

# The Church-State Divide

by Cardinal William H. Keeler

Religious freedom and the kindred issue of the relationship between church and state have a long and tangled history. For centuries, the things that were Caesar's and the things of God have badly mixed. Conscientious men and women have sought answers to such questions as: Does the state have the right to require citizens to take an oath of allegiance to the state, and also to the religion professed by the state's ruler? Does the church have power to release its members from their obligations to the state? Is religious heresy a civil crime, or is religious dissidence the equivalent of treason? With the wise and good unable to agree upon answers to these questions, the way has been left open for the unwise and sometimes malicious to abuse both church and state.

The issue came to what would become the United States in March 1634, when two ships touched the shore of what is now the state of Maryland, bringing 128 Catholic and Protestant settlers from England. Their passage had been planned and made possible by Cecil Calvert, the second lord of Baltimore, who had been named proprietor of the Maryland settlement by Charles I, England's Protestant king. Because Calvert was a royalist, he had the king's friendship, but he also was a Catholic and, as such, he knew the scorn and persecution that English Catholics had suffered since the reign of Henry VIII, no more intensely than during the reign of James I, Charles' father. Cecil Calvert's father, the first lord of Baltimore, had been England's secretary of state, but resigned that office soon after his conversion to Catholicism, when he refused to disavow the influence of the Church in temporal matters by swearing a required and pointedly anti-Catholic oath of allegiance to the king. Like their king, the Calverts were committed to England's colonization of the New World. They had another motivation, however - what they considered a sacred duty to find a refuge, removed from the tensions of their homeland, for their persecuted Roman Catholic brethren.

## From 1634 to the Drama of the Revolution

Something more than sparks of interest in the affairs of state touched the shore of Maryland in 1634 for, within five years, colonists had organized themselves into a political assembly and asserted claims that were unthinkable in England at that time. Not only did they substitute a representative government for royal absolutism, they also replaced an established church, accompanied by the suppression of religious dissidents, with a society that allowed for religious differences. Their historic Maryland Ordinance of 1639 is remarkable both for its assumption of the principle of "consent of the people" and for its assurance of religious toleration. This act was given new force in 1649 with the passage of legislation probably written by Calvert himself. More than a century later, these Maryland initiatives would provide a model for the drafters of the Declaration of Independence, the U.S. Constitution and the Bill of Rights.

But the history of the Maryland colony also demonstrates that good things once obtained must be carefully guarded and nurtured. The Maryland experiment in toleration was grievously threatened when the English Parliament put the Protestants William and Mary of the Netherlands on England's throne and Puritans in England and the American colonies became overly zealous to make laws more "orthodox." In Maryland's first capital, St. Mary's City, the Catholic church was razed to the ground. In 1704, the Maryland Legislature passed an act "to prevent the growth of popery." It also forbade priests to baptize children whose parents were not Catholic, outlawed the public celebration of Mass, and precluded Catholics from inheriting or purchasing land. Later laws made Catholics ineligible to vote, hold public office or join the professions of law, medicine and education. A law enacted in 1756 doubled real estate taxes of Catholics - the double tax remained in effect until the American Revolution 20 years later. It was that revolution and its immediate, nation-building aftermath which returned to Maryland the full reach of the rights and liberties that its first settlers had proclaimed in 1639.

Today in the United States, a guarantee of religious freedom and toleration is enshrined in the First Amendment to our Constitution, which has been strengthened and supported by more than two centuries of tradition. And the fact that there is no serious threat to religious freedom in the United States today is due in no small part to the Carroll family of Maryland. First among them is Charles Carroll of Carrollton, the far-sighted grandson of the original Carroll settler, who was determined that what had taken place in 1639 should come about on a grander scale for the freedom not only of Maryland but of all the American colonies. Only then, he knew, would there be a resurrection of the spirit of the Maryland Ordinance. And so he fully invested his energies, his reputation and his fortune in that cause.

In the drama of revolution that unfolded in the middle of the 18th century, Maryland played her part, and the Carrolls were her most convincing protagonists. Charles Carroll himself signed the Declaration of Independence, the only Catholic to do so; and another cousin, Daniel, signed the Constitution and helped draft its First Amendment, which both prevents the establishment of a state religion and supports the unfettered exercise of religion by all citizens of the United States. Daniel's brother was John Carroll, first Catholic bishop of Baltimore and, as such, because Baltimore was the first diocese in the New World, first bishop of the United States. Bishop Carroll would experience in his illustrious career the benefit that came to the Church when written law made the state delicate and reserved in its dealing with the Church.

### **Misinterpreting the 'Wall of Separation'**

We shift now to our own day. In the United States, we have watched with interest as debates about the proper relationship of church and state have unfolded over the past decade in the new democracies of Central and Eastern Europe. Those debates are often remarkably similar to our own. And that very fact tells us something important: The tangle of issues involved in the relationship of church and state is built into democracy, for democracy is a never-ending experiment in a people's capacity to be self-governing. Debates over church and state are not aberrations; they are natural. They will not go away. But the fact that these issues are never resolved with finality should not disappoint us or alarm us. Rather, we should see the ongoing debate about the meaning of religious freedom and the right relationship of church and state as an opportunity to strengthen the religious and moral foundations of our democracies.

On the other hand, we should also concede that the debate is often miscast and based on misunderstandings. The idea that, in a democracy, there must be a "wall of separation" between church and state is not one of our finer exports to the world. In fact, as most of us know, the phrase "wall of separation" does not appear in the U.S. Constitution or in any law. It is a metaphor of interpretation, and a deeply mistaken interpretation at that, of what the Framers of the Constitution meant when they determined that the federal government would support no single denomination in the new American republic. Because there has been so much misunderstanding about the Framers' intentions, let me comment briefly about that.

In the American constitutional context, the fact that the federal government was forbidden to favor, or "establish," any denomination as an official national church was certainly not meant as an act hostile to religion or to Christianity. On the contrary, a careful reading of the First Amendment to the Constitution and the debates that led up to its adoption supports the claim that there was to be no "establishment" of religion in the United States precisely in order to foster the "free exercise" of religion. "No establishment" was not an end in itself. It was a means to the goal, and the goal was "free exercise."

This constitutional provision, I suggest, is an understanding of the relationship between church and state that is entirely congruent with the teaching of the Second Vatican Council in *Dignitatis Humanae*. The Declaration on Religious Freedom affirmed the fundamental right of the human person to be free from coercion in religious matters, and the fundamental obligation of all men and women to seek the truth and adhere to it. "God wishes to be adored by people who are free;" Cardinal Joseph Ratzinger, prefect of the Congregation for the Doctrine of the Faith, wrote in the "Instruction on Christian Freedom and Liberation." That is a sentiment that the Framers of the U.S. Constitution would have found wholly congenial.

This "personal" dimension of religious freedom is familiar to all of us. But *Dignitatis Humanae* also had what I would call a "public" meaning. The council fathers, by declaring the state incompetent in theological matters, opened the public space on which the free exercise of religion can flourish. In refusing to put the coercive power of the state behind its own truth claims, the church is not only true to the nature of its proper evangelical mission; the church, by helping to de-sacralize the state, helps create the social and cultural conditions in which that mission can go forward.

The second point to be made is that, whatever else the institutional "separation" of church and state might mean - and its meaning will be different in different historical and cultural situations - it cannot mean the separation of religious conviction from public life and from the democratic debate over how the citizens of a democracy should order their lives together. In countries like the United States, where the overwhelming majority of citizens are believing Christians, to drive religiously informed moral argument from public life would be an uncivil act of discrimination. To be sure, Christians in public life must learn how to make their moral arguments in such a way that those arguments can be engaged by those who do not share our theological convictions. But any suggestion

that religiously informed moral argument in the public arena is a threat to democracy must be rejected. In a genuine democracy, everyone should be welcome to bring the sources of their most deeply held convictions to the public square.

This brings us, in the third place, to the question of tolerance. Tolerance is sometimes understood to mean the avoidance of differences. This, I suggest, is a mistake. In genuine democratic discourse, tolerance does not mean avoiding differences. It means engaging differences within the bonds of civility and civic friendship. Will this lead to debate, even vigorous debate? Of course. But vigorous public moral argument is the lifeblood of democracy. Those who would suggest that the only public arena safe for all citizens is a public arena shorn of religiously informed moral convictions have misunderstood both the nature of true tolerance and the history of the 20th century. For the alternative to a robust public arena in which citizens are locked in serious moral argument is not a "neutral" arena; it is an arena in which secularism soon becomes the established and governmentally sanctioned "faith." We are, I must confess, far down the road to this sorry state of affairs in the United States, although I would insist again that this was not what was intended in the U.S. Constitution.

### **Evangelizing Society as Catholic Knights**

In making the case for religiously informed moral argument in a democracy, and in insisting that the state is, by its nature, a theologically incompetent institution, we should also recognize that, in public life, the Church must acknowledge the limits of its own competence. As Pope John Paul II has insisted, Catholic social doctrine is an "orientation;" not a set of policy prescriptions. The universal Church, the pope teaches, does not offer detailed technical answers to questions of public life and public policy. What it does propose is a vision of the free and virtuous society, rooted in a Christian view of the inalienable dignity and value of the human person, to frame the debate over economic policy, social welfare policy, educational policy, and so forth.

And as the Holy Father has said on many occasions, this means that the principal agents for bringing the Church's social doctrine to bear in public life are the laity. A major task of those of us charged with pastoral authority in the Church is to form and equip the laity for their unique role as evangelists of society, including politics. This does not dispense us, as citizens and as religious leaders, from making our own reasoned contribution to the public debate by speaking and writing to those who make, enforce and interpret the civil law, as well as to our own people and the general public. As Catholic Knights and families, we must think again, and think more deeply, about the right relationship of church to state in a free and virtuous society. The United States, with its history of dealing with this issue, can lead the world's democracies in thinking again about the true meaning of tolerance, and in providing a model of religiously informed public life in which differences are respected and engaged, not ignored or deplored.

Copyright © 2000 Columbia Magazine (Knights of Columbus)

Cardinal William H. Keeler of Baltimore is a member of Cardinal Sheehan Council 205 in Baltimore. This essay is based on a speech entitled "*Religious Freedom: Challenges and Opportunities in a Democracy*" that he delivered at The Catholic University of Lublin, Poland, in November of 1999.

Posted on StayCatholic.com