

THE AMERICAN CREED AND RELIGIOUS LIBERTY

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The two topics in the title “American Creed and Religious Liberty” presumably have a connection. The obvious way that the two are connected is to say that Americans hold a number of common beliefs that have been called an American Creed. That creed includes beliefs in the individual, in egalitarianism, in capitalism and in liberty. While this connection between an American creed and religious liberty is accurate it is not very enlightening. It does not throw any light on why. How did people of the United States come to believe so fervently in religious liberty? The term creed which is of Christian origin suggests that the belief in liberty is more religious than political.

First, an examination of the term American creed is needed. Despite what one sees and hears every day in the United States, the name of this country is not America. America is an idea that is more than 500 years old. That is, most of the history of America precedes the existence of the United States. The term America was coined by Europeans to refer to discoveries that occurred in the late fifteenth century. The discoverers thought that they had found the promised land or the entry into paradise. In America there would be no external restraints on the individual. It was the land of liberty.

When British settlers came to America in the 17th century they were in search of liberty. Some of them were interested in economic liberty, others were interested in religious liberty; many of them believed that religious liberty and economic liberty went together. A cartoon in the *New Yorker* showed two pilgrims on a boat to America. One of them says to the other: “My first interest is religious liberty; then I want to get into real estate.”

The British American colonies, far removed from the oversight of the government, did enjoy considerable liberty. But for rebels against government, any government is too much. Thirteen of the colonies declared that they were separating themselves from the empire. In the myth of United States origins, the nation’s birthdate is 1776. However, the document that was entitled “A Declaration by the thirteen united States of America” proclaimed that there were now thirteen “free and independent states”; there was no United States. In the Declaration, the right to liberty came second only to life; both were independent of any government whose function was to protect God-given rights to life and liberty.

When a confederation of these independent states proved to be inefficient, representatives met in the 1780s to reform their association. They surprised themselves by inventing a government to unite the independent states. When a constitution was proposed to create this union, there was widespread resistance to the idea because it would limit the rights of the individual. A series of amendments was tacked on to the Constitution that would restrain the government from interfering in free speech, the practice of religion, or ownership of guns. The list ended with the ultimate control on the federal government: rights not granted by the states to “the United States” were reserved to the states and the people.

As that reference to “the United States” makes clear, it was imagined as an instrument that would be used by the states only insofar as the states could not do something on their own. Starting with the eleventh amendment “United States” took a plural verb; a nation composed of thirteen states could barely be said to exist.

When it came time to give a name to the country, several possibilities were tried and found wanting. Instead of leaving the name as the united states of New York, Virginia, Massachusetts and the rest, which would have been unwieldy, they used the idea and the dream that had brought them to this land. They called their invention the United States of America. They surely suspected that “united states” was not something that would be emphasized. Knowing that the name would be shortened to “America” they identified the nation with the dream of liberty. They announced that these united states were the vessel of liberty that the human race was in search of.

The prized liberty of non-interference by the government extended to religion. The United States Constitution in the first amendment has only 16 words on religion: there will be no official religion and the Congress will not interfere in the practice of religion. That arrangement was fairly easy to achieve because starting from the first settlement one religious group dominated. The unofficial religion of the nation was Christian, more exactly Protestant Christian.

Thomas Jefferson, in an 1804 letter to Baptists in Danbury Connecticut, invoked the European language of church and state. Jefferson tried to apply that language to an intra-Protestant dispute in the state of Connecticut while he also indicated that it was not a matter for the United States government. Jefferson’s letter had no discernible effect in the controversy except that it introduced the inappropriate language of “church and state.” The language did not resurface until the 1880’s when there were fears of a growing power of the Roman Catholic Church.

Catholics and Jews occasionally objected to practices that were Protestant in origin. Catholics founded their own school system because of Protestant influence in the public or state schools. But for the most part, there was no persecution of religion an arrangement that was better what Catholics and Jews had often experienced back home.

The dominance of an unofficial religion remained well into the 20th century. In the 1930s when Franklin Roosevelt was United States president, his secretary of the treasury was Henry Morgenthau. Morgenthau recounts in his diary a conversation between Roosevelt, Morgenthau, who was a Jew, and another advisor Leo Crowley, who was a Catholic. Roosevelt says to them: “You know this is a Protestant country; Catholics and Jews are here only by sufferance.” That is, Protestants tolerated in their country Catholics and Jews. I am not surprised Roosevelt thought that way although I am surprised he said that to his two advisors.

The United States began a big change in the 1940s when the Supreme Court gave legal standing to the language of church and state. No one doubted that “Church” referred to the Roman Catholic Church and its feared political power. In several court decisions, the

Catholic Church received some recognition but also restrictions. In the 1960s, the Court extended some of these restrictions to Protestant groups who were shocked. Especially in the southern United States, the Court's decisions were not accepted. How could anyone say that reading the Bible in school was a violation of church-state relations? Saying a prayer before a football game in Texas is not the action of a church. The objectors had logic and history on their side. Using the Court's language of church and state was a clumsy way of trying to stop any one group from imposing its religious practices on other people.

The Court was saying that the government had to be neutral in the matter of religious practice. The Court was not objecting to prayer but to prayer being required in a public or tax-supported school. A Herblock cartoon at the time showed a man throwing down a newspaper that contained the headline: Supreme Court outlaws prayer in School. "What do they expect us to do," the man is shouting, "pray at home?" Yes, that was pretty much the idea. The Court was requiring that the liberty of Protestants to practice their religion had to be shared with Catholics, Jews, other religious groups, as well as people whose choice was to practice no religion.

Finally, the idea of religious liberty itself needs deeper exploration. There are two words in the English language, liberty and freedom, that may seem to have the same meaning and are sometimes used interchangeably. However, the two words have different histories and different connotations.

"Liberty," derived from a Latin word, goes back as far as the Roman Empire and has been mainly political in meaning. The liberty of a privileged class might be shared with other political groups but the liberty of some was compatible with the slavery of others.

Freedom had a broader meaning that encompasses political liberty but goes beyond that. Freedom has philosophical, social and psychological meaning. While liberty is a freedom from outside interference, freedom is also a capacity to do something. The U.S. Constitution, as I noted, has only two phrases on religion, both of them negative; the government will not establish an official religion and the government will not interfere with the practice of religion. This amendment guarantees religious liberty but does not say what the government should do about religion and religious freedom.

Religious liberty is easy when there is only one religion. When there are many religions, the liberty of one group may conflict with the liberty of another. There has to be some coordination of several religions and some minor restrictions so that everyone can practice their religion or practice no religion. Today there are loud complaints about religious liberty being attacked but there is probably more religious liberty in the country than ever before.

The Roman Catholic Church, which was rather late in endorsing religious liberty, has been vocal in recent years about government threats to religious liberty. A Catholic group, the Little Sisters of the Poor, have gone to the Supreme Court on the basis that filing a form to exempt them from providing its employees with birth control coverage

violates their religious liberty. Leaving aside the Catholic Church's indefensible opposition to birth control devices, the claim seems frivolous. Catholics, like Protestants, are asked to make adjustments for the existence of everyone's religious liberty. A land of religious freedom would be a place where every individual and group could practice their religion or choose not to practice religion. The crucial test of religious freedom in the United States today is that Muslims receive the same status and the same protections of their liberty as has been achieved by Protestants, Catholics and Jews.

The choice for the United States is between the religious liberty of a few and the religious freedom of all.