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Jews and the American Public Square

Debating Religion and Republic

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Introduction

Alan Mittleman

Concern for the proper ordering of religion and public life, including both the governmental and nongovernmental dimensions of the public sphere, goes back to the founding of the American republic. The distinctively American approach to these matters is encoded in the First Amendment. What the code meant in the eighteenth century, let alone what it ought to mean today, is endlessly controversial. At the time of the ratification of the U.S. Constitution, six states had established churches and eleven out of thirteen had religious qualifications for office-holding.¹ Far from being dismantled by the ratification of the First Amendment (which prohibited a *federal* establishment of religion), Massachusetts and Connecticut preserved their religious establishments into the nineteenth century. Their desire to do so probably influenced the amendment's compromising language. Prohibiting Congress from making any law "respecting an establishment of religion" does, after all, cut both ways. It prohibits Congress from establishing a would-be national religion and it prohibits Congress from infringing on the state establishments. Far from building a "wall of separation" between church and state (Jefferson's 1802 gloss on the amendment), the founders' constitution built a complex federal system where linkages between religion and government at various levels were acceptable. Nonetheless, these linkages were controversial even at the beginning. Founders like Thomas Jefferson and James Madison advocated a quite different approach to the problem of ordering religion and government from founders such as George Washington or Patrick Henry.²