'A Wall of Separation'

FBI Helps Restore Jefferson's Obliterated Draft

By JAMES HUTSON

Following is an article by the curator of a major exhibition at the Library that opens this month and runs through Aug. 22. A key document on view in "Religion and the Founding of the American Republic" (see LC Information Bulletin, May 1998), is the letter from Thomas Jefferson to the Danbury Baptists, which contains the phrase "a wall of separation between church and state." With the help of the FBI, the draft of the letter, including Jefferson's obliterated words, are now known.

Thomas Jefferson's reply on Jan. 1, 1802, to an address from the Danbury (Conn.) Baptist Association, congratulating him upon his election as president, contains a phrase that is as familiar in today's political and judicial circles as the lyrics of a hit tune: "a wall of separation between church and state." This phrase has become well known because it is considered to explain (many would say, distort) the "religion clause" of the First Amendment to the Constitution: "Congress shall make no law respecting an establishment of religion ...," a clause whose meaning has been the subject of passionate dispute for the past 50 years.

During his lifetime, Jefferson could not have predicted that the language in his Danbury Baptist letter would have endured as long as some of his other arresting phrases. The letter was published in a Massachusetts newspaper a month after Jefferson wrote it and then was more or less forgotten for half a century. It was put back into circulation in an edition of Jefferson's writings, published in 1853, and reprinted in 1868 and 1871.

The Supreme Court turned the spotlight on the "wall of separation" phrase in 1878 by declaring in *Reynolds v. United States* "that it may be accepted almost as an authoritative declaration of the scope and effect of the [first] amendment."

The high court took the same position in widely publicized decisions in 1947 and 1948, asserting in the latter case, *McCollum v. Board of Education,* that, "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.'" Since *McCollum* forbade religious instruction in public schools, it appeared that the court had used Jefferson's "wall" metaphor as a sword to sever religion from public life, a result that was and still is intolerable to many Americans.

Some Supreme Court justices did not like what their colleagues had done. In 1962, Justice Potter Stewart complained that jurisprudence was not "aided by the uncritical invocation of metaphors like the 'wall of separation,' a phrase nowhere to be found in the Constitution." Addressing the issue in 1985, Chief Justice William H. Rehnquist lamented that "unfortunately the Establishment Clause has been expressly freighted with Jefferson's misleading metaphor for nearly 40 years." Defenders of the metaphor responded immediately: "despite its detractors and despite its leaks, cracks and its archways, the wall ranks as one of the mightiest monuments of constitutional government in this nation."

Given the gravity of the issues involved in the debate over the wall metaphor, it is surprising that so little effort has been made to go behind the printed text of the Danbury Baptist letter to unlock its secrets. Jefferson's handwritten draft of the letter is held by the Library's Manuscript Division. Inspection reveals that nearly 30 percent of the draft -- seven of 25 lines -- was deleted by the president prior to publication. Jefferson indicated his deletions by circling several lines and noting in the left margin that they were to be excised. He inked out several words in the circled section and a few words elsewhere in the draft. He also inked out three entire lines following the circled section. Click here to see the text of the final letter.

Since the Library plans to display Jefferson's handwritten draft of the Danbury Baptist letter in its forthcoming exhibition "Religion and the Founding of the American Republic," the question was raised whether modern computer technology could be used to uncover Jefferson's inked-out words, so that the unedited copy of the letter might be shown to viewers alongside Jefferson's corrected draft. The Library requested the assistance of FBI Director Louis Freeh, who generously permitted the FBI Laboratory to apply its state-of-the-art technology to the task of restoring Jefferson's obliterated words. The FBI was successful, with the result that the entire draft of the Danbury Baptist letter is now legible (below). This fully legible copy will be seen in the exhibition in the company of its handwritten, edited companion draft. Click here to see Jefferson's unedited text. By examining both documents, viewers will be able to discern Jefferson's true intentions in writing the celebrated Danbury Baptist letter.

The edited draft of the letter reveals that, far from being dashed off as a "short note of courtesy," as some have called it, Jefferson labored over its composition. For reasons unknown, the address of the Danbury Baptists, dated Oct. 7, 1801, did not reach Jefferson until Dec. 30, 1801. Jefferson drafted his response forthwith and submitted it to the two New England Republican politicians in his Cabinet, Postmaster General Gideon Granger of Connecticut and Attorney General Levi Lincoln of Massachusetts. Granger responded to Jefferson on Dec. 31.

The next day, New Year's Day, was a busy one for the president, who received and entertained various groups of well-wishers, but so eager was he to complete his answer to the Danbury Baptists that, amid the hubbub, he sent his draft to Lincoln with a cover note explaining his reasons for writing it. Lincoln responded immediately; just as quickly, Jefferson edited the draft to conform to Lincoln's suggestions, signed the letter and released it, all on New Year's Day, 1802.

That Jefferson consulted two New England politicians about his messages indicated that he regarded his reply to the Danbury Baptists as a political letter, not as a dispassionate theoretical pronouncement on the relations between government and religion. His letter, he told Lincoln in his New Year's Day note, was meant to gratify public opinion in Republican strongholds like Virginia, "being seasoned to the Southern taste only."

Expressing his views in a reply to a public address also indicated that Jefferson saw himself operating in a political mode, for by 1802 Americans had come to consider replies to addresses, first exploited as political pep talks by John Adams in 1798, as the prime vehicles for the dissemination of partisan views. A few weeks earlier, on Nov. 20, 1801, Jefferson had, in fact, used a reply to an address from the Vermont legislature to signal his intention to redeem a campaign promise by proposing a tax reduction at the beginning of the new session of Congress in December.

In his New Year's note to Lincoln, Jefferson revealed that he hoped to accomplish two things by replying to the Danbury Baptists. One was to issue a "condemnation of the alliance between church and state." This he accomplished in the first, printed, part of the draft. Jefferson's strictures on church-state entanglement were little more than rewarmed phrases and ideas from his *Statute Establishing Religious Freedom* (1786) and from other, similar statements. To needle his political opponents, Jefferson paraphrased a passage, that "the legitimate powers of government extend to ... acts only" and not to opinions, from the *Notes on the State of Virginia,* which the Federalists had shamelessly distorted in the election of 1800 in an effort to stigmatize him as an atheist. So politicized had church-state issues become by 1802 that Jefferson told Lincoln that he considered the articulation of his views on the subject, in messages like the Danbury Baptist letter, as ways to fix his supporters' "political tenets."

The page, before and after restoration.

Airing the Republican position on church-state relations was not, however, Jefferson's principal reason for writing the Danbury Baptist letter. He was looking, he told Lincoln, for an opportunity for "saying why I do not proclaim fastings & thanksgivings, as my predecessors did" and latched onto the Danbury address as the best way to broadcast his views on the subject. Although using the Danbury address was "awkward" -- it did not mention fasts and thanksgivings -- Jefferson pressed it into service to counter what he saw as an emerging Federalist plan to exploit the thanksgiving day issue to smear him, once again, as an infidel.

Jefferson's hand was forced by the arrival in the United States in the last week of November 1801 of what the nation's newspapers called the "momentous news" of the conclusion between Britain and France of the Treaty of Amiens, which relieved the young American republic of the danger that had threatened it for years of being drawn into a devastating European war. Washington had proclaimed a national thanksgiving in 1796 to commemorate a

much more ambiguous foreign policy achievement, the ratification of Jay's Treaty that attempted to adjust outstanding differences with Great Britain. Would Jefferson, the Federalists archly asked, not imitate the example of his illustrious predecessor and bid the nation to thank God for its delivery from danger by the Treaty of Amiens? The voice of New England Federalism, the Boston *Columbian Centinel,* cynically challenged Jefferson to act. "It is highly probable," said the Centinel on Nov. 28, 1801, "that on the receipt of the news of Peace in Europe, the President will issue a Proclamation recommending a General Thanksgiving. The measure, it is hoped, will not be denounced by the democrats as unconstitutional, as previous Proclamations have been."

The *Centinel* and its Federalist readers knew that Jefferson would never issue a Thanksgiving proclamation, for to him and the Republican faithful in the middle and southern states, presidential thanksgivings and fasts were anathema, an egregious example of the Federalists' political exploitation of religion. Federalist preachers had routinely used fast and thanksgiving days to revile Jefferson and his followers, going so far in 1799 as to suggest that a Philadelphia yellow fever epidemic was a divine punishment for Republican godlessness.

During the Adams administration, Republicans organized street demonstrations against presidential fast days, ridiculed them in the newspapers and boycotted them. Since Federalists knew that Jefferson would never proclaim a national thanksgiving to praise God for the Treaty of Amiens, they calculated that they could use his dereliction as evidence of his continuing contempt for Christianity, which had spilled out again, in their view, in his invitation to "Citizen" Thomas Paine to return from France to the United States.

To offer the nation's hospitality to Paine, author of *The Age of Reason,* the "atheist's bible" to the faithful, was, the *Washington Federalist* charged on Dec. 8, 1801, an "open and daring insult offered to the Christian religion." Here, for the Federalists, was the same old Jefferson, the same old atheist. Political capital, they concluded, could still be made from sounding the alarm about presidential infidelity.

During the presidential campaign of 1800, Jefferson had suffered in silence the relentless and deeply offensive Federalist charges that he was an atheist. Now he decided to strike back, using the most serviceable weapon at hand, the address of the Danbury Baptists.

Jefferson's counterattack is contained in the circled section of his draft and in the inked-out lines. He declared that he had "refrained from prescribing even those occasional performances of devotion," i.e., thanksgivings and fasts, because they were "religious exercises." This was conventional Republican doctrine that could be found in any number of party newspapers. On March 27, 1799, for example, an "old Ecclesiastic" declared in the Philadelphia *Aurora* that "Humiliation, Fasting and Prayer are religious acts belonging to the kingdom of Christ" over which the civil magistrate, in the American system, had no authority.

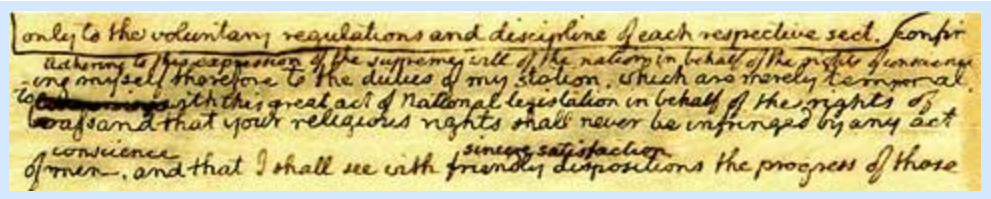
Jefferson took the gloves off when he asserted that the proclamations of thanksgivings and fasts were "practiced indeed by the Executive of another nation as the legal head of its church," i.e., by George III, King of England. By identifying the proclamation of thanksgivings and fasts as "British," Jefferson damned them, for in the Republican lexicon British was a dirty word, a synonym for "Anglomane," "Monocrat," "Tory," terms with which the Republicans had demonized the Federalists for a decade for their alleged plans to reverse the Revolution by reimposing a British-style monarchy on the United States. One of the most obnoxious features of the Federalists' American monarchy, as the Republicans depicted their putative project, was a church established by law, and Jefferson doubtless expected those who read his message to understand that, by supporting "British" fasts and thanksgivings, the Federalists were scheming, as always, to open a door to the introduction of an ecclesiastical tyranny.

In indicting the Federalists for their "Tory" taste for thanksgivings and fasts, Jefferson was playing rough. Thanksgivings and fasts had regularly been celebrated in parts of the country since the first settlements: to sully them with Anglophobic mudslinging, generated by the partisan warfare of his own time, as Jefferson did, was a low blow. But who was being more unfair: Jefferson or his Federalist inquisitors, who continued to calumniate him as an atheist?

The unedited draft of the Danbury Baptist letter makes it clear why Jefferson drafted it: He wanted his political partisans to know that he opposed proclaiming fasts and thanksgivings, not because he was irreligious, but because he refused to continue a British practice that was an offense to republicanism. To emphasize his resolve in this matter, Jefferson inserted two phrases with a clenched-teeth, defiant ring: "wall of eternal separation between church and state" and "the duties of my station, which are merely temporal." These last words -- "merely temporal" -- revealed Jefferson's preoccupation with British practice. Temporal, a strong word meaning secular, was a British appellation for the lay members of the House of Lords, the Lords Temporal, as opposed to the ecclesiastical members, the Lords Spiritual. "Eternal separation" and "merely temporal" -- here was language as plain as Jefferson could make it to assure the Republican faithful that their "religious rights shall never be infringed by any act of mine."

Jefferson knew and seemed to savor the fact that his letter, as originally drafted, would give "great offense" to the New England Federalists. Reviewing the draft on Dec. 31, Postmaster General Granger, the object of unremitting political harassment in Connecticut, cheered Jefferson on, apparently welcoming the "temporary spasms" that he predicted the letter would produce "among the Established Religionists" in his home state. When Levi Lincoln, a cooler head, saw the letter the next day, he immediately perceived that, as written, it could hurt Jefferson

politically among the growing number of Republicans in New England. People there, Lincoln warned Jefferson, "have always been in the habit of observing fasts and thanksgivings in performance of proclamations from their respective Executives." To disparage this custom with an "implied censure" by representing it as a tainted, Tory ceremony could be politically disastrous, however well the slur might play south of the Hudson River.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Before and after: Jefferson's letter to the Danbury Baptists contained the famous phrase "a wall of separation between church and state (in the sentence just before the area circled for deletion). The text as recovered by the FBI Laboratory shows that Jefferson first wrote "a wall of eternal separation." In the deleted section Jefferson explained why he refused to proclaim national days of fasting and thanksgiving, as his predecessors, Adams and Washington, had done. In the left margin, next to the deleted section, Jefferson noted that he excised the section to avoid offending "our republican friends in the eastern states" who cherished days of fasting and thanksgiving. Click here to see the unedited text of the letter.

Jefferson heeded Lincoln's advice, with the result that he deleted the entire section about thanksgivings and fasts in the Danbury draft, noting in the left margin that the "paragraph was omitted on the suggestion that it might give uneasiness to some of our republican friends in the eastern states where the proclamation of thanksgivings etc. by their Executives is an antient habit & is respected." Removed in the process of revision was the designation of the president's duties as "merely temporal"; "eternal" was dropped as a modifier of "wall." Jefferson apparently made these changes because he thought the original phrases would sound too antireligious to pious New England ears.

In gutting his draft was Jefferson playing the hypocrite, sacrificing his principles to political expediency, as his Federalist opponents never tired of charging? By no means, for the Danbury Baptist letter was never conceived by Jefferson to be a statement of fundamental principles; it was meant to be a political manifesto, nothing more.

Withholding from the public the rationale for his policy on thanksgivings and fasts did not solve Jefferson's problem, for his refusal to proclaim them would not escape the attention of the Federalists and would create a continuing vulnerability to accusations of irreligion. Jefferson found a solution to this problem even as he wrestled with the wording of the Danbury Baptist letter, a solution in the person of the famous Baptist preacher John Leland, who appeared at the White House on Jan. 1, 1802, to give the president a mammoth, 1,235-pound cheese, produced by Leland's parishioners in Cheshire, Mass.

One of the nation's best known advocates of religious liberty, Leland had accepted an invitation to preach in the House of Representatives on Sunday, Jan. 3, and Jefferson evidently concluded that, if Leland found nothing objectionable about officiating at worship on public property, he could not be criticized for attending a service at which his friend was preaching. Consequently, "contrary to all former practice," Jefferson appeared at church services in the House on Sunday, Jan. 3, two days after recommending in his reply to the Danbury Baptists "a wall of separation between church and state"; during the remainder of his two administrations he attended these services "constantly."

Jefferson's participation in House church services and his granting of permission to various denominations to worship in executive office buildings, where four-hour communion services were held, cannot be discussed here; these activities are fully illustrated in the forthcoming exhibition. What can be said is that going to church solved Jefferson's public relations problems, for he correctly anticipated that his participation in public worship would be reported in newspapers throughout the country. A Philadelphia newspaper, for example, informed its readers on Jan. 23, 1802, that "Mr. Jefferson has been seen at church, and has assisted in singing the hundredth psalm." In presenting Jefferson to the nation as a churchgoer, this publicity offset whatever negative impressions might be created by his refusal to proclaim thanksgiving and fasts and prevented the erosion of his political base in God-fearing areas like New England.

Jefferson's public support for religion appears, however, to have been more than a cynical political gesture. Scholars have recently argued that in the 1790s Jefferson developed a more favorable view of Christianity that led him to endorse the position of his fellow Founders that religion was necessary for the welfare of a republican government, that it was, as Washington proclaimed in his Farewell Address, indispensable for the happiness and prosperity of the people. Jefferson had, in fact, said as much in his First Inaugural Address. His attendance at church services in the House was, then, his way of offering symbolic support for religious faith and for its beneficent role in republican government.

It seems likely that in modifying the draft of the Danbury Baptist letter by eliminating words like "eternal" and "merely temporal," which sounded so uncompromisingly secular, Jefferson was motivated not merely by political considerations but by a realization that these words, written in haste to make a political statement, did not accurately reflect the conviction he had reached by the beginning of 1802 on the role of government in religion.

Jefferson would never compromise his views that there were things government could not do in the religious sphere -- legally establish one creed as official truth and support it with its full financial and coercive powers. But by 1802, he seems to have come around to something close to the views of New England Baptist leaders such as Isaac Backus and Caleb Blood, who believed that, provided the state kept within its well-appointed limits, it could provide "friendly aids" to the churches, including putting at their disposal public property that even a stickler like John Leland was comfortable using.

Analyzed with the help of the latest technology, the Danbury Baptist letter has yielded significant new information. Using it to fix the intent of constitutional documents is limited, however, by well established rules of statutory construction: the meaning of a document cannot be determined by what a drafter deleted or by what he did concurrently with the drafting of a document. But it will be of considerable interest in assessing the credibility of the Danbury Baptist letter as a tool of constitutional interpretation to know, as we now do, that it was written as a partisan counterpunch, aimed by Jefferson below the belt at enemies who were tormenting him more than a decade after the First Amendment was composed.

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Back to June 1998 - Vol 57, No. 6