
MADISON 1, BUSH 0: SURVEY TESTING MR. MADISON'S HYPOTHESES

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I. INTRODUCTION

For over fifty years, James Madison warned the American colonies and the new United States of America of the dangers of linking religion with government.¹ Madison fought in his home state of Virginia to separate church and state² and continued the fight as a congressman³ and as president.⁴ Between 2001 and 2009, President George W. Bush overtly linked religion with government.⁵ President Bush's efforts provide the opportunity to test President Madison's hypothesis that danger arises in American society when religion and government are linked. The Gallup Organization in its public opinion testing provides the means used in this Article to analyze whether James Madison was right or wrong.⁶

This Article reviews President Bush's efforts through his Faith-based and Community Initiative to mix government and religion.⁷ Then, the Article develops President Madison's very negative

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¹ See JAMES MADISON ET AL., JAMES MADISON ON RELIGIOUS LIBERTY 89, 90, 91 (Robert S. Alley ed., Prometheus Books 1985).

² WILLIAM LEE MILLER, THE BUSINESS OF MAY NEXT: JAMES MADISON AND THE FOUNDING 12 (University Press of Virginia 1992).

³ ROBERT ALLEN RUTLAND, JAMES MADISON: THE FOUNDING FATHER 47-48 (1987).

⁴ *Id.* at 250.

⁵ See WHITE HOUSE OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES, INNOVATIONS IN COMPASSION: THE FAITH-BASED AND COMMUNITY INITIATIVE: A FINAL REPORT TO THE ARMIES OF COMPASSION (2008), <http://georgewbushwhitehouse.archives.gov/government/fbci/pdf/innovation-in-compassion.pdf>.

⁶ Lydia Saad, *Americans Believe Religion is Losing Clout*, <http://www.gallup.com/poll/113533/Americans-Believe-Religion-Losing-Clout.aspx> (last visited Sept. 16, 2009).

⁷ See *infra* notes 11-46 and accompanying text.

hypothesis about the destructive results of mixing religion with government.⁸ The Article tests Madison's hypothesis by utilizing two ongoing Gallup Organization opinion surveys.⁹ Finally, the Article discusses the risks to religion of continuing President Bush's policies and programs.¹⁰

II. PRESIDENT BUSH ENTANGLING GOVERNMENT WITH RELIGION

By the time President Bush left office in January, 2009, he had entangled religion with at least twelve United States government agencies and programs.¹¹ President Bush began his efforts of meshing government and religion early during his presidency. Within weeks of taking office in 2001, President Bush established in the White House an Office of Faith-based and Community Initiatives.¹² Religious and charitable community groups became partners with the United States government in solving a variety of social problems including curbing crime.¹³ The White House faith-based office took the lead in establishing priorities, policies, and objectives for the federal government to enlist religious organizations to help the federal government in social programs.¹⁴ President Bush also established Executive Department Centers for Faith-Based and Community Initiatives.¹⁵ Federal agency faith-based offices existed to eliminate bureaucratic barriers blocking religious organizations from participating in the provision of social services by federal agencies.¹⁶

President Bush failed to rely on Congressional authorization to establish White House and federal agency centers for integrating religious entities into federal programs. Rather the President relied on his own executive powers for managing the Executive Branch of

⁸ See *infra* notes 47-83 and accompanying text.

⁹ See *infra* notes 84-98 and accompanying text.

¹⁰ See *infra* notes 99-117 and accompanying text.

¹¹ See INNOVATIONS IN COMPASSION, *supra* note 5.

¹² Exec. Order No. 13,199, 3 C.F.R. § 752 (2001) (establishing the White House Office of Faith-Based and Community Initiatives).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Exec. Order No. 13,198, 3 C.F.R. § 750 (2001) (setting forth agency responsibilities respecting faith-based and community initiatives).

¹⁶ *Id.* at 750-51.

the United States Government.¹⁷ In addition to developing programs that integrated religion, faith, and religious organizations with the federal bureaucracy, President Bush utilized the White House as a host for a series of regional conferences for religious organizations.¹⁸ Also, federal funding of religious social service efforts served as a part of President Bush's faith policy initiatives.¹⁹ To that end, President Bush created, within the Department of Health and Human Services, the Compassion Capital Fund to support intermediary organizations in efforts to increase the capacity and capability of religious organizations.²⁰ Other federal funding for religious organizations included monies for mentoring the children of prisoners.²¹ All told, President Bush channeled billions of dollars to initiatives that included religious organizations. In 2008 alone, over eight billion dollars was committed to initiatives that gave faith-based and other community organizations "a central role in addressing critical human needs."²²

Religious organizations that received federal funds could not utilize those monies to support inherently religious activities including worship, religious instruction, and prayer.²³ In other words, faith-based federal funds grantees could not use what was characterized as "direct" federal funds for inherently religious activities.²⁴ However, at the same time, grantees remained eligible for federal financial assistance while retaining their religious identity, mission, references, and governance.²⁵ President Bush recognized the impossibility of segregating religious faith and mission from services provided by re-

¹⁷ See *Hein v. Freedom From Religion Found., Inc.*, 551 U.S. 587, 595 (2007).

¹⁸ The White House: President George W. Bush, White House Faith-Based & Community Initiative, <http://georgewbush-whitehouse.archives.gov/government/fbci/presidentinitiative.html> (last visited Sept. 16, 2009).

¹⁹ Exec. Order No. 13,199, 3 C.F.R. § 753 (2001).

²⁰ Compassion Capital Fund Demonstration Program, 67 Fed. Reg. 39,561, 39,565-68 (June 7, 2002).

²¹ Announcement of the Availability of Financial Assistance and Request for Applications for Mentoring Children of Prisoners Grants, 68 Fed. Reg. 26,622, 26,622 (May 16, 2003) [hereinafter *Announcement*].

²² INNOVATIONS IN COMPASSION, *supra* note 5, at 2.

²³ See *Freedom From Religion Found., Inc. v. Towe*, No. 04-C-381-S, 2005 U.S. Dist. LEXIS 39444, at *10-11 (W.D. Wis. Jan. 11, 2005) (citing *Announcement*, *supra* note 21, at 26,624).

²⁴ INITIATIVES IN COMPASSION, *supra* note 5, at 30.

²⁵ *Towe*, 2005 U.S. Dist. LEXIS 39444, at *10 (citing *Announcement*, *supra* note 21, at 26,624).

religious organizations. In fact, he found religious organizational services to possess value for the United States Government, because those services implicated faith. President Bush noted, “I repeat to you, you can’t be a faith-based program if you don’t practice your faith.”²⁶ President Bush also noted, “we will work tirelessly to make sure that bureaucracies don’t stifle the very reason you exist in the first place and the power of your ministries, which is faith.”²⁷ Though the White House office served faith-based and non-faith-based entities,²⁸ President Bush referred to the White House office as the Office of Faith-based Initiatives supporting faith-based programs by faith-based organizations.²⁹

Religious doctrine played roles in some of President Bush’s faith-based initiatives. In a child mentoring program in Arizona—“Mentor Kids”—the Department of Health and Human Services only suspended that program after discovery in litigation exposed a strong religious observance component in the program.³⁰ In that program, Mentor Kids received a three year grant involving federal funds. In its articles of incorporation, Mentor Kids stated that it was created “[t]o exalt the Lord Jesus Christ as the Son of God, the Savior of the World, and head of his church.”³¹ Mentor Kids restricted its recruitment of child mentors to only Christians, and the recruitment application required an essay that discussed an applicant’s life before Christ and the applicant’s conversion. Potential mentors received a fact sheet stating that mentors were to introduce mentored children to the Gospel of Jesus Christ.³² Mentors had to report monthly about whether their mentored child was progressing in relation to God.³³ The mentoring camp experience included “breaking down walls” between the children and Jesus.³⁴

Religious sectarianism in program funding began at the top—

²⁶ Remarks at the White House National Conference on Faith-Based and Community Initiatives, 42 WEEKLY COMP. PRES. DOC. 418, 421 (Mar. 9, 2006) [hereinafter Remarks on Faith-Based and Community Initiatives].

²⁷ Remarks to Leaders of Hispanic Faith-Based Organizations, 1 PUB. PAPERS 561, 562 (May 22, 2001) [hereinafter Remarks to Leaders].

²⁸ Exec. Order No. 13,199, 3 C.F.R. § 752-54 (2001).

²⁹ Remarks to Leaders, *supra* note 27, at 561.

³⁰ *Towey*, 2005 U.S. Dist. LEXIS 39444, at *15.

³¹ *Id.* at *11.

³² *Id.* at *12.

³³ *Id.* at *13.

³⁴ *Id.* at *14-*15 (internal quotations omitted).

the budget and grant allocation processes. For the Capital Compassion Fund, applications for federal grants received evaluation and independent review on the basis of stated review criteria including program approach, results expected, staff data, needs for assistance, geographic location, and budget justification. The review process involved competitive scoring by experts in social service fields.³⁵ The actual process became laden with sectarianism. The group of experts who reviewed federal grant applications was an overwhelmingly, conservative, Christian, evangelical group politically friendly to President Bush.³⁶ One such reviewer stated, “[w]hen I saw one of those non-Christian groups in the set I was reviewing, I just stopped looking at them and gave them a zero.”³⁷ That reviewer had conceived of her role in the federal grant review process as helping Christian groups and helping people to know Jesus.³⁸

President Bush entangled religion with the United States government in order to improve government provision of social services. President Bush stated, “[b]ut what Government can do is recognize its limitations, and, more significantly, recognize the power of faith in our society.”³⁹ President Bush intended that the government welcome religious groups as partners with government in meeting the needs of poor Americans and distressed neighborhoods.⁴⁰ President Bush sought to attract religious partners who could do a better job than government.⁴¹ Religion provided government with unique resources that government could never duplicate because religious groups understood the needs of individuals and families, especially those in need. Religion operates close to the daily lives of those in need and holds the trust of communities and their leaders.⁴² Religion as a partner can do something government can never do—religion can love.⁴³ When government partners with religion, government

³⁵ Compassion Capital Fund Demonstration Program, 67 Fed. Reg. 39,567-69 (June 7, 2002).

³⁶ DAVID KUO, TEMPTING FAITH: AN INSIDE STORY OF POLITICAL SEDUCTION 213-14 (2006).

³⁷ *Id.* at 215-16.

³⁸ *Id.* at 216.

³⁹ Remarks to Leaders, *supra* note 27, at 563.

⁴⁰ Exec. Order No. 13,199, 3 C.F.R. § 752 (2001).

⁴¹ Remarks to Leaders, *supra* note 27, at 562.

⁴² Compassion Capital Fund Demonstration Program, 67 Fed. Reg. at 39,562.

⁴³ Remarks on Faith-Based and Community Initiatives, *supra* note 26, at 423.

and religion can do their work to change lives, because, as President Bush noted, “[a]ll of you know the power of faith to transform lives.”⁴⁴ Faith as an instrument of government can obtain results,⁴⁵ even quantifiable results.⁴⁶ Overall, President Bush conceived of religion as an extension of governmental bureaucracy. He functionalized religion into a loving governmental outreach program and faith into a public policy instrumentality for change.

President Bush made faith and religion into an arm of government services to benefit Americans in need. He entangled religion with government as partners in meeting public policy objectives. This creates a unique opportunity to test James Madison’s hypothesis about entangling government with religion.

III. JAMES MADISON’S HYPOTHESIS

In February, 1811, President James Madison vetoed two congressional bills as violative of the separation of church and state. First, an act incorporating an Episcopal church in a section of the District of Columbia, President Madison returned the bill to the House of Representatives where it originated because “the bill exceeds the rightful authority to which governments are limited by the essential distinction between civil and religious functions”⁴⁷ Second, on February 28, 1811, President Madison vetoed an act for the relief of the Baptist Church at the Salem Meeting House in the Mississippi Territory, because the act “comprises a principle and precedent for the appropriation of funds of the United States for the use and support of religious societies.”⁴⁸ President Madison took care to make any Presidential Proclamation of fasts and festivals as absolutely indiscriminate and merely recommendatory avoiding the language of injunction. He noted, “I presume you reserve to the Gov[ernment] a right to *appoint* particular days for religious worship throughout the State, without any penal sanction *enforcing* wor-

⁴⁴ Satellite Remarks to the National Association of Evangelicals Convention, 1 PUB. PAPERS 355, 378 (Mar. 11, 2004) [hereinafter Satellite Remarks].

⁴⁵ Remarks on Faith-Based and Community Initiatives, *supra* note 26, at 423.

⁴⁶ INNOVATIONS IN COMPASSION, *supra* note 5, at 3.

⁴⁷ James Madison, *Veto Messages to Congress* (Feb. 21 & 28, 1811), in JAMES MADISON ON RELIGIOUS LIBERTY 79, 79 (Robert S. Alley ed., 1985).

⁴⁸ *Id.* at 80.

ship.”⁴⁹

Madison strongly opposed the entanglement of religion with government. As a student at Princeton University, Madison received tutoring from John Witherspoon who wrote in favor of spreading the knowledge of divine truth by liberty.⁵⁰ After returning to Virginia from Princeton, Madison sympathized with the Christian Evangelicals as the most effective spreaders of divine truth, because he believed that the established church in Virginia undermined spirituality.⁵¹ Madison saw that those evangelicals remained marginalized by the established church weakening the faith and virtue of Virginians.⁵² However, Madison failed to conceive of the entanglement of religion and the state in narrow terms of the existence of one established church as the only official religion. Madison saw separation of church and state in broader terms. His presidential vetoes and his attitude toward presidential proclamations demonstrated his far reaching concerns about government interrelating with religion. He objected to the act incorporating the church in the District of Columbia because, “[t]his particular church . . . would so far be a religious establishment by law, a legal force and sanction being given to certain articles in its constitution and administration.”⁵³ Madison did not just conceive of the establishment of religion as the existence of one official state sanctioned church. In this case, the church would not be the official church of Washington, DC.⁵⁴ Instead, Congress was giving legal sanction and force to certain articles of the church’s constitution.⁵⁵ For Madison, that was too much governmental entanglement.⁵⁶ Again, Madison never conceived presidential proclamations as establishing an official church. Instead, such proclamations, if not indiscriminate and recommendatory, lost sight of the equality of all religious sects under the United States Constitution.⁵⁷

⁴⁹ *Id.* at 82.

⁵⁰ GARRETT WARD SHELDON, *THE POLITICAL PHILOSOPHY OF JAMES MADISON* 28 (The Johns Hopkins University Press 2001).

⁵¹ *Id.* at 27-29.

⁵² *Id.* at 28-29.

⁵³ Madison, *supra* note 47, at 79.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ JAMES MADISON, *Letter from Madison to Edward Livingston* (July 10, 1822), in *JAMES MADISON ON RELIGIOUS LIBERTY* 82, 83 (Robert S. Alley ed., 1985).

⁵⁷ *Id.* at 82.

Madison sought to protect religion because he envisioned religion as pure and efficacious.⁵⁸ For Madison religion not only existed outside the structures of human law, but existed in spite of opposition from human law,⁵⁹ because religion is exempt from the cognizance of civil society.⁶⁰ People's "civil rights have no dependence on" their religious opinions.⁶¹ Madison posited a dichotomous existence for human beings with people living in more than one reality at a time.⁶² One reality was civil society and the other implicated a relationship to divinity—a Governor of the Universe.⁶³ The two realities remained separate and apart. People's duty to the Governor of the Universe took precedence in order of time and of degree of obligation.⁶⁴ Before people are considered members of civil society, they are subjects of the Governor of the Universe.⁶⁵ If a member of civil society enters into a subordinate relation to associations in civil society, that member does so while saving her allegiance to a Universal Sovereign.⁶⁶ Civil society possesses no power or authority to control people in the reality controlled by the Governor of the Universe.⁶⁷

Madison conceived of a person's relationship to the Governor of the Universe, and therefore a person's existence in the reality of the divine, as a form of personal property. People possess a property in their religious opinions, professions, and practices.⁶⁸ This peculiar property right exists as a natural right of all people.⁶⁹ Therefore, this property right represents—by its essence—an inalienable right as any duties created by this property right are to the Creator and not to people.⁷⁰ Madison's natural law view of religious freedom implicitly

⁵⁸ James Madison, *To the Honorable General Assembly of the Commonwealth of Virginia a Memorial and Remonstrance* (Spring 1785), in JAMES MADISON ON RELIGIOUS LIBERTY 55, 58 (Robert S. Alley ed., 1985).

⁵⁹ *Id.* at 57.

⁶⁰ *Id.* at 56.

⁶¹ Thomas Jefferson, *Act for Establishing Religious Freedom*, in JAMES MADISON ON RELIGIOUS LIBERTY, *supra* note 1, at 60-61.

⁶² *See generally* Madison, *supra* note 58, at 56.

⁶³ *Id.* at 56.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Madison, *supra* note 58, at 56.

⁶⁸ James Madison, *Essay in National Gazette* (Mar. 27, 1792), in JAMES MADISON ON RELIGIOUS LIBERTY 76, 76 (Robert S. Alley ed., 1985).

⁶⁹ Jefferson, *supra* note 61, at 61.

⁷⁰ Madison, *supra* note 58, at 56.

raises two issues. First, in reference to natural rights, all people enter society as equals.⁷¹ Such a conception of people is logically consistent with Madison's view of religion as human reality that precedes civil society. Logically, all would be equal before the Creator, or at least so far as mere mortals would know all would be equal before the Creator. This is logical because religion is a matter of individual conscience.⁷² No one formulates religious ideas and conscience for individuals, and therefore, there is no way for people to know anything other than equality before the Creator. There is no one person who can say otherwise for all people. People possess only finite understanding.⁷³ This raises the second implicit issue. Religion becomes interrelated with other natural, human rights. Religion not only implicitly serves as a basis for equal rights, but it serves as an interconnected bulwark for freedom of the press, trial by jury, and democratic representation.⁷⁴

Though Madison separates the religious human reality from the human reality of society, Madison finds that religion serves an important role in civil society. Not only does religion provide bases for equality in civil society and for the interrelated protection of all natural rights, but religion contributes to the general moral betterment of civil society.⁷⁵ Competition among rival religious sects results in a mutual censorship that favors good morals.⁷⁶ Madison wrote:

And the belief in a God All Powerful wise [and] good, is so essential to the moral order of the World [and] to the happiness of man, that arguments which enforce it cannot be drawn from too many sources nor adapted with too much solicitude to the different characters [and] capacities to be impressed with it.⁷⁷

Madison implicitly recognized a relationship between religion, social

⁷¹ *Id.* at 57.

⁷² *Id.* at 56.

⁷³ James Madison, *Letter from Madison to Frederick Beasley* (Nov. 20, 1825), in JAMES MADISON ON RELIGIOUS LIBERTY 85, 85 (Robert S. Alley ed., 1985).

⁷⁴ Madison, *supra* note 58, at 60.

⁷⁵ *See supra* notes 53-64 and accompanying text.

⁷⁶ James Madison, *Letter from James Madison to Edward Everett* (Mar. 19, 1823), in JAMES MADISON ON RELIGIOUS LIBERTY 83, 84 (Robert S. Alley ed., 1985).

⁷⁷ Madison, *supra* note 73, at 85.

harmony, and political prosperity.⁷⁸ Religion possessed a genuine luster while disseminating salutary doctrines.⁷⁹

Madison sought to protect religion as a great value to individuals and civil society.⁸⁰ He feared that the entanglement of religion and government would create three problems.⁸¹ First, government corrupted religion. Madison noted, “[s]uch indeed is the tendency to such a coalition, and such its corrupting influence on both the parties, that the danger cannot be too carefully guarded ag[ainst].”⁸² When government encourages the principles of religion especially by funding religion with tax monies, government tends to corrupt those very religious principles that government seeks to encourage, by extracting through bribery with worldly honors and involvements those religious people who support the government and the political establishment.⁸³

Second, Madison worried that government desacralizes religion by turning religion into a function of government.⁸⁴ When discussing the possibility of including Jesus Christ in a piece of legislation, Madison noted that opponents of such an effort contended “that the better proof of reverence for that holy name w[oul]d be not to profane it by making it a topic of legisl[ative] discussion”⁸⁵ This could lead to religion upholding political tyranny⁸⁶ or serving “as an engine of [c]ivil policy” for civil magistrates.⁸⁷

Last, Madison worried that the entanglement of religion with politics would lead to political and social disunity. Religion becoming subservient to political views would not only scandalize religion, but would increase partisan animosities. Madison viewed religion as sectarian with many sects widely alienated from other sects in religious beliefs. As a result, government preferring some sects to others

⁷⁸ James Madison, *Letter from James Madison to F.L. Schaeffer* (Dec. 3, 1821), in JAMES MADISON ON RELIGIOUS LIBERTY 82, 82 (Robert S. Alley ed., 1985).

⁷⁹ James Madison, *Address to Virginia General Assembly* (Jan. 1799), in JAMES MADISON ON RELIGIOUS LIBERTY 78, 78-79 (Robert S. Alley ed., 1985).

⁸⁰ Madison, *supra* note 58, at 56.

⁸¹ *See id.* at 56-58; *see also* Madison, *supra* note 56, at 83.

⁸² Madison, *supra* note 56, at 83.

⁸³ Jefferson, *supra* note 61, at 61.

⁸⁴ *See* Madison, *supra* note 58, at 58.

⁸⁵ James Madison, *Detached Memoranda*, in JAMES MADISON ON RELIGIOUS LIBERTY 89, 90 (Robert S. Alley ed., 1985).

⁸⁶ Madison, *supra* note 58, at 58.

⁸⁷ *Id.* at 57.

would be dangerous and wrong.⁸⁸ Government entanglement with religion, especially for the purpose of diminishing religious differences, threatened worse discord. Madison wrote, “[t]orrents of blood have been spilt in the old world, by vain attempts of the secular arm, to extinguish [r]eligious discord, by proscribing all difference in [r]eligious opinion.”⁸⁹

Madison feared the entanglement of religion and government, and sought to protect religion from government and government from religion.⁹⁰ He felt that religion and government could corrupt each other.⁹¹ Madison viewed religion as extremely valuable to individuals and to civil society.⁹² Government threatened the value of religion to people and society. As a result, Madison implicitly worked under a hypothesis about religion, religiosity, and the influence of religion on society. Madison hypothesized that the greater the entanglement of government with religion, the less religiosity existed in society.⁹³ The less government and religion mixed, the more religion thrived within a society.

Madison viewed the end of religious establishments in America as a boon to religion. Madison observed, “[a]nd no doubt exists that there is much more of religion among us now than there ever was before the change; and particularly in the Sect which enjoyed the legal patronage. This proves rather more than, that the law is not necessary to the support of religion.”⁹⁴ Where religious establishments failed to exist, religion fared well.⁹⁵

With religion separate from government, religious instruction increased. Overall, religion increased and spread in America when government stepped away from religion.⁹⁶ Government hampered religiosity by “weaken[ing] in those who profess[ed] . . . [r]eligion a pious confidence in its innate excellence . . . and to foster in those

⁸⁸ Madison, *supra* note 85, at 93.

⁸⁹ Madison, *supra* note 58, at 59.

⁹⁰ Madison, *supra* note 76, at 84; Madison, *supra* note 56, at 83.

⁹¹ Madison, *supra* note 56, at 83.

⁹² See *supra* notes 53-69 and accompanying text.

⁹³ James Madison, *Letter from James Madison to Robert Walsh* (Mar. 2, 1819), in JAMES MADISON ON RELIGIOUS LIBERTY 80, 80-81 (Robert S. Alley ed., 1985).

⁹⁴ Madison, *supra* note 76, at 84.

⁹⁵ James Madison, *Letter from James Madison to Jasper Adams* (Spring 1833), in JAMES MADISON ON RELIGIOUS LIBERTY 86, 87-88 (Robert S. Alley ed., 1985).

⁹⁶ Madison, *supra* note 93, at 80-81.

who still reject it, a suspicion that its friends are too conscious of its fallacies to trust it to its own merits.”⁹⁷ Madison also observed that under religious establishment, daily devotions degenerated into scanty attendance and tiresome formality. Spirituality “flow[ed] from the labours of . . . spontaneous zeal.”⁹⁸

IV. TESTING MR. MADISON’S HYPOTHESIS

No way existed for Madison to test his hypothesis that religion thrived when religion clearly separated from government and politics. The Author of this article characterizes Madison’s insights concerning government as a disincentive to religiosity and religious influence in society as a hypothesis, because Madison served as a political theorist with his views on religion and government serving as a component of his political philosophy⁹⁹ and as a political advocate for religious freedom.¹⁰⁰ Madison failed to possess modern empirical means, such as opinion survey, polling to test the validity of his thinking about the separation of church and state. At best, Madison tested or supported his thinking through contemporary or historical observation.

Madison contrasted Europe with America to prove his hypothesis that separation of church and state increased religiosity.¹⁰¹ Europe remained captured by establishments of church and state entanglements. In Europe, the close relationships between religion and government disfavored both establishments.¹⁰² Madison believed that what he described as “enlightened judges” would agree with him concerning his observations of Europe.¹⁰³ Holland provided an example of a liberal toleration with an establishment, but Holland served as a rare example. For Madison, the American experience served to prove his point, specifically Delaware, New Jersey, Pennsylvania, Rhode Island, and the majority of New York.¹⁰⁴ Madison

⁹⁷ Madison, *supra* note 58, at 57-58.

⁹⁸ Madison, *supra* note 85, at 92.

⁹⁹ See SHELDON, *supra* note 50, at 27-28.

¹⁰⁰ James Madison, *Letter from James Madison to General Lafayette* (Nov. 24, 1826), in JAMES MADISON ON RELIGIOUS LIBERTY 86, 86 (Robert S. Alley ed., 1985).

¹⁰¹ Madison, *supra* note, 95 at 87-88.

¹⁰² *Id.* at 87.

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 87-88.

stated, “certainly the religious conditions of those Colonies, will well bear a comparison with that where establishments existed.”¹⁰⁵

The presidency of George W. Bush and modern research methodology provide an opportunity to actually test Madison’s hypothesis. The presidency of George W. Bush entangled the White House and governmental agencies with religion¹⁰⁶ and implicated religious rhetoric as a core instrument of governance.¹⁰⁷ Survey opinion testing provides an empirical basis for gauging on a public opinion level the impact of governmental and political policy and practices. Opinion surveying remains based on scientific sampling techniques that have been improved over time and with critiqued experience.¹⁰⁸ Surveys implicate rigor, discipline, and the use of mathematical models and analyses with an emphasis on consistency of methodology over time.¹⁰⁹

The Gallup Organization has had a longstanding commitment to quality methods,¹¹⁰ and has been gauging American’s perceptions of the influence of religion in America for over fifty years. Gallup has asked Americans the question, “[a]t the present time, do you thin[k] religion as a whole is increasing its influence on American [l]ife or losing its influence?”¹¹¹ Slightly over a month before President George W. Bush left office, in January 2009, the Gallup Organization recorded one of the weakest readings on the influence of religion in the history of Gallup’s polling about the influence of religion in America.¹¹² Between December 4 and 7, 2008, only 27% of survey respondents perceived that the influence of religion was increasing in America, while 67% of survey respondents perceived that religion was losing influence in America.¹¹³ Gallup warned, “[i]n

¹⁰⁵ *Id.* at 88.

¹⁰⁶ *See supra* notes 11-46 and accompanying text.

¹⁰⁷ *See* BRUCE LINCOLN, *HOLY TERRORS: THINKING ABOUT RELIGION AFTER SEPTEMBER 11* 19-32 (2003).

¹⁰⁸ ROBERT S. ERICKSON ET AL., *AMERICAN PUBLIC OPINION: ITS ORIGINS, CONTENT, AND IMPACT* 19-30 (1988).

¹⁰⁹ *See* JAMES A. STIMSON, *PUBLIC OPINION IN AMERICA: MOODS, CYCLES, AND SWINGS* 33-60 (1991); Gary King et al., *Enhancing the Validity and Cross-Cultural Comparability of Measurement in Survey Research*, 98 *AM. POLITICAL SCIENCE REV.* No. 1, 191 (2004).

¹¹⁰ *See* DANIEL YANKOLOVICH, *COMING TO PUBLIC JUDGMENT: MAKING DEMOCRACY WORK IN A COMPLEX WORLD* 21 (1991).

¹¹¹ *See* Saad, *supra* note 6.

¹¹² *Id.*

¹¹³ *Id.*

addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.”¹¹⁴ Even with that, Gallup asserted with ninety-five percent confidence that the maximum sampling error was plus or minus three percentage points.¹¹⁵

Not only did the Gallup Organization find that perceived religious influence in America had plummeted at the end of Bush’s presidency, but the Gallup Organization tracked over the eight years of the Bush administration a decline of perceived influence of religion in America.¹¹⁶ Just after President Bush entered office, perceived decreasing influence of religion stood at 55%, but by the end of President Bush’s first year in office that number had plummeted to 24%, with perceived increasing influence of religion in America skyrocketing to 71%.¹¹⁷ This followed President Bush’s leadership after the 9/11 attacks on New York City and Washington D.C., and the rhetoric the President used to counter Bin Laden.¹¹⁸ Then, as Table 1 below indicates, perceived religious influence decreased over time with some peaks and valleys in 2003 and 2004 and then relatively steadily from 2005 through 2008.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ See Saad, *supra* note 6.

¹¹⁷ *Id.*

¹¹⁸ See *id.* (noting the rise of religious influence after Sept. 11, 2001).

**TABLE 1. PERCEIVED DECREASING INFLUENCE OF RELIGION
2001 TO 2008¹¹⁹**

Religions Decreasing Influence (%)	
Feb. 19-21, 2001	55
Dec. 14-16, 2001	24
March 18-20, 2002	42
Dec. 9-10, 2002	51
Feb. 17-19, 2003	48
Nov. 10-12, 2003	64
June 3-6, 2004	49
Dec. 5-8, 2004	46
April 18-21, 2005	46
Nov. 17-20, 2005	50
May 8-11, 2006	57
Sep. 15-17, 2006	53
May 10-13, 2007	62
Dec. 6-9, 2007	61
May 8-11, 2008	66
Dec. 4-7, 2008	67

Between December 2001 and December 2008, a perceived decrease in the influence of religion in America grew by 43%; while between March 2002 and December 2008, a perceived decrease in the influence of religion grew by 25%.¹²⁰

That Americans perceived less influence of religion in America between 2001 and 2008 does not mean that Americans have turned against organized religion. In early 2007, the Gallup Organization tested the public satisfaction with the influence of organized religion in America and determined that 56% of Americans were either very satisfied or somewhat satisfied with the influence of organized religion.¹²¹ However, even with these positive satisfaction numbers, warning signs appeared concerning the waning influence of

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ Frank Newport, *Public Generally Satisfied With Role of Organized Religion in America*, <http://www.gallup.com/poll/26311/Public-Generally-Satisfied-Role-OrganizedReligion-America.aspx> (last visited Sept. 16, 2009).

religion in America. Between January 2002 and January 2007, dissatisfaction with the influence of organized religion had increased from 28% to 39% peaking in January 2005 at 42%.¹²² Most disturbing, those who were somewhat satisfied with the influence of organized religion plummeted from 51% in January 2002 to 34% in January 2007, with a steady decline over the period between January 2002 and January 2007.¹²³ As early as February 2005, the Gallup Organization found that satisfaction with the influence of organized religion had decreased from 69% in 2002 to 55% at the start of 2005.¹²⁴

In 2001, President Bush created his faith-based initiative to serve America's poor and suffering.¹²⁵ However, President Bush also intended to release, through the White House and the federal government, the power of religion into American society. He aimed to stop federal bureaucracy from stifling the role of religion in American society.¹²⁶ He also wanted government to recognize the power of faith in American society, and to increase that power as a way to improve America.¹²⁷ The President stated, "I've been so impressed by the faith-based leaders I've met all around our country, because there is a genuine commitment to the poor and the disadvantaged. And that's a commitment we must channel . . . I look forward to rallying the soldiers and armies of compassion."¹²⁸ In the context of talking with evangelical Christians, President Bush commended the evangelicals for doing God's work on behalf of America. In the next sentence, he stated, "America is a nation with a mission."¹²⁹ That statement was a preface to discussions about the war on terror and efforts to eliminate AIDS and sex trafficking.¹³⁰ The President strongly implied that his administration existed to assist organized religion in America to spread the healing power of faith.¹³¹ Unfortunately, the Gallup polling over time indicated that President Bush had failed to

¹²² *Id.*

¹²³ *Id.*

¹²⁴ Albert L. Winseman, *Religion Remains Front and Center—But Should It?*, <http://www.gallup.com/poll/14773/Religion-Remains-Front-Center-Should-It.aspx> (last visited Sept. 16, 2009).

¹²⁵ Remarks to Leaders, *supra* note 27, at 561-562.

¹²⁶ *Id.* at 562, 563.

¹²⁷ *Id.* at 563.

¹²⁸ *Id.* at 562.

¹²⁹ Satellite Remarks, *supra* note 44, at 378.

¹³⁰ *Id.*

¹³¹ *See id.* at 355-56.

increase the perceived influence of religion in America. In fact, dissatisfaction with the influence of religion in America seemed to grow as President Bush channeled more and more federal funds to religious organizations.¹³²

The influence of religion in America failed to increase during the Bush presidency.¹³³ Whether President Bush's entanglement of government and religion played a role in the perceived decline of religious influence in America, is another question. There is some evidence that President Bush hurt religiosity in America. Periodically, the Gallup Organization survey tested President Bush's approval and disapproval among the American people.¹³⁴ At the end of his term, President Bush left office with a 34% approval rating,¹³⁵ one of the lowest for a departing president in modern American history.¹³⁶ What is noteworthy is the relatively steady drop in President Bush's approval ratings between 2001 and 2009. President Bush went from an approval rating in late 2001 and early 2002 in the eighty percentages¹³⁷ to the low thirties and high twenties percentages during 2008 and early 2009.¹³⁸

As his approval ratings decreased, President Bush's disapproval ratings steadily increased.¹³⁹ As the steady increase in President Bush's disapproval numbers progressed, there existed a parallel progression in the decrease in perceived influence of religion in America. Table 2 below demonstrates how the Gallup Organization tracked a decrease in the influence of religion in America with an increased disapproval of President Bush's handling of his job.

¹³² INNOVATIONS IN COMPASSION, *supra* note 5, at 2.

¹³³ Saad, *supra* note 6.

¹³⁴ Jeffrey M. Jones, *Bush Approval Ratings Doldrums Continue*, <http://www.gallup.com/poll/111280/Bush-Approval-Rating-Doldrums-Continue.aspx> (last visited Sept. 16, 2009).

¹³⁵ Lydia Saad, *Bush Presidency Closes With 34% Approval, 61% Disapproval*, <http://www.gallup.com/poll/113770/Bush-Presidency-Closes-34-Approval-61-Disapproval.aspx> (last visited Sept. 16, 2009).

¹³⁶ *Id.*

¹³⁷ Jones, *supra* note 134.

¹³⁸ Saad, *supra* note 135.

¹³⁹ *Id.*

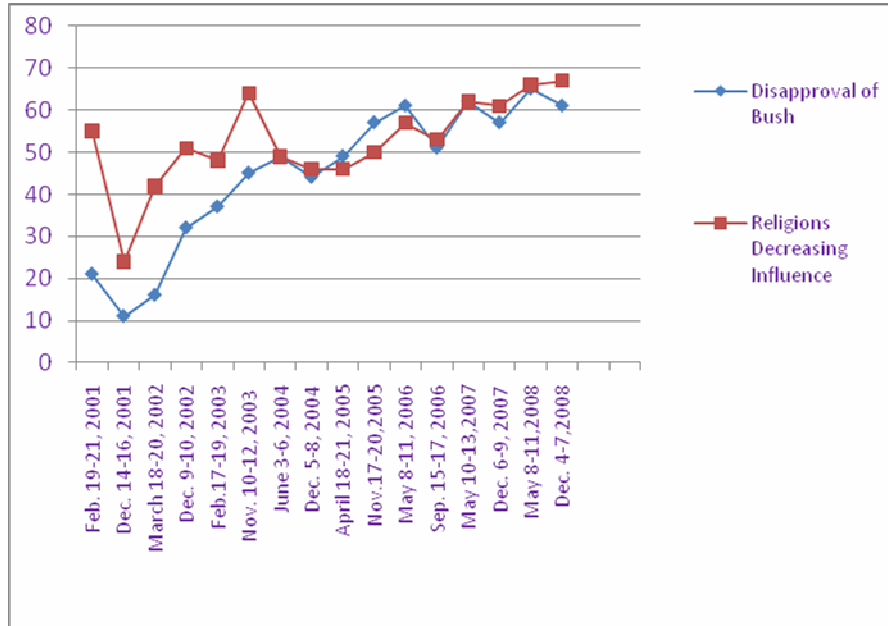
TABLE 2. DISAPPROVAL OF PRESIDENT BUSH AND THE PERCEIVED DECREASE OF RELIGIOUS INFLUENCE IN AMERICA¹⁴⁰

	Disapproval of Bush	Religions Decreasing Influence
Feb. 19-21, 2001	21	55
Dec. 14-16, 2001	11	24
March 18-20, 2002	16	42
Dec. 9-10, 2002	32	51
Feb. 17-19, 2003	37	48
Nov. 10-12, 2003	45	64
June 3-6, 2004	49	49
Dec. 5-8, 2004	44	46
April 18-20, 2005	44	46
Nov. 17-20, 2005	57	50
May 8-11, 2006	61	57
Sep. 15-17, 2006	51	53
May 10-13, 2007	62	62
Dec. 6-9, 2007	57	61
May 8-11, 2008	65	66
Dec. 4-7, 2008	61	67

Graph 1, on the next page, demonstrates the parallel movements in public opinion about President Bush's disapproval rate and the perceived decrease in religious influence in America. Both public opinion movements headed steadily in the same direction with particularly close relationships in both public opinion movements between 2005 and 2008.

¹⁴⁰ Saad, *supra* note 6; PollingReport.com, President Bush: Job Rating, <http://www.pollingreport.com/BushJob1.htm> (providing the disapproval ratings of President George W. Bush as compiled by various organizations, including the polls for the above listed times frames compiled by Gallup). *See also* Saad, *supra* note 135.

GRAPH 1: CHARTING PRESIDENT BUSH'S DISAPPROVAL RATING AND PERCEIVED DECREASE IN RELIGIOUS INFLUENCE



One set of public opinion surveys over time indicate that James Madison's hypothesis was correct. Madison hypothesized that the greater the entanglement of government with religion the less religiosity would exist in society, and hence, the less religion would influence people and society.¹⁴¹ Whether the Gallup Organization survey testing indicates that presidential entanglement of government and religion will result in diminished religious influence is uncertain. However, the Gallup survey testing demonstrated the risks taken when religion and government become interrelated in an identifiable overt, programmatic fashion. Definitely, the Gallup data demonstrated that organized religion risked losing influence by being programmatically involved with an unpopular president. In other words, politics has the power to taint religion. Madison's concerns about the

¹⁴¹ See *supra* notes 77-83 and accompanying text.

de-sacralization of religion by involvement with the civil governor seem justified.¹⁴²

Possibly, Madison would need to modify his hypothesis to some extent. Religion takes great risks when a civil governor incorporates religion into her policies and programs, because national and international circumstances may make the civil governor and her programs unpopular thereby tainting religion. Madison might not accept this modification, because he posited another theory that he did not develop as well as his main hypothesis. In a vague fashion, Madison indicated that religion and government combined created a toxic negative mix that increased social discord.¹⁴³ This implies that the civil government by mixing religion and government would automatically create negative opinion about the civil governor. Unpopularity would naturally follow.

In modern America, Madison's worries about civil discord and unpopularity make a lot of sense. First, the United States is polarized sectionally on partisan bases. Different sections of the United States have varying levels of partisan allegiances.¹⁴⁴ Second, the Gallup Organization opinion testing evidenced strong sectional differences in religiosity.¹⁴⁵ The ten most religious states tend to be located in the American South and the ten least religious states tend to be located in New England or the Northwest.¹⁴⁶ Third, attitudes about religion implicate partisanship. Democrats, Republicans, and Independents possess different attitudes toward the desired influence of religion in America.¹⁴⁷ Last, nationally, people have varied allegiances to religions and those allegiances implicate how much influence people desire religion in America.¹⁴⁸ These religious and political schisms in American society provide support for Madison's concerns about the combustibility of religion mixing with government. Any president—or for that matter governor or mayor—who incorporates religion and religious organization into public policy

¹⁴² See *supra* notes 72-74 and accompanying text.

¹⁴³ See *supra* notes 75-76 and accompanying text.

¹⁴⁴ See EARL BLACK & MERLE BLACK, *DIVIDED AMERICA: THE FEROCIOUS POWER STRUGGLE IN AMERICAN POLITICS* 1, 45, 170 (Simon & Schuster 2007).

¹⁴⁵ Frank Newport, *State of the States: Importance of Religion*, <http://www.gallup.com/poll/114022/State-States-Importance-Religion.aspx> (last visited Sept. 16, 2009).

¹⁴⁶ *Id.*

¹⁴⁷ Newport, *supra* note 121.

¹⁴⁸ *Id.*

and programs risks quickly alienating portions of the citizenry, and further risks a rising tide of unpopularity. As a result, religious leaders and religious organizations that partner with government by becoming instruments of governmental policy and programs risk losing influence in American society.

V. CONCLUSION: MR. MADISON APPEARS TO BE CORRECT

James Madison fought to separate church and state.¹⁴⁹ He hypothesized that the entanglement of church and state would lessen the influence of religion in society by undercutting religiosity.¹⁵⁰ He worried that religion would lose its efficacy by becoming desacralized and instrumentalized by government.¹⁵¹ George W. Bush entangled church with state by bringing religion into governmental programming.¹⁵² The Gallup Organization, through modern survey testing techniques, evidenced that Madison was correct and that President Bush played a role in diminishing the influence of religion in America.¹⁵³

Testing Mr. Madison's hypothesis creates a counter-intuitive political model. President Bush believed that incorporating religion in government program would free American religion from bureaucratic restraints so that the love embedded in religion would change America.¹⁵⁴ President Bush believed that his faith-based initiative could "change one heart at a time."¹⁵⁵ President Bush implied that his entanglement of government with religion would make America a more religiously loving country. Actually, the opposite result appears more likely. As a result, Mr. Madison's hypothesis promotes two types of clashing policies. Those in America who want to diminish the role and influence of religion in society should support for public office candidates who want to entangle religion with government; risking that the public office holder will become unpopular or that partisan and religious schisms will make the office holder un-

¹⁴⁹ See Robert A. Rutland, *James Madison's Dream: A Secular Republic*, in JAMES MADISON ON RELIGIOUS LIBERTY 199, 203 (Robert S. Alley ed., 1985).

¹⁵⁰ See *supra* notes 77-83 and accompanying text.

¹⁵¹ See *supra* notes 70-74 and accompanying text.

¹⁵² See *supra* notes 11-46 and accompanying text.

¹⁵³ See *supra* notes 92-110 and accompanying text.

¹⁵⁴ Remarks to Leaders, *supra* note 27, at 561-62.

¹⁵⁵ Remarks on Faith-Based and Community Initiatives, *supra* note 26, at 423.

popular. Such a result seems likely due to the political partisan and religious schisms in America. For those who want religion to have a greater influence on American society, oppose strongly any candidate who strives to entangle religion with government.