

Jefferson and Madison in Warsaw: What Would They Do

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I'd like to start off by quoting the title of this conference: „The Legacy of the Past: English and American Studies and the Significance of the Past.” The subject of my presentation is indeed about the significance of the past, in my case, the significance of the legacy of American constitutional experience — not so much for the United States, but for Poland, or, more specifically, for Poland's Third Republic's experiment in modern democracy. Aldous Huxley once talked about the "usable past," the idea that for most problems we don't need new solutions. The solutions are already there, in the past. The problem is to study the past, to search out the wisdom of the legacy of history.

In my discussion I will focus on American democracy as it should be, as it was designed, largely by only two men: James Madison and Thomas Jefferson, the most important Founding Fathers of the American Republic and the two most important politicians in American history. Even though the reality of life in the United States falls rather short of the American political ideals, these ideals nevertheless inspire us and give us something to live up to. I believe that Polish politicians could learn from the wisdom of American political ideals.

The most important political principle governing American democracy as spelled out in the U.S. Constitution is undoubtedly the First Amendment of the Bill of Rights, sponsored by James Madison, the „Father of the U.S. Constitution”:

Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Perhaps the most remarkable part of this Amendment is the so-called establishment clause („Congress shall make no laws respecting an establishment of religion”) and the free exercise clause („or prohibiting the free exercise thereof”) both phrased by Madison. This idea — that the political government should not help establish or support any church and that U.S. citizens should be free to worship or not as they like — was revolutionary in the eighteenth century. As American historian Henry Steel Commager argues, to disestablish the church and to allow for religious freedom was:

perhaps the most important decision reached in the New World. Everywhere in the western world of the eighteenth century, church and state were one; and everywhere the state maintained the established church and tried to force conformity to its dogma... Thus the United States took the lead among the nations of the earth in the establishment of religious freedom. That is one reason America has never had any religious wars or religious persecutions. (qtd in Larue 13)

(The last statement—that „America has never had any religious wars or religious persecutions” — is unfortunately not true. Until 1978, when the American Indian Religious Freedom Act was passed, the US government had often been in flagrant violation of its own constitutional law by, for instance, persecuting and denying religious freedom to Native Americans. What is true, however, is that had the US government respected the First Amendment, there would probably have been no religious persecutions in the United States.)

At the time the Bill of Rights was ratified on December 15, 1791, and became part of the U.S. Constitution, it was not clear to everybody what exactly the establishment and free exercise clauses meant. The first important official—and destined to become the most famous — interpretation of the First Amendment came from President Thomas Jefferson, a friend and close associate of James Madison, who on January 1, 1802, wrote a letter to the Danbury Baptist Association in Connecticut. The U.S. President was responding to a letter from the Association in which the writer was concerned about the establishment of the Congregational

Church in Connecticut. Jefferson's letter, partly quoted below, contains the famous metaphor of „the wall of separation" between church and state. According to Edd Doerr, president of Americans for Religious Liberty, this interpretation of the First Amendment makes Jefferson's letter „destined to rank" (*Voice of Reason* 1) with the most famous American political documents: the Declaration of Independence, the U.S. Constitution, and the Bill of Rights:

Gentlemen

(..) *Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between Church & State...(emphasis added) (Free Mind)*

„That wall, embodied in the First Amendment, is," points out Lowell P. Weicker, Jr., former U.S. Senator from Connecticut, „perhaps America's most important contribution to political progress on this planet" (311). The ratification of the Bill of Rights marked the highlight of Madison and Jefferson's long-fought legal battles to disestablish churches in America. What made the successful ratification of the Bill of Rights possible was, in particular, Jefferson's 1777 „Bill for Religious Freedom" in the state of Virginia and Madison's 1785 essay "Memorial and Remonstrance against Religious Assessments," a broadside against a bill by Patrick Henry for tax-supported Christian education.

For Jefferson, in particular, freedom of religion-and freedom from religion - was critically important. In what is most likely his most often quoted statement about religious freedom, Jefferson points out the following in *Notes on Virginia*: „The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg" (*Query* 17, 285).

In many subsequent rulings by the Supreme Court of the United States, the „wall of separation" metaphor has become the guiding principle in legal decisions. For example, in a landmark case *Everson v. Board of Education* in 1947, Justice Black argued eloquently in favor of strictly separating religion from government:

*The „establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbelief, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect „a wall of separation between church and state" .. That wall must be high and impregnable. (qtd in *Voice of Reason* 4)*

The First Amendment is, then, clear evidence of the secular character of the U.S. Constitution, the basis of the American democracy. Compared to the Polish Constitution, adopted in 1997, the U.S. Constitution contains no mention of Christianity, God, Jesus, or any Supreme Being. Even the word „religion" is mentioned only in the First Amendment (to disestablish it) and in Article 6, Section 3, to ban all religious tests for public office: „[...] no religious test shall ever be required as a qualification to any office or public trust under the United States."

Clearly, the most distinguishing attribute of the American political system is its secular — non-Christian, non-religious — character. Contrary to a popular myth, the United States was not founded as a Christian nation. This is exactly what, for example, a late eighteenth-century trade agreement states, an agreement in the Treaty of Tripolis, signed by the Senate under President John Adams in 1797: „The Government of the United States is not, in any sense, founded on the Christian religion..." (qtd in *Boston* 78).

In sharp contrast, the Preamble to the Polish Constitution alone mentions „God" twice: „[...] those who believe in God as the source of truth, justice, good and beauty" and „recognizing our responsibility before God." The Polish Preamble also talks, erroneously, about Polish culture being rooted „in the Christian heritage," even though the real roots of Polish

culture are Slavonic (which is to say non-Christian) and even though Christianity was forced upon the Slavic tribes by political fiat in 996, when Poland's Slavic Piast ruler, Mieszko I, "adopted" Christianity.

What is even worse is that the fundamental democratic principle of the separation of church and state has been further compromised by the decision of the Polish Government to ratify the Polish Concordat in 1998. Several provisions of this religious treaty between Poland and the Vatican are such serious violations of this principle that they would never be adopted in the United States because such provisions and other privileges of the Catholic Church in Poland would effectively destroy separation of church and state, the foundation of the American democracy. Here are ten examples:

Violations in Poland of the principle of the separation of church and state:

1. Article 12 of the Concordat introduces Catholic („religious”) indoctrination at public expense in public schools, including nurseries and colleges, as well as in the military (Article 16).

2. Catholic priests receive salaries from the state budget for teaching religion (Catholicism) in public schools and preschools.

3. Church (Catholic) representatives are included on a commission that determines whether books for teaching religion and ethics qualify for school use.

4. State funding of the Lublin Catholic University and the Papal Theological Academy of Cracow (Concordat, Article 15, Section 3). Article 22 also obligates the Polish government to support the renovation and conservation of „valuable” Catholic churches and other buildings, as well as „works of art,” described as part of Polish Christian "cultural heritage."

5. Catholic weddings have civil law status (are legally binding if registered within five days) (Concordat, Article 10).

6. Full diplomatic (ambassadorial) ties with the Vatican.

7. Article 9 requires that Christian (Catholic) holidays be recognized as public holidays, for example, January 1 (in celebration of Mary, „Holy Mother of God” and „Queen of Poland”) and August 15 (the Day of the Ascension of the „most Holy Virgin Mary”).

8. A crucifix hangs in both the upper and lower houses of Parliament.

9. State-run radio broadcasts Catholic mass on Sundays.

Today, if Madison and Jefferson were alive, they would be appalled by how the recent, unique opportunity for a truly free, democratic Poland was compromised by establishing a *de facto* state — supported Catholic Church in the Polish Third Republic. We can safely assume that Madison and Jefferson would have considered all of the above cases violations of the principle of church-state separation. But, in particular, we know what they would have said about the first four religious privileges because the problem of tax-supported Christian education arose several years before the ratification of the U.S. Constitution in 1788.

In 1784, Patrick Henry, independent Virginia's first governor, introduced a „Bill Establishing a Provision for Teachers of the Christian Religion,” a tax which is essentially equivalent to Poland's current system of state-supported religious instruction in Polish public schools and of the financial aid to Catholic schools, churches, and other buildings. Henry's proposed tax required everybody to "pay a moderate tax or contribution annually for the support of the Christian religion, or of some Christian church, denomination or communion of Christians, or for some form of Christian worship" (qtd in Boston 58).

Against this danger to religious freedom and secular government, Madison quickly swung into action and in 1785 wrote the famous "Memorial and Remonstrance Against Religious Assessments," a rigorous rebuttal of Henry's Bill. In "Remonstrance," Madison compellingly spells out fifteen major reasons why Henry's Bill is dangerous and should be rejected. Some of these reasons bear quoting at some length because the same reasons should be used today against the Polish system of sponsoring Catholicism and bonding church and state.

Several of Madison's arguments against state-supported religious education:

- *[Henry's] bill „will be a dangerous abuse of power...."*
- *„The religion ... of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate."*

· *[The support of the Christian religion through a legal system] „is a contradiction to the Christian religion itself; for every page of it disavows a dependence on the powers of this world."*

· *„[...] experience witnesses that ecclesiastical establishments, instead of maintaining the purity and efficacy of religion, have had a contrary operation. During almost fifteen centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the clergy; ignorance and servility in the laity, on both, superstition, bigotry, and persecution."*

· *„What influence in fact have ecclesiastical establishments had on civil society? In some instances they have been seen to erect a spiritual tyranny on the ruins of civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been seen the guardians of the liberties of the people." (emphasis added) (*Annals* 16-20)*

Needless to say, Madison's implacable logic and political expertise helped win the day in Virginia's fight for religious freedom: Henry's Bill was rejected and „Remonstrance" went on to become the political foundation of the First Amendment.

There can be no doubt that the Polish Sejm's failure to separate church and state in Poland is a fatal flaw of Polish democracy. The provisions of the Polish Concordatas well as other, traditional, privileges of Poland's Catholic Church have helped strengthen this powerful religious and political organization, now officially linked with the Vatican. In the Vatican, government and religion are one, and the ultimate authority is given to and exercised by one man — the Pope. Such a government should be considered the most undemocratic in existence, as it was so considered by Madison. As he pointed out in a letter to Rev. Adams in 1832: „In the Papal System, Government and Religion are in a manner consolidated, & that is found to be the worst form of Governments" (Padover 311).

Of course, as long as Karol Wojtyła remains the Pope, the Polish Concordat may be of some political benefit to Poland. But it is very unlikely that there will be another Polish pope. What then will be the benefit of the Polish Concordat? And what were the benefits of the Vatican's policy towards Poland in the past? Perhaps a few illustrations will suffice.

What did Poland gain from Pope Pius XII's pro-Nazi policy before and during the Second World War? In *Papal Politics in the 20th Century*, Karheinz Deschner, the distinguished German scholar and critic of the Catholic Church, quotes Poland's foreign minister Józef Beck: „The Vatican is the most responsible for the tragedy of my country. Too late did I realize that our foreign policy had been shaped to serve the egotistical goals of the Catholic Church" (29). From the perspective of a pro-Nazi pope, Poland could be sacrificed because to the Vatican the destruction of the Polish nation was an acceptable price to pay in the Vatican's ideological war against Soviet atheism.

As early as the sixteenth century, Poland's foreign policy, particularly towards Russia, was shaped by the Vatican, a policy contrary to Poland's national interests. After the Counter-Reformation, the process of catholicizing the Polish nation intensified so much that in the eighteenth century the number of Polish Catholic clerics exceeded the number of Polish troops. In *The Polish Myth: Zadruga*, Antoni Wacyk recalls that at the end of the eighteenth century, when Poland had already suffered the humiliation of the First Partition, the Polish army numbered only about 18,425 troops, while the number of Catholic priests at the time was 31,137! (40-41).

Burdened with an army of Catholic clerics, almost twice as large as its military (one third of which were officers), Poland was wiped out off the map of Europe by the end of the eighteenth century. Is this any wonder? From the point of view of the Vatican, it is more important that Poland should have more Catholic priests and Catholics to support the Catholic Church than Polish troops to defend Poland's sovereignty. This is why none of the Three Partitions of Poland was condemned by the Vatican. This is also why such prominent Polish Catholics like the Archbishop of Lvov, Waław Sierakowski, welcomed the invaders in 1772, after the First Partition, when Poland lost 211,000 square kilometers of its territory (Wacyk 42). But to many catholicized Poles, the primary duty was to protect the interests of the Catholic Church rather than to protect one's country. As Jesuit Piotr Skarga once said: „First, you have to fight for the Church and your soul rather than for your country... First, you must be concerned with your perennial country rather than with your temporary country" (Wacyk 37).

And what else if not state — supported Polish Catholicism can ultimately account for

traditional Polish anti-Semitism and the costly political price Poland has to pay, as for example, in the wake of the recently revealed Jedwabne massacre? Polish anti-Semitism — like any Christian anti-Semitism — is fed by the popular Christian misconception that one of the founders of Christianity, Jesus Christ, was murdered by the Jews. It is bad enough that such a misconception is perpetuated by believers in the dogma of Christ's divinity. It is much worse when this misconception becomes institutionalized through a Concordat with a political organization that used to promote anti-Semitism, suppress scientific investigation, and torture and execute heretics and dissenters during the Inquisition.

Should we forget that Copernicus' epoch-making book published in 1543 remained on the Papal Index until 1835? Or that in 1689, Kazimierz Łyszczyński was executed for questioning the existence of God? And who remembers now what happened in 1611 in Bielsko Podlaskie to Iwan Tyszkowic, a Polish Socinian? Do Polish history instructors tell their students in Polish public schools monitored by the Catholic Church that Tyszkowic's tongue was torn out, his hand and leg cut off, and what remained burned only because he challenged the dogma of the Trinity?

Madison would consider the Polish Catholic Church a powerful „faction," a term he uses to describe a group of citizens "whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the right of other citizens, or to the permanent and aggregate interests of the community" (78). In Poland, such impulses of passion and of interest of the Catholic majority - based faction adversely affect the rights of not only non-Catholics like Polish agnostics, atheists, pagans, Jews, Muslims, and other minority religious groups. They also adversely affect the civil rights of many Catholics themselves, as for example through the anti-abortion laws enacted by Catholic politicians. Perhaps the worst — and now probably irrevocable — effect of this tyranny of a majority — based Catholic faction is the annihilation of the original Polish pagan culture and religion to such an extent that the current Polish Constitution does not even mention Poland's pre-Christian, Slavonic heritage. As I pointed out above, the Polish Constitution either deceitfully or ignorantly talks about "Polish culture being rooted in the Christian "heritage," as if Polish Slavonic tribes had not existed for two millennia before the implacable, unrelenting eradication of Slavonic culture and religion began in the tenth century with the forced adoption of Christianity.

And what can be the benefit of the sectarian, Catholic indoctrination in public schools other than to serve the religious, financial, and political interests of the Catholic clergy and the Vatican? And what are the benefits to Polish democracy of countless other privileges enjoyed by this powerful supranational ecclesiastical organization? According to Madison, there will be only superstition, bigotry, and persecution.

The only remedy against the tyranny of the Polish Catholic faction — any faction - is, according to Madison, to construct a government that would have the power to defuse the destructive effects of majority — based factionalism. (A minority - based factionalism is never sufficiently strong to pose a lasting threat to the civic rights of the citizens.) Such a government must be both *secular* and *neutral*. As Madison said in a letter to Jefferson:

The great desideratum in Government is, so to modify the sovereignty as that it may be sufficiently neutral between different parts of the Society to controul [sic] one part from invading the right of another, and at the same time sufficiently controuled itself, from setting up an interest adverse to that of the entire Society. (Letter to Jefferson, Padover 43)

It is very regrettable to realize that the present government of Poland is not such a government: it is neither neutral nor secular enough because both its neutrality and secularity have been seriously compromised by the Concordat and the traditional privileged position of the Catholic Church.

Perhaps the bondage that now exists between the Polish government and the Polish Catholic Church precludes calling Poland a democracy. Rather, Poland's current political system is a Catholic neo-theocracy with some democratic underpinnings, like popular elections and a multi-party system in which all parties, however, pay political homage to the Catholic Church in one way or another. Such a combination of democracy and theocracy is a denial of genuine freedom of religion and *from* religion; it is a return to endless entanglements of politics and religion and to religious disputes and possibly wars.

Poland's Third Republic is not, then, a modern secular democracy, in which church and state are separated because in order to be democratic, a government must first be secular.

It is not a democracy in which the wall of separation between the government and the Catholic Church would ensure both freedom of religion and freedom from religion for all Poles.

So Poland is not a free democratic country. Not yet. It is a Catholic republic in which both Catholics and non-Catholics pay taxes to support the Catholic Church and in which non-Catholics — particularly agnostics and atheists — often have to compromise their intellectual and professional integrity not to offend powerful Catholic politicians and Catholic priests and bishops.

Such is the sad consequence of what happens when we don't remember the legacy of the past — when we don't remember the obvious historical truth stated by Madison in „Remonstrance“:

In no instance have [ecclesiastical establishments] been seen the guardians of the liberties of the people.

As we know, those who don't remember the mistakes of the past are bound to make them again.

P.S. As I began my presentation, arguing for the necessity of separating state and church in a modern democracy, a Polish professor (who used to be one of my teachers at the time I was a student at Jagiellonian University) left in ostentatious disapproval. Another one argued, rather hysterically, that „this is Poland, not the U.S.“ and that I got all my „facts wrong.“ To that Polish professor — and to other such Catholic Poles — even facts can apparently be wrong. What seems right, though, is the comforting myth of a free, democratic, secular Poland.

Selected papers (mine included) from the Conference were supposed to have been published by Jagiellonian University after the conference. So far, my paper has not been published.

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