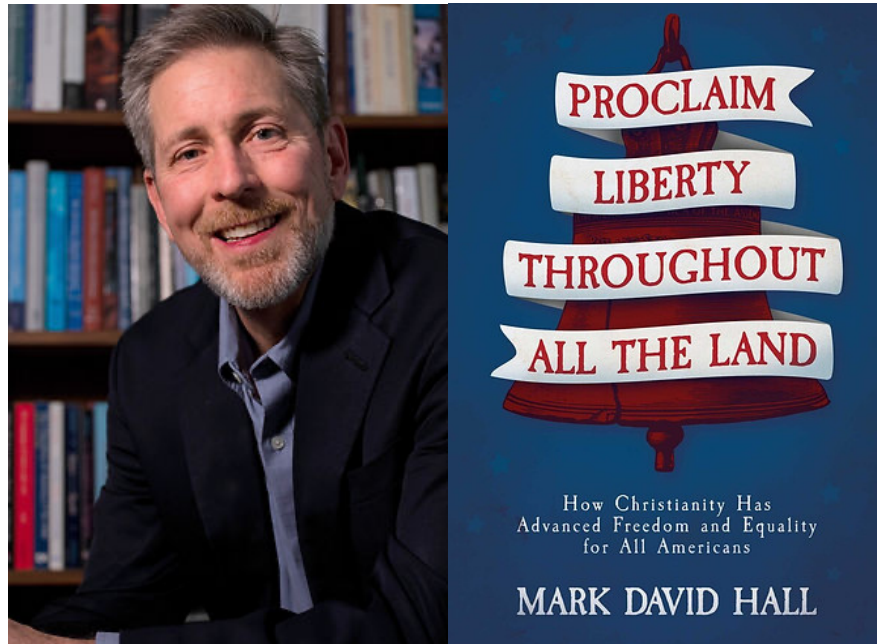




JACK MILLER CENTER

For Teaching America's Founding Principles and History

An Interview with Professor Mark David Hall



JMC Resident Historian Elliott Drago sat down with JMC Faculty Partner Mark David Hall to discuss his most recent book, *Proclaim Liberty Throughout All the Land: How Christianity Has Advanced Freedom and Equality for All Americans*. Dr. Hall is a Professor in Regent University's Robertson School of Government and a Senior Fellow at the Center for Religion, Culture, and Democracy.

ED: Thank you for taking the time to talk about your wonderful and engaging book! Explain how you came to this project, and what sorts of questions guided you during your research.

MDH: This book was originally conceived as a sequel to my last book, *Did America Have a Christian Founding?* (Nashville: Nelson Books, 2019). In between the publication of that book and this one, the *1619 project* came out and it made me angry as it was such a profound distortion of American history. For years, academics have been arguing that slavery and racism are central to the American story. And they often suggest that most Christians supported these evils, and that for progress to be made we had to overcome traditional Christian teachings, maybe by rejecting religion altogether, or at least by embracing a progressive manifestation of it. I acknowledge that Christians throughout American history have defended evils such as slavery, racism, and sexism, but I wanted to tell a different story. My argument is that, on balance, Christianity has been a force for the advancement of liberty and equality from the Puritans to the present day.

ED: Explain some of the misconceptions about the Puritans and religious toleration.

MDH: I think many Americans know of the Pilgrims and the Puritans through reading the Nathaniel Hawthorne's *The Scarlet Letter* or Arthur Miller's *The Crucible* and, as a result, they have this image of mean-spirited theocrats who worried that someone, somewhere might be having a good time. One of the things that I attempt to do is put them in context. I argue that when the Pilgrims (and later Puritans) came over to America, they were attempting to establish, in Governor John Winthrop's words, "a shining city on the hill." They had many successes. For instance, they revised criminal laws and in ways that can only be said to be progressive in the very best sense of the word. In England, you could be put to death for literally hundreds of crimes, including minor ones such as stealing a few shillings. Looking to the Bible for guidance, the Puritans said restitution is the proper penalty for theft, not death. Criminal laws in New England were far more humane than they were anywhere else in the world.

As well, Puritans developed some of the most republican governments the world had ever seen. These changes flowed naturally from key tenets of the Protestant Reformation, which emphasized *sola Scriptura*, the Bible alone, and the priesthood of all believers. Put those doctrines together and you see an explosion in literacy rates. As well, the priesthood of all believers suggests democratic forms of church government. In New England, the congregation ran the show: they decided who to hire or fire as a minister, for instance, or whether or not to build a new meeting house. These ecclesiastical structures spilled over into political structures, so that most males in New England were able to vote, and elections were held every six months. These folks were engaged in more republican forms of government than the world had ever seen. They were big believers in the rule of law, and as Calvinists they're very distrustful of human nature and so were suspicious of concentrated power. The Laws and Liberties of Massachusetts (1646) contained numerous limitations on civic officials, and included many rights that later made their way into the Bill of Rights.

ED: Can you share how threats to religious liberty represent an overlooked cause of the Revolutionary War?

MDH: To answer this question, we must remember that England had an official, established church—the Church of England, and this church was established throughout the American south. But only about 15% of Americas were members of this church; most mid-Atlantic and New England colonies either didn't have religious establishments or the Congregational Church was established. Virtually all Americans of European descent are Protestant 98%, 2% were Roman Catholic, and there were about 2500 Jews in four or five American cities. So it's a very Protestant country, but not an Anglican country, and throughout American history from the early colonies and then particularly picking up speed again around 1765, there was always the fear that a bishop would be sent to British North America to punish dissenters and establish the Anglican Church throughout all of the colonies. As well, there was concern about the Quebec Act. Remember, this is a very Protestant country, and here Parliament in 1774 passes an act that tolerates and even seems to establish Roman Catholicism in the colony of Quebec. This is crazy and dangerous from the Protestant perspective: "why is Parliament supporting these authoritarian Catholics?" patriots asked. Now, neither of these concerns really were fair. It was never likely that a bishop would be sent to British North America. If a bishop was sent, he probably just would have ordained Anglican ministers. The Quebec Act was actually a pretty reasonable piece of legislation, and yet Protestants saw it as part of a long train of abuses that included taxation without representation, threats to religious liberty, and denying Americans the right to trial by jury, among other concerns.

ED: To what extent did the Founders utilize religion to justify both slavery and emancipation?

MDH: The Bible has passages that seem to suggest that slavery is a legitimate institution. For instance, St. Paul tells slaves to obey their masters, and in the book of Philemon he sends an escaped slave, Onesimus, back to his master (albeit with a strong suggestion that he be freed). Some Christians pointed to such Scripture to support the institution of slavery. But, it is important to recognize that in the 18th century, Christians were coming to recognize that there's something fundamentally problematic about American chattel slavery. They held that slaves, like all humans, are created in the *Imago Dei*, the image of God and therefore should be treated with respect and dignity. Beginning with the Quakers and then rapidly expanding to other denominations, Christians start arguing that American chattel slavery flies in the face of this fundamental principles.

Despite the growing opposition to slavery, far too many scholars dismiss the founders as a bunch of hypocrites, as people who wrote "we hold these truths to be self evident, that all men are created equal" and yet they continued to own slaves. One of the things I point out in the book is that the vast majority of white Americans never owned slaves. Civic leaders tended to be a bit wealthier and were more likely to own slaves, but plenty of America civic leaders never did. Some of those who did, like John Jay, Ben Franklin, John Dickinson, and James Wilson, recognized on their own volition that slavery was wrong. They voluntarily freed their slaves. I also show that some prominent slave owners including Thomas Jefferson, Patrick Henry, George Washington and James Madison were profoundly troubled by the institution.

Important concrete steps were taken after 1776 to end slavery. For instance, eight states voluntarily abolished it or put it on the road to extinction. The Northwest Ordinance prohibited the expansion of slavery into the Old Northwest (encompassing the modern states of Ohio, Michigan, Indiana, Illinois, Wisconsin, and parts of Minnesota), and in the founding era there was a very common assumption that slavery's days were numbered. Unfortunately, Eli Whitney invented the cotton gin in 1794, which made a production of certain types of cotton that could grow in the interior in the South (as opposed to the coastal regions) far more profitable. And even though the cotton gin saves a lot of labor, there still is a great deal of labor required to clear the land as well as plant and harvest the cotton. So, slavery gets a new lease on life in the American South. By the 1820s, you have for the first time in American history civic leaders defending slavery as a positive good. (In the 18th century, if it was defended at all, it was as a necessary evil. Let me be clear, I'm not saying that slavery was no big deal: it was a horrendous and an evil institution that had to be ended. Yet we should recognize and praise those founders who did a lot more to end slavery than is commonly recognized.

ED: The Establishment Clause is one of the most disputed features of the Constitution. Why has this been the case and what, exactly, does it prohibit?

MDH: I fully support interpreting constitutional provisions as they were originally understood by the drafters and ratifiers. I argue in some detail in my last book, *Did America have a Christian founding?* that the Establishment Clause essentially means what it says, i.e., that "Congress shall make no law respecting an establishment of religion." Simply put, it prohibits the establishment of a national church. States could and did have established churches at the state level. Fortunately, from my perspective, they voluntarily disestablished them. By 1833, Massachusetts got rid of its establishment.

Through the 14th Amendment, the Establishment Clause came to be applied to the states. After 1947 states could not have official state churches either, but this left a lot of room for state governments and for the national government to do things like create monuments that include religious imagery or language such as the monument of the Ten Commandments. It also permits them to create exemptions or accommodations that protect religious citizens. Congress did this in the Selective Service Act of 1917. Basically, it said if you

are a member of a historic peace church and are a pacifist, you don't have to serve in combat. This exemption was challenged on constitutional grounds, including that it was a violation of the Establishment Clause. But in no way, shape, or form can the original understanding of the Establishment Clause be understood as prohibiting Congress from protecting religious citizens—even members of select churches. Fortunately, in 1940 Congress expanded this protection to include all religious citizens, and to this day the Selective Service Act protects only religious pacifists. In my opinion, it should be expanded to protect citizens who are pacifists for non-religious reasons, but that it hasn't still doesn't constitute an Establishment Clause violation.

There has been a great deal of confusion over what the Establishment Clause prohibits because in 1947 the Supreme Court properly insisted that it must be interpreted in light of the founders' views, but then provided a very skewed account of their views. Both Justice Black and Rutledge emphasized Thomas Jefferson's letter to the Danbury Baptists, where he asserts that Establishment Clause creates a wall of separation between church and state. If you believe there's a wall of separation between church and state, then you might come to the conclusion that religious accommodations that protect pacifist are unconstitutional, that monuments including religious language are unconstitutional, that public funds going to private religious schools are unconstitutional. But if you accept an accurate historical account of what the Establishment Clause was intended to prohibit, all these things are clearly permissible. Now we just need to argue which are prudential and which are good public policy.

ED: In your opinion, which Supreme Court ruling (or rulings) embodies the tension of placing religious monuments and speech on public land?

MDH: Beginning in 1947 and through the 1970s, a majority of justices accepted the view that there was a wall of separation between church and state. And so, there are a variety of decisions limiting the sort of aid that states could give to religious schools and serious questions about religious monuments and public land. A good example of a problematic case involved a massive monument of the Ten Commandments on the Texas State House grounds and a plaque containing the Ten Commandments in a Kentucky courthouse. Both displays were challenged as violating the Establishment Clause, and you would think that justices would either hold both of them to be constitutional, or both of them to be unconstitutional. In fact, four justices believed both were unconstitutional and four justices believed they were constitutional. Justice Breyer cast the deciding vote, counterintuitively upholding the massive monument on the Texas State House grounds and declaring the plaque to be unconstitutional. Kind of a crazy decision, in my humble opinion. Fortunately, we've seen that the Court has shifted to embrace a more accurate view of what the founders understood the Establishment Clause to prohibit.

A couple years ago, there was a case involving a massive 40-foot cross put up in a county in Maryland to honor the lives of men from the county who had died in the first World War. The cross was put up with private funds on private land, but eventually it came to be in a public land. The American Humanist Association said, "this cannot be, you cannot have this religious symbol on public land." Yet the exact remedy was unclear. What are we going to do, decapitate it, so it becomes like a like the Washington Monument, or maybe tear the whole thing down? Fortunately, the Supreme Court said that in no way was this 1925 monument an establishment of religion. The Court said that by a vote of seven to two, even Stephen Breyer and Elena Kagan joined the "conservatives," for want of a better word.

It is important to note that when the cross was erected, there is no reason to think that any of the young men from this county who died in the Great War were anything other than Christians. America was still mostly populated by Christians in that era; probably 94% of citizens would have identified themselves as some sort of Christian. But in the 2020s we obviously live in a far more pluralistic country. So, erecting a

cross to honor dead soldiers in World War One wasn't a bad idea, but would be a horrible idea today. There's a very good chance that many soldiers who died in, say, Iraq, would not identify themselves as Christians, and so you wouldn't want to honor them with a Christian symbol. On the other hand, maybe you'd want a monument that has religious symbols from a variety of traditions. If you go up to the 9/11 Memorial, you'll see crescent and stars, crosses, and a Stars of David, and so it's very pluralistic.

ED: Students are often taught that many Founders were avowed Deists. If that's the case, how did Deism influence their views of religious liberty?

MDH: I have an entire chapter in my last book entitled "Were any of the founders Deists?" I begin it with literally 14 or 15 quotations from very prominent scholars that say that "most, or at least many, of America's founders were Deists." People like George Washington and James Madison are always lumped in this group, and yet there is not a single primary source document that show that they were not orthodox Christians. We know Franklin, Adams, and Jefferson were not orthodox Christians, but if Deism includes the idea that God does not interfere in the affairs of men and nations, it is not clear that any of these men were Deists. Washington, for instance, spoke and wrote all the time about God intervening in human affairs, in both personal ways and with respect to the nation. And consider this: every member of this small sample of six or seven founders is, by the end of their lives anyway, a member of the Church of England (with the exception of John Adams). Remember, too, that Anglicans are only about 15% of the American population. This sample also includes founders that spent a lot of time in Europe, like Thomas Jefferson, Ben Franklin, and John Adams. It's a very unrepresentative sample that scholar after scholar looks to, and what I contend is that if we turn our eyes from the small and brilliant group of individuals to the broader constellation of founders, we see almost no evidence of Deism in the American founding. Tom Paine, who was born and raised in England, and Ethan Allen are, I think, the only founders accurately called deists (and I'm not convinced we should call Paine an "American" founder.

ED: What does the history of religious liberty in America reveal about America's founding principles?

MDH: America's founders were committed to very robustly protecting religious liberty, and many of them referred to it as "the sacred right of conscience." And they were coming to recognize that religious liberty applies equally to everyone. The Constitution famously bans religious tests for office, and the anti-Federalists pointed out that a Jew, a Muslim, or even an atheist could become president. The Federalists had to admit that was a possibility, but they usually went on to say but it would never happen. They were unable to recognize what the United States of America would become, but still, the fact is that that principle is inserted into the Constitution itself. As well, the Constitution's oath provisions all permit oath takers to swear "or affirm." The affirmation possibility was included to protect members of small Christian sects, such as Quakers, Mennonites, and Brethren, who believe that they cannot swear oaths, but they may affirm them. It is noteworthy, I think, that a religious accommodation is baked into the Constitution itself.

One of my favorite letters from the founding era is George Washington's letter to the Hebrew congregation in Newport, Rhode Island. He explains that in America, we no longer speak of religious toleration. Instead, everyone has a natural right to worship God according to the dictates of conscience and, we might add, to act upon his or her religious convictions whenever possible. Collectively, the founders were very concerned for religious liberty, and they wanted it to be robustly protected. Thank goodness they were coming to recognize that everyone enjoys their rights to religious liberty, not just Protestants, and not just Christians.

Now, let me hasten to say that we have not always lived up to this founding ideal, and there has been far too much persecution or harassment of religious minorities throughout American history. I have an entire

chapter detailing the profound anti-Catholic animus that existed in the mid-19th to mid-20th century and how it led to this idea that there should be a strict separation between church and state. Fortunately, we overcame that in the mid-20th century. I like to think we still have a pretty profound commitment to religious liberty. I'm afraid some of my progressive friends have turned against religious liberty, especially when it comes to conservative persons of faith who believe, for instance, they can't participate in the same-sex wedding ceremony or perform an abortion. But other than that, I think it's fair to say we still have a pretty robust understanding of religious liberty that it must protect everyone, and it should permit people to act upon their religious convictions and not just engage in worship.

ED: What's next for Mark David Hall?

MDH: I'm spending the year at Princeton at the James Madison fellowship, and I'm writing a book on American Christian nationalism. This topic has been very hotly contested over the last couple of years. Basically, I'm attacking the critics who vastly exaggerate the threat of Christian nationalism today, but I also critique the handful of Christians that actually embrace Christian nationalism. I think all manifestations of the phenomenon are problematic. I'm hoping that the book will be out early next year.

I should also mention that I'll start teaching at Regent University this fall. The Robertson School of Government is starting a PhD program in politics, and they asked me to be involved in it. I hope anyone interested in this program will reach out to me, I would be happy to discuss it.

ED: Thank you once again! We look forward to speaking with you again soon!