

## Week Six: The First Amendment (Part One)

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### QUESTIONS

#### Today's:

What is the relationship between the government and "religion"?

#### Another day's:

What role should faith have in running the government?

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### KEY CONCEPTS

The Constitution and Bill of Rights effectuate a mix of ideas:

#### • Good Government

- What do good governments do and not do?
- Impartiality - not unfairly favoring one over another

#### • Natural Rights

- Rights born into people
- Gov't should not interfere with them

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### KEY CONCEPTS

#### Fundamental rights:

- The Constitution, as amended, recognizes a number of fundamental (natural) rights
- These rights are protected *against* government interference
- Even when the interference is based on the will of the majority

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### KEY CONCEPTS

#### Fundamental rights:

- Expression of ideas
- Privacy
- Family:
  - To have children (Skinner, 1942)
  - To marry other races (Loving, 1967)
  - To teach kids your native language (Meyer, 1923)
  - To marry same sex (Obergefell, 2015)
- Religion

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### RIGHTS OF CITIZENSHIP

#### Acts 16:16

- Paul drove the spirit out of a fortune-telling slave
- Magistrates ordered that Paul and Silas be flogged and imprisoned
- Earthquake and conversion of the jailer
- Paul protests that, as a Roman citizen, he was beaten and thrown in prison
- Paul won't agree to leave quietly - demands the magistrates come to him

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### RIGHTS OF CITIZENSHIP

#### Acts 21 - 23

- Paul preached in Jerusalem; crowd turned hostile and beat him
- Rescued by Roman soldiers, who planned to flog and interrogate him
- Paul raised his Roman citizenship in demanding better treatment
- Soldiers transported Paul to Caesarea so he would not be killed

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### HISTORY AT A GLANCE

#### How we got to having a Bill of Rights:

- Constitutional Convention took place from May to September, 1787
- The proposed Constitution was sent to Congress for transmittal to the states
- From there, it went to the state ratifying conventions

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### BILL OF RIGHTS

#### State conventions:

- There was opposition to the Constitution in the states
- Federalists said the Const gave the federal government no power over religion
- Anti-federalists disagreed, worried this power could be exercised in the future

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## BILL OF RIGHTS

**Patrick Henry — religious protection should be plainly stated:**

**“Wherefore is religious liberty not secured?”**

- Religious men should not have to trace through a complex legal argument to figure out if they have been guaranteed freedom of religion
- Thomas Jefferson echoed this argument in a letter to James Madison in 1787

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## BILL OF RIGHTS

**The Gentleman’s Agreement:**

- Agreed as to the interpretation of certain provisions that worried the Antifederalists
- Agreed to come back and amend the Constitution with a Bill of Rights

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## JAMES MADISON

**Madison’s role:**

- Drafted some articles that he believed in, and others that he felt were called for by the Gentlemen’s Agreement
- Those in favor of the Bill of Rights used the Gentleman’s Agreement as leverage
- Likely relied on the Virginia Statute for Religious Freedom

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## VIRGINIA STATUTE

**Madison’s and Jefferson’s Statute for Religious Freedom in Virginia (1786)**

- God created the mind free
- Fallible men shouldn’t have dominion over others’ choices and beliefs in matters of faith
- Shouldn’t be able to force a person to support a religion in which he does not believe

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## FIRST AMENDMENT

**The problems to be solved with the 1st Amendment:**

- No government control/influence over a person’s relationship with God
- No compelled support of religions via taxes for religion
- Continue the religious tolerance that followed the *intolerance* in early New England

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## FIRST AMENDMENT

**First Amendment:**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof....

**Two clauses:**

- Establishment clause
  - No single sect; no preference for Christianity
  - Not a tolerance for other religions - an equal footing
- Free exercise clause - right to follow conscience on what to believe/how to worship

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## TENSIONS OF THE TIME

**The tension of the time, from newspaper editorials:**

- It’s not the business of government to directly advance religion; but
- Society is better off if people are religious

Religious people at large wanted an interactive, symbiotic relationship between religion and government

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## A TRAP FOR THE FAITHFUL

**“Society is better off if people are religious”**

If this is true, then what is the proper role of the faith community in American society?

- A cop on the beat?
- The voice of morality?
- A shepherd to the path of salvation?
- John 13:34; We’re still trying to figure this out....

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## PENDING CASE

**Masterpiece Cakeshop, Ltd., v. Colorado Civil Rights Commission**

Bakery owner refused to make a custom cake for same-sex couple’s wedding.

Issues:

- Is baking a cake an expressive activity protected by the 1st Amendment?
- If so, which rights win?
  - The couple’s right to equal treatment, or
  - The baker’s rights of religious freedom?

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