

THE “WALL OF SEPARATION” MYTH

As America nears its 250th anniversary, fierce disputes over religion in public life increasingly stem from a widely accepted myth: that the First Amendment erected a rigid “wall of separation,” forcing government to shun any cooperation, accommodation, or recognition of religion. This narrative, pushed by judges, advocacy groups, and cultural lore, treats religion like radioactive waste to be quarantined from civic spaces.

Consider Americans United for Separation of Church and State (AU), the nation’s leading advocate for strict church-state separation and a group with anti-Catholic roots. It goes beyond opposing an official state church, demanding a “naked public square” where religion is limited to private beliefs. When faith enters the public realm via equal access to government programs for religious schools, accommodations for believers, or government officials using religious language, AU and its allies raise alarms. They insist this “wall” reflects the Constitution’s original meaning: essentially, freedom *from* religion. But that’s a modern secularist invention—a constitutional canard grafted onto the First Amendment—not what the Founders intended in 1791.

The Constitution’s text mentions no “wall of separation.” The First Amendment states simply: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” The phrase “wall of separation” originates in Thomas Jefferson’s 1801 letter to the Danbury Baptists, penned fourteen years after ratification. Jefferson wasn’t even present for the drafting; he was in Paris. His letter is an interesting bit of history, but not an authoritative constitutional hermeneutic. Courts largely ignored it for decades. Even Chief Justice William Rehnquist deemed Jefferson a “less than ideal source” for the clause’s original meaning.

Catholics have particular cause for wariness of Jefferson; he scorned biblical miracles as a “dunghill” and called priests “enemies of liberty.” More crucially, the First Amendment’s meaning shouldn’t hinge on a belated metaphor from someone absent from its drafting and ratification.

To understand the Establishment Clause properly, examine its text and Founding-era context. At the time, nine states had established or state-supported churches; Massachusetts retained its established church until 1833. The clause served mainly as a federalism safeguard: It barred *Congress* from creating a national church or interfering with state religious establishments. Religion remained in the domain of the states, permitting public acknowledgment and collaboration; a far cry from today’s supposed blanket prohibitions.

James Madison, who actually drafted the First Amendment, viewed it this way. Scholars from diverse perspectives—Robert P. George, Akhil Reed Amar, Steven D. Smith, Kurt T. Lash, Carl H. Esbeck, Daniel L. Dreisbach—and Supreme Court justices like Clarence Thomas and Potter Stewart concur: It was a federalism provision, not a mandate to purge religion from public life.

Aggressive “no-contact” separationism arose later, driven by anti-Catholic sentiments. As law professor Philip Hamburger explains in *Separation of Church and State*, post-Civil War theological liberals and American nativists saw Catholic immigration and hierarchy as dangers to American individualism. They repurposed “separation” as a weapon against “popery,” fighting funds for Catholic schools and churches’ public influence. This prejudice, later echoed by groups like the Ku Klux Klan in the name of American “liberty” and “rights,” elevated Jefferson’s phrase into a patriotic sword and shield.

By the 20th century, this ideology had infiltrated the law. In 1947’s *Everson v. Board of Education*, the Supreme Court

applied the Establishment Clause to state and local governments for one of the first times, embedding Jefferson's "wall of separation" in legal precedent. Justice Hugo Black—a former Klansman—proclaimed it "high and impregnable," forbidding direct government support for religion. Justice Wiley Rutledge's private notes and correspondence, written after the justices met to discuss the case, exposed the true agenda: keeping Catholic influence out of public schools. *Everson* entrenched separationism, fueling decades of rulings that disadvantaged Catholic and other religious institutions.

AU, founded that year as "Protestants and Other Americans United" in response to *Everson*, claimed the Court hadn't discriminated enough against Catholics. It pushed an even more extreme "no-aid" policy: no generally available government benefits for religious groups, even basics like police or fire protection.

This "wall of separation" dogma isn't a timeless constitutional truth; it's a modern secularist fabrication, forged in anti-Catholic bias. It inverts the First Amendment, pitting the Establishment Clause against the Free Exercise Clause. As Professor Mary Ann Glendon notes, these clauses "were meant to work together in support of a single value: religious freedom. The framers of the Constitution considered religion to be a great public good to be carefully protected." By reclaiming the First Amendment's original federalist meaning, we can return to what Professor Richard Garnett calls "freedom for religion": a public square where faith is valued, accommodated, and even supported.

The Catholic Church itself echoes this vision of religious liberty in *Dignitatis Humanae*. It was further endorsed by Pope Benedict XVI during his 2008 visit to the United States, where he praised the Founders' model as a "healthy secularism." Ultimately, "freedom for religion," not "freedom from religion," remains true to the Founding era's intent, offering a framework that Catholics can embrace and promote in public

life.