

# The Arlin M. Adams Center FOR LAW AND SOCIETY

## Susquehanna University

The March 31, 2005, dialogue on “Separation of Church and State: Helping or Hindering Religion?” is the fourth in a series of annual lectures sponsored by The Arlin M. Adams Center for Law and Society at Susquehanna University. Established in 2001, the center focuses on the law and its impact on institutions and people, providing a rich learning and experiential resource for students, faculty, visiting scholars and members of the community.

The family of Sigfried and Janet Weis and The Degenstein Foundation of Sunbury, Pa., with support from the Annenberg Foundation, founded the center in honor of prominent Philadelphia jurist Arlin M. Adams whose distinguished legal career includes 17 years on the bench of the 3rd U.S. Circuit Court of Appeals.

The center explores the significant place law occupies in our ever-changing social, political, economic and cultural life. It provides a forum for thought-provoking examination of contemporary issues in areas such as human freedoms and civil rights, social responsibility, technology and privacy, and constitutional interpretation.

Susquehanna’s emphasis on undergraduate liberal arts education and pre-professional studies offers an ideal home for the Adams Center. The center supports activities and resources that expose students to the theory and practice of law through internships and field experiences, networking, professional seminars, independent study, research projects, and enhanced library resources. The interdisciplinary programs and activities of the Adams Center enrich and inform civic life in the Central Susquehanna Valley and nationally.

# Introductory Remarks

The Reverend Mark Wm. Radecke

Is it legally permissible to display a nativity creche on publicly owned land? If not, does it become legally acceptable if Rudolph, Frosty and a few elves join the Magi in attending the Holy Birth? Is it legal for a sixth-grade public school teacher to wear a cross as jewelry in class? What about a Star of David? What about a turban? Does the Constitution allow public prayer at governmentally sponsored events? If so, to which of the many gods, goddesses and godlets in which Americans believe should such a prayer be addressed? Or is such prayer simply, as the Supremes have said, a ceremonial adornment whose function is merely to solemnify an occasion? The First Amendment to the Constitution of the United States includes this sentence, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." One short sentence with two clauses which have come to be known as the establishment clause and the free exercise clause; two clauses creating the tension that is the subject of this evening's dialogue.

My name is Mark Radecke and it is my privilege to serve as chaplain to Susquehanna University and in that capacity as moderator of tonight's conversation.

Examples of what are commonly called church-state questions abound in contemporary American culture and society. In addition to the examples already cited, we could note the phrase "under God" in the Pledge of Allegiance, prayer at public school activities, posting the Ten Commandments in public places such as courthouses, teaching evolution and intelligent design, to name but a few.

Tonight we will hear two different perspectives: one concerned with keeping a strong line of demarcation between church and state, and the other concerned that too strict a separation hinders individuals' free exercise. As we consider these

complex questions we are fortunate, one might be tempted to say blessed, by the presence of two outstanding scholars, about whom more will be said momentarily.

The format of tonight's dialogue is as follows. First, the aim is, in fact, dialogue -informed discussion. This is not "Crossfire" or "Hardball." Indeed, among the many contributions of the annual Adams Center lectures has been the superb modeling provided by the speakers -passionate and articulate proponents of irreconcilable viewpoints who demonstrate how intelligent people with deeply held convictions can and do engage in constructive dialogue and civil argumentation in the very best sense of those terms.

We will hear first from Professor Jacob.

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University chaplain since 1997, the Rev. Mark Wm. Radecke came to Susquehanna after serving as pastor of Christ Lutheran Church in Roanoke, Va., for more than 18 years. Under his leadership, the congregation resettled 64 refugees from Laos, Cambodia, Vietnam and Afghanistan. Radecke describes the ministry of refugee resettlement as an example of "institutional separation and functional interaction" between church and state. A native of Baltimore, Radecke holds a bachelor of arts degree in theatre from the University of Maryland Baltimore County, a master of divinity degree from the Lutheran Theological Seminary at Gettysburg, a master of sacred theology degree in church and society from Trinity Lutheran Seminary, Columbus, Ohio, and is currently a candidate for the doctor of ministry degree at Princeton Theological Seminary. He is the author of three published volumes of sermons.

Radecke is coordinator of the annual Susquehanna University Central America Service Adventure (SU CASA), a highly successful two-week service-learning course and mission trip to Costa Rica and Nicaragua. He received the Joel Cunningham Award for Outstanding Service-Learning Faculty Member in both 1999 and 2001, and was named the Omicron Delta Kappa Faculty Mentor of the Year in 2001.

# The Dialogue

Professor Bradley P. Jacob

Thank you, Chaplain Radecke. It is an honor and a privilege to be here. This is my first visit to Susquehanna University, and I have received such a wonderful reception today and great hospitality from everyone involved. I am grateful to President Lemons, Professor DeMary and all those who helped make this possible.

Let's begin here: The United States Supreme Court's establishment clause-jurisprudence is a mess. Probably Professor Gildin and I could agree on that much. The Supreme Court in the 1970s embarked on a series of cases that took a very strong, strict separationist approach. They have since backed off from many of those cases, but have left no coherent doctrine to replace them. The current case law is very confusing, with various tests that pop in and out: the much criticized Lemon test, which Justice Scalia has described as an "undead ghoul," every time you think it's finally in the grave, it pops back out again to haunt the unsuspecting; a coercion test; and an endorsement test.

One never knows. You get the impression sometimes that the justices decide how they want the case to come down and then pick the test that seems best to get them to that result. This is different from the court's free exercise jurisprudence, which actually has been quite clear since 1990: religion loses. That may not be the desirable result, but it is a lot clearer.

Tonight, I could stand here and give you a lot of details on cases about the establishment clause. That is not my intention, because I don't see that as the best use of our time together. Instead, I want to fly a little higher. I want to get out of the "trees" of the case law and take a look at the "forest" of the philosophy and the understanding of the establishment clause and what that means. So let us consider "separation of church and state" at that level.

There is one other background issue that I am not going to go into tonight, an issue involving the original meaning of the establishment clause as a federalism provision. The First Amendment, as you may or may not know, begins with the words, “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.” That provision in the First Amendment was intended to keep Congress -that is, the federal government -out of the business of religious establishments. The national government could neither create an established church nor interfere with state religious establishments. When the Supreme Court began incorporating the Bill of Rights against the states through the due process clause of the 14th Amendment, they included the establishment clause. It doesn’t make any sense. The court has taken a federalism provision and applied it against the states, which is crazy, but that is another day’s conversation as well. For tonight’s purposes, we will just accept it. We will agree that the establishment clause applies against the states. There is some sort of requirement of religious non-establishment that applies to the states as well as to the federal government.

Professor Gildin and I have been asked to deal with the question of separation of church and state. Does it help or does it hinder religion? Well, my answer would be “Yes and no, depending on what you mean by ‘separation of church and state.’” The phrase “separation of church and state,” of course, is not in the Constitution. Many Americans are confused on that topic. They think that there is something in the United States Constitution that says “separation of church and state.” It is not there. It was a phrase that Thomas Jefferson coined in a piece of private correspondence as a shorthand expression to try to capture some of the flavor of the principles of religious freedom that are in the Constitution. Jefferson never intended that this offhand phrase, tossed into a letter, would become a core doctrine of law in the United States Supreme Court. That did not happen until the middle of the 20th century.

However, I say this not to deny that the Constitution contains a principle of separation of church and state. I believe that, although those words are not in the Constitution, the principle is consistent with the principles of religious freedom that are contained in the Constitution, in the notions of non-establishment and free exercise, which are at the core of the First Amendment’s religious guarantees. So separation of church and state is true in a sense, but it is also not true in a sense -or, at least, it should be untrue in a sense. Robert Frost said, “Before I built a wall, I’d

ask to know what I was walling in and walling out.” What is the wall of separation of church and state? What is it that we are walling?

As it is often interpreted today, and certainly as it comes out of the Supreme Court’s establishment clause jurisprudence of the 1970s, the separation of church and state from the establishment clause becomes essentially a no-religion provision. In this view, you end up with the First Amendment, as applied to the states through the 14th Amendment, saying two completely contradictory things. You have a free exercise clause which is pro-religion. Good! The government has to permit people to have religion. And then you have the establishment clause, which some people will read as saying, “The government must stop religion. The government must be anti-religion. We have to keep religion out of public life, out of the public square, out of the public arena.” And for many folks, this creates quite a tension and almost a paradox.

How do you deal with this Constitution at the same time being pro-religion and anti-religion? Judges have struggled with this. You will see opinions where they talk about trying to find “play in the joints” between the good religion that the free exercise clause requires the government to encourage and the religion that the establishment clause requires the government to stop. Some ask whether there is any wiggle room between free exercise and non-establishment. Is there any place where the people actually have choice, where decisions can be made about religion?

The problem here lies in thinking of the establishment clause as some sort of individual right to be free from exposure to religion. It is no such thing. It was not intended by the Founders to be any such thing. The right of free exercise is an individual right, like free speech. I have a right to practice my religion. I may be a Christian. I may be a Jew. I may be a Muslim. I may be a secularist. I may be an atheist. I may be anyone of a number of things. I may practice my religion freely. The government may not stop me from doing that.

The establishment clause, on the other hand, does not create an individual right for me to be free from exposure to other people’s religion. It is not a right. The establishment clause is a different kind of provision than the free exercise clause. The establishment clause is, very simply, a restriction on government activity. It is a structural limitation saying that government itself may not be in the business of trying to coerce people or encourage people to change their religious beliefs. The

government should not be evangelizing for any faith. That is not the government's business. The establishment clause says to government, as an institution, "Stay out." Stay out of religious decisions. Let those be handled by the people. Let the individuals and their religious institutions and their communities celebrate their religious beliefs in their own ways. The establishment clause does not require the government to stamp out all religion that may creep over into the public arena.

So separation of church and state is a very good thing. Good for religion, good for government, good for all of us, if we understand it as separation of institutional church from institutional state. The church should not be controlling the government. The government should not be controlling the church. This is a lesson that the framers of our Constitution knew; they did not want a national government attempting to control the religion of Americans, and in the two-plus centuries that have passed, we have seen dramatic evidence of the wisdom of that decision. Look at the countries in Europe today that still have established churches. Christianity, the established religion in those nations, is in desperate trouble in most of those nations. It has been pretty much destroyed by being in bed with the government.

No, our Founders had a different idea. They believed in free religious practice for everyone. They came to this out of a Christian worldview that animated the thinking of most of the Founders. It was the Christian principle that an individual's religion must be uncoerced; it must come from the individual conscience. It cannot be imposed by anyone externally.

This freedom, however, was not only for Christians. The Founders set up a government with religious freedom for everyone. They set up a government under which every individual may practice his or her religion, no matter what it may be, and with a separation of institutional church from institutional state. They did not set up a scheme that required the public square to be sanitized from religion. When you take that approach -when you start viewing establishment/non-establishment as an individual right to be free from exposure to religion -you end up with this tension, this conflict.

The two clauses of the First Amendment, which were meant to be complementary and work toward the same end -religious freedom -are now being perceived as being in conflict and tension, fighting against one another. The collision goes away when we understand that the establishment clause is a regulation of govern-

ment. It limits the government's authority -the government's jurisdiction, if you will -to enter into matters ecclesiastical. The problems arise when people on either side try to use the government to promote their particular worldview, their particular religion, whether it is a theistic religion or a non-theistic religion. Let me give you a couple of examples.

When individuals try to use the coercive power of the state through the public schools to run devotional exercises in the classroom, you end up with a violation of the establishment clause because the government is putting itself in a coercive spot and encouraging children in a public school, in a government-run institution, to believe in a certain way. The students would receive devotional training from a public school teacher. The Supreme Court in the early 1960s found that this violated the establishment clause. This ruling was absolutely correct, although a lot of conservative Christians are still fighting that battle today. The Supreme Court was right! If you put your kids in a government-run school, you don't want the teachers in that school trying to shift their religious beliefs. You want them to come home at the end of the day with the same set of religious views they went in with in the morning. That is an establishment clause problem from one side of the spectrum.

Here is a problem on the other side. I used to work for the Christian Legal Society. The Christian Legal Society has student chapters in law schools around the country. At many public universities there has been an effort to deny these Christian Legal Society student chapters the right to exist as student organizations on campus. Why? Because the Christian Legal Society organization would say that to be a leader of this chapter -not to come to a meeting, not to come to a Bible study, not to come hear a speaker, but to be a leader of this chapter -you have to believe in the Christian faith. You have to acknowledge a statement of faith because it is a religious organization. Many of these universities are saying, "No, we have a non-discriminatory policy. We don't allow anyone to discriminate on the basis of religion. Therefore, you're gone. You can't meet on campus. You can't be a student group." This is the flip side of the coin. It involves people trying to use the coercive power of the government to push religion aside. Instead of simply saying, "You know what? If we can have a Democrat student group and a Republican student group and student groups that operate for all these different purposes, we can also have a Christian student group or a Jewish student group or any other kind. We could have a secular humanist student group if they really want to get together and meet." Instead of

taking that position, people will try to use the coercive power of the government to force the religious student groups out of the public school or university.

What happens when you do that? You end up with what Richard John Neuhaus has referred to as the “naked public square.” You end up with an effort to sanitize religion from public life. This view really dominated the Supreme Court back in the 1970s, and it motivated many of the Supreme Court’s opinions in that era. The assumption was that you could separate the world into “religious” stuff and “secular” stuff and that the religious stuff doesn’t belong in public life, so if you are going to give a political speech or get involved with some issue in the community, you must do that as a “secular” person. If you are going to be religious, you must do that in your home, in your church, or somewhere in private. Don’t bring it into the public arena.

That is not what the Founders intended the establishment clause to do. That was not its purpose. The purpose was not to sanitize religion. The purpose was to say that the government should not be pushing a particular set of religious views. “Establishment of religion” was a well-known legal term of art at the time the Constitution was written. It had a fairly specific meaning. The Founders knew what religious establishments were. Just about all the states either had recently had them or still had them at the time the Constitution was enacted. The Founders never believed, they never dreamed, that this First Amendment that they were writing was someday going to require all vestiges of religion to be removed from American society. They believed that they were stopping the national government from forcing people to give money to a religious denomination they did not support or to go to religious services or be coerced in some way to show allegiance or support for a religious entity in which they did not believe. No, religious freedom says that the government should not be coercing people in these ways.

Let me quote from a book called *A Nation Dedicated to Religious Liberty*, written by Judge Arlin Adams. I figured that if I was going to quote somebody, Judge Adams was a pretty safe choice for tonight’s meeting. Judge Adams said, “The essence of an establishment, therefore, was government coercion of conscience.” The framers intended the establishment clause to forbid discriminatory aid among religions and those forms of nondiscriminatory aid to religion that exert a coercive influence on religious choice. They did not intend the clause broadly to proscribe aid to religion per se.

The establishment clause does not require the government to sanitize religion from our society. It does not require us to become a secular people. It does not even set up a secular government. It sets up a government that does not coerce people in their religious beliefs; a government that remains neutral and allows individuals to pursue their own religious convictions according to their own choice. They do not have to remove their worldview from the public square. They do not have to take off their religious identity. That is why the Supreme Court was so fundamentally wrong in its view in the 1970s -this view that the government can separate “religious” stuff and “secular” stuff, and that you or I or anyone else could say, “Now, I am going to go into Congress to debate a bill, so I am not going to think religiously. I am just going to go as a secular person and do secular stuff.”

Any serious religious belief -whether it is Christian, Jewish, Muslim, secular humanist, atheist, whatever it may be -affects who you are. It affects your whole person. I can no more give up being a Christian to give this talk, or to do anything else in public life, than I can change the color of my skin or any other fundamental part of who I am.

And if the government, including the courts, assumes that “separation of church and state” means that we have to separate out our religious identity and leave it outside the public arena, that is not only bad for religion, it is bad for all of us. It is bad for the United States. The establishment clause, properly understood, creates a level playing field. It creates a society in which believers in all religious worldviews, even those who consider themselves nonreligious, have full rights to practice their beliefs, and they never lose their rights of citizenship; they never lose full participation in anything the government is doing. It does not require the public square to be sanitized of religion. Thank you.

# The Dialogue

Professor Gary S. Gildin

I want to first thank Judge Adams, President and Mrs. Lemons, the Apfelbaum family, the Degenstein Foundation, Professor DeMary and her faculty committee. It is a privilege and such a rare opportunity, as the chaplain talked about, to engage in a civilized dialogue about issues that don't have any simple, cost-free answers. People are honest and reflective. Whatever position they articulate, they recognize there's a reasoned and reasonable opposing side to the issue.

I also want to praise Professor Jacob for his thoughtful and effective analysis. In a sense, it's too reasoned; our separation within the topic of separation would be rather modest because Professor Jacobs was careful to distance himself from what he coined "the particular perspective held by some conservative Christians." I'm going to try to set up the more extreme arguments that you hear about this point. I think it's especially appropriate, in light of Judge Adams' distinguished career as a jurist, to try and use these 15 minutes to demonstrate how the framing of the issue often can be instructive in shedding additional light on the age-old debate, which has raged and will continue to rage, over the proper linkage or the proper separation between church and state.

We have to appreciate -this is the more extreme argument that we did not hear -how worshippers of majority faiths question why their rights are violated when the law stands as an obstacle to their government promoting their values; to their government acknowledging their symbols; to their government refusing to further their truths; to their government endorsing the religion's good works. Why, the mainstream faiths argue, is law hindering my religion, whose end is indisputably the betterment of the human condition? This is especially galling when you not only

know that you are engaged in a life and a business of good works in your faith, but you also represent the majority view. Isn't it the essence of democracy that we follow the rule of the majority? Why is it, then, that when the majority of people harbor a certain faith tradition, the law nonetheless prevents the government from furthering or endorsing that position? Doubly troubling is the fact that it is unelected judges who are overriding the will of the majority to do these benevolent deeds.

As I hope to demonstrate, this frustration is inherent in constitutional democracy as a whole. Every individual, as a price of being in this free society, has to compromise his or her autonomy to act when those actions have the effect of limiting others' rights. That is true even if you are a member of the majority. It is especially important to recognize that our Constitution is going to limit majority rights because those folks who are members of a majority -whether they be economic majorities, racial majorities or religious majorities -are most able to inform and affect their legislators. Only the people who are outsiders -minorities challenging the status quo, having no where else to turn but the courts -must rely upon invoking the Constitution for their protection.

What we see being debated now -majoritarian cries of discrimination against their ability to practice their religion and to have their faith supported -is reminiscent of the same debate that was emerging in the 1950s and 1960s as persons of color sought to achieve their equality. In response, members of mainstream racial majorities were saying, "What about my liberty to discriminate? Why does the government interfere with that freedom?" The same principles are animating the current controversy over separation of church and state.

This program originally was going to be entitled, "How high ought the law construct the wall of separation." My father-in-law is a life-long construction worker and I felt terrible that I asked, "What is it called when you stack a brick up -stands?" That wasn't right, and he corrected me that they're "courses" of brick. I am going to examine three possible levels or courses of brick.

If we wanted to build the tallest wall- three courses high -our wall of separation would absolutely prohibit religion. If you truly wanted to separate church and state, the state would prohibit religion, which was, by the way, the regime in the former Soviet Union. Religion would not only be separate from government, religion would become non-existent. Of course, our American legal system is completely the

opposite. The Constitution provides that Congress shall make no law that prohibits the free exercise of religion; this is true even if that law is approved by majority.

The state of Wisconsin passed a compulsory education law that provided that every student shall remain in public school until the age of 16 -that was the majority's judgment on what was best for the welfare of its children. However, the faith tradition of the Amish dictates that at some point shy of age 16 -I believe it was eighth grade -their children begin to work in the community, furthering their education but also furthering their religiosity. The majority rule butted heads against the religion of this minority. The court found, under the free exercise clause, that the Amish were entitled to be exempt from this majoritarian law because it violated their faith.

This manifests the core aspect of constitutional protection of religious liberty. The First Amendment does not exist to ensure that majority faith traditions are protected. They are protected by the legislative process. We are never going to see a law that purposely or accidentally burdens a fundamental tenet of a Judeo-Christian faith. It will not happen; it would be political suicide for any single legislator to dare propose such a law, much less vote for it. It is non-mainstream worshippers who cannot inform, much less affect their legislators, who are going to be victims of general laws. The free exercise clause recognizes that the purpose of our Constitution is to protect those minority faiths. There is no argument on either side of the debate for that top course of separation, which would prohibit religion.

By the same token, there is no opposition to installing the very first course of brick. Everybody agrees that we need to start to build this wall and that the state may not have an official religion that it endorses and promotes. The framers clearly repudiated the English model. The Anglican Church was the official state religion. There has been a lot written about the history of the establishment clause, but it is uniformly accepted that we were not going to have a United States national religion that was going to be the analog to the Anglican official state church religion. The reason is that while the official state religion works perfectly if you happen to be a member of that endorsed majority faith, if you are a member of the non-official sect, you become an incomplete and second-class citizen based upon your religion. That robs us of a vital aspect of our humanity -the right to engage in our own spiritual quest to find the meaning of our existence, our own relationship with, our own definition of, the Creator. The United States is not going to have an in-house official

religion because that diminishes the rest of us. To add insult to injury, worshippers of other faiths would find their tax dollars being used to support the state religion.

So there is nothing, quite frankly, to be said in opposition to that first course of the wall, just as nobody is contending that we ought to build the wall to the top to ban religion. I think it is very important that everybody in this room appreciate, despite the vitriol of the debate, there is no disagreement over those two fundamental principles. The dispute is whether, given that the government must tolerate individual practices of other faiths and may not officially endorse as orthodox a certain faith, government may nonetheless use its official status, its public square, its public funds to support a particular majoritarian mainstream religious viewpoint.

As the chaplain talked about in his wonderful introductory remarks, we've seen this issue arise when the government itself decides to post or to permit the posting of Ten Commandment monuments at the entries of courthouses and legislatures. The issue manifests itself when not too far from here in Dover, Pa., a school board mandates that intelligent design be taught in its curriculum as an alternative to the theory of evolution. We see it up in Bradford, Pa., when the government sends its tax dollars - its taxpayers' dollars, its taxpayers-of-all-faiths' dollars -to the social service arms of churches running programs to help train prisoners in vocational opportunities, with the church mission as an integral part of that training. And we've seen the issue's most recent manifestation, played across the national headlines (although the "R" word was never used), when our federal government passed special legislation to allow the parents of Terri Schiavo to go to federal court to override eight years of decisions of state court judges because those opinions are not consonant with a certain religion's viewpoint about the sanctity of life.

The frequency of these urgings toward involving government in the promotion of faith has increased significantly because of the ascendancy of conservative Christian views -or at least the vocalizing of those views -in the government sector.

Who cares though? The government is not officially endorsing these faiths as the official religion of the United States. You have to look again to the consequence to members of minority faiths. What's wrong with the Ten Commandments on the public square? What's wrong with a prayer at the beginning of a school day? What's wrong with positing creationism as an alternative to evolution? No problem is posed from the perspective of the majority believer. But what do you say to a child who's

raised in the Islamic faith tradition, who comes home and asks her mother or father why it is that we began with that Christian prayer as part of the school day? And what do you say to that Native American Indian who goes to the courthouse and walks past the Ten Commandments, which is not part of his faith, when his guilt or innocence is to be adjudicated? What do you say to the non-believer who goes to petition her government for grievances and has to walk past a testament to Judeo-Christian faith on the way to that courthouse?

Let me suggest that the very same principle that protects the religious rights of all without preference or tithing through taxation, that secures the free exercise of religion, that animates the bar on official orthodoxy, equally mandates that governments simply cannot act in an arena where it is in any way furthering, endorsing or promoting the religion of the majority. This leaves unanswered the critical question, not the question that Professor Jacobs raised, but the question you see if you turn on the news or if you read the newspapers. What about the member of the majority faith who says, "I've been discriminated against on the basis of my religion. When you add that second course of brick to the wall of separation, you're preventing my government from posting my Ten Commandments, from allowing my school prayer, from allowing my belief in creationism. You are discriminating now against my religion?" How do we answer that?

Let me offer in closing three very simple answers to that complaint. While keeping government out of the business of religion, it turns out that we happen to be blessed to live in a country that is the envy of the world in its protection of religious liberty. We have the highest degree of religious observance on earth. We have the most extensive religious pluralism -with over 2,000 different religious denominations; more than 360,000 churches, synagogues, mosques, temples and other houses of worship -by keeping government out of the business of religion. By keeping government out of the business of religion, we live in a country whose organized faiths are respected, not only by their worshippers but also adherents of other faiths, for their spiritual purity. Differences in theology become matters of debate rather than war because the religions are in the common business of attending to the spiritual needs of their flock, not rivaling for elections or exerting political power.

As to the rhetoric about Thomas Jefferson and the claim that the wall between separations was a figment of Jefferson's genius, I'd rather invoke the quote Professor Nadine Strossen, who spoke to you a couple of years ago, magnificently

resurrected: the quote from Roger Williams, the founder of the Baptist Church, who didn't call for a wall separating church and state, but rather a hedge to shelter the garden of religion from the wilderness of secular society. Because we keep government out of the business of religion, we also happen to live under a democratic authority whose stability and legitimacy is unquestioned because it's not proselytizing a certain religious vision, which, while appealing to the majority, would be heresy to others. To the extent that our entire onstitutional structure is designed to promote a harmonious and thriving society by having each of us sacrifice our unbounded individual liberty, we, in fact, are meeting the material and spiritual needs in a way that is worthy of universal praise across the diverse faiths of this land.