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978-0-521-86493-0 - Church and State in America: The First Two Centuries

James H. Hutson

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CHURCH AND STATE IN AMERICA

This is an account of the ideas about and public policies relating to the relationship between government and religion from the settlement of Virginia in 1607 to the presidency of Andrew Jackson, 1829–1837. This book describes the impact of various events and legislative and judicial actions on church–state relations in America, including the English Toleration Act of 1689, the First and Second Great Awakenings, the Constitution of the United States, the Bill of Rights, and Jefferson’s Letter to the Danbury Baptists. Four principles were paramount in the American approach to government’s relation to religion: the importance of religion to public welfare; the resulting desirability of government support of religion (within the limitations of the political culture); liberty of conscience; and voluntarism, the requirement that religion be supported by freewill offerings, not taxation. James H. Hutson analyzes and describes the development and interplay of these principles and considers the relevance of the concept of the separation of church and state during this period.

James H. Hutson has been Chief of the Manuscripts Division at the Library of Congress since 1982. He has previously held positions as Coordinator of the American Revolution Bicentennial Programs at the Library of Congress and as lecturer at the College of William and Mary and Yale University. Among his many publications, Dr. Hutson has written *Religion and the Founding of the American Republic* (6th printing, 2002); *Forgotten Features of the Founding: The Recovery of Religious Themes in Early American History* (2003); and *The Founders on Religion* (2005).

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[More information](#)

Contents

<i>Series Editor’s Foreword</i>	<i>page</i> ix
1 The Seventeenth Century	1
2 To the American Revolution	47
3 The Confederation Period	95
4 The Constitution and Beyond	139
<i>Bibliography</i>	189
<i>Index</i>	195

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[More information](#)

Series Editor's Foreword

The First Amendment to the Constitution, embodied in the Bill of Rights proposed by Congress in 1789 and ratified by three-fourths of the states in 1791, concerned religion. The amendment simply states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” This amendment prevented the federal government from establishing a national religion and allowed people to freely exercise their religious beliefs and practices. The amendment appeared straightforward, but in practice it was ambiguous and increasingly controversial.

The establishment clause – that Congress shall make no law respecting the establishment of religion – appears at a minimum to prevent the newly established federal government from granting any denomination or religious sect the privileges enjoyed in England by the Anglican Church or in other European nations by the Roman Catholic Church. The amendment was not intended, it appears, to do away with established religious denominations then existing in the states. The question of state-established churches was left to the states.

Similarly, the free exercise clause was intended to prevent governmental persecution of dissenting religious sects and denominations as was common in England and other European countries. Congress

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Frontmatter

[More information](#)

x | Series Editor's Foreword

probably intended the free exercise clause to prevent the federal government from imposing civil penalties on religious dissenters; nevertheless, even after ratification of the First Amendment, many states continued to impose civil restrictions on non-Protestants and atheists.

Throughout the nineteenth century the First Amendment drew little attention from the courts. Indeed, in the nineteenth century the Supreme Court decided only two establishment clause cases. The free exercise clause was tested in the Mormon polygamy cases, most notably, *Reynolds v. United States* (1879), in which the Court ruled that polygamous marriage was not a constitutional right founded in the First Amendment.

The shift in interpretation of the separation of church–state relations came in *Everson v. Board of Education* in 1947 when the Supreme Court considered whether a city could pay for bus transportation of school-aged children to parochial as well as public schools. The Court ruled that public funding of school buses for parochial schools was unconstitutional. Based on its review of Virginia's rejection of general taxation for the support of ministers in 1785, the Supreme Court ruled that the establishment clause was "intended to erect a 'wall of separation' between Church and State." The phrase "wall of separation" was taken from a letter Thomas Jefferson had written to a group of Baptists who opposed the state of Virginia's use of general tax funds to support established ministers. *Everson* was the first of a series of decisions undertaken by the Court in determining the precise meaning of the establishment clause and the free exercise clause.

Historian James Hutson revisits the meaning of religious toleration as it developed in colonial America and the early Republic. Hutson presents a complex understanding of the historical

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Frontmatter

[More information](#)

Series Editor's Foreword | xi

background for the First Amendment. He cogently argues that the rich tradition of religious pluralism in the colonies encouraged religious toleration in America. Religious toleration, he argues, was not the founding principle of the colonies, but evolved gradually as a wide array of religious denominations and religious groups blossomed in the colonies. In accomplishing this, Hutson sheds new light on the meaning of the separation of church and state at the time of the nation's founding.

Hutson provides the reader with an historical understanding of a unique feature of the United States: religious freedom. The world he creates is far different from the secular world of the twentieth century, dominated by secular legal regimes in most countries. In this age of secularism, religious faith and secular law often appear in conflict and speak languages opaque to one another. The world that Hutson describes in colonial America was not any less complex or any less controversial than today, but the crisis of church and state that plagued Europe since the fierce religious wars of the sixteenth and seventeenth centuries appeared resolved in the American experience. The story of how this resolution came about is worth knowing because it tells us much about the founding of our nation and the meaning of toleration in this age of religious discord and hatred.

Donald T. Critchlow
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