools. I strongly believe that our young people need more, not less of the values, hope, belief and convictions that come with faith.

Today, you are with us again as we issue guidelines to clarify and reinforce religious expression in the federal workplace. These guidelines will ensure that federal employees and employers will respect the rights of those who engage in religious speech as well as those who don't.

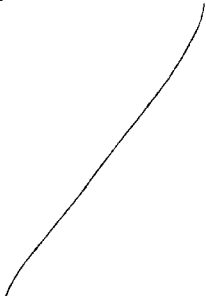
The guidelines do three things. First, they clarify that federal employees may engage in personal religious expression to the greatest extent possible consistent with workplace efficiency and the requirements of law. Second, they clarify that federal employers may not discriminate in employment on the basis of religion. And finally, they clarify that an agency must reasonably accommodate employees' religious practices. Today, I am instructing the Office of Personnel Management to distribute these guidelines to all civilian branch agencies and officials, and we expect all employees to follow them carefully.

While some might favor a constitutional amendment on religious freedom, what we have managed to accomplish together here today shows what can be done to protect religious freedom within the bounds of our existing Constitution. We will continue to work with all of you on issues of common concern, but we have proven here today that when it comes to protecting our religious freedom, there is no force more powerful than the commitment of people of goodwill and faith, working together.

As a life-long practicing Baptist, I cannot imagine a public or private existence without the comfort and guidance of my chosen Faith. But my life has been immeasurably enriched by the power of the Torah, the beauty of the Koran, the piercing wisdom of the religions of East and

South Asia and of our own Native Americans. I have felt indescribable joy and peace in black and Pentecostal churches. The spirit of the Creator abides in all these teachings. My greatest hope is that America can enter the new century and the new millennium as the most successful multiracial, multiethnic and multireligious democracy the world has ever known. We will get there through efforts like this -- men and women from all walks of life coming together to respect and celebrate our differences, while uniting around the ideals that bind us together as One America. Religious freedom is an American ideal, indeed a human ideal, that we have strengthened today. Let us pledge to always stand together to honor this great gift and preserve it for future generations.

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As a life-long practicing Baptist, I cannot imagine a public or private existence without the comfort and guidance of my chosen Faith. But my life has been immeasurably enriched by the power of the Torah, the beauty of the Koran, the piercing wisdom of the religions of East and

South Asia and of our own Native Americans. I have felt indescribable joy and peace in black and Pentecostal churches. The spirit of the Creator abides in all these teachings. My greatest hope is that America can enter the new century and the new millennium as the most successful multiracial, multiethnic and multireligious democracy the world has ever known. We will get there through efforts like this -- men and women from all walks of life coming together to respect and celebrate our differences, while uniting around the ideals that bind us together as One America. Religious freedom is an American ideal, indeed a human ideal, that we have strengthened today. Let us pledge to always stand together to honor this great gift and preserve it for future generations.

Thank you and God bless you all.

PRESIDENT WILLIAM J. CLINTON
RELIGIOUS FREEDOM IN THE FEDERAL WORKPLACE
THE WHITE HOUSE
AUGUST 14, 1997

Acknowledgements: Rep. Floyd Flake; Rep. Ben Cardin; ladies and gentlemen...

The specific reason we are here is to announce the issuance of guidelines on religious expression in the federal workplace. But the broader issue of religious freedom is one that has shaped our national identity more than any other these past 220 years. Religious freedom is, of course, one of the founding principles of our great democracy. Thomas Jefferson wrote, "We have solved...the great and interesting question whether freedom of religion is compatible with order in government and obedience to the laws. And we have experienced the quiet as well as the comfort which results from leaving every one to profess freely and openly those principles of religion which are the inductions of his own reason and the serious convictions of his own inquiries."

Our founders understood that religious freedom was a two-sided coin. The Constitution protected the free exercise of religion, but also prohibited the establishment of religion by the state. This careful balance is the genius of the First Amendment. It does not, as some have implied, make us a religion-free country. Just the opposite -- because we are free to worship according to our own conscience, Americans worship deeply and in great numbers. Throughout our history, men and women have come to this nation to escape religious persecution and secure this precious freedom. They and others have built a nation in which religious practices and religious institutions have thrived. And these religious institutions have become an integral part of the fabric of our nation. Our churches, synagogues and mosques are not only houses of worship, they are centers of service, compassion and community life and we are stronger because of them.

In that spirit, we have continued to be a leader in promoting religious rights throughout the world, through the establishment last year of the Secretary of State's Advisory Committee on Religious Freedom Abroad, as well as our willingness to press for religious freedom at the United Nations and in our relations with other nations.

Last month, Secretary Albright released a report that underscores our commitment to helping people of all faiths live free of persecution and to worship in the freedom that is their birthright. This commitment is a key part of our human rights policy and an important focus of our diplomacy and we will continue to pursue it.

We have also worked hard in support of religious freedom here at home. In the four-and-a-half years I have served as President, nothing has given me greater joy than the efforts of this Administration, in tandem with a broad coalition of individuals and organizations from practically every faith, to support freedom of religion here in America. I want to thank all the members of the coalition for your guidance and support.

I especially want to thank Steve McFarlane [McFar-lin] of the Christian Legal Society, Marc Stern of the American Jewish Congress, Eliot Minberg of People for the American Way, Oliver Thomas, formerly of the Baptist Joint Committee on Public Affairs and Rabbi David Saperstein of the Religious Action Center for all you have done to make today's announcement possible. You, and the other members of the coalition, are the living embodiment of what we mean when we talk about One America -- people coming together across the lines of race and ideology and faith to protect our precious American liberties. For those who think that people of different beliefs cannot work together for the good of America, these guidelines and all of the work we've done together, prove them wrong.

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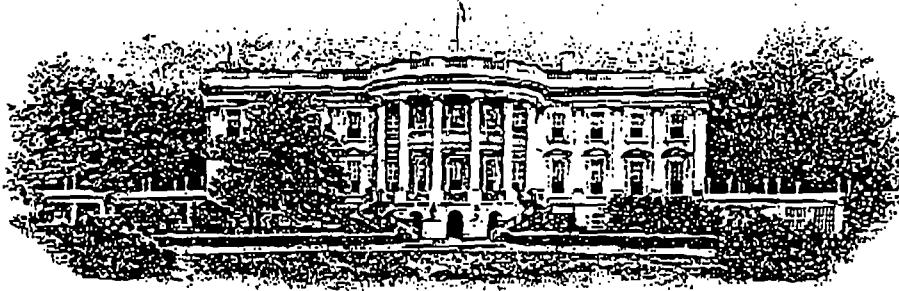
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Office of the Vice President

Communications



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From: Lorraine Voles

Ginny Terzano

Roger Salazar

Mary Dixon

Nathan Naylor

Eric Schnure

Andrei Cherny

Jonathan Spalter

Eli Attie

COMMENTS: _____

Remarks
by
Vice President Al Gore
during Religious Freedom Day
Richmond, VA
January 14, 1994

Thank you. Governor Doug Wilder, it is an honor to share this podium with you on your on your last full day in office. You have made history in America.

I am honored to be here; we join this afternoon in gratitude to be part of the legacy of freedom that has made our country what it is, and that has brought us here together to honor a principle. We celebrate both vision and reality--the vision of Religious liberty that Thomas Jefferson wrote into the Virginia Statute for Religious Freedom, the reality of the America created by the First Amendment of the United States Constitution.

"Religion," Jefferson once wrote to a friend, "is a matter which lies solely between man and his God." On that ground, Jefferson held to the unshakable conviction that no government could compel any of its citizens to worship against the consent of their own minds and hearts. Nor did he believe that government should give to any one religion a special privilege that might grant it any advantage over other faiths. Jefferson was not opposed to religion, of course. He did not believe in the complete isolation of religious life from the public life of the nation.

In 1822, long after he had left politics and retired to Monticello, he wrote to a friend that there was no church building then standing in Charlottesville. There were, however, four Christian denominations. "The courthouse," he told his friend, "is the common temple, one Sunday in the month to each. Here, Episcopalian and Presbyterian, Methodist and Baptist, meet together, join in hymning their Maker, listen with attention and devotion to each other's preacher, and all mix in society with perfect harmony." Jefferson heartily approved.

Gathered in this great building designed by Jefferson, we are reminded that all of us, whatever religion we profess -- or even if we claim no formal religion at all, dwell together today in a great house. It is the earth itself, and the heavens are our roof. On a clear winter night we walk out under the stars and look up, and all our knowledge of astronomy, the wonders of our ventures into space, the pictures from the Hubble, and our vast, modern understanding of science are not enough. We gaze heavenward in awe, and the sublime questions of the ages pour over us in a rush of feeling. We look up together to contemplate in wonder and thanksgiving the divine power that gives us our being.

In a world jaded with novelty, unsurprised at the power of science and technology, in moments beneath the starry heavens above, we sing with the ancient Psalmist, "Oh Lord, our Lord, how excellent is thy name in all the earth? who has set thy glory above the heavens....When I consider thy heavens, the work of thy fingers, the moon and the stars, which thou hast ordained, What is man, that thou art mindful of him?"

None of the great religions claims to solve all the mysteries of eternity. This humility before the unknown mystery of God is the common spiritual property of all religions. It is expressed by the Buddhist monk, chanting in a hillside monastery, the Hindu pilgrim washing in the Ganges, the Muslim prostrate in the direction of Mecca at the call to prayer, the Jewish suppliant at the temple wall in Jerusalem, the country priest elevating the host at dawn in an isolated church in France, the prayer meeting in a Southern Baptist church on Wednesday night, the ritual dancing of Native American's to honor the Great Spirit, the prayer of a child

at bedtime, the religious wonder of an Einstein before the miraculous symmetry of space and time, and in thousands and thousands of other forms throughout the world. Jefferson said God is a spirit, and if we worship God truly, we worship spiritually. Different spirits worship in different ways. In spiritual worship, there is no room for hatred, and there is no room for religious tyranny.

Jefferson knew history. He could look back on centuries of religious war in Europe--on massacre, burning, rape, pillage, and hatreds that tore nations apart and soaked the earth in blood. He knew from history and human nature how easy it is to arouse mass, murderous passion when religious demagogues cry that God wills it. He was resolved that religious war should not tear his beloved America apart. The only way to avoid religious war was to allow religious freedom. The history of the United States has proved Jefferson's wisdom. No religious war has ever scorched our land with its fires. Instead, from the beginning of our history, refugees from religious persecution have come here for safety.

My mother's people, the Lafon's, were French Huguenots, driven out of their homeland because of their religious faith, Protestantism. They found a new home in America. So have multitudes of others. One of my forebears, the 1st Gore in this country, came to Jamestown, here in Virginia.

No one knows exactly how many religious groups we have in the United States. They number in the many hundreds. The variety is often surprising. For example, we now have more Muslims in the United States than we have Episcopalians. And of course millions of Americans profess no formal religion at all.

We have had narrow escapes. American's are human beings, subject to the same temptations and the same pride and the same fears that afflict people of all nations. Puritans in Boston hanged dozens of Quakers in a grim public ceremony on the limbs of the Great Elm on Boston Common. Baptists under Roger Williams had to flee Massachusetts to Rhode Island for the freedom to worship God according to their consciences. Joseph Smith, founder of the Church of Latter Day Saints, the Mormons, was murdered by a mob. His disciples made the perilous trek West and colonized the region that became the State of Utah because they were not safe in the East.

Anti-Semitism is a stain on our history. For many decades Jews could not buy houses in some parts of town. They were banned from many organizations, refused at some universities and restricted to quota systems in others. They were scorned in jokes. Their innocent children suffered the thousand daily humiliations that prejudice could heap upon them and some suffer still.

Yet always in America bold spirits have followed the lead of Thomas Jefferson and challenged religious discrimination.

I am proud of one of the former Governors of my own State of Tennessee, a former President, Andrew Johnson. Johnson had his flaws. He was not the most tactful man who ever lived. But when it came to the principles of liberty, he was as bold as a lion. When he ran for governor in 1852, the Know-Nothing Party had sown the dragon teeth of prejudice against Catholics all over Tennessee. Most Tennesseans were Baptists and Methodists, living in relative isolation. Few Catholics lived within the State. Johnson could have won votes by whipping up religious hatred. But he did nothing of the kind. In speech after speech, he stood in dusty little squares in small towns in my state, and he hammered home an uncompromising declaration: American Catholics were American citizens. None of their rights could be taken away, including their right to worship God as they chose. I am proud of his courage; I am also proud of Tennesseans who had the common sense to give him victory in that election.

Thomas Jefferson's legacy endures today. Deep within our hearts, whatever our creed, we know that to despise someone else because of a religious difference is not only bad religion. It is unamerican!

Even as we celebrate our religious liberty today, killing in the name of religion goes on all around the world. At this moment the Muslims of Sarajevo are being shelled by artillery from the supposedly Christian Serbs in the mountains above the helpless city. The peaceful, inoffensive adherents to the Baha'i faith in Iran are imprisoned and murdered by the Iranian government. Their crime? The Baha'is believe in the spiritual unity of humankind. Saddam Hussein carries on a campaign of terror against the Shiite Muslims in his Iraq. Muslim fundamentalists in Egypt machine gun tourists. Hindus and Muslims in the Indian subcontinent are at each other's throats. Northern Ireland blazes with gunfire between opposing sides who claim to worship the same Christ, as we pray for the success of the new initiative to bring them peace.

Throughout history, religious wars have always been the most brutal and cruel and merciless. So it is surprising that here in America some people sometimes seem intent on bringing religious strife to our own free land. Claims to exclusive access to the truth about God's wishes in an elections are poisonous to America's soul. The evil consequence of religious bigotry for religion itself is inevitable, even if the persecutors win a temporary victory. Young people growing up in such a world of forced religious practice inevitably recognize its hypocrisy. The monolithic religious system may use the power of government to compel obedience to its orthodoxy. But it cannot compel the assent of the mind and the heart. Enforced orthodoxies soon become a joke. Once that happens, a system that suppresses conscience by force is doomed to collapse. Communism was a state religion without God. Its broken fragments scattered across Eastern Europe should be a lesson to anyone who imagines that beliefs are strengthened by force.

polls — International polls regularly show that religion is important to more Americans than it is to citizens of any other industrial nation. I believe the reason for the influence of religion in the United States is easily explained: In other industrial nations, an established religion of one kind or another withered religious feeling. When people are free to worship as they please, they choose to worship. When they are compelled to assent to what they do not believe in their hearts, they rebel. That, too, is human nature.

Alexis de Tocqueville, writing of his travels in America in 1830, said this: "The religious atmosphere of the country was the first thing that struck me on arrival in the United States...My longing to understand the reason for this phenomenon increased daily. To find this out, I questioned the faithful of all communities; I particularly sought the society of clergyman, who are the depositories of the various creeds and have a personal interest in their survival...all thought the main reason for the quiet sway of religion over their country was the complete separation of church and state. I have no hesitation in stating that throughout my stay in America I met nobody, lay or cleric, who did not agree about that."

And who can say that religious variety is not part of God's purpose for the world? Many religious people have believed that God, the Creator of the magnificent variety of nature, must be pleased to be worshipped in a variety of religions.

In 1805 Chief Red Jacket of the Seneca tribe of the Iroquois Confederacy was approached by Christian missionaries. They wanted to baptize him and his tribe. Chief Red Jacket responded, "Brother, we do not understand these things. We are told that your religion was given to your forefathers and has been handed down from father to son. We also have a religion which was given to our forefathers and has been handed down to us, their children.

We worship in that way. It teaches us to be thankful for all the favors we receive, to love each other, and to be united. We never quarrel about religion....Brother, we do not wish to destroy your religion or take it from you. We only want to enjoy our own."

Well, I am a Baptist Christian. But I want to say firmly that I believe that Chief Red Jacket had the right idea. Jefferson's tolerance in religious matters is much in evidence in one of his most famous and often quoted statements on the subject. "It does me no injury for my neighbor to say there are 20 gods, or no god. It neither picks my pocket nor breaks my leg."

Earlier this week, I was in Los Angeles speaking about something called the information superhighway. As I was writing the speech, it occurred to me that it could serve as a metaphor for the way our nation respects religion. This information highway connects us with an immense vital treasury of information. We can tap into it with our modems and our computers and soon even with our television sets from all over the country. But in speaking of this data highway, experts use a phrase, "the last mile," to describe the final, intimate link that connects information from this almost infinite treasury "out there" to the screen in the house where you sit, waiting to receive it and respond to it. And it becomes critical to prevent a government-sanctioned monopoly by one provider of that last link.

If any one service had a monopoly over that bottleneck, he or she might be able to control it and through that control, control what we see and hear. If any one religion in this country ever controlled the last link in the free exchange of ideas in this country, that last link from God to the human heart, and sought to exploit it, to control our interpretation of the world, we would all be the poorer for it; much like the citizens of nations where religious clerics still interpret and control all political choice, all economic choice because they have the power to control that last link in the way human beings interpret the world around them.

Like Jefferson, I believe that God is too powerful and too mysterious to be contained within the rigid orthodoxy of any religious faith. That being so, all religions must be allowed to give to our national spiritual lives their own unique richness.

In November, the Congress under the leadership of President Clinton passed the Religious Freedom Restoration Act of 1993 which has been mentioned. Sixty-eight groups supported it, and the day it was signed, what variety there was at the White House! We had the National Association of Evangelicals and the American Civil Liberties Union, the National Islamic Prison Foundation next to the B'nai B'rith; all of them on the same side of the issue! With an array like that, we know the age of miracles is not past!

That law aims at keeping the state out of religious practice where government has no business meddling. That law is in the spirit of Thomas Jefferson's dream for America. But like Jefferson, we do not want to put religion in a lead box like some radioactive material dangerous to the nation's health. No, we want people of all religious faiths to express themselves in the forum of ideas. We want religious civility and mutual respect, not silence and withdrawal of religious concern from public life.

In Jefferson's day, the greatest need was to protect the unbeliever from religious coercion; today, we need also to assure that believers in a variety of religious traditions are free to engage in and help shape public dialogue without feeling they ought to hide their religious beliefs. President Clinton made this point in a speech last September. Jefferson was adamantly opposed to the forced imposition of a particular form of religious faith. But this tolerant man of the 18th and 19th Centuries would have been surprised that 200 years into this experiment in democracy, we would experience a subtle form of intimidation against those who speak in the public arena out of a faith tradition. The intimidation is not just against the use of the traditional faith language, but against any suggestion that our various religious traditions have something to say about the importance of core values systems shaping how we live together as a people.

The answer does not lie in promoting any single faith tradition, but in our willingness to speak frankly of our belief in agreed upon values that, among other principles, honors honesty, rewards discipline, advocates truth-telling, and believes that responsibility means responding to the needs of others.

Our national identity is not shaped solely by Catholic, Protestant, Jewish, Muslim or Hindu traditions. But we are a people who believe that these, and other faith traditions, contribute to the formation of values with which we agree to live out our common lives together.

We want people to practice their faith, to use religious insights in a spirit of conciliation in public meetings to illuminate the questions that all our society is asking: how do we establish values that allow us to respect one another and live in peace and safety in our neighborhoods, in our cities, in our institutions? How do we preserve the family? How do we teach our children to live together? How do we make our cities safe again? How do we allocate our national resources to do the greatest good to the greatest number? How do we preserve the environment? How do we protect the weak? How do we teach restraint to the strong?

These are urgent social and political questions. They should also be religious issues. A dry secularism, devoid of mystery and passion, cannot breathe life into the values of our nation. Our religious consciousness with its universal sympathy for the afflicted and its reverence for the earth has within it the power to lift up the fallen and give us harmony amid the matchless wealth of our religious diversity.

As I was listening to the wonderful performance by this choir, I was reminded that I know Virginia best for my lifelong journeys up and down the great Shenandoah Valley, where my great-great-great grandfather was born -- in New Market -- in the 1700s. To the east of the Great Valley lies the mountain range known in Jefferson's day and in ours as the Blue Ridge. Many of the peaks bear the same names that they had when Jefferson saw them -- Sanuttan Mountain, North Mountain, Lewis Mountain, Flat Top, Sharp Top, Stony Man, Mount Pleasant, the Peaks of Otter, and many more. They are all unique, their individual shapes readily recognizable as different from their neighbors. They all reach towards the sky, and they exist in a harmony of sublime grandeur. In looking at the Blue Ridge clothed in its mysterious haze on a sunny day, I can understand the ancient belief that God dwelt in the mountain heights. And I can sing to my own tune the distant song of the Psalmist: "I will lift up mine eyes to the hills from whence cometh my help. My help cometh from the Lord who made heaven and earth."

I like to think that these mountains serve as a natural metaphor for the religions of earth. They are different, each one of them carved by the aspirations of human beings and by their experience with God in their own times and places. A harmony beyond words, a harmony of the spirit, joins them to one another in the deep foundations of earth. Above that foundation, the peaks rise, each in its own way, towards the heavens, carrying our eyes upward to the glory of the divine and giving to this world a beauty that would be unimaginable without them.

We enjoy it, we praise it, and we celebrate it because we are free.

Thank you.

**SCHEDULE OF THE PRESIDENT
FOR
WEDNESDAY, AUGUST 13, 1997
FINAL**

DOWN FOR THE MORNING

12:00 pm- 12:15 pm	MEETING OVAL OFFICE
12:15 pm- 1:15 pm	LUNCH WITH THE VICE PRESIDENT OVAL OFFICE
1:15 pm- 1:35 pm	BRIEFING FOR THE PEDIATRIC DOSAGE EVENT OVAL OFFICE
1:45 pm- 2:15 pm	PEDIATRIC DOSAGE EVENT ROSE GARDEN Remarks: Lowell Weiss OPEN PRESS

**Note: The weather site for this event will be in Old Executive
Office Building Room 450.**

2:15 pm- 2:20 pm		MEET AND GREET OVAL OFFICE WHITE HOUSE PHOTO ONLY
2:35 pm- 2:40 pm	(T)	VIDEO TAPING ROOSEVELT ROOM
2:40 pm- 2:55 pm		BRIEFING OVAL OFFICE
3:00 pm- 3:20 pm		MEETING OVAL OFFICE
3:20 pm- 3:50 pm		MEETING OVAL OFFICE
3:55 pm- 4:15 pm		WEEKLY ECONOMIC BRIEFING OVAL OFFICE
4:15 pm-		MEETING

4:45 pm	 OVAL OFFICE
4:45 pm- 4:50 pm	 MEETING OVAL OFFICE
4:50 pm- 5:25 pm	 PHONE AND OFFICE TIME OVAL OFFICE
5:25 pm	 THE PRESIDENT proceeds to the Map Room
5:30 pm- 5:40 pm	 BRIEFING FOR OKLAHOMA CITY MEMORIAL CEREMONY MAP ROOM
5:40 pm- 5:45 pm	 MEET AND GREET DIPLOMATIC RECEPTION ROOM WHITE HOUSE PHOTO ONLY
5:45 pm	 THE PRESIDENT and the Vice President proceed to the Memorial Tree Area of the South Lawn
5:45 pm- 6:00 pm	 OKLAHOMA CITY MEMORIAL CEREMONY SOUTH LAWN (Memorial Tree Area) Remarks: Lowell Weiss POOL PRESS
6:00 pm- 6:05 pm	 PHOTO OPPORTUNITY OVAL OFFICE WHITE HOUSE PHOTO ONLY
6:30 pm- 7:30 pm	 HOLD RESIDENCE
BC AND HRC RON	 THE WHITE HOUSE WASHINGTON, D.C.

Thomas Jefferson on Religious Freedom

Jefferson's Bill for Establishing Religious Freedom in the State of Virginia

The Act for Establishing Religious Freedom is perhaps the most interesting feature in the revised code of Virginia. With the exception of the Declaration of Independence, it is the most celebrated of the Jefferson's productions, and the one to which he recurred with the highest pride and satisfaction. The preamble which introduces the act defines with peculiar emphasis the premises upon which religious freedom is founded. The following is the preamble with the accompanying bill as originally proposed by Jefferson:

A Bill for Establishing Religious Freedom

"SECTION I. Well aware that the opinions and belief of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments, or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion, who being lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do, but to exalt it by its influence on reason alone; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world and through all time: That to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical; that even the forcing him to support

this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness; and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which, in common with his fellow citizens, he has a natural right; that it tends also to corrupt the principles of that very religion it is meant to encourage, by bribing, with a monopoly of worldly honours and emoluments, those who will externally profess and conform to it; that though indeed these are criminals who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that the opinions of men are not the object of civil government, nor under its jurisdiction; that to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapons, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.

"SECTION II. We the General Assembly of Virginia do enact 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.

"SECTION III. And though we well know that this Assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this act

irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement of natural right."

The form in which Mr. Jefferson's bill received the sanction of the legislature varies somewhat from the above original draught. These variations are presented in a comparative analysis [here](#). "The variations," wrote Mr. Jefferson, "rendered the style less elegant, though they did not materially affect the sense." The bill was not acted upon until the year 1785, nor carried then but with considerable difficulty.

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THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

July 12, 1995

REMARKS BY THE PRESIDENT
ON RELIGIOUS LIBERTY IN AMERICA

James Madison High School
Vienna, Virginia

10:58 A.M. EDT

THE PRESIDENT: Thank you, Secretary Riley, for the introduction, but more for your outstanding leadership of the Department of Education and the work you have done not only to increase the investment of our country in education, but also to lift the quality and the standards of education and to deal forthrightly with some of the more difficult, but important issues in education that go to the heart of the character of the young people we build in our country.

Superintendent Spillane, congratulations on your award and the work you are doing here in this district. Dr. Clark, Ms. Lubetkin. To Danny Murphy, I thought he gave such a good speech I could imagine him on a lot of platforms in the years ahead. (Laughter.) He did a very fine job.

Mayor Robinson, and to the Board of Supervisors -- Chair Katherine Hanley, and to all the religious leaders, parents, students who are here; the teachers; and especially to the James Madison teachers, thank you for coming today.

Last week at my alma mater, Georgetown, I had a chance to do something that I hope to do more often as President, to have a genuine conversation with the American people about the best way for us to move forward as a nation and to resolve some of the great questions that are nagging at us today. I believe, as I have said repeatedly, that our nation faces two great challenges: first of all, to restore the American dream of opportunity, and the American tradition of responsibility; and second, to bring our country together amidst all of our diversity in a stronger community so that we can find common ground and move forward together.

In my first two years as President I worked harder on the first question, how to get the economy going, how to deal with the specific problems of the country, how to inspire more responsibility through things like welfare reform and child support enforcement. But I have

come to believe that unless we can solve the second problem we'll never really solve the first one. Unless we can find a way to honestly and openly debate our differences and find common ground, to celebrate all the diversity of America and still give people a chance to live in the way they think is right, so that we are stronger for our differences, not weaker, we won't be able to meet the economic and other challenges before us. And therefore, I have decided that I should spend some more time in some conversations about things Americans care a lot about and that they're deeply divided over.

Today I want to talk about a conversation -- about a subject that can provoke a fight in nearly any country town or on any city street corner in America -- religion. It's a subject that should not drive us apart. And we have a mechanism as old as our Constitution for bringing us together.

This country, after all, was founded by people of profound faith who mentioned Divine Providence and the guidance of God twice in the Declaration of Independence. They were searching for a place to express their faith freely without persecution. We take it for granted today that that's so in this country, but it was not always so. And it certainly has not always been so across the world. Many of the people who were our first settlers came here primarily because they were looking for a place where they could practice their faith without being persecuted by the government.

Here in Virginia's soil, as the Secretary of Education has said, the oldest and deepest roots of religious liberty can be found. The First Amendment was modeled on Thomas Jefferson's Statutes of Religious Liberty for Virginia. He thought so much of it that he asked that on his gravestone it be said not that he was President, not that he had been Vice President or Secretary of State, but that he was the founder of the University of Virginia, the author of the Declaration of Independence and the author of the Statues of Religious Liberty for the state of Virginia.

And of course, no one did more than James Madison to put the entire Bill of Rights in our Constitution, and especially, the First Amendment.

Religious freedom is literally our first freedom. It is the first thing mentioned in the Declaration of Independence. And as it opens, it says Congress cannot make a law that either establishes a religion or restricts the free exercise of religion. Now, as with every provision of our Constitution, that law has had to be interpreted over the years, and it has in various ways that some of us agree with and some of us disagree with. But one thing is indisputable: the First Amendment has protected our freedom to be religious or not religious, as we choose, with the consequence that in this highly secular age the United States is clearly the most conventionally religious country in the entire world, at least the entire industrialized world.

We have more than 250,000 places of worship. More people go to church here every week, or to synagogue, or to a mosque or other place of worship than in any other country in

the world. More people believe religion is directly important to their lives than in any other advanced, industrialized country in the world. And it is not an accident. It is something that has always been a part of our life.

I grew up in Arkansas which is, except for West Virginia, probably the state that's most heavily Southern Baptist Protestant in the country. But we had two synagogues and a Greek Orthodox church in my hometown. Not so long ago in the heart of our agricultural country in Eastern Arkansas one of our universities did a big outreach to students in the Middle East, and before you know it, out there on this flat land where there was no building more than two stories high, there rose a great mosque. And all the farmers from miles around drove in to see what the mosque was like and try to figure out what was going on there. (Laughter.)

This is a remarkable country. And I have tried to be faithful to that tradition that we have of the First Amendment. It's something that's very important to me.

Secretary Riley mentioned when I was at Georgetown, Georgetown is a Jesuit school, a Catholic school. All the Catholics were required to teach theology, and those of us who weren't Catholic took a course in world's religion, which we called Buddhism for Baptists. (Laughter.) And I began a sort of love affair with the religions that I did not know anything about before that time.

It's a personal thing to me because of my own religious faith and the faith of my family. And I've always felt that in order for me to be free to practice my faith in this country, I had to let other people be as free as possible to practice theirs, and that the government had an extraordinary obligation to bend over backwards not to do anything to impose any set of views on any group of people or to allow others to do it under the cover of law.

That's why I was very proud -- one of the proudest things I've been able to do as President was to sign into law the Religious Freedom Restoration Act in 1993. And it was designed to reverse the decision of the Supreme Court that essentially made it pretty easy for government, in the pursuit of its legitimate objectives, to restrict the exercise of people's religious liberties. This law basically said -- I won't use the legalese -- the bottom line was that if the government is going to restrict anybody's legitimate exercise of religion they have to have an extraordinarily good reason and no other way to achieve their compelling objective other than to do this. You have to bend over backwards to avoid getting in the way of people's legitimate exercise of their religious convictions. That's what that law said.

This is something I've tried to do throughout my career. When I was governor, for example, we were having -- of Arkansas in the '80s -- you may remember this -- there were religious leaders going to jail in America because they ran child care centers that they refused to have certified by the state because they said it undermined their ministry. We solved that

problem in our state. There were people who were prepared to go to jail over the home schooling issue in the '80s because they said it was part of their religious ministry. We solved that problem in our state.

With the Religious Freedom Restoration Act we made it possible, clearly, in areas that were previously ambiguous for Native Americans, for American Jews, for Muslims to practice the full range of their religious practices when they might have otherwise come in contact with some governmental regulation.

And in a case that was quite important to the Evangelicals in our country, I instructed the Justice Department to change our position after the law passed on a tithing case where a family had been tithing to their church and the man declared bankruptcy, and the government took the position they could go get the money away from the church because he knew he was bankrupt at the time he gave it. And I realized in some ways that was a close question, but I thought we had to stand up for the proposition that people should be able to practice their religious convictions.

Secretary Riley and I, in another context, have also learned as we have gone along in this work that all the religions obviously share a certain devotion to a certain set of values which make a big difference in the schools. I want to commend Secretary Riley for his relentless support of the so-called character education movement in our schools, which is clearly led in many schools that had great troubles to reduce drop-out rates, increased performance in schools, better citizenship in ways that didn't promote any particular religious views but at least unapologetically advocated values shared by all major religions.

In this school, one of the reasons I wanted to come here is because I recognize that this work has been done here. There's a course in this school called Combatting Intolerance, which deals not only with racial issues, but also with religious differences, and studies times in the past when people have been killed in mass numbers and persecuted because of their religious convictions.

You can make a compelling argument that the tragic war in Bosnia today is more of a religious war than an ethnic war. The truth is, biologically, there is no difference in the Serbs, the Croats and the Muslims. They are Catholics, Orthodox Christians and Muslims, and they are so for historic reasons. But it's really more of a religious war than an ethnic war when properly viewed. And I think it's very important that the people in this school are learning that and, in the process, will come back to that every great religion teaches honesty and trustworthiness and responsibility and devotion to family, and charity and compassion toward others.

Our sense of our own religion and our respect for others has really helped us to work together for two centuries. It's made a big difference in the way we live and the way we function and our ability to overcome adversity. The Constitution wouldn't be what it is

without James Madison's religious values. But it's also, frankly, given us a lot of elbow room. I remember, for example, that Abraham Lincoln was derided by his opponents because he belonged to no organized church. But if you read his writings and you study what happened to him, especially after he came to the White House, he might have had more spiritual depth than any person ever to hold the office that I now have the privilege to occupy.

So we have followed this balance, and it has served us well. Now what I want to talk to you about for a minute is that our Founders understood that religious freedom basically was a coin with two sides. The Constitution protected the free exercise of religion, but prohibited the establishment of religion. It's a careful balance that's uniquely American. It is the genius of the First Amendment. It does not, as some people have implied, make us a religion-free country. It has made us the most religious country in the world.

It does not convert -- let's just take the areas of greatest controversy now -- all the fights have come over 200 years over what those two things mean: What does it mean for the government to establish a religion, and what does it mean for a government to interfere with the free exercise of religion. The Religious Freedom Restoration Act was designed to clarify the second provision -- government interfering with the free exercise of religion and to say you can do that almost never. You can do that almost never. (Applause.)

We have had a lot more fights in the last 30 years over what the government establishment of religion means. And that's what the whole debate is now over the issue of school prayer, religious practices in the schools and things of that kind. And I want to talk about it because our schools are the places where so much of our hearts are in America and all of our futures are. And I'd like to begin by just sort of pointing out what's going on today and then discussing it if I could. And, again, this is always kind of inflammatory; I want to have a noninflammatory talk about it. (Laughter.)

First of all, let me tell you a little about my personal history. Before the Supreme Court's decision in Engel against Vitale, which said that the state of New York could not write a prayer that had to be said in every school in New York every day, school prayer was as common as apple pie in my hometown. And when I was in junior high school, it was my responsibility either to start every day by reading the Bible or get somebody else to do it. Needless to say, I exerted a lot of energy in finding someone else to do it from time to time, being a normal 13-year-old boy.

Now, you could say, well, it certainly didn't do any harm; it might have done a little good. But remember what I told you. We had two synagogues in my hometown. We also had pretended to be deeply religious and there were no blacks in my school, they were in a segregated school. And I can tell you that all of us who were in there doing it never gave a second thought most of the time to the fact that we didn't have blacks in our schools and that there were Jews in the classroom who were probably deeply offended by half the stuff we were saying or doing -- or maybe made to feel inferior.

I say that to make the point that we have not become less religious over the last 30 years by saying that schools cannot impose a particular religion, even if it's a Christian religion and 98 percent of the kids in the schools are Christian and Protestant. I'm not sure the Catholics were always comfortable with what we did either. We had a big Catholic population in my school and in my hometown. But I did that -- I have been a part of this debate we are talking about. This is a part of my personal life experience. So I have seen a lot of progress made and I agreed with the Supreme Court's original decision in *Engel v. Vitale*.

Now, since then, I've not always agreed with every decision the Supreme Court made in the area of the First Amendment. I said the other day I didn't think the decision on the prayer at the commencement, where the Rabbi was asked to give the nonsectarian prayer at the commencement -- I didn't agree with that because I didn't think it any coercion at all. And I thought that people were not interfered with. And I didn't think it amounted to the establishment of a religious practice by the government. So I have not always agreed.

But I do believe that on balance, the direction of the First Amendment has been very good for America and has made us the most religious country in the world by keeping the government out of creating religion, supporting particular religions, interfering, and interfering with other people's religious practices.

What is giving rise to so much of this debate today I think is two things. One is the feeling that the schools are special and a lot of kids are in trouble, and a lot of kids are in trouble for nonacademic reasons, and we want our kids to have good values and have a good future.

Let me give you just one example. There is today, being released, a new study of drug use among young people by the group that Joe Califano was associated with -- Council for a Drug-Free America -- massive poll of young people themselves. It's a fascinating study and I urge all of you to get it. Joe came in a couple of days ago and briefed me on it. It shows disturbingly that even though serious drug use is down overall in groups in America, casual drug use is coming back up among some of our young people who no longer believe that it's dangerous and have forgotten that's it's wrong and are basically living in a world that I think is very destructive.

And I see it all the time. It's coming back up. Even though we're investing money and trying to combat it in education and treatment programs, and supporting things like the DARE program. And we're breaking more drug rings than ever before around the world. It's almost -- it's very disturbing because it's fundamentally something that is kind of creeping back in.

But the study shows that there are three major causes for young people not using drugs.

One is they believe that their future depends upon their not doing it; they're optimistic about the future. The more optimistic kids are about the future, the less likely they are to use drugs.

Second is having a strong, positive relationship with their parents. The closer kids are to their parents and the more tuned in to them they are, and the more their parents are good role models, the less likely kids are to use drugs.

You know what the third is? How religious the children are. The more religious the children are, the less likely they are to use drugs.

So what's the big fight over religion in the schools and what does it mean to us and why are people so upset about it? I think there are basically three reasons. One is, people believe that -- most Americans believe that if you're religious, personally religious, you ought to be able to manifest that anywhere at any time, in a public or private place. Second, I think that most Americans are disturbed if they think that our government is becoming anti-religious, instead of adhering to the firm spirit of the First Amendment -- don't establish, don't interfere with, but respect. And the third thing is people worry about our national character as manifest in the lives of our children. The crime rate is going down in almost every major area in America today, but the rate of violent random crime among very young people is still going up.

So these questions take on a certain urgency today for personal reasons and for larger social reasons. And this old debate that Madison and Jefferson started over 200 years ago is still being spun out today basically as it relates to what can and cannot be done in our schools, and the whole question, specific question, of school prayer, although I would argue it goes way beyond that.

So let me tell you what I think the law is and what we're trying to do about it, since I like the First Amendment, and I think we're better off because of it, and I think that if you have two great pillars -- the government can't establish and the government can't interfere with -- obviously there are going to be a thousand different factual cases that will arise at any given time, and the courts from time to time will make decisions that we don't all agree with, but the question is, are the pillars the right pillars, and do we more or less come out in the right place over the long run.

The Supreme Court is like everybody else, it's imperfect -- and so are we. Maybe they're right and we're wrong. But we are going to have these differences. The fundamental balance that has been struck it seems to me has been very good for America, but what is not good today is that people assume that there is a positive-antireligious bias in the cumulative impact of these court decisions with which our administration -- the Justice Department and the Secretary of Education and the President -- strongly disagree. So let me tell you what I think the law is today and what I have instructed the Department of Education and the Department of Justice to do about it.

The First Amendment does not -- I will say again -- does not convert our schools into religion-free zones. If a student is told he can't wear a yarmulke, for example, we have an obligation to tell the school the law says the student can, most definitely, wear a yarmulke to school. If a student is told she cannot bring a Bible to school, we have to tell the school, no, the law guarantees her the right to bring the Bible to school.

There are those who do believe our schools should be value-neutral and that religion has no place inside the schools. But I think that wrongly interprets the idea of the wall between church and state. They are not the walls of the school.

There are those who say that values and morals and religions have no place in public education; I think that is wrong. First of all, the consequences of having no values are not neutral. The violence in our streets -- not value neutral. The movies we see aren't value neutral. Television is not value neutral. Too often we see expressions of human degradation, immorality, violence and debasement of the human soul that have more influence and take more time and occupy more space in the minds of our young people than any of the influences that are felt at school anyway. Our schools, therefore, must be a barricade against this kind of degradation. And we can do it without violating the First Amendment.

I am deeply troubled that so many Americans feel that their faith is threatened by the mechanisms that are designed to protect their faith. Over the past decade we have seen a real rise in these kind of cultural tensions in America. Some people even say we have a culture war. There have been books written about culture war, the culture of disbelief, all these sort of trends arguing that many Americans genuinely feel that a lot of our social problems today have arisen in large measure because the country led by the government has made an assault on religious convictions. That is fueling a lot of this debate today over what can and cannot be done in the schools.

Much of the tension stems from the idea that religion is simply not welcome at all in what Professor Carter at Yale has called the public square. Americans feel that instead of celebrating their love for God in public, they're being forced to hide their faith behind closed doors. That's wrong. Americans should never have to hide their faith. But some Americans have been denied the right to express their religion and that has to stop. That has happened and it has to stop. It is crucial that government does not dictate or demand specific religious views, but equally crucial that government doesn't prevent the expression of specific religious views.

When the First Amendment is invoked as an obstacle to private expression of religion it is being misused. Religion has a proper place in private and a proper place in public because the public square belongs to all Americans. It's especially important that parents feel confident that their children can practice religion. That's why some families have been

frustrated to see their children denied even the most private forms of religious expression in public schools. It is rare, but these things have actually happened.

I know that most schools do a very good job of protecting students' religious rights, but some students in America have been prohibited from reading the Bible silently in study hall. Some student religious groups haven't been allowed to publicize their meetings in the same way that nonreligious groups can. Some students have been prevented even from saying grace before lunch. That is rare, but it has happened and it is wrong. Wherever and whenever the religious rights of children are threatened or suppressed, we must move quickly to correct it. We want to make it easier and more acceptable for people to express and to celebrate their faith.

Now, just because the First Amendment sometimes gets the balance a little bit wrong in specific decisions by specific people doesn't mean there's anything wrong with the First Amendment. I still believe the First Amendment as it is presently written permits the American people to do what they need to do. That's what I believe. (Applause.) Let me give you some examples and you see if you agree.

First of all, the First Amendment does not require students to leave their religion at the schoolhouse door. We wouldn't want students to leave the values they learn from religion, like honesty and sharing and kindness, behind the schoolhouse door -- behind at the schoolhouse door, and reinforcing those values is an important part of every school's mission.

Some school officials and teachers and parents believe that the Constitution forbids any religious expression at all in public schools. That is wrong. Our courts have made it clear that that is wrong. It is also not a good idea. Religion is too important to our history and our heritage for us to keep it out of our schools. Once again, it shouldn't be demanded, but as long as it is not sponsored by school officials and doesn't interfere with other children's rights, it mustn't be denied.

For example, students can pray privately and individually whenever they want. They can say grace themselves before lunch. There are times when they can pray out loud together. Student religious clubs in high schools can and should be treated just like any other extracurricular club. They can advertise their meetings, meet on school grounds, use school facilities just as other clubs can. When students can choose to read a book to themselves, they have every right to read the Bible or any other religious text they want.

Teachers can and certainly should teach about religion and the contributions it has made to our history, our values, our knowledge, to our music and our art in our country and around the world, and to the development of the kind of people we are. Students can also pray to themselves -- preferably before tests, as I used to do. (Laughter.)

Students should feel free to express their religion and their beliefs in homework,

through art work, during class presentations, as long as it's relevant to the assignment. If students can distribute flyers or pamphlets that have nothing to do with the school, they can distribute religious flyers and pamphlets on the same basis. If students can wear T-shirts advertising sports teams, rock groups or politicians, they can also wear T-shirts that promote religion. If certain subjects or activities are objectionable to their students or their parents because of their religious beliefs, then schools may, and sometimes they must, excuse the students from those activities.

Finally, even though the schools can't advocate religious beliefs, as I said earlier, they should teach mainstream values and virtues. The fact that some of these values happen to be religious values does not mean that they cannot be taught in our schools.

All these forms of religious expression and worship are permitted and protected by the First Amendment. That doesn't change the fact that some students haven't been allowed to express their beliefs in these ways. What we have to do is to work together to help all Americans understand exactly what the First Amendment does. It protects freedom of religion by allowing students to pray, and it protects freedom of religion by preventing schools from telling them how and when and what to pray. The First Amendment keeps us all on common ground. We are allowed to believe and worship as we choose without the government telling any of us what we can and cannot do.

It is in that spirit that I am today directing the Secretary of Education and the Attorney General to provide every school district in America before school starts this fall with a detailed explanation of the religious expression permitted in schools, including all the things that I've talked about today. I hope parents, students, educators and religious leaders can use this directive as a starting point. I hope it helps them to understand their differences, to protect student's religious rights, and to find common ground. I believe we can find that common ground.

This past April a broad coalition of religious and legal groups -- Christian and Jewish, conservative and liberal, Supreme Court advocates and Supreme Court critics -- put themselves on the solution side of this debate. They produced a remarkable document called "Religion in Public Schools: A Joint Statement of Current Law." They put aside their deep differences and said, we all agree on what kind of religious expression the law permits in our schools. My directive borrows heavily and gratefully from their wise and thoughtful statement. This is a subject that could have easily divided the men and women that came together to discuss it. But they moved beyond their differences and that may be as important as the specific document they produced.

I also want to mention over 200 religious and civic leaders who signed the Williamsburg Charter in Virginia in 1988. That charter reaffirms the core principles of the First Amendment. We can live together with our deepest differences and all be stronger for it.

The charter signers are impressive in their own right and all the more impressive for their differences of opinion, including Presidents Ford and Carter; Chief Justice Rehnquist and the late Chief Justice Burger; Senator Dole and former Governor Dukakis; Bill Bennett and Lane Kirkland, the president of the AFL-CIO; Norman Lear and Phyllis Schlafly signed it together -- (laughter) -- Coretta Scott King and Reverend James Dobson.

These people were able to stand up publicly because religion is a personal and private thing for Americans which has to have some public expression. That's how it is for me. I'm pretty old-fashioned about these things. I really do believe in the constancy of sin and the constant possibility of forgiveness, the reality of redemption and the promise of a future life. But I'm also a Baptist who believe that salvation is primarily personal and private, that my relationship is directly with God and not through any intermediary.

People -- other people can have different views. And I've spent a good part of my life trying to understand different religious views, celebrate them and figure out what brings us together.

I will say again, the First Amendment is a gift to us. And the Founding Fathers wrote the Constitution in broad ways so that it could grow and change, but hold fast to certain principles. They knew -- they knew that all people were fallible and would make mistakes from time to time. And I have -- as I said, there are times when the Supreme Court makes a decision, if I disagree with it, one of us is wrong. There's another possibility: both of us could be wrong. (Laughter.) That's the way it is in human affairs.

But what I want to say to the American people and what I want to say to you is that James Madison and Thomas Jefferson did not intend to drive a stake in the heart of religion and to drive it out of our public life. What they intended to do was to set up a system so that we could bring religion into our public life and into our private life without any of us telling the other what to do.

This is a big deal today. One county in America, Los Angeles County, has over 150 different racial and ethnic groups in it -- over 150 different. How many religious views do you suppose are in those groups? How many? Every significant religion in the world is represented in significant numbers in one American county, and many smaller religious groups -- in one American county.

We have got to get this right. We have got to get this right. And we have to keep this balance. This country needs to be a place where religion grows and flourishes.

Don't you believe that if every kid in every difficult neighborhood in America were in a religious institution on the weekends, the synagogue on Saturday, a church on Sunday, a mosque on Friday, don't you really believe that the drug rate, the crime rate, the violence rate, the sense of self-destruction would go way down and the quality of the character of this

country would go way up? (Applause.)

But don't you also believe that if for the last 200 years we had had a state governed religion, people would be bored with it, think that it would -- (laughter and applause) -- they would think it had been compromised by politicians, shaved around the edges, imposed on people who didn't really content to it, and we wouldn't have 250,000 houses of worship in America? (Applause.) I mean, we wouldn't.

It may be perfect -- imperfect, the First Amendment, but it is the nearest thing ever created in any human society for the promotion of religion and religious values because it left us free to do it. And I strongly believe that the government has made a lot of mistakes which we have tried to roll back in interfering with that around the edges. That's what the Religious Freedom Restoration Act is all about. That's what this directive that Secretary Riley and the Justice Department and I have worked so hard on is all about. That's what our efforts to bring in people of different religious views are all about. And I strongly believe that we have erred when we have rolled it back too much. And I hope that we can have a partnership with our churches in many ways to reach out to the young people who need the values, the hope, the belief, the convictions that comes with faith, and the sense of security in a very uncertain and rapidly changing world.

But keep in mind we have a chance to do it because of the heritage of America and the protection of the First Amendment. We have to get it right.

Thank you very much. (Applause.)

END

11:37 A.M. EDT

The Court's analysis of whether RFRA is a constitutional exercise of Congress' 5 power, set forth in Part III-B of its opinion, is premised on the assumption that Smith correctly interprets the Free Exercise Clause. This is an assumption that I do not accept. I continue to believe that Smith adopted an improper standard for deciding free exercise claims. In Smith, five Members of this Court-without briefing or argument on the issue-interpreted the Free Exercise Clause to permit the government to prohibit, without justification, conduct mandated by an individual's religious beliefs, so long as the prohibition is generally applicable. Contrary to the Court's holding in that case, however, the Free Exercise Clause is not simply an antidiscrimination principle that protects only against those laws that single out religious practice for unfavorable treatment. See Smith, *supra*, at 892-903 (O'Connor, J., concurring in judgment). Rather, the Clause is best understood as an affirmative guarantee of the right to participate in religious practices and conduct without impermissible governmental interference, even when such conduct conflicts with a neutral, generally applicable law. Before Smith, our free exercise cases were generally in keeping with this idea: where a law substantially burdened religiously motivated conduct-regardless whether it was specifically targeted at religion or applied generally-we required government to justify that law with a compelling state interest and to use means narrowly tailored to achieve that interest. See 494 U. S., at 894 (citing *Hernandez v. Commissioner*, 490 U. S. 680, 699 (1989); *Hobbie v. Unemployment Appeals Comm'n of Fla.*, 480 U. S. 136, 141 (1987); *United States v. Lee*, 455 U. S. 252, 257-258 (1982); *McDaniel v. Paty*, 435 U. S. 618, 626-629 (1978); *Wisconsin v. Yoder*, 406 U. S. 205, 215 (1972); *Gillette v. United States*, 401 U. S. 437, 462 (1971); *Sherbert v. Verner*, 374 U. S. 398, 403 (1963)).

The Court's rejection of this principle in Smith is supported neither by precedent nor, as discussed below, by history. The decision has harmed religious liberty. For example, a Federal District Court, in reliance on Smith, ruled that the Free Exercise Clause was not implicated where Hmong natives objected on religious grounds to their son's autopsy, conducted pursuant to a generally applicable state law. *Yang v. Sturner*, 750 F. Supp. 558, 559 (RI 1990). The Court of Appeals for the Eighth Circuit held that application of a city's zoning laws to prevent a church from conducting services in an area zoned for commercial uses raised no free exercise concerns, even though the city permitted secular not-for-profit organizations in that area. *Cornerstone Bible Church v. Hastings*, 948 F. 2d 464 (CA8 1991); see also *Rector of St. Bartholomew's Church v. New York*, 914 F. 2d 348, 355 (CA2 1990) (no Free Exercise claim where city's application of facially neutral landmark designation law -drastically restricted the Church's ability to raise revenue to carry out its various charitable and ministerial programs-), cert. denied, 499 U. S. 905 (1991); *State v. Hershberger*, 462 N. W. 2d 393 (Minn. 1990) (Free Exercise Clause provided no basis for exempting an Amish farmer from displaying a bright orange triangle on his buggy, to which the farmer objected on religious grounds, even though the evidence showed that some other material would have served the State's purpose equally well). These cases demonstrate that lower courts applying Smith no longer find neces-

SUPREME COURT OF THE UNITED STATES

No. 95-2074

CITY OF BOERNE, PETITIONER v. P. F. FLORES,
ARCHBISHOP OF SAN ANTONIO,
AND UNITED STATES

on writ of certiorari to the united states court
of appeals for the fifth circuit
[June 25, 1997]

Justice O'Connor, with whom Justice Breyer joins
except as to a portion of Part I, dissenting.

I dissent from the Court's disposition of this case. I agree with the Court that the issue before us is whether the Religious Freedom Restoration Act (RFRA) is a proper exercise of Congress' power to enforce 5 of the Fourteenth Amendment. But as a yardstick for measuring the constitutionality of RFRA, the Court uses its holding in *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U. S. 872 (1990), the decision that prompted Congress to enact RFRA as a means of more rigorously enforcing the Free Exercise Clause. I remain of the view that *Smith* was wrongly decided, and I would use this case to reexamine the Court's holding there. Therefore, I would direct the parties to brief the question whether *Smith* represents the correct understanding of the Free Exercise Clause and set the case for reargument. If the Court were to correct the misinterpretation of the Free Exercise Clause set forth in *Smith*, it would simultaneously put our First Amendment jurisprudence back on course and allay the legitimate concerns of a majority in Congress who believed that *Smith* improperly restricted religious liberty. We would then be in a position to review RFRA in light of a proper interpretation of the Free Exercise Clause.

I

I agree with much of the reasoning set forth in Part III-A of the Court's opinion. Indeed, if I agreed with the Court's standard in *Smith*, I would join the opinion. As the Court's careful and thorough historical analysis shows, Congress lacks the -power to decree the substance of the Fourteenth Amendment's restrictions on the States.- Ante, at 9 (emphasis added). Rather, its power under 5 of the Fourteenth Amendment extends only to enforcing the Amendment's provisions. In short, Congress lacks the ability independently to define or expand the scope of constitutional rights by statute. Accordingly, whether Congress has exceeded its 5 powers turns on whether there is a -congruence and proportionality between the injury to be prevented or remedied and the means adopted to that end.- Ante, at 10. This recognition does not, of course, in any way diminish Congress' obligation to draw its own conclusions regarding the Constitution's meaning. Congress, no less than this Court, is called upon to consider the requirements of the Constitution and to act in accordance with its dictates. But when it enacts legislation in furtherance of its delegated powers, Congress must make its judgments consistent with this Court's exposition of the Constitution and with the limits placed on its legislative authority by provisions such as the Fourteenth Amendment.

sary a searching judicial inquiry into the possibility of reasonably accommodating religious practice.

Stare decisis concerns should not prevent us from revisiting our holding in Smith. -'[S]tare decisis is a principle of policy and not a mechanical formula of adherence to the latest decision, however recent and questionable, when such adherence involves collision with a prior doctrine more embracing in its scope, intrinsically sounder, and verified by experience.'- Adarand Constructors, Inc. v. Peña, 515 U. S. 200, 231 (1995) (citing Helvering v. Hallock, 309 U. S. 106, 119 (1940)). This principle is particularly true in constitutional cases, where-as this case so plainly illustrates--correction through legislative action is practically impossible.- Seminole Tribe of Fla. v. Florida, 517 U. S. ___, ___ (1996) (slip op., at 18) (internal quotation marks and citation omitted). I believe that, in light of both our precedent and our Nation's tradition of religious liberty, Smith is demonstrably wrong. Moreover, it is a recent decision. As such, it has not engendered the kind of reliance on its continued application that would militate against overruling it. Cf. Planned Parenthood of Southeastern Pa. v. Casey, 505 U. S. 833, 855-856 (1992).

Accordingly, I believe that we should reexamine our holding in Smith, and do so in this very case. In its place, I would return to a rule that requires government to justify any substantial burden on religiously motivated conduct by a compelling state interest and to impose that burden only by means narrowly tailored to achieve that interest.

II

I shall not restate what has been said in other opinions, which have demonstrated that Smith is gravely at odds with our earlier free exercise precedents. See Church of Lukumi Babalu Aye, Inc. v. Hialeah, 508 U. S. 520, 570-571 (1993) (Souter, J., concurring) (stating that it is -difficult to escape the conclusion that, whatever Smith's virtues, they do not include a comfortable fit with settled law-); Smith, supra, at 894-901 (O'Connor, J., concurring); see also McConnell, Free Exercise Revisionism and the Smith Decision, 57 U. Chi. L. Rev. 1109, 1120-1127 (1990). Rather, I examine here the early American tradition of religious free exercise to gain insight into the original understanding of the Free Exercise Clause-an inquiry the Court in Smith did not undertake. We have previously recognized the importance of interpreting the Religion Clauses in light of their history. Lynch v. Donnelly, 465 U. S. 668, 673 (1984) (-The Court's interpretation of the Establishment Clause has comported with what history reveals was the contemporaneous understanding of its guarantees-); School Dist. of Abington Township v. Schempp, 374 U. S. 203, 212-214 (1963).

The historical evidence casts doubt on the Court's current interpretation of the Free Exercise Clause. The record instead reveals that its drafters and ratifiers more likely viewed the Free Exercise Clause as a guarantee that government may not unnecessarily hinder believers from freely practicing their religion, a position consistent with our pre-Smith jurisprudence.

A

The original Constitution, drafted in 1787 and ratified

by the States in 1788, had no provisions safeguarding individual liberties, such as freedom of speech or religion. Federalists, the chief supporters of the new Constitution, took the view that amending the Constitution to explicitly protect individual freedoms was superfluous, since the rights that the amendments would protect were already completely secure. See, e.g., 1 Annals of Congress 440, 443-444, 448-459 (Gales and Seaton ed. 1834) (remarks of James Madison, June 8, 1789). Moreover, they feared that guaranteeing certain civil liberties might backfire, since the express mention of some freedoms might imply that others were not protected. According to Alexander Hamilton, a Bill of Rights would even be dangerous, in that by specifying -various exceptions to powers- not granted, it -would afford a colorable pretext to claim more than were granted.- The Federalist No. 84, p. 513 (C. Rossiter ed. 1961). Anti-Federalists, however, insisted on more definite guarantees. Apprehensive that the newly established federal government would overwhelm the rights of States and individuals, they wanted explicit assurances that the federal government had no power in matters of personal liberty. T. Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment* 194 (1986). Additionally, Baptists and other Protestant dissenters feared for their religious liberty under the new Federal Government and called for an amendment guaranteeing religious freedom. *Id.*, at 198.

In the end, legislators acceded to these demands. By December 1791, the Bill of Rights had been added to the Constitution. With respect to religious liberty, the First Amendment provided: -Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.- U. S. Const., Amdt. 1. Neither the First Congress nor the ratifying state legislatures debated the question of religious freedom in much detail, nor did they directly consider the scope of the First Amendment's free exercise protection. It would be disingenuous to say that the Framers neglected to define precisely the scope of the Free Exercise Clause because the words -free exercise- had a precise meaning. L. Levy, *Essays on American Constitutional History* 173 (1972). As is the case for a number of the terms used in the Bill of Rights, it is not exactly clear what the Framers thought the phrase signified. *Ibid.* (-[I]t is astonishing to discover that the debate on a Bill of Rights was conducted on a level of abstraction so vague as to convey the impression that Americans of 1787-1788 had only the most nebulous conception of the meanings of the particular rights they sought to insure-). But a variety of sources supplement the legislative history and shed light on the original understanding of the Free Exercise Clause. These materials suggest that-contrary to Smith-the Framers did not intend simply to prevent the Government from adopting laws that discriminated against religion. Although the Framers may not have asked precisely the questions about religious liberty that we do today, the historical record indicates that they believed that the Constitution affirmatively protects religious free exercise and that it limits the government's ability to intrude on religious practice.

The principle of religious -free exercise- and the notion that religious liberty deserved legal protection were by no means new concepts in 1791, when the Bill of Rights was ratified. To the contrary, these principles were first articulated in this country in the colonies of Maryland, Rhode Island, Pennsylvania, Delaware, and Carolina, in the mid-1600's. These colonies, though established as sanctuaries for particular groups of religious dissenters, extended freedom of religion to groups-although often limited to Christian groups-beyond their own. Thus, they encountered early on the conflicts that may arise in a society made up of a plurality of faiths.

The term -free exercise- appeared in an American legal document as early as 1648, when Lord Baltimore extracted from the new Protestant governor of Maryland and his councilors a promise not to disturb Christians, particularly Roman Catholics, in the -free exercise- of their religion. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1425 (1990) (hereinafter *Origins of Free Exercise*). Soon after, in 1649, the Maryland Assembly enacted the first free exercise clause by passing the Act Concerning Religion: -[N]oe person . . . professing to beleive in Jesus Christ, shall from henceforth bee any waies troubled, Molested or discountenanced for or in respect of his or her religion nor in the free exercise thereof . . . nor any way [be] compelled to the beleife or exercise of any other Religion against his or her consent, soe as they be not unfaithfull to the Lord Proprietary, or molest or conspire against the civill Governemt.- Act Concerning Religion of 1649, reprinted in 5 *The Founders' Constitution* 49, 50 (P. Kurland & R. Lerner eds. 1987) (hereinafter *Founders' Constitution*). Rhode Island's Charter of 1663 used the analogous term -liberty of conscience.- It protected residents from being -in any ways molested, punished, disquieted, or called into question, for any differences in opinion, in matters of religion, and do not actually disturb the civil peace of our said colony.- The Charter further provided that residents may -freely, and fully have and enjoy his and their own judgments, and conscience in matters of religious concernments . . .; they behaving themselves peaceably and quietly and not using this liberty to licentiousness and profaneness; nor to the civil injury, or outward disturbance of others.- Charter of Rhode Island and Providence Plantations, 1663, in 8 W. Swindler, *Sources and Documents of United States Constitutions* 363 (1979). Various agreements between prospective settlers and the proprietors of Carolina, New York, and New Jersey similarly guaranteed religious freedom, using language that paralleled that of the Rhode Island Charter of 1663. See New York Act Declaring Rights & Priviledges (1691); Concession and Agreement of the Lords Proprietors of the Province of New Caesarea, or New-Jersey (1664); Laws of West New-Jersey, Art. X (1681); Fundamental Constitutions for East New-Jersey, Art. XVI (1683); First Charter of Carolina, Art. XVIII (1663). N. Cogan, *The Complete Bill of Rights* 23-27 (Galley 1997).

These documents suggest that, early in our country's history, several colonies acknowledged that freedom to pursue one's chosen religious beliefs was an essential liberty. Moreover, these colonies appeared to recognize that government should interfere in religious matters only when necessary to protect the civil peace or to

prevent -licentiousness.- In other words, when religious beliefs conflicted with civil law, religion prevailed unless important state interests militated otherwise. Such notions parallel the ideas expressed in our pre-Smith cases-that government may not hinder believers from freely exercising their religion, unless necessary to further a significant state interest.

C

The principles expounded in these early charters re-emerged over a century later in state constitutions that were adopted in the flurry of constitution-drafting that followed the American Revolution. By 1789, every State but Connecticut had incorporated some version of a free exercise clause into its constitution. Origins of Free Exercise 1455. These state provisions, which were typically longer and more detailed than the federal Free Exercise Clause, are perhaps the best evidence of the original understanding of the Constitution's protection of religious liberty. After all, it is reasonable to think that the States that ratified the First Amendment assumed that the meaning of the federal free exercise provision corresponded to that of their existing state clauses. The precise language of these state precursors to the Free Exercise Clause varied, but most guaranteed free exercise of religion or liberty of conscience, limited by particular, defined state interests. For example, the New York Constitution of 1777 provided:

-[T]he free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed, within this State, to all mankind: Provided, That the liberty of conscience, hereby granted, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.- N. Y. Const., Art. XXXVIII (1777), in 7 Swindler, supra, at 178 (emphasis added).

Similarly, the New Hampshire Constitution of 1784 declared:

-Every individual has a natural and unalienable right to worship GOD according to the dictates of his own conscience, and reason; and no subject shall be hurt, molested, or restrained in his person, liberty or estate for worshipping GOD, in the manner and season most agreeable to the dictates of his own conscience, . . . provided he doth not disturb the public peace, or disturb others, in their religious worship.- N. H. Const., Art. I, 5 (1784), in 6 Swindler, supra, at 345 (emphasis added).

The Maryland Declaration of Rights of 1776 read:

-[N]o person ought by any law to be molested in his person or estate on account of his religious persuasion or profession, or for his religious practice; unless, under colour of religion, any man shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others, in their natural, civil, or religious rights.- Md. Const., Declaration of Rights, Art. XXXIII in 4 Swindler, supra, at 374 (emphasis added).

The religious liberty clause of the Georgia Constitution of 1777 stated:

-All persons whatever shall have the free exercise of their religion; provided it be not repugnant to the peace and safety of the State.- Ga. Const., Art. LVI (1777), in 2 Swindler, supra, at 449 (emphasis

added).

In addition to these state provisions, the Northwest Ordinance of 1787—which was enacted contemporaneously with the drafting of the Constitution and re-enacted by the First Congress—established a bill of rights for a territory that included what is now Ohio, Indiana, Michigan, Wisconsin, and part of Minnesota. Article I of the Ordinance declared:

-No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.— Northwest Territory Ordinance of 1787, Art. I, 1 Stat. 52 (emphasis added).

The language used in these state constitutional provisions and the Northwest Ordinance strongly suggests that, around the time of the drafting of the Bill of Rights, it was generally accepted that the right to -free exercise- required, where possible, accommodation of religious practice. If not—and if the Court was correct in *Smith* that generally applicable laws are enforceable regardless of religious conscience—there would have been no need for these documents to specify, as the New York Constitution did, that rights of conscience should not be -construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of [the] State.— Such a proviso would have been superfluous. Instead, these documents make sense only if the right to free exercise was viewed as generally superior to ordinary legislation, to be overridden only when necessary to secure important government purposes.

The Virginia Legislature may have debated the issue most fully. In May 1776, the Virginia Constitutional Convention wrote a constitution containing a Declaration of Rights with a clause on religious liberty. The initial drafter of the clause, George Mason, proposed the following:

-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; and therefore, that all men should enjoy the fullest toleration in the exercise of religion, according to the dictates of conscience, unpunished and unrestrained by the magistrate, unless, under colour of religion, any man disturb the peace, the happiness, or safety of society. And that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.— Committee Draft of the Virginia Declaration of Rights, 1 Papers of George Mason 284-285 (R. Rutland ed. 1970) (emphasis added).

Mason's proposal did not go far enough for a 26-year-old James Madison, who had recently completed his studies at the Presbyterian College of Princeton. He objected first to Mason's use of the term -toleration,- contending that the word implied that the right to practice one's religion was a governmental favor, rather than an inalienable liberty. Second, Madison thought Mason's proposal countenanced too much state interference in religious matters, since the -exercise of religion- would have yielded whenever it was deemed inimical to -the peace, happiness, or safety of society.— Madison suggested the provision read instead:

-That religion, or the duty we owe our Creator, and the manner of discharging it, being under the direction of reason and conviction only, not of

violence or compulsion, all men are equally entitled to the full and free exercise of it, according to the dictates of conscience; and therefore that no man or class of men ought on account of religion to be invested with peculiar emoluments or privileges, nor subjected to any penalties or disabilities, unless under color of religion the preservation of equal liberty, and the existence of the State be manifestly endangered.'- G. Hunt, James Madison and Religious Liberty, 1 Annual Report of the American Historical Association 163, 166-167 (1901) (emphasis added).

Thus, Madison wished to shift Mason's language of -toleration- to the language of rights. See S. Cobb, The Rise of Religious Liberty in America 492 (1902) (reprint 1970) (noting that Madison objected to the word -toleration- as belonging to -a system where was an established Church, and where a certain liberty of worship was granted, not of right, but of grace-). Additionally, under Madison's proposal, the State could interfere in a believer's religious exercise only if the State would otherwise -be manifestly endangered.- In the end, neither Mason's nor Madison's language regarding the extent to which state interests could limit religious exercise made it into the Virginia Constitution's religious liberty clause. Like the federal Free Exercise Clause, the Virginia religious liberty clause was simply silent on the subject, providing only that -all men are equally entitled to the free exercise of religion, according to the dictates of conscience.- Virginia Declaration of Rights, Art. XVI (1776), in 10 Swindler, Sources and Documents of United States Constitutions, at 50. For our purposes, however, it is telling that both Mason's and Madison's formulations envisioned that, when there was a conflict, a person's interest in freely practicing his religion was to be balanced against state interests. Although Madison endorsed a more limited state interest exception than did Mason, the debate would have been irrelevant if either had thought the right to free exercise did not include a right to be exempt from certain generally applicable laws. Presumably, the Virginia Legislature intended the scope of its free exercise provision to strike some middle ground between Mason's narrower and Madison's broader notions of the right to religious freedom.

D

The practice of the colonies and early States bears out the conclusion that, at the time the Bill of Rights was ratified, it was accepted that government should, when possible, accommodate religious practice. Unsurprisingly, of course, even in the American colonies inhabited by people of religious persuasions, religious conscience and civil law rarely conflicted. Most 17th and 18th century Americans belonged to denominations of Protestant Christianity whose religious practices were generally harmonious with colonial law. Curry, The First Freedoms, at 219 (-The vast majority of Americans assumed that theirs was a Christian, i.e. Protestant, country, and they automatically expected that government would uphold the commonly agreed on Protestant ethos and morality-). Moreover, governments then were far smaller and less intrusive than they are today, which made conflict between civil law and religion unusual.

Nevertheless, tension between religious conscience and

generally applicable laws, though rare, was not unknown in pre-Constitutional America. Most commonly, such conflicts arose from oath requirements, military conscription; and religious assessments. Origins of Free Exercise 1466. The ways in which these conflicts were resolved suggest that Americans in the colonies and early States thought that, if an individual's religious scruples prevented him from complying with a generally applicable law, the government should, if possible, excuse the person from the law's coverage. For example, Quakers and certain other Protestant sects refused on Biblical grounds to subscribe to oaths or -swear- allegiance to civil authority. A. Adams & C. Emmerich, *A Nation Dedicated to Religious Liberty: The Constitutional Heritage of the Religion Clauses* 14 (1990) (hereinafter Adams & Emmerich). Without accommodation, their beliefs would have prevented them from participating in civic activities involving oaths, including testifying in court. Colonial governments created alternatives to the oath requirement for these individuals. In early decisions, for example, the Carolina proprietors applied the religious liberty provision of the Carolina Charter of 1665 to permit Quakers to enter pledges in a book. Curry, *The First Freedoms*, at 56. Similarly, in 1691, New York enacted a law allowing Quakers to testify by affirmation, and in 1734, it permitted Quakers to qualify to vote by affirmation. *Id.*, at 64. By 1789, virtually all of the States had enacted oath exemptions. See Adams & Emmerich 62.

Early conflicts between religious beliefs and generally applicable laws also occurred because of military conscription requirements. Quakers and Mennonites, as well as a few smaller denominations, refused on religious grounds to carry arms. Members of these denominations asserted that liberty of conscience should exempt them from military conscription. Obviously, excusing such objectors from military service had a high public cost, given the importance of the military to the defense of society. Nevertheless, Rhode Island, North Carolina, and Maryland exempted Quakers from military service in the late 1600's. New York, Massachusetts, Virginia, and New Hampshire followed suit in the mid-1700's. Origins of Free Exercise 1468. The Continental Congress likewise granted exemption from conscription: -As there are some people, who, from religious principles, cannot bear arms in any case, this Congress intend no violence to their consciences, but earnestly recommend it to them, to contribute liberally in this time of universal calamity, to the relief of their distressed brethren in the several colonies, and to do all other services to their oppressed Country, which they can consistently with their religious principles.- Resolution of July 18, 1775, reprinted in 2 *Journals of the Continental Congress, 1774-1789*, pp. 187, 189 (W. Ford ed. 1905).

Again, this practice of excusing religious pacifists from military service demonstrates that, long before the First Amendment was ratified, legislative accommodations were a common response to conflicts between religious practice and civil obligation. Notably, the Continental Congress exempted objectors from conscription to avoid -violence to their consciences,- explicitly recognizing that civil laws must sometimes give way to freedom of conscience. Origins of Free Exercise 1468.

States and colonies with established churches encountered a further religious accommodation problem. Typically, these governments required citizens to pay tithes to support either the government-established church or the church to which the tithepayer belonged. But Baptists and Quakers, as well as others, opposed all government-compelled tithes on religious grounds. *Id.*, at 1469. Massachusetts, Connecticut, New Hampshire, and Virginia responded by exempting such objectors from religious assessments. *Ibid.* There are additional examples of early conflicts between civil laws and religious practice that were similarly settled through accommodation of religious exercise. Both North Carolina and Maryland excused Quakers from the requirement of removing their hats in court; Rhode Island exempted Jews from the requirements of the state marriage laws; and Georgia allowed groups of European immigrants to organize whole towns according to their own faith. *Id.*, at 1471.

To be sure, legislatures, not courts, granted these early accommodations. But these were the days before there was a Constitution to protect civil liberties-judicial review did not yet exist. These legislatures apparently believed that the appropriate response to conflicts between civil law and religious scruples was, where possible, accommodation of religious conduct. It is reasonable to presume that the drafters and ratifiers of the First Amendment-many of whom served in state legislatures-assumed courts would apply the Free Exercise Clause similarly, so that religious liberty was safeguarded.

E

The writings of the early leaders who helped to shape our Nation provide a final source of insight into the original understanding of the Free Exercise Clause. The thoughts of James Madison-one of the principal architects of the Bill of Rights-as revealed by the controversy surrounding Virginia's General Assessment Bill of 1784, are particularly illuminating. Virginia's debate over religious issues did not end with its adoption of a constitutional free exercise provision. Although Virginia had disestablished the Church of England in 1776, it left open the question whether religion might be supported on a nonpreferential basis by a so-called -general assessment.- Levy, *Essays on American Constitutional History*, at 200. In the years between 1776 and 1784, the issue how to support religion in Virginia-either by general assessment or voluntarily-was widely debated. Curry, *The First Freedoms*, at 136.

By 1784, supporters of a general assessment, led by Patrick Henry, had gained a slight majority in the Virginia Assembly. M. Malbin, *Religion and Politics: The Intentions of the Authors of the First Amendment* 23 (1978); Levy, *supra*, at 200. They introduced -A Bill Establishing a Provision for the Teachers of the Christian Religion,- which proposed that citizens be taxed in order to support the Christian denomination of their choice, with those taxes not designated for any specific denomination to go to a public fund to aid seminaries. Levy, *supra*, at 200-201; Curry, *supra*, at 140-141; Malbin, *supra*, at 23. Madison viewed religious assessment as a dangerous infringement of religious liberty and led the opposition to the bill. He took the case

against religious assessment to the people of Virginia in his now-famous -Memorial and Remonstrance Against Religious Assessments.- Levy, *supra*, at 201. This pamphlet led thousands of Virginians to oppose the bill and to submit petitions expressing their views to the legislature. Malbin, *supra*, at 24. The bill eventually died in committee, and Virginia instead enacted a Bill for Establishing Religious Freedom, which Thomas Jefferson had drafted in 1779. Malbin, *supra*, at 24.

The -Memorial and Remonstrance- begins with the recognition that -[t]he Religion . . . of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate.- 2 Writings of James Madison 184

(G. Hunt ed. 1901). By its very nature, Madison wrote, the right to free exercise is -unalienable,- both because a person's opinion -cannot follow the dictates of other[s],- and because it entails -a duty toward the Creator.- Ibid. Madison continued:

-This duty [owed the Creator] is precedent both in order of time and degree of obligation, to the claims of Civil Society. . . . [E]very man who becomes a member of any Civil Society, [must] do it with a saving of his allegiance to the Universal Sovereign. We maintain therefore that in matters of Religion, no man's right is abridged by the institution of Civil Society, and that Religion is wholly exempt from its cognizance.- Id., at 184-185.

To Madison, then, duties to God were superior to duties to civil authorities-the ultimate loyalty was owed to God above all. Madison did not say that duties to the Creator are precedent only to those laws specifically directed at religion, nor did he strive simply to prevent deliberate acts of persecution or discrimination. The idea that civil obligations are subordinate to religious duty is consonant with the notion that government must accommodate, where possible, those religious practices that conflict with civil law.

Other early leaders expressed similar views regarding religious liberty. Thomas Jefferson, the drafter of Virginia's Bill for Establishing Religious Freedom, wrote in that document that civil government could interfere in religious exercise only -when principles break out into overt acts against peace and good order.- In 1808, he indicated that he considered -`the government of the United States as interdicted by the Constitution from intermeddling with religious institutions, their doctrines, discipline, or exercises.'- 11 The Writings of Thomas Jefferson 428-429 (A. Lipscomb ed. 1904) (quoted in Office of Legal Policy, U. S. Dept. of Justice, Report to the Attorney General, Religious Liberty under the Free Exercise Clause 7 (1986)). Moreover, Jefferson believed that -`[e]very religious society has a right to determine for itself the time of these exercises, and the objects proper for them, according to their own particular tenets; and this right can never be safer than in their own hands, where the Constitution has deposited it.'- Ibid.

George Washington expressly stated that he believed that government should do its utmost to accommodate religious scruples, writing in a letter to a group of Quakers:

-[I]n my opinion the conscientious scruples of all men should be treated with great delicacy and tenderness; and it is my wish and desire, that the

laws may always be as extensively accommodated to them, as a due regard to the protection and essential interests of the nation may justify and permit.- Letter from George Washington to the Religious Society Called Quakers (Oct. 1789), in George Washington on Religious Liberty and Mutual Understanding 11 (E. Humphrey ed. 1932).

Oliver Ellsworth, a Framers of the First Amendment and later Chief Justice of the United States, expressed the similar view that government could interfere in religious matters only when necessary -to prohibit and punish gross immoralities and impieties; because the open practice of these is of evil example and detriment.- Oliver Ellsworth, Landholder, No. 7 (Dec. 17, 1787), reprinted in 4 Founders' Constitution, 640. Isaac Backus, a Baptist minister who was a delegate to the Massachusetts ratifying convention of 1788, declared that -every person has an unalienable right to act in all religious affairs according to the full persuasion of his own mind, where others are not injured thereby.'- Backus, A Declaration of Rights, of the Inhabitants of the State of Massachusetts-Bay, in Isaac Backus on Church, State, and Calvinism 487 (W. McLoughlin ed. 1968).

These are but a few examples of various perspectives regarding the proper relationship between church and government that existed during the time the First Amendment was drafted and ratified. Obviously, since these thinkers approached the issue of religious freedom somewhat differently, see Adams & Emmerich 21-31, it is not possible to distill their thoughts into one tidy formula. Nevertheless, a few general principles may be discerned. Foremost, these early leaders accorded religious exercise a special constitutional status. The right to free exercise was a substantive guarantee of individual liberty, no less important than the right to free speech or the right to just compensation for the taking of property. See P. Kauper, Religion and the Constitution 17 (1964) (-[O]ur whole constitutional history . . . supports the conclusion that religious liberty is an independent liberty, that its recognition may either require or permit preferential treatment on religious grounds in some instances . . . -). As Madison put it in the concluding argument of his Memorial and Remonstrance-:

- '[T]he equal right of every citizen to the free exercise of his Religion according to the dictates of [his] conscience' is held by the same tenure with all our other rights. . . . [I]t is equally the gift of nature; . . . it cannot be less dear to us; . . . it is enumerated with equal solemnity, or rather studied emphasis.- 2 Writings of James Madison, at 191.

Second, all agreed that government interference in religious practice was not to be lightly countenanced. Adams & Emmerich at 31. Finally, all shared the conviction that -true religion and good morals are the only solid foundation of public liberty and happiness.'- Curry, The First Freedoms, at 219 (quoting Continental Congress); see Adams & Emmerich at 72 (-The Founders . . . acknowledged that the republic rested largely on moral principles derived from religion-). To give meaning to these ideas-particularly in a society characterized by religious pluralism and pervasive regulation-there will be times when the Constitution requires government to accommodate the needs of those

citizens whose religious practices conflict with generally applicable law.

III

The Religion Clauses of the Constitution represent a profound commitment to religious liberty. Our Nation's Founders conceived of a Republic receptive to voluntary religious expression, not of a secular society in which religious expression is tolerated only when it does not conflict with a generally applicable law. As the historical sources discussed above show, the Free Exercise Clause is properly understood as an affirmative guarantee of the right to participate in religious activities without impermissible governmental interference, even where a believer's conduct is in tension with a law of general application. Certainly, it is in no way anomalous to accord heightened protection to a right identified in the text of the First Amendment. For example, it has long been the Court's position that freedom of speech—a right enumerated only a few words after the right to free exercise—has special constitutional status. Given the centrality of freedom of speech and religion to the American concept of personal liberty, it is altogether reasonable to conclude that both should be treated with the highest degree of respect.

Although it may provide a bright line, the rule the Court declared in *Smith* does not faithfully serve the purpose of the Constitution. Accordingly, I believe that it is essential for the Court to reconsider its holding in *Smith*—and to do so in this very case. I would therefore direct the parties to brief this issue and set the case for reargument.

I respectfully dissent from the Court's disposition of this case.

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PRESIDENT WILLIAM J. CLINTON
RELIGIOUS FREEDOM IN THE FEDERAL WORKPLACE
THE WHITE HOUSE

One of our great success stories. The specific reason we are here to announce the
AUGUST 14, 1997

Today, I want to talk about a subject that has shaped our national identity more than any other these past 220 years -- religious freedom. It is, of course, one of the founding principles of our great democracy. Thomas Jefferson wrote, "We have solved...the great and interesting question whether freedom of religion is compatible with order in government and obedience to the laws. And we have experienced the quiet as well as the comfort which results from leaving every one to profess freely and openly those principles of religion which are the inductions of his own reason and the serious convictions of his own inquiries."

to guide our press in the fed workplaces. But

Our founders understood that religious freedom was a two-sided coin. The Constitution protected the free exercise of religion, but also prohibited the establishment of religion by the state. This careful balance is the genius of the First Amendment. It does not, as some have implied, make us a religion-free country. It makes us the most religious country in the world. Throughout our history, men and women have come to this nation to escape religious persecution and secure this precious freedom. They and others have built a nation in which religious practices and religious institutions have thrived -- exactly because each individual has been able to choose for himself or herself whether, and if so, how to worship.

In that spirit, we have continued to be a leader in promoting religious rights throughout the world, through the establishment last year of the Secretary of State's Advisory Committee on Religious Freedom Abroad, as well as our willingness to press for religious freedom at the United Nations and in our relations with other nations.

Last month, Secretary Albright released a report on our policies in support of religious freedom. The report underscores our commitment to helping people of all faiths live free of persecution and to worship in the freedom that is their birthright. This commitment is a key part of our human rights policy and an important focus of our diplomacy.

But we have also worked hard to support religious liberty here at home.
In the four-and-a-half years I have served as President, nothing has given me greater joy than the efforts of this Administration, in tandem with a broad coalition of individuals and organizations from practically every faith, to support freedom of religion here in America. I want to thank all the members of the coalition for your guidance and support.

I especially want to thank Steve McFarlane [McFar-lin] of the Christian Legal Society, Marc Stern of the American Jewish Congress, Eliot Minberg of People for the American Way and Oliver Thomas, formerly of the Baptist Joint Committee on Public Affairs for all you have done to make today's announcement possible. You are the living embodiment of what we mean when we talk about One America -- people coming together across the lines of race and ideology and faith to protect our precious American liberties. I think we would all agree that the most basic of those liberties is religious freedom.

And many for those who think that people of different beliefs can't work together, these guidelines and the work we've done previously prove them wrong.

FYI
Fr. Ann
Lewis

Washington
Jewish
Week
8/7/97

NATIONAL

Workplace freedom

Religious accommodations would be made

by Nancy Zuckerbrod
Staff Writer

One of the last pieces of legislation introduced in the Senate before lawmakers skipped town for their August recess could make it easier for Jews to leave work early on Fridays and take time off during religious holidays.

If passed, the Workplace Religious Freedom Act would amend Title VII of the Civil Rights Act of 1964. The federal statute requires an employer to reasonably accommodate an employee's religious observance or practice unless an employer demonstrates such an accommodation would result in an undue hardship.

Attorney Nathan Lewin, who authored the religious provision of Title VII, says the courts have interpreted "undue hardship" in an "excessively narrow" way, favoring the employer and not the employee.

Lewin and other supporters of the legislation cite a case in Florida as an example of how courts view the issue.

It involved a Seventh Day Adventist who requested Saturdays off instead of a randomly assigned schedule so he could observe the Sabbath. The judge ruled that would be too much of a burden on the police department.

If the Workplace Religious Freedom Act is passed, employers will have to demonstrate a "significant difficulty or expense" to justify not accommodating a worker's religious needs.

That is the same language used in the Americans with Disabilities Act, which was, in part, a model for this legislation, according to some of those who helped draft the legislation.

It was introduced by Sens. Dan Coates (R-Ind.) and John Kerry (D-Mass.) last Thursday. Kerry and Rep. Jerrold Nadler (D-N.Y.) — in the House — introduced similar legislation last year, but their efforts did not materialize into law.

This bill has a better chance of making it into the books, according to Richard Foltin, legislative director for the American Jewish Committee and chairman of a broad coalition supporting the legislation.

Foltin said this bill is "more palatable" to business leaders. "We are not trying to place burdens on business, but we are trying to ensure business does what's reasonable," he said.

The bill would not require an employer to accommodate an employee's religious need if such an accommodation would result in the inability of the employee to perform the essential functions of the job.

And the legislation would



Nathan Lewin

allow an employer to pay an employee regular wages, rather than premium pay or overtime, when that employee works extra hours on a given day to make up for hours lost because of religious observances.

The bill also has a better chance of passing now because of the bipartisan support behind it, according to Abba Cohen, director and counsel of Agudath Israel of America's Washington office.

Cohen, who helped draft the legislation, also said there is "a greater sensitivity to religion in the workplace" today. Despite that, religious discrimination definitely exists in the workforce making legislation necessary, he said.

The coalition supporting the bill is similar to the one that supported the Religious Freedom Restoration Act, which the U.S. Supreme

Court struck down recently. That legislation required states to prove a compelling interest before curtailing religious freedom.

RFRA and the Workplace Religious Freedom Act "go hand in hand," according to Cohen. He said this is a private-sector version of that law. "There are some differences, but the concept is the same," he explained.

But Cohen said, unlike RFRA, the new bill passes constitutional muster. "The law is already on the books ... and it has not been found to be unconstitutional" he said referring to Title VII.

"We are just giving it the strength we believe Congress intended it to have."

Nadler is expected to introduce a House version of the bill this fall. His legislative director hopes it, too, will be a bi-partisan effort.



TIME ON THE HILL — National Jewish Democratic Council (NJDC) interns Samuel Bodenheimer of New York City, left, and Ron Slesser of Silver Spring, Md., right, pose with Rep. Elliot Engel (D-N.Y.) at an event in July at which 250 Capital Hill interns shmoozed over ice cream with 12 Jewish, black and Hispanic Democratic members of Congress. NJDC intern program coordinator Adina Knofsky said she was pleased with the "good mix and great turnout." Congressmen who attended include Albert Wynn (Md.), Bob Filner (Calif.), John Lewis (Calif.), Robert Wexler (Fla.), Peter Deutch (Fla.), Steven R. Rothman (N.J.), Nita M. Lowsey (N.Y.), Ben Cardin (Md.), Luis Guterrez (Ill.), Elliot Engel (N.Y.), Barney Frank (Mass.), Ron Dellums (Calif.), Major Owens (N.Y.), Sanford Bishop (Ga.) and Juanita Millender-McDonald (Calif.).

Photo courtesy of NJDC

1. Religion - international / Blinken
 2. Coalition - RFRA - interpret as valid for Feds - ~~Supreme Court is not~~ good thing -
 - (3) Expression - announcement of guidelines
Clarify & reinforce
- Thank - Steve McDaniel.
Oliver Thomas - Baptist formerly - Baptist
Joint Committee -

6TH STORY of Level 1 printed in FULL format.

The Associated Press

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June 26, 1997, Thursday, AM cycle

SECTION: Domestic News

LENGTH: 408 words

HEADLINE: Clinton vows court won't have last word on smut, religious freedom

BYLINE: By SANDRA SOBIERAJ, Associated Press Writer

DATELINE: ABOARD AIR FORCE ONE

BODY:

President Clinton vowed Thursday that the Supreme Court will not have the last word on protecting religious freedom and shielding children from smut on the Internet.

In his first personal remarks on this week's spate of Supreme Court decisions, Clinton told reporters he was anxious to read the court's opinion in the decision to strike down the Religious Freedom Restoration Act - and anxious to craft an alternative that would pass muster with the justices.

"I couldn't tell exactly what the grounds, what the holding was," Clinton said in a freewheeling discussion of the court ruling. "But, there's been an overwhelming feeling that (the act) was the right thing to do among the American people. So, we're going to have to really assess where we are and what we're going to do about it."

Speaking aboard Air Force One on the final leg of a two-day, three-city swing that included his great-uncle's funeral and an address to the United Nations Earth Summit, Clinton admitted he was tired.

He joked that he could hardly remember all he'd done this week and asked his entourage: "Aren't you guys dead?"

As for Thursday's ruling that Congress and the president cannot constitutionally ban obscenity on the Internet, Clinton promised: "We'll have a counter-offer."

Having anticipated the ruling, Clinton planned a conference of communication industry leaders and child advocates next month, where, according to spokesman Mike McCurry, an alternative to the struck-down Communications-Decency Act would be unveiled.

McCurry hinted that Clinton, either by executive order or through legislation, could provide strong incentives for Internet access providers to develop and use technology akin to television's "V-chip," which parents use to block offensive programming.

The Associated Press, June 26, 1997

"There are ways to influence the industry in a voluntary situation," McCurry said. "We might find solutions that will fit within the contours of the law as defined by the court."

On the court's decision to turn back a challenge to the line-item veto, Clinton quipped that he sensed a trap.

Noting that the court upheld only on a technicality the president's newly enacted power to ~~excise certain specific items~~ in a spending bill, Clinton said of the justices: "They want to wait until I 'X' something and then complain."

But, he added, "My experience as governor with (the line-item veto) was that the existence of it was more important than the use of it."

LANGUAGE: ENGLISH

LOAD-DATE: June 27, 1997

4TH STORY of Level 1 printed in FULL format.

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June 27, 1997, Friday, BC cycle

SECTION: Washington News

LENGTH: 244 words

HEADLINE: Clinton to study religious ruling

DATELINE: WASHINGTON, June 26

BODY:

President Clinton called the Supreme Court decision overturning a law designed to protect religious freedom 'very important' and promised to carefully plan his reaction to it. The court voted 6-3 Wednesday to strike down the Religious Freedom Restoration Act, which said governments can infringe on religious practices only if they have a "compelling interest" such as health or safety concerns. The 1993 law enjoyed bipartisan support in Congress and the strong backing of Clinton and various religious leaders, many of whom complained that some general state and local laws discriminated against believers. The law has been used to keep open church-run soup kitchens, to allow prisoners to wear religious jewelry, and to protect the Amish from being required to put bright orange warning signs on their buggies. But the top court's majority questioned whether the law even was necessary, and said Congress had usurped its power to define the constitutional protection of religion and had intruded on the business of the states. Clinton, speaking with reporters on his flight Thursday back to Washington from New York, said he "didn't fully understand" the meaning of the court's ruling and planned to study it to determine his response. The president said, "We're going to really assess where we are and what we're going to do about it." ---

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LANGUAGE: ENGLISH

LOAD-DATE: June 28, 1997



White House Press Release

At Signing Ceremony For The Religious Freedom Restoration Act

The White House

Office of the Press Secretary

For Immediate Release

November 16, 1993

Remarks By The President

At Signing Ceremony For The **Religious Freedom** Restoration Act

The South Grounds

9:15 A.M. Est

The President: Thank you very much, Mr. Vice President, for those fine remarks, and to the members of Congress, the chaplains of the House and the Senate, and to all of you who worked so hard to help this day become a reality. Let me especially thank the Coalition for the Free Exercise of Religion for the central role they played in drafting this legislation and working so hard for its passage.

It is interesting to note, as the Vice President said, what a broad coalition of Americans came together to make this bill a reality. It's interesting to note that that coalition produced a 97-to-3 vote in the United States Senate, and a bill that had such broad support it was adopted on a voice vote in the House.

I'm told that, as many of the people in the coalition worked together across ideological and **religious** lines, some new friendships were formed and some new trust was established, which shows, I suppose, that the power of God is such that even in the legislative process miracles can happen. (Laughter.)

We all have a shared desire here to protect perhaps the most precious of all American liberties, **religious freedom**. Usually the signing of legislation by a president is a ministerial act, often a quiet ending to a turbulent legislative process. Today, this event assumes a more majestic quality because of our ability together to affirm the historic role that people of faith have played in the history of this country and the constitutional protections those who profess and express their faith have always demanded and cherished.

The power to reverse legislation by legislation, a decision of the United States Supreme Court, is a power that is rightly hesitantly and infrequently exercised by the United States Congress. But this is an issue in which that extraordinary measure was clearly called for.

As the Vice President said, this act reverses the Supreme Court's decision, Employment Division against Smith, and reestablishes a standards that better protects all Americans of all faiths in the exercise of their religion in a way that I am convinced is far more consistent with the intent of the founders of this nation than the Supreme Court decision.

More than 50 cases have been decided against individuals making **religious** claims against government action since that decision was handed down. This act will help to reverse that trend -- by honoring the principle that our laws and institutions should not impede or hinder, but rather should protect and preserve fundamental **religious** liberties.

The free exercise of religion has been called the first **freedom** -- that which originally sparked the development of the full range of the Bill of Rights. Our founders cared a lot about religion. And one of the reasons they worked so hard to get the First Amendment into the Bill of Rights at the head of the class is that they well understood what could happen to this country, how both religion and government could be perverted if there were not some space created and some protection provided. They knew that religion helps to give our people the character without which a democracy cannot survive. They knew that there needed to be a space of **freedom** between government and people of faith that otherwise government might usurp.

They have seen now, all of us, that religion and **religious** institutions have brought forth faith and discipline, community and responsibility over two centuries for ourselves and enabled us to live together in ways that I believe would not have been possible. We are, after all, the oldest democracy now in history, and probably the most truly multiethnic society on the face of the Earth. And I am convinced that neither one of those things would be true today had it not been for the importance of the First Amendment and the fact that we have kept faith with it for 200 years. (Applause.)

What this law basically says is that the government should be held to a very high level of proof before it interferes with someone's free exercise of religion. This judgment is shared by the people of the United States as well as by the Congress. We believe strongly that we can never -- we can never be too vigilant in this work.

Let me make one other comment if I might before I close and sit down and sign this bill. There is a great debate now abroad in the land which finds itself injected into several political races about the extent to which people of faith can seek to do God's will as political actors. I would like to come down on the side of encouraging everybody to act on what they believe is the right thing to do. There are many people in this country who strenuously disagree with me on what they believe are the strongest grounds of their faiths. I encourage them to speak out. I encourage all Americans to reach deep inside to try to determine what it is that drives their lives most deeply.

As many of you know, I have been quite moved by Steven

Carter's book, *The Culture of Disbelief*. He makes a compelling case that today Americans of all political persuasions and all regions have created a climate in this country in which some people believe that they are embarrassed to say that they advocate a course of action simply because they believe it is the right thing; because they believe it is dictated by their faith, by what they discern to be, with their best efforts, the will of God.

I submit to you today, my fellow Americans, that we can stand that kind of debate in this country. We are living in a country where the most central institution of our society, the family, has been under assault for 30 years. We are living in a country in which 160,000 school children don't go to school every day because they're afraid someone will shoot them, or beat them up, or knife them. We are living in a country now where gun shots are the single leading cause of death among teenage boys. We are living in a country where people can find themselves shot in the cross fire of teenagers who are often better armed than the police who are trying to protect other people from illegal conduct.

It is high time we had an open and honest reaffirmation of the role of American citizens of faith -- not so that we can agree, but so that we can argue and discourse and seek the truth and seek to heal this troubled land.

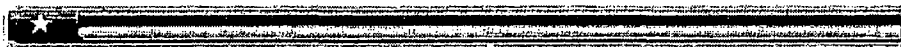
So today I ask you to also think of that. We are a people of faith. We have been so secure in that faith that we have enshrined in our Constitution protection for people who profess no faith. And good for us for doing so. That is what the First Amendment is all about. But let us never believe that the **freedom** of religion imposes on any of us some responsibility to run from our convictions. Let us instead respect one another's faiths, fight to the death to preserve the right of every American to practice whatever convictions he or she has, but bring our values back to the table of American discourse to heal our troubled land.

Thank you very much. (Applause.)

(The bill is signed.) (Applause.)

End

9:25 A.M. Est



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