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# Religious Freedom: Virginia Doesn't Need a New Statute

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## Virginia Doesn't Need a New Statute

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One would think that Virginians would be united and steadfast in their devotion to the Statute for Religious Freedom, written by Thomas Jefferson, adopted by the General Assembly in 1786, and since then praised by liberty-loving persons throughout the world. Currently, however, a group spearheaded by a few professors at Christopher Newport University and by the editor of the Religious Herald, the newspaper of the largest association of Baptists in Virginia, wants to "update" Jefferson's statute so that it guarantees religious people a "right to participate in the public forum, and express their points of view." On Jan. 24, The Times-Dispatch published a copy of the proposed legislation along with an op/ed written on its behalf by Stephen Strehle.

Strehle's group claims that it does not wish to "change or detract from the wisdom of Jefferson's statute," but that claim lacks credibility, mainly because one of the law's provisions calls on the state of Virginia "to represent the faith of the people through public symbols and ceremonies." That language appears to authorize the government to proclaim or endorse certain religious tenets. In contrast, Jefferson's statute says "that to suffer the civil magistrate to intrude his powers into the field of opinion...is a dangerous fallacy, which at once destroys all religious liberty...that truth is great and will prevail if left to herself,...and has nothing to fear from the conflict...." The difference between the two laws is clear: The original statute assumes that religious truth is capable of defending itself without government aid, whereas the proposed law assumes the contrary.

Perhaps more disturbing than the content of the proposed law is Strehle's rationale for the law - that religious people and their ideas are not allowed to influence law-making nearly as much as so-called "secularists" are allowed to do. Allegedly, the "secular forces of society" have created "an unfair hegemony for their secular ideology, using the increasing size and power of the state to promote their agenda and marginate religion more and more to the fringes of society."

Where, however, is the evidence to support this claim? The facts are that countless Americans, including politicians, rely on and often cite God, the Bible, and church documents as the basis for their positions on public policy issues; religious bodies habitually pass resolutions on such issues; and a key constituency of the Republican Party has been called the "religious right." Not surprisingly, one of the burgeoning sub-fields in my discipline is that of "religion and politics." In short, the proposed law is a solution to a non-existent problem.

EVEN IF IT WERE true that religious folks and groups are not expressing their faith in the "public square," that only begs the question as to why they are not. Strehle's explanation is that the Supreme Court is to blame - specifically the court's opinion in the 1947 case of *Everson v. Board of Education*, which quoted Jefferson to the effect that the First Amendment erected a "wall of separation between Church and State." According to Strehle, the court has interpreted Jefferson and the First Amendment to mean that "religion and government" must be kept completely separate, and since *Everson* it has worked aggressively to keep them separate.

Although it is understandable that persons unfamiliar with Supreme Court decisions might interpret the principle of "separation," and especially Jefferson's metaphor of a "wall," as prohibiting religious persons/

groups/ideas from being involved in politics, the court has never interpreted the principle in that way. It certainly did not do so in *Everson*, for what was challenged in that case was a law that provided free bus transportation to children going to church-related schools. Moreover, the court not only upheld the law, but did so on the basis of another principle - neutrality - which it said prohibits the government from discriminating for or against religion.

After *Everson* the court made it clear that the First Amendment does not require the government to be completely separate from religion, but prohibits only laws whose primary purpose or effect is to advance or harm religion in

some way. More important, for many years now, the court has downplayed separation in favor of neutrality as the principle that is guaranteed by the religion clauses of the Constitution.

THE TRUTH IS that the Supreme Court has not even decided a single case dealing with the role of religious persons/groups/ideas in the making of public policy. Why? Because the First Amendment simply does not apply to the "politics" or values that influence the making of public policy. What the amendment forbids are certain kinds of laws or actions on the part of the government, as distinguished from private individuals and groups. The court not only has not restricted the expression of religious values and arguments regarding public issues, but in recent years has handed down several decisions giving religious groups and ideas equal access to so-called public forums.

Again, the main point is that there is no problem that needs to be solved. Thus, contrary to what Strehle alleges, if persons believe that humans have certain God-given rights, there is nothing that prevents them from working to pass laws that protect those rights or from justifying such laws on the grounds that the rights are God-given.

In one respect, Strehle and his allies may be right. In our society today religious (Christian?) values may not have the hold on persons that they once had. If that is so, however, it is not because "government" has "pick[ed] sides and ensure[d] the demise of faith." The explanation lies elsewhere - in cultural forces such as a mass media and an economic system that promote a hedonistic lifestyle. Equally at fault, however, are those churches, synagogues, and mosques that, in the face of such cultural forces, have failed to maintain the religious faith of the people or to inspire them to live out their faith in all aspects of life, including politics.

In any case, the declining influence of religion in our society is not a problem that the Virginia General Assembly can or should solve.

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