

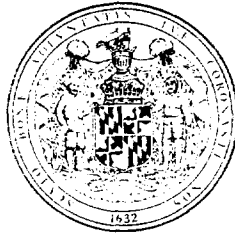
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January 4, 2001

His Eminence William Cardinal Keeler
Archbishop of Baltimore
Catholic Center
320 Cathedral Street
Baltimore, MD 21201

Dear Cardinal Keeler:

I very much appreciate your sending me a copy of your remarks at the Catholic University, Lublin, Poland on *Religious Freedom: Challenges and Opportunities in a Democracy*. It was a most fitting response to your being awarded a degree by the university. Congratulations!

I was particularly taken by your most persuasive argument on pages 5 and 6 that "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." I also enjoyed and appreciated your historical references to Maryland's efforts at helping define toleration in the New World.

With all best wishes in the New Year,

Sincerely,

Edward C. Papenfuse
State Archivist and
Commissioner of Land Patents

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WILLIAM CARDINAL KEELER
Archbishop of Baltimore

OFFICE: 410-547-5437
FAX: 410-727-8234

320 Cathedral Street
Baltimore, MD 21201

The Catholic University
Lublin, November 6, 2000

Religious Freedom: Challenges and Opportunities in a Democracy

To Archbishop Jozef Życiński I express my deep appreciation for the invitation to be here and for his gracious hospitality. To the Rector, the Reverend Professor Andrzej Szostek and the Academic Senate of the Catholic University of Lublin go my thanks for the degree which is conferred and for this opportunity publicly to reflect on issues that matter a great deal on both sides of the Atlantic Ocean.

Religious freedom and the kindred issue of the relationship between church and state have a long and tangled history. A Polish scholar active at the Council of Constance (1415-1418) had a significant early role to play. Pawel Wlodkovic (died 1435) was the rector of the University of Krakow, and in his work *De potestate papae et imperatoris respectu infidelium* he condemned the forced conversion of the Baltic tribes by the Teutonic Knights. Clearly, this was a stand against coercion in matters of religion and, it appears, the beginning of a distinctively Polish contribution to the formation of international law and the protection of human rights by international legal means.

In the following century, the Declaration of the Confederation of Warsaw of January 28, 1573 struck a note that contrasted greatly with the restrictive governmental policies and practices in Western Europe and the British Isles. Said the Declaration: “. . . we swear to each other, on behalf of ourselves and our descendents, in perpetuity, under oath and pledging our faith, honor and consciences, that we who differ in matters of religion will keep the peace among ourselves, and neither shed blood on account of differences of faith, or kinds of church, nor punish one another by confiscation of goods, deprivation of honor, imprisonment or exile.” This helped create a culture far different from that of the contemporary France with its St. Bartholomew’s Day Massacre and of England with its vigorously enforced anti-Catholic penal laws.

In significant part, the tragic religious wars and persecutions of the 16th and 17th centuries arose from a genuine confusion about the principles which should govern relationships between church and state. The things which were Caesar’s and the things of God were badly mixed, and conscientious men were seeking answers to such questions as these: Did 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? Did the Church have power to release its members from their obligations to the state? Was religious heresy a civil crime, or was religious dissidence the equivalent of treason? With the wise and good unable to agree upon answers to these questions, the way was left open for the unwise and sometimes malicious to abuse both church and state.

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Yet, out of this sad state of affairs, a new concept emerged—new to the times, but actually a return to the principle of the “Two Powers” which had been affirmed as early as the fifth century by Pope Gelasius. He referred, of course, to the power of the Church and imperial power. Admonishing Emperor Anastasius I, Gelasius said: “You must submit yourself faithfully to those who have charge of divine things, and look to them for the means of your salvation.” It should not be inferred from this statement that Gelasius wished to put the imperial power at the disposal of the Church. What he sought, instead, was a reticence on the part of both church and state in dealing with each other.

Nine hundred years after Gelasius, Saint Thomas More would feature the two-powers formulation in his *Utopia*, writing, in effect, that the state, if it errs, should do so on the side of restraint when it deals with the Church, and that the Church, if lenient, should support the state in its role of promoting the temporal good and the religious freedom of its citizens, whether pagan or Christian.

It was in March of 1634 that 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 that 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 impelling 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.

Something more than sparks of interest in the affairs of state touched the shore of Maryland in 1634 for, within a short five years, colonists still unaccustomed to their new land had organized themselves into a political assembly and asserted claims which 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 which 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 principal model for the drafters of our Declaration of Independence, the

Constitution of the United States, and our Constitution's 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 which its first settlers had proclaimed in 1639. And no family was more central to the genuinely world-shaking events of that later time than the Carrolls of Maryland.

The Carroll forebears in Ireland had grown restless under the restraints imposed upon Catholics by the English government and looked to Maryland as a safe haven for the religious diversity that had been secured by the Maryland Ordinance. Like the English Calverts before them, however, they would have to suffer for the freedoms they so earnestly pursued. Only a year after the first Carroll's arrival in Maryland, the so-called Glorious Revolution that brought William and Mary to the English throne infected the customs and the laws of Maryland.

But, like the Calverts, the Carrolls knew that the securing of civil rights is a hard, slow process. They knew, too, that politics is the art of the possible and that in difficult times the exercise of restraint and great prudence is essential. Neither family aimed at complete perfection or at the ideal, which were impossible in England in the first half of the 17th century and, a century later, must have seemed equally as impossible in Maryland. And so like the Calverts, the Carrolls persisted and, in the end, prevailed.

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, first among them, 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, true to the formulations of Gelasius and Thomas More, made the state delicate and reserved in its dealing with the Church.

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, as we experience it in the United States and you experience it in Poland, is often miscast and based on misunderstandings. Part of this, I should frankly admit, is America's fault: the idea that, in a democracy, there must be a "wall of separation" between church and state is not one of my country's finer exports to the world. In fact, as many of you know, the phrase "wall of separation" does not appear in the United States Constitution or in any law. It is a metaphor of interpretation, and a deeply mistaken interpretation at that, of what the Framers of the U.S. 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 say something briefly about that here, because it may prove of some use in your own discussions of these issues.

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 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 Poland and 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 twentieth 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. Perhaps you here in Poland can set the world a better example of the civil, religiously-informed public square than we have been able to manage in the United States for the past thirty years or so.

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.

Let me conclude these brief reflections with a story that may illustrate the points I have been trying to make. George Weigel, the biographer of Pope John Paul, recounted this story earlier this year when he was awarded an honorary doctorate at St. Mary's Seminary and University in Baltimore, the first seminary in the United States of America.

In 1789, there was a great public banquet held in Philadelphia, then the capital of the United States, to celebrate the ratification of the U.S. Constitution. The banquet included a fitting symbol of the new nation's understanding of the role of religion in public life and of the right stance to take toward religious pluralism: at the banquet, a special table was set aside for those who wished to observe the Jewish dietary laws. Jewish Americans, then a very, very small minority, were included in a great public

celebration without being required to sacrifice their distinctiveness as Jews. A few years later, Napoleon called the Jewish leaders of France to a meeting that he called a "Great Sanhedrin." The rabbis' task, according to Napoleon, was to make changes in Jewish law so that the Jewish people could be integrated into the French nation. It was a gesture that was just as revealing—although revelatory of a very different idea—as the kosher table at that banquet in Philadelphia: Napoleon's minister of the interior scheduled the first meeting with the rabbis on the Jewish Sabbath, thus forcing the Jews to violate their own religious law in order to parley with the government.

These two episodes illumine the choices before us. Under the ancient régime in France, Jews were excluded from public celebrations, for they could not be citizens. Under Napoleon's secular state, Jews would be welcomed into public life, but they would be expected to eat the same food, literally and metaphorically, as everyone else. If Jews wanted to remain faithful to their religious law, if they wanted to keep kosher, they could do it at home, in private, at their own expense. In Philadelphia in 1789, however, multiple tables were provided to ensure that all the citizens of the commonwealth could participate in a great civic event, and to ensure that the religious differences within the community were protected and respected.

The French Revolution—and the vision of politics that grew out of it—proposes an establishment of secularism as the democratic "answer" to the age-old question of the right relationship between church and state. The American Revolution, on the other hand, presupposed that there is no contradiction between religious conviction and democracy, and the U.S. Constitution, as originally written, protected religion by giving it legal protection without burdening it with state favor.

Your resolution of these tangled questions in Poland will, of necessity, be different from ours in the United States. But, given your own historic embrace of religious freedom, we look to you to help the entire democratic world think again, and think more deeply, about the right relationship of church to state in a free and virtuous society. From 1939 until 1989, Poland suffered under the effects of political systems determined to drive God from public life. Poland recovered her freedom by recovering her prior identity as a nation formed, in no small part, by Christian faith. Poland 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.

Like Tadeusz Kosciuszko in the late 18th century, Poles, in the matter of religious freedom in the 21st century, can once again say to the world, "What we do, we do 'for your freedom, and ours.'"

Cardinal William H. Keeler
Archbishop of Baltimore