

RELIGIOUS FREEDOM

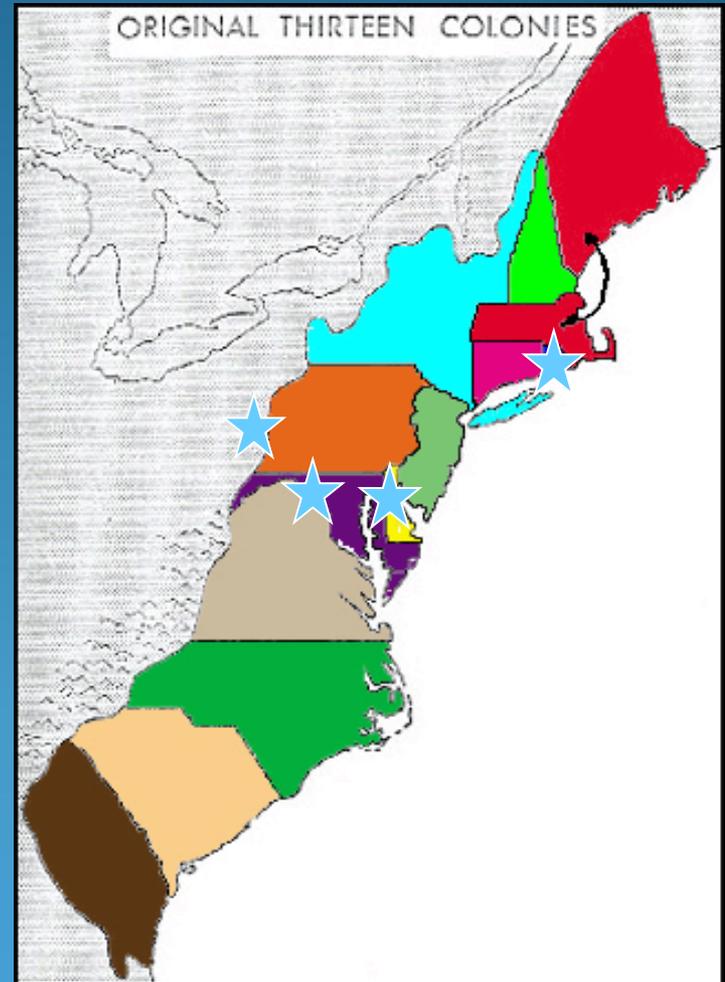
AN AMERICAN PERSPECTIVE

DISCUSSION POINTS

- COLONIAL ERA
- THE CONSTITUTION AND CONSTITUTIONAL ERA
- POST-MODERN CONSTITUTIONAL TENSIONS

COLONIAL ERA

- *OVERALL: MIXED RESULTS WITH CONFLICTING VIEWPOINTS ON RELIGIOUS FREEDOM:*
- GENERAL FREEDOM OF RELIGION STATUTES IN:
 - ❑ PROVINCE OF PENNSYLVANIA
 - ❑ DELAWARE COLONY
 - ★ ❑ RHODE ISLAND & PROVIDENCE PLANTATION
 - ❑ MARYLAND (until 1661)
- STATE-SPONSORED RELIGION (CHURCH OF ENGLAND OR CONGREGATIONALIST) IN:
 - ALL OTHERS COLONIES (well into the mid-1800s)



MARYLAND COLONY TOLERATION ACT 1649

“...No person or persons...professing to believe in Jesus Christ, shall from henceforth be anyways troubled, molested or discountenanced for or in respect of his or her religion nor in the free exercise thereof within this Province...”

FLUSHING REMONSTRANCE

1657

“[We] desire therefore in this case not to judge lest we be judged, neither to condemn lest we be condemned, but rather **let every man stand or fall to his own Master.**“

-- Group of English citizens in America who opposed the persecution of Quakers and the religious policies of the Governor of New Netherlands

TEST ACTS

1661

A series of English penal laws applied to Crown colonies:

- Served as a **religious test** for public office
- Imposed various severe **penalties** on Roman Catholics and “Nonconformists”
- **Required Church of England membership** for public employment

WALL OF SEPARATION (CHURCH V. STATE) 1664

“[A] hedge or wall of separation between the garden of the church and the wilderness of the world...”

-- Baptist theologian Roger Williams

BACKUS DECLARATION

1773

“[When] church and state are separate, the effects are happy, and they do not at all interfere with each other: but **where they have been confounded together**, no tongue nor pen can fully **describe the mischiefs** that have ensued.”

-- Isaac Backus, a prominent New England Baptist minister

THE CONSTITUTION

- ARTICLE 6: The Constitution provides that "no religious test shall ever be required as a Qualification to any Office or public Trust under the United States" -- the only mention of religion in the Constitution.
- BILL OF RIGHTS:
 - 1ST AMENDMENT: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."
 - 14TH AMENDMENT: The First Amendment establishment clause was fully applicable to the state governments.

CULTURAL BACKGROUND: GIFT FROM GOD

Before any man can be considered as a member of civil society, he must be considered as a subject of the Governor of the Universe. -- James Madison

Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? -- Thomas Jefferson

The Americans combine the notions of Christianity and of liberty so intimately in their minds that it is impossible to make them conceive the one without the other. -- Alexis de Tocqueville

CONSTITUTIONAL ERA

- Treaty of Tripoli (1797)
- Major Supreme Court Decisions:
 - ❑ Over 25 major decisions dealing with freedom of religion with an increasingly restrictive definition of religious freedom. For example:
 - ❑ Reynolds v. United States (1878)
 - ❑ Cantwell v. Connecticut (1940)
 - ❑ Everson v. Board of Education (1947)
 - ❑ Wallace v. Jaffrey (1985)

TREATY OF TRIPOLI

1797

“As the Government of the United States of America **is not**, in any sense, **founded on the Christian religion...**”

REYNOLDS V. UNITED STATES

1878

The Court believed the true spirit of the First Amendment was that Congress could not legislate against belief, but could legislate against action detrimental to the common good.

CANTWELL V. CONNECTICUT

1940

Incorporated the First Amendment's Free Exercise Clause, thereby applying it to the states and protecting free exercise of religion from intrusive state action:

- “...the Amendment embraces two concepts - **freedom to believe and freedom to act**. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society - ... safeguard the peace, good order and comfort of the community.”

EVERSON V. BOARD OF EDUCATION 1947

Defined the 'establishment of religion' clause: The state cannot:

- Set up a church.
- Pass laws which aid one religion, aid all religions, or prefer one religion over another.
- Punish anyone for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance.
- Levy any tax to support any religious activities or institutions.
- Participate in the affairs of any religious organizations or groups and vice versa.

WALLACE V. JAFFREY

1985

Decided that an Alabama law authorizing teachers to set aside one minute at the start of each day for a moment of "silent meditation or voluntary prayer" was unconstitutional.

POST-MODERN CONSTITUTIONAL TENSIONS

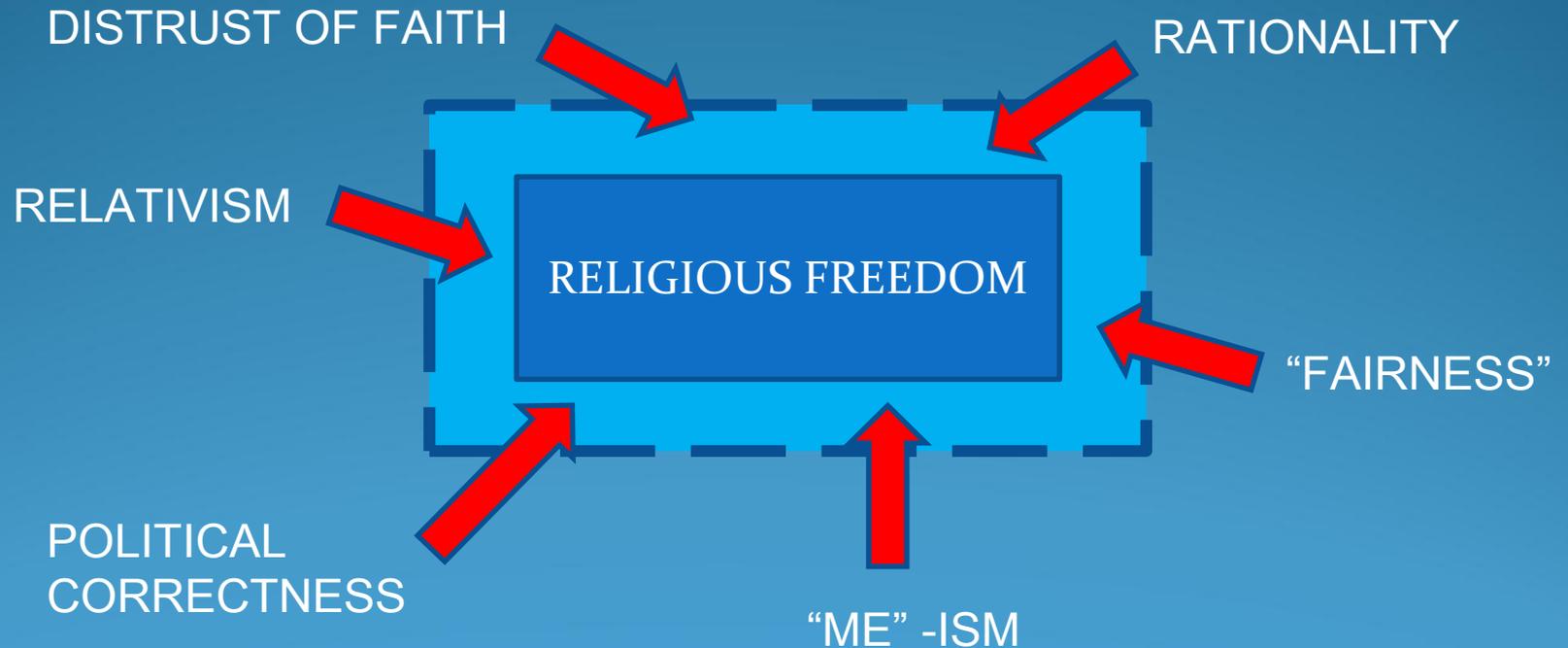
- Continued Assaults On Freedom Of Religion
- Extra-Constitutional Influences

GOVERNMENT DECISIONS AND ORDERS

OVERALL: Increasing governmental restriction on religious actions and organizations:

- HHS mandate for contraception, sterilization, and abortion-inducing drugs and “accommodation”
- Church structure and governance
- Christian students on campus
- Catholic humanitarian services

INFLUENCES IN THE PUBLIC SQUARE



WHAT IS A RELIGION?

Religion is the disposition to acknowledge our dependence on God through voluntary acts of homage; an organized system of beliefs, ceremonies, and rules used to worship a god or a group of gods

COMPARISON

TENET	SECULARISM	CATHOLICISM
HIGHER POWER	INDIVIDUAL/GOVERNMENT	GOD
MEANING OF LIFE	HERE AND NOW	ATTAINMENT OF HEAVEN
GUIDANCE	RELATIVISM/FAIRNESS POLITICAL CORRECTNESS	MORAL TEACHINGS OF SCRIPTURE AND THE CHURCH
FAITH	OUT-DATED SUPERSTITION	SUM OF TRUTHS REVEALED BY GOD IN SCRIPTURE AND TRADITION AND HOW WE ASSENT TO THOSE TRUTHS.

SECULARISM

Secularism as a new state-sponsored religion:

- All thought supported by tenets of rationalism, political correctness, and fairness
- Recognizes a higher power of self and/or a beneficent government
- Considers any other faith systems inherently out of date or superstitious
- Guided by the philosophy of “what’s in it for me now”

TENSION TO BE RESTORED



CATHOLIC TEACHING

- *Dignitatis Humanae* (Vatican II document):
 - *All people* are entitled to religious freedom.
 - Does not endorse a separation of religion and politics (the proper role for religion, and the Church in particular, to *guide and inform consciences*) thereby serving as check and balance to the power of the state.

The right of religious freedom is doctrinal, while the question of the *degree of separation of church from the state is variable*, depending upon the history and culture of a nation as long as they grant religious freedom to all.

US CONFERENCE OF CATHOLIC BISHOPS ASKS:

- *Can we do our good works without having to compromise our faith?*
- *Can we have a free, creative, and robust civil society or does the state alone determine who gets to contribute to the common good?*
- *If a religious entity is engaged with broader society, does it lose its "religious" character and liberties?*

TO PROTECT OUR RELIGIOUS FREEDOM

- *Engage our leadership.*
- *Become an educated, articulate and well-formed Catholic laity.*
- *Defend our beliefs in the public square and vote accordingly.*
- *Renew our voices versus the dominant culture.*
- *Continue to pray for our country.*

FINAL PRAYER

*Almighty God, Father of all nations,
For freedom You have set us free in Christ Jesus.
We praise and bless You for the gift of religious liberty,
the foundation of human rights, justice, and the common good.*

*Grant to our leaders the wisdom to protect and promote our
liberties; by Your grace may we have the courage to defend them,
for ourselves and for all those who live in this blessed land.*

*We ask this in the name of the Father, the Son, and the Holy
Spirit. Amen.*