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The Movement Toward Religious Liberty: An Examination of The Factors Responsible for the First Amendment to the Constitution of the United States

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THE MOVEMENT TOWARD RELIGIOUS LIBERTY:
AN EXAMINATION OF THE FACTORS RESPONSIBLE FOR THE
FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

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LOUIS, MISSOURI

A Research Paper Presented to the Faculty
of Concordia Seminary, St. Louis,
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by
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CHAPTER I

INTRODUCTION

The periodic attempts on the American political scene to try and obtain state aid for religious schools are as predictable as the determined opposition of those who claim that any such aid would be a violation of our traditional separation of church and state. The question is, does the first amendment to the Constitution of the United States prohibit all cooperation between church and state or only that cooperation which gives preference to one church or group of churches to the exclusion of others.

The first amendment itself could be interpreted either way--"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" ¹ And so many have tried to determine what the intent was of the men who wrote this amendment. What were they trying to say?

Charles Antieau, Arthur Downey and Edward Roberts in their book, Freedom from Federal Establishment, argue

that the people of the several states did not desire a gulf between government and religion, but rather the abolition of a preferential treatment toward one sect. ²

Anson P. Stokes would not go that far, but he does feel that the separation we claim to have today came not with the first amendment but as a later development. ³ E.M. Halliday, however,

shows that the purpose of Jefferson and Madison, who led in the fight for religious freedom, was not only an end to preference but also to bring about complete separation of church and state.⁴

This is the context in which this research paper is written though its goal is much more modest. We do not hope to settle the question of the intent of our founding fathers. But we want to try to determine whether the churches were at all involved in this movement toward religious freedom. Were they in favor of a separation between church and state, or did they only seek to end preference? Or were they not involved at all? At the same time, we also want to examine the various factors responsible for the first amendment and to see what they tell us about the intent of the fathers.

Obviously even such a topic is far too broad for the limits of this research paper. We shall have to take a very general overview of the history of church and state relations from colonial beginnings until the ratification of the first amendment. But we hope that in this history we shall find some answers to our questions.

CHAPTER II

COLONIAL BEGINNINGS

In any discussion of the movement in the United States toward the first amendment and religious freedom, it is impossible to ignore the colonial beginnings of the individual colonies. For many of the colonies were founded for religious reasons, and for many of them the relationship between church and state has played an important role in their development.

Virginia

We begin our history, of course, with the London Company, which in 1606 received its charter from James I. This was primarily a business venture, and yet that was not the only purpose.

England had for at least four decades been engaged in almost open warfare with the Spanish on the high seas. And this rivalry involved not only the rivalry that one would expect between two rapidly growing (or at least beginning to grow) empires, but it also included religious differences. For the Spanish were Roman Catholic while the English had been Protestant ever since the Act of Supremacy of 1534.

And this English Protestantism included in it an anti-Catholicism. This was not just an opposition to the Catholics as a different religious sect, but it included also the fear that these Catholics were going to try to impose their religion,

by force if necessary, onto the Protestants, who had rejected it. This same fear of Catholics will appear again and again in our discussion of early American history. And the English felt that they had cause to be worried, because they could point to specific events within their recent history--the attempt of Mary to impose Catholicism on England during her brief rule from 1553 to 1558. Aiding Mary in this attempt was her husband, Philip II of Spain.

Thus in addition to the business motive, another reason for the attempt of the London Company to establish a colony in North America was the desire to acquire there at least a toehold for Protestantism and to block if possible the expansion not only of Spain but also of Spanish Catholicism. And this was tied to the missionary motive of hoping to Christianize the Indians. And so the Reverend Robert Hunt, an Anglican, was sent along with the first colonists in a desire to save the Indians "from the Catholicism of the pope as well as from their own heathen practices."¹

Religion was thus involved in English colonial America from the very beginning.

The story of the early years of the Jamestown colony, which began in 1607, does not really concern us except to mention that the failure of the colony to provide the expected profits for the London Company led that company to fold and to be replaced in 1609 by the Virginia Company. The new charter of 1609 also points to the importance of religion

in the eyes of the government. It says that because the principle effect hoped for from the colony is the conversion of the Indians that none will be "permitted to pass in any Voyage . . . but such, as first shall have taken the Oath of Supremacy."²

However, the Virginia Company was also determined to make the colony an economic success, and therefore, at least for a time, it granted religious toleration in hopes of attracting a better caliber of colonists.³ Thus we see here already one of the factors which was to aid in the growth of toleration--the necessity to be tolerant in order to attract settlers.

Yet these measures were not sufficient, for a royal investigation of the colony in 1623 showed that four thousand out of six thousand colonists had died and that the Virginia enterprise was a financial failure as well. Thus in 1624 Virginia was made a crown colony.⁴

From the very beginning, although there may have been limited toleration, the Church of England was the established church of Virginia. The charter said that worship was to conform to the practice of the Church of England. Another mark of an established church, which we shall encounter again and again, was the fact that everyone, no matter what his religious preference, was required to support the Church of England. Every settlement had to provide land, and every male over sixteen was assessed in corn and tobacco to support the clergy.⁵

However, the episcopal structure of the Church of England was to prove an irritant to the independent-minded colonists who wanted to have some control over their local clergy. ~~And~~ because there were no bishops in the colonies, every candidate for the ministry had to travel to England for ordination and approval of the English bishops. This allowed England to keep the colonial clergy under their control, but it irritated the colonists. The colonists, however, managed to keep a measure of control over the clergy by refusing to present the ministers for induction and ordination--they just kept them on in a sort of interim or pre-ordination condition.⁶ This allowed the colonists some control over the clergy, but at the same time it meant a lack of the sacraments, a weak church, and often an inferior clergy. But the point to note is that the colonists desire for self-control or self-government was already finding itself at odds with the Church of England.

Plymouth

The second major group with which we are concerned came on December 21, 1620, to Plymouth, Massachusetts. These were the Separatists or Pilgrims. They felt compelled to separate themselves from the Church of England, because they objected to its high church practices and because they felt that the very idea of a state church was theologically wrong. There could be no such thing as a state church. A church is composed

only of people who have been converted to Christianity. A person who wants to join a congregation must be able to give proof of such a conversion experience. It is, therefore, impossible to claim that all the members of one nation are members of one church even as it is impossible to compel an individual to join such a church.

This group had already tried to separate itself from the Church of England from 1607 to 1609 by emigrating from England to Holland, where they were allowed to have their own separate church and worship. But they considered themselves Englishmen and desired to live according to the laws and customs of England. So they sought and received permission from the Virginia Company and from James I to go to Virginia and to worship there as they pleased.

But for some reason they landed instead in Massachusetts, and so in 1621 they had to obtain permission from the Council of New England to settle where they already were.

Generally there seems to have been religious toleration at Plymouth. At first they let everyone vote, and then later the requirement was added that the individual had to be approved by the freemen of the town. In 1665 the General Court of Plymouth responded to Charles II that they would not deny religious liberty to anyone, and Massachusetts is known to have complained of Plymouth's laxity.⁷ Bancroft points to their stay in Holland as a possible explanation for the general spirit of toleration in Plymouth.⁸ Thus we have here a group

that came to North America so that they might have religious freedom, and they in turn were willing to allow others at least some toleration.

Unfortunately Plymouth never got to be a very important colony, for it was soon a satellite of Massachusetts, and in 1691 it was actually absorbed by Massachusetts. And so it is to Massachusetts that we turn next.

Massachusetts

There seems to be a general agreement among historians that there was not a lot of difference between the Puritans and the Pilgrims. Both opposed high church practices. Both agreed that the whole nation could not be included in one large church, for one had to be converted in order to join. The basic difference between the two, therefore, seems to have been that while the Pilgrims felt compelled to separate from the Church of England the Puritans wanted to remain within the church and to purify it from within. This difference is shown by the words of Pastor Francis Higginson as his group of Puritans left England for Salem:

We will not say, as the Separatists were wont to say at their leaving England, "Farewell, Babylon!" . . . but . . . "Farewell, the Church of God in England!" . . . We do not go to New England as separatists from the Church of England; though we cannot but separate from the corruption of it.⁹

They did not want to leave the Church of England, but they felt that they must when Archbishop Laud tried to compel them to worship in ways that they felt were wrong.

So in 1628 a group of forty Puritans were sent to Naukeag (later to become Salem, Massachusetts) under John Endicott. The Puritan lack of religious tolerance was already in evidence, for Endicott sent home a group that wanted to use the Book of Common Prayer.¹⁰

In 1629 the Massachusetts Bay Company was formed by a number of Puritans for the purpose of establishing a Puritan colony in North America, where they might be able to worship as they pleased. Then in 1630 a group led by John Winthrop bought out those in the company who did not wish to emigrate and then got permission to take their charter with them to North America.

And so we find another settlement that was begun for religious reasons. But the Puritan dream was to establish a pure and holy religious community here in the new world, and so it was going to be necessary for the state and the government to work closely together.

According to their charter, the authority in the colony was to rest with the legislature or General Court (composed of shareholders or "freemen") and a governor, deputy governor, and council of assistants elected by the freemen. The danger was that the charter said that all freemen had the right to vote. But somehow the church and state had to be tied together so that the state could be kept the pure Christian community that they were trying to establish. And so in 1631 church membership became a prerequisite to being a freeman and having

the right to vote.

The only legal evidence that even a saint had honesty and goodness enough to fit him for the sacred duty of voting for a constable was the certificate of some minister that he was a member of a Congregational Church "in good and regular standing." This is precisely the ground occupied by the parliament of England in its acts of uniformity The only difference was that parliament established the Episcopacy, while the general court of Massachusetts established Congregationalism.¹¹

And they did it in Massachusetts to protect their holy experiment.

This meant that ministers who were allowed to have control over church membership could thus actually control who was allowed to vote and who was not. Also the clergy were often called on for advice by the colonial government, and the sermons on the Sunday before election days were said at times to have had great influence. Yet Sweet argues that Massachusetts was really more Erastian than theocentric, for the advice that the ministers gave could only be unofficial, while the government officials because of their office were often concerned with even the internal affairs of congregations--settling disputes of doctrine and piety, settling infractions of the commandments, judging ministers, calling synods, and so on.¹² Our purpose here is not to debate which term fits Massachusetts the best but merely to see the close relation there between church and state and to recognize the necessity of this relationship so that the colony could be kept pure and undefiled.

Thus if a person wanted to live in Massachusetts, while he could not join the church unless he had a genuine conversion experience, nevertheless while in Massachusetts he was obliged

to live according to the rules of the Massachusetts church. This was not seen as a terrible oppression, for a person could always go somewhere else to live where there was some other church.

And since it was seen as necessary for the church to survive so that the colony might also be able to survive, therefore all were taxed to support the congregation.

Beginning in 1646 there was agitation in Massachusetts for the removal of the religious restrictions on civil rights and freedoms. This agitation was essentially political, and it included the threat of appeal to England against the charter. But a threat to the charter was a threat to the very foundation of Massachusetts, for it effected both the church and the state. The General Court took a number of steps to try to curb the dissent, and one of the steps was the calling of a synod of the various congregations. The result of this synod was the Cambridge Platform of 1648. While the Cambridge Platform does speak of church and state each having their separate fields; nevertheless, cooperation between the two was still expected.

The powr & authority of Magistrates is not for the restraining of church, or any other good workes, but for helping in and furthering therof.¹⁵

This combination of church and state as well as the religious purity of Massachusetts, however, would be endangered if other religious bodies were to move into the area. Thus when some Rhode Island Baptists came to visit some of their

fellow Baptists who had moved into the Massachusetts area, they were fined and whipped.¹⁴ Already we find Baptists involved in the conflicts over church and state. But Massachusetts has been remembered even more for its harsh persecution of the Quakers. Some Quaker missionaries were even forced to pay with their lives. However, the people of Massachusetts reacted against such persecution, and that led to some toleration for the Quakers.¹⁵ But the persecution did not really end until Charles II ordered that the Quakers be sent to England for trial. Thus we see the English government interfering to bring toleration to the colonies. Finally by 1677 all persecution of Quakers had ceased.¹⁶

But the cruelest blow to Massachusetts fell in 1684 when Massachusetts lost its charter and became a royal colony. And what made this even worse for Massachusetts was that the governor was an Anglican and insisted on having the Anglican worship for himself. While he allowed the Massachusetts' Congregationalists to continue with their own form of worship, he insisted that they let him use one of their churches for his Anglican services. Other denominations had finally come to Massachusetts through the authority of England.

In 1691 Massachusetts was able to get a new charter, but the church membership requirements for voting were removed, and there was to be toleration for all Protestants. All, however, were still to be taxed for the support of the Congregational Church. But in 1724 after agitation again

by the Quakers, the Crown ruled that they should not be compelled to support the Congregationalist churches. Then in 1727 Episcopalians were allowed to use their taxes toward their own churches, and in 1729 Massachusetts also applied this rule to the Quakers and the Baptists.¹⁷

Connecticut

Connecticut is the first daughter colony of Massachusetts that we want to look at. Connecticut, like Massachusetts, was a Puritan community, and there was really little difference between them. Yet Connecticut was not established for religious reasons. For when Thomas Hooker led his small congregation from Newton, Massachusetts, to Connecticut territory, the reasons were more economic and personal than religious. Most historians agree that Hooker was motivated by at least three things. First, his congregation was dissatisfied with the land that they had in Massachusetts, and they hoped to do better in Connecticut. Second, Hooker had been forced to play a subordinate role in Massachusetts--a position that did not at all satisfy him. Third, Hooker disliked the absence of set written laws in Massachusetts. But there does not seem to have been any real disagreement on the idea of church and state cooperation.

And so in 1634, Hooker and his small congregation petitioned the General Court of Massachusetts for permission to leave, and in 1635 permission was granted. However, it was

understood that they were to remain under the control of Massachusetts.

Yet the three towns of Hartfield, Wethersfield and Windsor came together in 1639 under the Fundamental Orders of Connecticut. There were no religious qualifications for voting rights, but a person did have to be acceptable, and usually only good Puritans were. The power of the magistrates over the church was insisted on.¹⁸ And not until 1727 were other churches recognized as equal to Congregationalism.¹⁹

In a comparison of Massachusetts and Connecticut, we find much that is similar. There was agreement that there ought to be a uniform church. In Connecticut, as in Massachusetts, the state was allowed to tax for the support of the church, and the state was expected to enforce the laws of the church.²⁰ The difference, Greene says, lay not in the policy but in the fact that this policy was less harshly applied in Connecticut than in Massachusetts.²¹

Carolina

Carolina is the last colony we shall look at that was begun with an established church. The charter for Carolina was given by Charles II in 1663 to eight friends, and with the help of John Locke they established the Fundamental Constitutions of Carolina. These tried to impose a feudal society onto Carolina, but it never worked out.

The Anglican Church was the established church, and yet

as we saw in Virginia, because it was an economic venture there was a willingness to grant a large measure of toleration as long as the dissenters didn't bother anyone. There was also the idea to let them stay, so that they could be converted.²² Yet Cobb claims that even though they gave toleration to the dissenters yet the control of religion was kept in the hands of the proprietors so that they could take toleration back if they so desired.²³

Perhaps it was because of this toleration that so many dissenters came to Carolina. Quakers could be found all over but especially in the north. English dissenters came to Charleston, and Scotch Presbyterians moved into the north. There were also Huguenots, Dutch Reformed, and, as in every colony, Baptists.²⁴ But Cobb says that while some may have come for religious reasons most came out of a desire for land.²⁵

The Anglican Church was notoriously weak in Carolina not only because of so many dissenters but also because there were so few Anglican churches. It was twenty years before an Anglican minister was sent to North Carolina, and South Carolina was not much better off. And the ministers that came were often notoriously bad.²⁶

But then in 1704 after more Anglicans had moved into the Carolina territories, laws were passed against the dissenters, but these were then voided by the Queen in Council in 1706. Talk of taking away the charter ended any further attempts in this direction.²⁷ But they did decide to have

state support of the Anglican Church beginning in 1715 in North Carolina and in 1724 in South Carolina.²⁸ (They had become separate in 1691.)

Rhode Island

As we now turn to those colonies which were established with at least some degree of toleration, we come first to Rhode Island. But to do so, we must return once again to Massachusetts in February of 1631 as Roger Williams arrived in Boston from England. The story of Massachusetts' refusal to tolerate Williams is well-known and knowing Massachusetts to be expected. But what is surprising is that he was compelled to leave not because he was heterodox theologically but because he was heterodox politically.

Williams first caused trouble with his call for a strict separation of church and state. He agreed with the Plymouth Pilgrims that the church was a group of those redeemed and that therefore it could not automatically include all those who were members of the state. These were two different spheres, and they could not be made identical. This, we remember, was also the Puritan idea, but they felt that the church could also set rules for those outside of the church to follow for the welfare of the colony. Williams said, No! These are two distinct spheres. And he called for separation of church and state.

But even this could have probably been allowed if Williams

had not also attacked the charter itself. But Williams claimed that the land belonged to the Indians and that the king had had no right to give it to the Puritans or to give it to anyone else for that matter. It was not his to give. But to question the validity of the king's grant was to question and attack the charter. The charter was precious to Massachusetts. It was on this charter that their holy experiment rested. To attack it was treason, and when Williams attacked it he had to leave.

Thus in October of 1635 Williams was sentenced to be banished from the colony, but because of his ill health the sentence was delayed. Yet since he refused to be silent and continued to speak out, he was forced to flee in January of 1636. He fled to Narrangasett Bay, where he established Providence, and founded there the first Baptist church. Williams later repudiated Baptist theology, and what his own theology was is something of a question. But it is interesting to see at least some form of the Baptist church involved in founding the first colony to have complete religious freedom.

Anne Hutchinson was, of course, another forced to leave Massachusetts. But, as in the case of Williams, the reason that she had to leave was more politically motivated than theologically. Yet it is true that her mistake, according to Massachusetts standards, was a theological one, for she believed that God was directly revealing messages to her. The problem was that such direct revelation put her in keen

competition with the local clergy. And because of their close connection with the state, an attack on the clergy's authority was also an attack on the authority of the state. Thus it was primarily for political reasons that both Williams and Hutchinson were forced to leave Massachusetts.

By 1643 four settlements had grown up in the area that is now Rhode Island, and by 1644 Williams had managed to obtain a charter. However, it said nothing about religion. Thus under Williams' leadership a civil code was drawn up in 1647 that granted complete freedom of conscience.²⁹ Then in 1663 Rhode Island was able to obtain another charter which itself guaranteed them religious freedom. This charter continued in force in Rhode Island throughout our period.

Perhaps as a sort of footnote, we ought to add that there was one brief period in Rhode Island's history when this toleration was somewhat restricted. From 1719 to 1783, Catholics were excluded from office. This was done to come in line with the English Toleration Act of 1689, which gave certain rights to the Protestant dissenters but deprived Roman Catholics of their liberties. Yet Rutland questions whether this was at all well-enforced in Rhode Island.³⁰

Thus we see in Rhode Island, for the first time, a state founded with religious freedom--distinct from only toleration. And it was founded in this way because of a theological understanding of the difference between church and state. And again we would point to the close connection of Williams

with Baptist thinking in at least this stage of his theology.

New York

We shall not go into much detail on the early history of the state of New York, because there is really no need to go back into its Dutch beginnings. But we do have to keep in mind that when the Duke of York took over the New Netherlands there already was an established church--the Dutch Reformed. Thus we would certainly expect that practical considerations would lead him to allow a measure of toleration, and so he did. In his instructions to his governor, Colonel Thomas Dongan, in 1682, the Duke wrote:

You shall permit all persons of what Religion soever quietly to inhabit within your government without giving them any disturbance or disquiet whatsoever for or by reason of their differing opinions in matters of Religion, Provided they give no disturbance to ye public peace, nor do molest or disquiet others in ye free Exercise of their religion.³¹

And so under the persuasion of Governor Dongan, the New York legislature in October 1683 passed the Charter of Liberties and Privileges, which gave toleration to all Protestant Christians.³²

The Quaker Colonies

Next we turn to New Jersey, Pennsylvania and Delaware. We shall look at these three colonies together because they were closely related in being under the influence of the Quakers and William Penn.

The land we call New Jersey had originally been part of New Netherlands. But when this territory came into the hands of the Duke of York in 1664, he gave the New Jersey portion to two of his followers, Sir George Cateret and John, Lord Berkeley. And so New Jersey became a proprietary colony, and the proprietors hoped to prosper financially through it. Thus we find once again that in order to attract settlers and to help the colony grow Berkeley and Cateret in 1665 granted liberty of worship to all of New Jersey.³³

In 1680 Berkeley sold his share, West Jersey, to a group of Quakers, and at the death of Cateret another group of Quakers were able to purchase East Jersey. However, the two portions remained separate until 1692. The liberty of worship that had been granted by the proprietors was continued in West Jersey by a law in 1681 and in East Jersey by a law in 1683. This religious freedom seems to have continued on past 1702 when New Jersey became a royal colony.

William Penn, who had been involved in the government of West Jersey, received in 1681 a charter from Charles II for what was to be known as Pennsylvania. Penn seems to have been in agreement with Williams of Rhode Island on the necessity for separation of church and state. Stokes writes:

He took the ground that church government was no part of political government; that persecutors were never in the right; that a clear distinction must be made between the things that belong to God, and that the spirit of tolerance was a form of respect for the individual which was of the very essence of the Christian message.³⁵

The government which Penn. set up in 1683 "provided that all who believed in 'One Almighty God' should be protected and all who believed in 'Jesus Christ, the Savior of the World' were capable of holding civil office."³⁶

While Penn may have had the idea of separation of church and state, in Pennsylvania they were not completely separate. Civil rights were guaranteed only for Christians, and Penn insisted that Sunday be observed as a day of rest though a person could worship however he chose.³⁷ Thus the powers of the state were still being used to compel observance of at least some religious customs.

Yet it must be remembered that Pennsylvania was still very advanced in terms of religious freedom for its time. Even a century later (1788) Joseph Priestly could write: "There is no place where there are more forms of religion openly professed, and without the establishment of any of them than Pennsylvania."³⁸

In 1681 what is now Delaware was also given to Penn, and he gave Delaware religious freedom from the very beginning. Then in the fall of 1700 the General Assembly passed an act granting liberty of conscience to all who acknowledge one almighty God.³⁹ The charter of 1701, which gave Delaware self-government from Pennsylvania, also granted religious liberty to those who acknowledge God, but again only Christians were eligible for office.⁴⁰

Maryland

In 1632 Charles I gave the charter for yet another colony to Cecilius Calvert, Lord Baltimore. Calvert was a Catholic, and he hoped to establish a colony in which Roman Catholics would be free to worship as they pleased. In Maryland Calvert had to insist on religious toleration for at least two reasons. First, the English government was at this time very anti-Catholic and would not have allowed the Catholic Church to become the established church of any of its colonies. Second, if the colony was going to succeed, it was going to have to attract Protestants too, and so toleration was a necessity. Thus the instructions of Calvert to his governor in 1633 insisted upon religious tolerance so that there might be peace and unity.⁴¹

This toleration became all the more necessary, because Catholics never seem to have been the majority party in Maryland. For the Catholics in England were in the upper classes, and they had little desire to leave. Those who did emigrate formed the upper gentry class in the colony while Protestants made up the larger farming and artisan classes.⁴² Later Calvert tried to attract Puritans from Virginia into Maryland, and as bait he promised them full religious freedom.⁴³

Because of its Catholic tinge and because of the anti-Catholic feeling of the English, which we discussed earlier, Maryland constantly had to be on guard against accusations

of being a hot-bed of papacy. This was the major reason for Calvert's firm restrictions on Jesuit activity in Maryland. This was also the reason for the Maryland Toleration Act of 1649, which also was Calvert's idea. Interestingly though, the act as it was finally passed actually was less tolerant than Maryland had been since the beginning. While it proclaimed that no one who believed in Jesus Christ was to be troubled,⁴⁴ the Puritan-Protestant party in Maryland had added a clause to the original bill suggested by Calvert stating that persons who denied the deity of Christ or the Trinity were subject to the death penalty. This put Maryland's policies in line with the policies of the Long Parliament in England.⁴⁵

Unfortunately, the Puritans managed to get control of Maryland from 1654 to 1658, and they were not nearly so tolerant. One of their first acts in 1654 was to disenfranchise the Catholics. This even resulted in a minor civil war that the Puritans easily won. The restoration of Charles II in England, however, restored toleration to Catholics in Maryland.⁴⁶

When Maryland was made a royal colony in 1691, the Church of England was made the established church. This led Catholics and Quakers to work together against any further encroachments on their freedom⁴⁷ until 1715 when Maryland was again returned to the Calverts.

New Hampshire

The land of New Hampshire and Maine originally belonged to Captain John Mason and Sir Ferdinando Gorges. However, they did nothing to develop it, and so small settlements, many of immigrants from Massachusetts, sprang up. These settlements were absorbed by Massachusetts in 1644, but in 1679 Charles II made them a royal colony.⁴⁸ And in 1680 Charles II granted religious liberty to all Protestants.⁴⁹

Georgia

Georgia was the last of the colonies and was founded for reasons different than any of the others. One reason was to provide asylum for many debtors who had been imprisoned in England, and another was to provide a sort of cushion between Spanish Catholicism to the south and Carolina to the north. The charter was granted by George II in 1732 and provided for liberty of conscience to all but papists. The exception was dropped in 1770.⁵⁰ The colony actually got under way in 1733 when James Oglethorpe landed at Savannah with about a hundred settlers.

Conclusions

As a brief conclusion to this chapter, let us quickly review some of the things that we have noted in our study of the early colonies.

First, we noted the interesting fact that while the Puritans came to Massachusetts so that they might have freedom to worship, they were not willing to share this freedom with others in their colony.

In this respect the Puritans differed from the Pilgrims, who seem to have been more tolerant. One reason for the difference could be that the Pilgrims did not share in the Puritan ideal of a holy commonwealth. A dream which made them intolerant of those who differed, because they threatened the sanctity of the commonwealth. Hall suggests that another cause for the greater tolerance of the Pilgrims was that they had no trained ministry to protect as did the Puritans.⁵¹ This idea becomes even more interesting as we note that the Quakers and Baptists, who also lacked a trained ministry, were the two groups that we have already noted as being in the forefront of the movement toward religious freedom--the Baptists in Rhode Island and the Quakers in their three colonies.

Second, we noted how often practical considerations were important in providing toleration. For example, we saw that Calvert's granting toleration in Maryland was at least partly an attempt to satisfy the Protestants in England and in the colonies. We noted how the desire for colonists led the proprietors of New Jersey and Carolina to grant toleration, and we saw the Duke of York grant toleration to New York because of the different sects that were already present.

Third, we saw that there was often pressure from the

government in England for toleration. Massachusetts is probably the best example here. For it was the English government that put an end to the persecution of the Quakers in Massachusetts and demanded that the Anglican form of worship be allowed there.

Finally, we noted in Virginia that the struggle against the established church was tied to the struggle for self-government. This was especially true in Virginia, because the established church was the Church of England, which was under the control of the English crown.

CHAPTER III

FACTORS IN THE GROWTH OF RELIGIOUS TOLERATION

The Weakness of the Churches

One of the primary factors leading to the eventual separation of church and state in the United States was the weakness of the churches in the colonial period. Hofstadter, Miller and Aaron estimate that in this period there was only one church for every nine hundred Americans,¹ and Pfeffer estimates that church membership included at the most only four per cent of the American population.²

Sweet agrees that religion was only a matter for the few, but he also offers a number of reasons. First, in the colonies religion was an individual matter. A person was not a member of a church body just because he happened to be a citizen of the state. This was true, as we have seen, not only where there was no established church but even in Massachusetts where there was. Second, the Anglican church had no bishop in America, and this meant that there could be no confirmation, which meant less members. Third, the poverty of the Scotch-Irish and German immigrants often prohibited them from establishing churches with clergy. Fourth, many who in the old world had had only nominal connections with a church did not see fit to keep membership when they arrived in the new world, away from home.³

Also the frontier conditions and the isolation that went with it certainly made having a church and a minister difficult in certain localities.

Another problem, especially in Virginia, was the poor quality of the Anglican clergy. Cobb writes:

But the most baleful influence was in the moral character of most of the ministers in the colony. The majority were men of disrepute in England who emigrated to Virginia, either to retrieve their reputation or to indulge their vices unchecked. They were profane swearers, brawlers, drunkards, gamblers, and licentious. This shameful character received statutory recognition in the laws of 1669 and 1705 against infidelity, blasphemy, swearing, Sabbath-breaking, adultery, etc., which specially provided that "clergymen guilty of any of these crimes were not to be exempted from the penalties of the law!"⁴

With clergy like that, it is easy to see why religion was at such a low ebb. The weakness and laxity of the Anglican clergy in Virginia and elsewhere was often due to the fact that there was no bishop in the colonies to supervise. But this still gave to many an excuse to leave the established church for no church at all.

The churches in Massachusetts had also become weak, for the hysteria and excesses of the Salem witch trials in 1692, in which the clergy had been involved, led many to turn away from the church. Also the half-way covenant of 1662, which opened the churches to those who had not really been converted, made membership in the church more of a ritual and less meaningful. And by 1777 the churches of Massachusetts and

Connecticut

were so riddled with Arianism, Socinianism, Deism, Universalism and lesser known faiths that neither friend nor foe regarded them as politically important enough either to fight or befriend.⁵

This general laxity and weakness on the part of the churches meant that there were many non-members who were opposed to any connection of church and state. It also led to the first great American revival--the Great Awakening--which itself was another factor leading toward religious toleration.

The Great Awakening

The revival movement which we generally call the Great Awakening began with a religious revival in 1733-1735 in Northampton, Massachusetts, under Jonathan Edwards. This revival quickly spread throughout New England and actually through all the colonies. The general laxity in religion, which we mentioned above, together with the frontier conditions and their appreciation of emotional experiences helped to prepare the way.

These revivals spread across the country and involved most denominations. Unfortunately they usually seemed to cause splits within the denominations as the factions that favored revival methods were forced to separate from the factions that did not. The Presbyterians divided into the Old Side and the New Side Presbyterians. These remained

separate until 1758. The Congregationalists split between Edwards, the early leader in the revivals, and Chauncy, who opposed them. The group that followed Chauncy eventually became Unitarian while many of those favoring the revival turned to the Baptist Church. As a result the Baptists grew considerably in New England. One of the Baptist leaders in this growth was Isaac Backus, a man of whom we shall hear again.⁶

But the Baptists were not content to remain in New England. Together with the Presbyterians they began to move into the South and especially Virginia. There the Anglicans suddenly found themselves on the defensive and began to strike back by imprisoning dissenting preachers. It was also at this time that the Methodists began their great evangelism work in the same area.

The Great Awakening was of great importance in the development of separation of church and state for a number of reasons. First of all, the evangelists often cut across denominational lines in their preaching, and this gave an impetus to the idea of toleration. Not only did they often preach in the churches of other denominations, but they also called for an end to denominationalism. For example, in one of George Whitefield's sermons he said:

"Father Abraham, who have you in heaven? Any Episcopelians?" "No." Any Presbyterians?" "No." "Any Baptists?" "No." "Any Methodists, Seceders, or Independents?" "No, No!" "Why who have you there?" "We don't know those names here."

All who are here are Christians." "Oh, is that the case? Then, God help me! and God help us all to forget party names and to become Christians in deed and truth."⁷

But despite this frequent ecumenical thrust, the Great Awakening had also the opposite effect of creating many more sects and groups as the denominations that had already been present split over the question. And the fact that there were so many different sects made it certain that there would be religious freedom, for none would ever be able to become the dominant one.

The rapid growth of the Baptist Church as it expanded, especially into Virginia, was also an important result of the Great Awakening. This group has always been in the forefront of the struggle for religious freedom not only because it has so often been persecuted but also because of its theological stress on the free decision of the individual. Each person must decide for himself whether or not he wishes to be a Christian. This led them to oppose established churches, because established churches compel people either to belong to them or to support them and thus take away free choice.

Finally as Greene points out, the very fact that these new churches from the Great Awakening were so often oppressed by the established churches led them also to struggle for toleration.⁸

The Colonial Leaders

Still another influence was the growth in rationalism in the colonies, especially among the colonial leaders, together with an opposition to the organized church and a desire for toleration. Part of this opposition to the organized church was no doubt due to the weakness of the churches, which we mentioned earlier.

Thomas Jefferson is the prime example. He was not anti-religious, for he admired Jesus as a teacher of ethics and wished that all men would live as Jesus had taught.⁹ He even did a critical study of the gospels in an attempt to get back to what Jesus actually did say. But Jefferson was not a member of any church. "You say you are a Calvinist," he wrote to Ezra Stiles. "I am not. I am of a sect by myself, as far as I know."¹⁰ Jefferson rejected almost all doctrines, and he felt that church differences because of these doctrines were pointless.¹¹

Jefferson was also a great believer in reason and in the power of man's mind to arrive at the truth if the mind was left free,¹² thus he feared organized churches, because he felt that they did not leave men's minds free.¹³ Therefore, we can begin to understand Jefferson's reasoning and his passionate desire for religious freedom, not only because he himself dissented but also because he saw such freedom as the only hope of men for arriving at the truth. Halliday

also suggests that Jefferson had been strengthened in his resolve by the time that he spent in France--a time of frequent religious persecution by a tyrannical government.¹⁴

Franklin, too, was something of a free thinker, and when he also wrote to Ezra Stiles, he made no mention of any church membership. Rather he felt God wanted to be worshipped by our doing good to his children.¹⁵

Even John Adams, who called himself a "church-going animal" and wrote that free enjoyment of conscience is not to come from a rejection of Christianity and turning toward French philosophy,¹⁶ disagreed with the way that religions practice.¹⁷ He said,

Ask me not, then whether I am a Catholic or Protestant, Calvinist or Arminian. As far as they are Christians, I wish to be a fellow disciple with them all.¹⁸

The fact that the leaders of the young nation did not consider themselves church members and disagreed with the organized churches could not but aid the movement toward religious tolerance.

And other leaders who were considered to be members of churches were themselves in favor of toleration. Washington, for example, wrote to Lafayette:

Being no bigot myself to any mode of worship, I am disposed to indulge the professors of Christianity in the church, that road to heaven, which to them shall seem the most direct, pleasant, easiest and least liable to exception.¹⁹

John Jay, who considered himself an Episcopelian, was not at all intolerant about other churches. He himself was

perfectly willing to visit another denomination if an Episcopal Church was not handy.²⁰

And not only political leaders but even religious leaders like John Wise, Jonathan Mayhew, Charles Chauncy, Ebenezer Frothingham, and John Rogers were coming out in favor of religious toleration.

English Pressure

Still another force for religious toleration was to come from an unexpected source--England. This is surprising because of the limited toleration in England itself during much of this period and because so many of the colonists had left England so that they might enjoy toleration. And yet we have already seen the English government interfering in colonial affairs to encourage more toleration--in Massachusetts especially.

One of the reasons for this, of course, was economics. England wanted the colonies to be strong and recognized the necessity for concessions in the area of religion so that they might be.²¹

Still another force to reckon with during the years of the Stuarts was the fact that they were Catholics--themselves members of a dissenting church. They could not repeal the harsh legislation in England, because they were already under suspicion there of not being orthodox. But they could and did use their influence to try to get as much toleration as

possible in the colonies.²²

The Glorious Revolution of 1688 brought not only a new king but also in 1689 the Act of Toleration. This act gave to Protestant dissenters in England the right to hold public services subject to the registration of their ministers and places of worship. Dissenters, however, were still disqualified from office, and there were also special privileges for Anglicans. Catholics and Unitarians were excluded from any privileges. This act generally set the pattern for much of the toleration in the colonies--especially in the royal colonies. Unfortunately that often made things worse than before--especially for the Catholics. Virginia, which in 1685 had liberty of conscience for all, in 1690 excluded Papists. Toleration in Maryland left with Lord Baltimore's government, and New York and Massachusetts also followed with laws against the Catholics.²³

Often historians and political scientists point to the English Bill of Rights as precedents for the American Bill of Rights. Rutland, however, points out that the first amendment on religious liberty does not really have roots in the English political tradition, because there is so little there on religious liberty. It is, he says, rather a product of the American situation.²⁴ But this does not deny that English pressures influenced and helped to create the peculiar American situation which could call forth such a proposal.

The American Revolution

Still another important factor was the American Revolution. We already saw in our discussion of Virginia how the struggle for self-government also involved a struggle against the established Church of England. Part of the dislike which the colonists felt for the established church was that it was so intimately connected with the English government. Antieau, Downey and Roberts write that the colonists saw the religious establishment as a department of the state seeking to serve the ends of the state--an instrument to impose a tyrannical and irresponsible regime on the colonies.²⁵ And in the South the Anglican Church actually served to carry out some of the functions of local government. In Virginia not only were taxes collected to support the church, but it also was the responsibility of the church to take care of certain law violators, and it kept the public records of births, deaths and marriages. In South Carolina the church parish was considered a political subdivision of the state, and in North Carolina the church was even responsible for providing the standards of weights and measures.²⁶ The established Anglican Church was seen as a part of the English government, and in seeking to free themselves from England the colonies also sought to free themselves from the English church. Nye writes, "Freedom of religion, as well as political and economic rights, was from the American point of view clearly at stake in the

revolutionary struggle."²⁷

Of course, this did not mean that they saw themselves as fighting against those churches that had been established in the colonies independent of England. But yet the fact that they justified their struggle on the basis of natural rights could not but call into question those state laws which would not allow men to worship as they pleased. Then too the very practical need for unity in the face of a common danger also led the states to be more tolerant with dissenters.

Stokes also argues that as the colonies turned toward the French for aid in the Revolution and fought along side of them at Yorktown that this must have served to some extent to weaken the strong anti-Catholic bias.²⁸

Yet this does not mean that the Revolution immediately brought with it complete religious freedom, for in fact it did not. According to Rutland, "Twelve years after the Revolution had begun, full religious freedom had been attained only in Rhode Island and Virginia."²⁹ The Revolution did not bring immediate religious freedom or even immediate tolerance, but it did help to bring these eventually.

Other Factors

As for any other historical event, there are many other factors which we could also have pointed to, but we have chosen these and those which we shall discuss in the later chapters, because we consider them to have been the most

important.

In addition to what we have listed here, Cobb would add the fact that the institutions in America had to be founded de novo and the frontier conditions which made the colonists impatient with anything that could serve to fetter expansion. He also points to the adventurous spirit of the colonists as well as their dissatisfaction with that which they had left behind and their resentment toward foolish and arbitrary actions of religious authorities.³⁰ Stokes also sees Freemasonry in the colonies as a factor,³¹ and Hall would add the Peace of Westphalia and the end of the Cromwell era which left men sick and tired of religious struggles.³²

Of course, these factors were also present, but they do not seem to have had the impact of those we discussed at more length. Yet they do serve to point out that many causes were responsible for our religious liberty.

CHAPTER IV

THE MOVEMENT TO RELIGIOUS FREEDOM

Independence and Disestablishment

With the adoption in 1785 of the Bill for Establishing Religious Freedom, Virginia became the preeminent leader in the movement toward disestablishment and religious liberty. So it is to her that we shall turn first.

Beginning in the 1720's the Scotch-Irish and the Germans had been moving into the Virginia mountain country and into the Shenandoah. The government was willing to let them live there without bothering them about religion, because it was happy to see them as a defensive line against the Indians.¹ Yet the Scotch-Irish were Presbyterians and have always been noted for their opposition to the Anglican Church.²

But the Presbyterians do not seem to have had too much trouble in Virginia until after the Great Awakening when opposition to the New Light Presbytery arose. Samuel Davies, a New Light Presbyterian clergyman, led the fight to have the English Act of Toleration applied to the colonies. In a trip to England in 1753 he was successful, and the English Attorney General ruled that the act did apply to the colonies and that the New Light Presbyterians did qualify as a dissenting group. They fought for and received toleration.

We have already mentioned the Baptists' movement into Virginia, and, according to Cobb, they were relatively untroubled

by the government until 1765. He suggests that the reason for the sudden persecution then was that in the excitement of the Great Awakening their uneducated clergy went too far and began to speak out against the established church and thus against the government.³

Yet even before 1765 the Baptists must have experienced some persecution, for already in 1760 they had petitioned the Virginia House of Burgesses for religious freedom claiming that they were suffering from prohibitions against their ministers' preaching. There are two things especially to note here. First, this was a call not for toleration, that would not have satisfied the Baptists, but it was a call for religious freedom which they demanded as a right. Second, this was the first petition on religious freedom to be presented to the House of Burgesses, and it was from the Baptists.⁴ Even though the Act of Toleration had been applied to the colonies, the Baptists found it hard to qualify, for the act required the licensing of dissenting ministers and meeting houses. Not only did the Baptists have an untrained, itinerant clergy, but they also seem to have often simply ignored the requirements of the law.⁵

There were also many dissenters in Virginia who did not belong to any particular church body. Many, such as Jefferson, were dissenters because of rational reasons but others simply because they objected to the lax and often immoral clergy.⁶ In speaking about the years prior to the Great Awakening,

Cobb even goes so far as to say that opposition to the established church showed itself more in irreligion than in actual dissent.⁷

But in any event, the coming of the French and Indian War and the need to unite against the common enemy brought relief from persecution.

Throughout this period the various Baptist churches and associations kept up their pressure on the legislature through petitions--petitions for an end to the establishment and for true religious liberty. But the Baptists were not alone, and they had ample support from the Presbyterians.

The Declaration of Independence in July of 1776 meant that each state was on its own and was going to have to change its charter if not write a completely new constitution. But even before this had happened, the Virginia House of Burgesses had taken an historic step. It had passed on June 12, 1776, a Declaration of Rights. Included in it was a clause on religious liberty, that was going to make its effect felt across the country.

That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian^g forbearance, love, and charity towards each other.

This clause, as well as the entire document, was the work of George Mason, an Anglican churchman. However, it had been

amended by Madison to change it from a proclamation of only toleration to one of religious freedom.

Of course, the simple passing of this declaration did not immediately end religious discrimination in Virginia. There were also many statutes still on the books that were contrary to it. And so the Baptists, Presbyterians and Lutherans continued their pressure on the legislature throughout the summer and fall of 1776.

With the adoption of the new Virginia Constitution, Thomas Jefferson was made an active member of the legislative committee on religion. It was to this committee that the complaints of the dissenters came, and Jefferson worked hard to try and get the privileges of the established church removed.⁹

In December of 1776 Virginia repealed the laws punishing heresy and absence from worship together with those requiring dissenters to contribute to the support of the Anglican Church. But Jefferson and the others were still not happy, and by 1779 they were also able to repeal laws requiring anyone to have to support the established church or any church.¹⁰

For the next few years the legislature was troubled with the question of whether or not Christians should be assessed by the government to pay for their own churches. This plan was supported by the Episcopelians and Methodists and by many of the Presbyterians, but it was opposed by the Baptists. The question came to a head in the session of 1784-1785. It was here that Madison drew up his famous "Memorial and

Remonstrance Against Religious Assessments."

1. Because we hold it for a fundamental and undeniable truth "that religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence." The religion, then, of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right

3. Because it is proper to take alarm at the first experiment on our liberties Who does not see that the same authority which can establish Christianity in exclusion of all other religions may establish, with the same ease, any particular sect of Christians in exclusion of all other sects?

5. Because the bill implies either that the civil magistrate is a competent judge of religious truths or that he may employ religion as an engine of civil policy

6. Because the establishment proposed by the bill is not requisite for the support of the Christian religion. To say that it is a contradiction to the Christian religion itself, for every page of it disavows a dependence on the powers of this world.¹¹

This document was a call for a complete separation of church and state.

Patrick Henry led the debate in favor of the religious assessment, and he had many petitions from various religious groups to support him. While many of the Presbyterians supported the plan of assessment,¹² there were also some who joined the Baptists in opposition. The Presbyterian Church in Virginia, for one, claimed that this bill would be unfair to the Jews.¹³ The Baptists also protested that

every person should be left entirely free, for God does not need such compulsion.¹⁴

But despite Madison's opposition, Henry had the votes. And so the bill providing for taxation to support the Christian religion was adopted by the House on November 11, 1784, by a good majority. Madison, however, was successful at postponing the third and final reading. This gave the remonstrance of Madison time to circulate among the people. This together with the election of Henry to the governorship and his removal from the House meant that the bill was finally defeated in October of 1785.¹⁵

Madison now had his chance, and so he pressed for the adoption of Jefferson's Bill for Establishing Religious Freedom. This had been introduced by Jefferson into the Virginia Assembly on June 13, 1779, and it had been continually tabled until now. But Madison began to push for its adoption, and it was adopted in 1785 and became law January 16, 1786.¹⁶

This, according to Stokes, was the first time in the world that a state had by self-imposed statute established religious freedom.¹⁷

Let us quote a few sections from this very important bill.

that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals

he would make his pattern . . . that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry . . . that it tends also to corrupt the principles of that very religion is meant to encourage, by bribing . . . those who will externally profess and conform to it . . . that the opinions of men are not the object of civil government, nor under its jurisdiction

We, the General Assembly, do enact, That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or effect their civil capacities.¹⁸

This act thrust Virginia into the forefront of the movement toward separation--the first to actually reach that goal.

But why Virginia? Pfeffer answers:

Above all, perhaps, was the presence in Virginia of a group of political leaders who were devoted to and fought for the cause of liberty generally, accepted the social contract as self-evident, and were generally influenced by Deism and Unitarianism. This group included Washington, Patrick Henry, George Mason, James Madison, and towering above the rest--Thomas Jefferson.¹⁹

On the other hand, Stokes argues,

The dissenting minister provided the facts of the serious difficulties and handicaps under which they were laboring, and helped to create a strong public opinion demanding a change; while the statesmen gave classic expression to the logical reasons for religious freedom, and formulated in admirable legal form the constitutional provisions and statutes to make it effective.

It should be noted that chronologically the

the effective efforts of the philosopher-statesmen came only after the ground had been well cleared by the dissenting ministers
²⁰

If Virginia was the leader, the other states were soon to follow, and it is to them that we now want to turn.

Rhode Island, as we saw, already had a great deal of religious freedom in its charter, and it did not establish a new constitution but merely brought its charter up to date.

New Jersey came out with a new constitution soon after Virginia in 1776. It granted the right to vote and to hold office to all except Catholics and allowed no established religion. The restriction against Catholics was later dropped in 1844.²¹ Rutland points to how quickly New Jersey followed Virginia and argues that Virginia had served as an example.²²

Pennsylvania also followed in 1776 with a constitution and a bill of rights. The bill of rights declared that "All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understanding."²³ The bill of rights thus allowed religious freedom, but the constitution demanded that all officeholders accept belief in God and the inspiration of the Old and New Testaments. This effectively eliminated the Jews, and they protested. They presented a memorial to the Pennsylvania Council of Censors in December of 1783, and a Jew even went to the Constitutional Convention in Philadelphia to argue for religious freedom.²⁴

Delaware, too, adopted a new constitution in 1776. We

mentioned earlier its close connection to Pennsylvania, and, as might be expected, its statements on religion were identical to those of Pennsylvania. In 1792 the state was also given the right to recognize and protect religion as long as this was not done in a way that was preferential to any sects.²⁵

Maryland also adopted a new constitution in 1776, and like Virginia it declared that worship of God was a "duty" not a "natural right" as Pennsylvania had said. No established church was allowed, but the state could tax for the support of Christianity. Political offices and religious freedom were only for Christians. This discrimination against the Jews and Unitarians lasted until 1828.²⁶ Rutland again points to some similarities to Virginia and claims a dependence.²⁷

North Carolina, which had separated from South Carolina in 1691, in 1776 drafted a new constitution. Its bill of rights quoted Pennsylvania's word for word on religious freedom. The constitution ruled out the possibility of an established religion, but it did deny offices to all but Protestants.²⁸ till 1835 when the word "Christian" was substituted for "Protestant."²⁹

New York's constitution of 1777 did not have a bill of rights, but the constitution proclaimed that all could enjoy the free exercise of their religion without discrimination or preference to any group. No established church was to be allowed. Quakers were even granted the privilege of making an affirmation instead of having to take an oath. However,

in 1784 it became necessary for office holders to take an oath against all foreign allegiance in ecclesiastical and civil affairs. This effectively kept Catholics from office.

Georgia in 1777 also declared freedom of religion, but it limited office to Protestants. In 1798, however, this was changed so that no one could be denied his civil rights on the basis of his religion.

South Carolina waited until 1778, and it seems to be the only state that had an established church. It established the Protestant Christian religion. Rev. William Tennant, a Presbyterian, had spoken at great length to the legislature arguing against any establishment.

We contend that no legislature under Heaven has a right to interfere with the judgment and conscience of men, in religious matters, if their opinions and practices do not injure the State
 30

Yet he was willing to support what they did establish. There was to be taxation to support the churches, but no one could be forced to support a religion that he did not choose to support. Office was open to all who believed in God. There was no bill of rights, but the constitution did guarantee that

All persons and religious societies who acknowledge that there is one God, and a future state of rewards and punishments, and that God is publicly to be worshipped, shall be freely tolerated.³¹

The Massachusetts constitution of 1778 was rejected by the people, because it had no bill of rights. A movement

to declare illegal taxation for the support of churches had been defeated when the constitution was written, and this may have given added support to the opponents of the constitution.³² But the constitution with a bill of rights was passed in 1780. Freedom of worship was declared, but the state was allowed to tax for the support of the Protestant religion although towns could choose their own teachers. Dissenters were allowed to determine where their funds were to go, provided they had filed a certificate of dissent. Although the constitution stated that there was to be no subordination of one sect to another, in practice Congregationalism continued to be favored.

Connecticut did not write a new constitution but merely made changes in its charter of 1662. In 1770 it had given to conscientious dissenters the right to worship as they saw fit though they still had to support the Congregationalist Church, but in the Toleration Act of 1784 dissenters were allowed to direct their taxes toward their own bodies.³³

New Hampshire, the last state we have to look at, established its new constitution and bill of rights in 1783. It granted the freedom to worship to all. The legislature could authorize but could not require towns to provide Protestant teachers, and no one sect or denomination could be established. Yet until 1877 only Protestants could be elected to office.³⁴

Thus while there was a large measure of toleration and freedom, there was complete freedom and separation of church

and state only in Virginia and Rhode Island, and state support of churches and religious tests still existed in many parts of the country.

Unfortunately, with the single exception of Virginia, we have not been able to determine the specific forces at work in each of the states. Yet Virginia was the leader, and there it was the Baptists and other religious groups together with Madison and Jefferson who took the lead.

The Continental Congress

The Second Continental Congress, which tried to govern the United States from 1776 to 1781, did take a few actions in the area of religion. These, however, were mainly called forth by practical considerations. The First Continental Congress in 1774 had sent a letter to the inhabitants of Quebec promising them liberty of conscience if they would join with us.³⁵ In 1776 the Second Continental Congress sent a diplomatic mission to Canada and again promised free exercise of religion.³⁶ And when the Congress tried to encourage some of the Hessians to desert in 1776, it also promised them religious freedom as an encouragement.³⁷

The Articles of Confederation Government

One of the most important acts of the Articles of Confederation government, the Northwest Ordinance of 1787, shows its feeling on religion. It included the prohibition that

no one was to be molested on account of his religious worship, but it also stated that religion was to be encouraged. It also kept in effect the policy of 1785 for selling the land, which set aside lot number twenty-nine in each township for the support of religion. This, as Stokes and Rutland both point out, was basically the Massachusetts position on the relation of church and state.³⁸

The Articles of Confederation had not been provided with a bill of rights, because it was not considered necessary. The government of the Confederation had only the powers expressly given to it, and it had not been given any control over the civil liberties. These had been left to the states. Thus it was up to the states to protect the rights of their citizens.

And though there were many weaknesses in the government of the Articles of Confederation, the fact that there was no bill of rights does not seem to have been a cause in the move for a new form of government.³⁹

The Constitutional Convention

The group that gathered in Philadelphia in the summer of 1787 to write our federal constitution was a different group from that which had written our Declaration of Independence. Only eight signers of the Declaration were there in Philadelphia. And there is a very noticeable difference in the two writings. Both documents are based on a social compact

theory of government. "To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed"⁴⁰ compares with "We the people of the United States . . . do ordain and establish this Constitution for the United States of America."⁴¹ The documents are based on the same theory of government, but the Constitution does not contain any appeals to "nature's God," the "Creator," or man's "unalienable rights." Rossiter says, "The Convention of 1787 was highly rationalistic and was even secular in spirit."⁴²

While the convention may have been "secular in spirit," there were a large number of church members present, for the Baptists were the only major sect not represented among the delegates. But as might be expected, they made their desire for freedom of religion known through the memorials that they sent. The New England Baptists even sent one of their ministers, Isaac Backus, to urge religious freedom. But these attempts do not seem to have made much of an impact, because there is little record of discussion on religious questions at the convention.

It was Charles Pinckney of South Carolina, an Episcopalian, who seems to have been the most concerned at the convention about the question of religion. On May 29, 1787, he proposed, "The legislature of the United States shall pass no law on the subject of religion."⁴³ The proposal, however, seems to have been lost in the meetings. Pfeffer suggests that

this was probably more from a feeling that it was unnecessary because the states were responsible here than it was a disagreement with the content.⁴⁴

On August 20, Pinckney proposed that "No religious test or qualification shall ever be annexed to any oath of office under the authority of the United States."⁴⁵ Again what disagreement there was seems to have been more over the necessity and not the content. This proposal, however, was not lost and became a part of Article VI, Section 3--"but no religious test shall ever be required as a qualification to any office or public trust under the United States."⁴⁶

Ratification of the Constitution

The mere signing of the Constitution on September 17, 1787, by the fifty-five remaining delegates to the convention was not enough to put it into effect. It still had to be ratified by the various state conventions.

We have already noted that the writers of the Constitution did not consider a bill of rights necessary, because they felt that the states were adequately taking care of the question. With regard to the specific question of religious liberty, they also seem to have felt that the large number of sects in the United States made any type of an establishment a practical impossibility.⁴⁷ Therefore, it must have come as some sort of shock to them that the lack of a bill of rights became one of the major objections that was raised to the

Constitution.

The Baptists also were not at all happy with the lack of any provision for religious freedom. Thus in 1788 the General Committee began to agitate even more strongly for what eventually became the first amendment.⁴⁸

But at first there seemed to be no problem as five states ratified the Constitution by January 1788. Delaware, New Jersey and Georgia quickly ratified it without any opposing votes. In Connecticut the vote was one hundred and twenty-eight to forty, and Pennsylvania after a lot of agitation voted forty-six to twenty-three.⁴⁹

In Massachusetts there was some unhappiness over the ban on religious oaths, because it was feared that this would open the doors of office to Jews, Turks, and infidels. The biggest stumbling block, though, seems to have been the lack of a bill of rights, and when the Federalists promised to support the movement for a bill of rights, Massachusetts ratified the Constitution 187 to 168.⁵⁰

Maryland and South Carolina were the next to ratify. In South Carolina, Stokes claims that a speech by Charles Pinckney in favor of religious freedom was important in getting ratification by a vote of 149 to 73.⁵¹ In Maryland a committee did suggest the need of certain amendments. (Nothing was included on religious liberty.) However, the amendments were defeated, and the convention failed to pass any suggestions.⁵²

In New Hampshire the first convention failed to vote, and there does seem to have been some discussion of the lack of any laws on religion. A second convention ratified the Constitution fifty-seven to forty-six on June 21, 1788,⁵³ but it also suggested a number of amendments. Number eleven read: "Congress shall make no laws touching religion, or to infringe the rights of conscience."⁵⁴

In Virginia the opposition was led by George Mason and Patrick Henry. They stressed the fact that the Constitution had no guarantees of religious freedom. Governor Randolph, however, responded that the great number of sects in the United States would prevent the establishment of any one sect "and will forever oppose all attempts to infringe religious liberty."⁵⁵ The Constitution was ratified on June 25, 1788, eighty-nine to seventy-nine,⁵⁶ but the convention also suggested some forty amendments--the twentieth proclaimed freedom of religion and proscribed any religious establishment.

New York is well-known as a state in which there was a great deal of debate, for it was here that the Federalist Papers were written. The lack of a bill of rights was also an issue in New York, and when the Federalists promised amendments the Constitution was ratified thirty to twenty-seven.⁵⁷ However, the Federalist Papers are little concerned with freedom of religion, and that may not have been an important issue. Yet among the amendments that New York proposed was one on religious freedom--

That the people have an equal, natural, and unalienable right freely and peaceably to exercise their religion according to the dictates of conscience; and that no religious sect or society ought to be favored or established by law in preference to others.⁵⁸

North Carolina and Rhode Island were both late in ratifying the Constitution. North Carolina did not ratify until November of 1789, and Rhode Island waited until May of 1790. Pfeffer claims that they were both waiting for a bill of rights,⁵⁹ and Rhode Island did wait to ratify both at once. But Rutland argues that in North Carolina the big issue was not religion but cheap money.⁶⁰

The First Amendment

The Constitution was ratified in many cases because of the promise of amendments. And so on June 8, 1789, Madison offered to the House of Representatives a series of amendments. Among them were two statements to be added to Article I, Sections 9 and 10:

The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext infringed.

No State shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.⁶¹

After much discussion, the House Committee of the Whole again took up the question on August 15. The proposal then under discussion involved an insertion into Article I, Section

9 that "no religion shall be established by law, nor shall the equal rights of conscience be infringed."⁶²

Huntington of Connecticut objected that the amendment seemed to be anti-religious.

He hoped, therefore, the amendment would be made in such a way as to secure the rights of conscience, and a free exercise of the rights of religion, but not to patronize those who professed no religion at all.⁶³

Madison, therefore, proposed that the word "national" be added, so that it would read "no national religion shall be established." Antieau, Downey, and Roberts thus argue that Madison was not so much in favor of a separation between church and state as he was in opposition to establishing one or several sects above all others.⁶⁴ Halliday, however, points to Madison's original amendments and claims that Madison was for absolute freedom.⁶⁵

But Livermore of New Hampshire was not satisfied and recommended writing the amendment to read: "Congress shall make no laws touching religion, or infringing the rights of conscience."⁶⁶ Of all the amendments this came closest to separation of church and state.

Madison's suggestion to oppose a national religion was rejected primarily, it seems, because it suggested that the federal government was a national government, but Livermore's suggestion passed.

On August 24 the House finally passed the amendments, and the one that we are concerned with (the one on religious

freedom) read: "Congress shall make no law establishing religion or prohibiting the free exercise thereof, nor shall the rights of conscience be infringed."⁶⁷ The credit for this wording goes to Fisher Ames.⁶⁸

But this amendment was not completely satisfactory to the Senate. It resolved to erase "religion" and to insert "articles of faith or a mode of worship" and to erase "thereof, nor shall the rights of conscience be infringed" and insert "of Religion; or abridging the freedom of speech, or of the press."⁶⁹

Stokes points out a section of the Senate debate which clearly indicates that they did not wish to just prevent the giving of preference to one denomination or another,⁷⁰ but, as Halliday says, the intent was to make the government neutral.⁷¹

Because of the difference between the two houses, a committee was needed to iron out the differences. The Committee was responsible for the wording that we now have--"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"⁷² The compromises were adopted by the House on September 24 and by the Senate on September 25.

Ratification of the Bill of Rights

The amendments had been passed by Congress, but they had to be ratified by the states before they could take effect.

Interestingly, one of the first states to act on the amendments was North Carolina, which had not yet seen fit to ratify the Constitution. The first convention on the Constitution had passed a resolution to bar preferential treatment of one religion but had said nothing about religious liberty. With the Bill of Rights added, North Carolina quickly ratified both by December of 1789. The Bill of Rights was important but not paramount in the decision. Other important factors were the well-circulated Federalist arguments, commercial pressure on the agricultural interests that had formerly been opposed, and a general dissatisfaction with the leaders of the Anti-Federalists.⁷³

A number of other states quickly ratified the amendments with little opposition--Delaware, Maryland New Jersey, New Hampshire, New York, Pennsylvania and South Carolina.

Rhode Island was another state that had not yet entered the union, in this case because it feared a strong central government and hard money. A fear of the Episcopal Church had also been expressed although this was not a strong reason. But when the Bill of Rights was added, Rhode Island voted to join on June 15, 1790. There was some talk in the convention that the states should also be prohibited from establishing churches, but they seem to have been content with the first amendment, since they offered no changes. For themselves they adopted the clause on religion of the Virginia Declaration of Rights of 1776.⁷⁴ So the influence of Virginia can still

be seen.

Virginia was next to adopt the Bill of Rights in 1791, although there had been opposition in Virginia because the amendment did not go as far toward separation of church and state as Virginia would have liked.⁷⁵ This brought the number that had ratified the amendments to ten and put them into effect.

But what about the other states?

Connecticut did not ratify the amendments until 1941, because debates had delayed them until Virginia's ratification made further action unnecessary. There are a number of possible reasons to explain the delay. First, Connecticut was still controlled by a Congregational oligarchy. But probably more important, civil liberties were not recognized in Connecticut's fundamental laws, for Connecticut was still operating with its colonial charter. Thus it saw no need for the Bill of Rights.⁷⁶

Massachusetts never ratified the Bill of Rights. But while there was a lot of debate on some of the other amendments, the one on religion does not seem to have caused too much objection.⁷⁷

Georgia also never ratified, but according to Antieau, Downey and Roberts the only objection

is but a single cryptic statement by a joint committee of the two Houses of the Legislature to the effect that "the defective parts of the Constitution . . . cannot be effectually pointed out, but by experience"78

Thus it seems from what information we have been able to gather that while the concern for a Bill of Rights was strong in the states that the desire for freedom of religion was not the overriding concern. Never does it seem to have been the central issue in the question of ratification of either the Constitution or the Bill of Rights.

And again as in the case of the Constitution itself, we have not been able to determine the role of the churches in the ratification of the Bill of Rights.

CHAPTER V

THE CAUSES OF RELIGIOUS LIBERTY

Obviously we cannot in this last chapter tell what all the causes were that led the United States to adopt the first amendment and religious liberty. To do so would mean to repeat the entire paper, and even then we certainly could not cover them all. Rather what we want to do in this last chapter is to review once again a few of the outstanding causes--some we have referred to again and again and others that have been more in the background but omnipresent.

First of all, we must point to the work done by individuals at key times in the history. We are referring, of course, to Pinckney and Madison. Interestingly, both were Anglicans--from the established church. Yet it was these two Anglicans who took the lead at those crucial points--Madison in Virginia and in the Congress, Pinckney in the Constitutional Convention. They were the type of leaders we pointed to earlier--nominally churchmen but also very tolerant of others. Certainly we can not ignore their close relationship to Thomas Jefferson. Madison and Jefferson's relationship is well-known, and in Virginia the Bill for Establishing Religious Freedom, that Madison pushed through, was the work of Jefferson. Of course, Jefferson was not the only cause for Madison's ideas either. Other influences on Madison certainly included John Witherspoon, his teacher at Princeton, and Madison's Baptist neighbors of

Orange County.¹ Whether Pinckney, too, was influenced by Jefferson cannot be completely demonstrated though he did become an ardent supporter of Jefferson, and Stokes suggests that Jefferson may well have been the source of Pinckney's ideas also.² Such speculation is interesting, and certainly Jefferson and others as well influenced both of these men. But we must not deny to them the chance to be the creator of their own ideas.

Yet another group of agitators whom we have seen throughout our survey of this period have been the Baptists. Some church groups were willing to fight for toleration or freedom when they were the ones oppressed, but the Baptists always fought for it. And they were not satisfied with toleration. They wanted freedom, and they fought for it until they got it.

Their fight for freedom, however, was not solely because they were not the privileged church. They fought for freedom of conscience, because it is a very real part of their faith. In fact, it is central. F.E. Mayer writes

The competency of the soul of man in matters religious is the basic principle on which all Baptists are united and out of which all Baptist beliefs grow. For want of a better term this principle can best be defined as "theological individualism."³

This insistence on the right of each individual to stand before God made a state church or any type of connection theologically impossible for them.

Bacon may be overemphasizing the point when he says that

our religious freedom is chiefly due to the work of the Baptists,⁴ but he is not giving credit where it is undeserved.

Of course, the Baptists were not the only religious group involved. We saw the Quakers struggling against Congregationalism in Massachusetts, and we saw them grant a large measure of religious freedom in their three colonies. The Quaker opposition to a state church was also theological. Mayer writes of them: "God is said to endow every human spirit with his own Spirit, which no outward authority can replace."⁵ God communicates individually with each person, and there is no room for any religious compulsion on the part of the church. But while the Baptists took the lead in fighting for religious freedom, the Quakers often preferred to remain silent.

We also saw the Presbyterians involved here and there in agitation. However, they were not motivated by theological principles. They were willing to accept a state church whenever they could be the favored ones. In Virginia some of them favored a tax assessment for religion, because they were to be included, and in South Carolina Tennant was willing to accept the establishment of Christianity, because they were included.

The difference between these three groups was well summed up by Humphrey when he wrote that the Baptists were chiefly responsible for removing the state from religious affairs, the Presbyterians were energetic whenever their freedom was involved, and the Quakers preferred to let the Baptists do

the work.⁶

The leaders of the agitation for religious freedom were those religious groups which believed in religious freedom for theological reasons and those national leaders who with Jefferson believed in freedom for the individual conscience.

But finally there were two aspects to the colonial situation which made it possible for these men to succeed.

First was the great number of different sects and religious groups in the colonies. This came about partly, as we have seen, from the desire of the proprietors or companies to attract as many people as they might into the colonies. We also saw the number of different sects grow as the Great Awakening split some of the older denominations.

The very fact that there were so many different groups made it impossible for one or only a few to become established.⁷ There would be too many dissenters. Coupled with this was the fact that there were also many who had no religion.

And not only did the vast number of different sects provide a necessity for freedom, but they also created a spirit of tolerance. As one lives and works with those who disagree with him religiously, he becomes willing to recognize the possibility of diverse opinion.

Second, we have already noted the struggle for freedom and independence. As the colonies proclaimed the natural rights of man in their struggles with England, the conclusion was only logical that the "unalienable rights" to "life, liberty,

and the pursuit of happiness"⁸ also included the right to worship or not to worship as one pleased.

Max Savelle sums all this up very well:

In America, where the ideas of both toleration and religious freedom had their most rapid growth in early modern times, religious toleration was at first a product of practical circumstances. But if toleration was a product of expediency and frontier conditions, true religious freedom was probably the child of the eighteenth century rationalism that arose from the spread of early modern science, coupled with the sort of religious individualism that was implicit in the doctrines of certain religious sects, notably the American Quakers and Baptists.⁹

The diversity of religious viewpoint in America together with the stress on human rights created a situation where those who sought religious freedom for religious or rational reasons could succeed.

FOOTNOTES

Chapter I

¹The Constitution of the United States of America, Amendment I, in Richard Hofstadter, William Miller and Daniel Aaron, The United States: The History of a Republic. (Englewood Cliffs: Prentic-Hall, Inc., 1961), p. 771.

²Chester J. Antieau, Arthur T. Downey, and Edward C. Roberts, Freedom from Federal Establishment: Form and Early History of the First Amendment Religious Clauses (Milwaukee: The Bruce Publishing Co., 1964), p. 121.

³Anson P. Stokes, Church and State in the United States (New York: Harper & Brothers, 1950), I, 6.

⁴E.M. Halliday, "Nature's God and the Founding Fathers," American Heritage, XIV (October 1963), 105.

Chapter II

¹Jerald C. Brauer, Protestantism in America (Revised edition; Philadelphia: The Westminster Press, 1965), p. 11.

²Second Charter of Virginia, Documents of American History, edited by Henry Steele Commager (Seventh edition; New York: Appleton Century Crafts, 1963), p. 12.

³Richard Hofstadter, William Miller, and Daniel Aaron, The United States: The History of a Republic (Englewood Cliffs: Prentice-Hall, Inc., 1961), p. 28.

⁴Ibid.

⁵Brauer, p. 14.

⁶Ibid., p. 15.

⁷Sanford H. Cobb, The Rise of Religious Liberty in America (New York: The MacMillan Company, 1902), pp. 138-142.

⁸George Bancroft, The History of the United States of America from the Discovery of the Continent, abridged and edited by Russel B. Nye (Abridged edition; Chicago: University of Chicago Press, 1966), p. 27.

⁹Brauer, p. 23.

¹⁰Cobb, pp. 156-159.

¹¹Ibid., p. 171.

¹²William Warren Sweet, Religion in Colonial America (New York: Cooper Square Publishers, Inc., 1965), p. 89.

¹³The Cambridge Platform, Commager, p. 30.

¹⁴Brauer, p. 38.

¹⁵Cobb, p. 129.

¹⁶Sweet, p. 150.

¹⁷Anson P. Stokes, Church and State in the United States (New York: Harper & Brothers, 1950), I, 421.

¹⁸Cobb, p. 238.

¹⁹Chester J. Antieau, Arthur T. Downey, and Edward C. Roberts, Freedom from Federal Establishment: Form and Early History of the First Amendment Religious Clauses (Milwaukee: The Bruce Publishing Co., 1964), p. 23.

²⁰Lecture notes, Senior High School American History, 1961-1962.

²¹Evarts Boutell Greene, Religion and the State: The Making and Testing of an American Tradition (New York: New York University Press, 1941), p. 45.

²²Cobb, pp. 120-122.

²³Ibid., pp. 117-118.

²⁴Ibid.

²⁵Ibid., p. 115.

²⁶Ibid., pp. 123-130.

²⁷Ibid., pp. 124-128.

²⁸Antieau, Downey and Roberts, p. 4.

²⁹Stokes, p. 197.

³⁰Robert A. Rutland, The Birth of the Bill of Rights 1776-1791 (Durham: Seeman Printery, 1955), pp. 17-18.

³¹Stokes, pp. 166-167.

³²Interestingly, Governor Dongan was an Irish Catholic.

³³Stokes, p. 435.

³⁴Ibid.

³⁵Ibid., p. 208.

³⁶Ibid., p. 364.

³⁷Ibid., p. 207. See also Greene, pp. 57-58.

³⁸Stokes, p. 168.

³⁹Ibid.

⁴⁰Ibid., pp. 436-437.

⁴¹Ibid., pp. 189-190.

⁴²Sweet, p. 175.

⁴³Ibid., p. 177.

⁴⁴Maryland Toleration Act, Commager, p. 31.

⁴⁵Sweet, pp. 177-178.

⁴⁶Ibid., pp. 178-179.

⁴⁷Leonard W. Bacon, A History of American Christianity, in American Church History Series (New York: The Christian Literature Company, 1897), XIII, 61.

⁴⁸Hofstadter, Miller and Aaron, p. 36.

⁴⁹Stokes, pp. 428-429.

⁵⁰Ibid., p. 439.

⁵¹Thomas Cuming Hall, The Religious Background of American Culture (Boston: Little, Brown, and Company, 1930), p. 138.

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¹Richard Hofstadter, William Miller, and Daniel Aaron, The United States: The History of a Republic (Englewood Cliffs: Prentice-Hall, Inc., 1961), p. 77.

²Leo Pfeffer, Church, State and Freedom (Boston: Beacon Press, 1953), p. 95.

³William Warren Sweet, Religion in Colonial America (New York: Cooper Square Publishers, Inc., 1965), pp. 271-272.

⁴Sanford H. Cobb, The Rise of Religious Liberty in America (New York: The MacMillan Company, 1902), p. 94.

⁵Thomas Cuming Hall, The Religious Background of American Culture (Boston: Little, Brown, and Company, 1930), p. 167.

⁶Jerald C. Brauer, Protestantism in America (Revised edition; Philadelphia: The Westminster Press, 1965), p. 55.

⁷Max Savelle, Seeds of Liberty: The Genesis of the American Mind (Seattle: University of Washington Press, 1965), p. 76.

⁸Evarts Boutell Greene, Religion and the State: The Making and Testing of an American Tradition (New York: New York University Press, 1941), p. 66.

⁹Norman Cousins, In God We Trust: The Religious Beliefs and Ideas of the American Founding Fathers (New York: Harper & Brothers, 1958), p. 148.

¹⁰Ibid., p. 148.

¹¹E.M. Halliday, "Nature's God and the Founding Fathers," American Heritage, XIV (October 1963), p. 5.

¹²Cousins, p. 122.

¹³Halliday, p. 7.

¹⁴Ibid., p. 6.

¹⁵Cousins, p. 42.

¹⁶Ibid., pp. 100-102.

¹⁷Ibid., pp. 239-240.

¹⁸Ibid., p. 74.

¹⁹Ibid., p. 71.

²⁰Ibid., pp. 384-385.

²¹Greene, p. 51.

²²Ibid., pp. 62-63.

²³Ibid., pp. 63-64.

²⁴Robert A. Rutland, The Birth of the Bill of Rights 1776-1791 (Durham: Seeman Printery, 1955), p. 12.

²⁵Chester J. Antieau, Arthur T. Downey, and Edward C. Roberts, Freedom from Federal Establishment: Form and Early History of the First Amendment Religious Clauses (Milwaukee: The Bruce Publishing Co., 1964), pp. 9-10.

²⁶Ibid., pp. 13-14.

²⁷Russel B. Nye, Cultural Life of the New Nation 1776-1830, in The New American Nation Series (New York: Harper & Brothers, 1960), p. 196.

²⁸Anson P. Stokes, Church and State in the United States (New York: Harper & Brothers, 1950), p. 264.

²⁹Rutland, p. 91.

³⁰Cobb, pp. 14-15.

³¹Stokes, pp. 244-253.

³²Hall, p. 134.

Chapter IV

¹Leonard W. Bacon, A History of American Christianity, in American Church History Series (New York: The Christian Literature Company, 1897), XIII, 61. See also Sanford H. Cobb, The Rise of Religious Liberty in America (New York: The MacMillan Company, 1902), p. 100.

²Thomas Cuming Hall, The Religious Background of American Culture (Boston: Little, Brown, and Company, 1930), pp. 142-143.

³Cobb, pp. 111-114.

⁴Anson P. Stokes, Church and State in the United States (New York: Harper & Brothers, 1950), I, 6.

⁵William Warren Sweet, Religion in Colonial America (New York: Cooper Square Publishers, Inc., 1965), p. 304.

⁶Cobb, p. 96.

⁷Ibid., p. 99.

⁸Stokes, p. 303.

⁹Cobb, p. 99. See also Evarts Boutell Greene, Religion and the State: The Making and Testing of an American Tradition (New York: New York University Press, 1941), pp. 86-87.

¹⁰Leo Pfeffer, Church, State and Freedom (Boston: Beacon Press, 1953), pp. 108-109.

¹¹Stokes, pp. 341-342.

¹²Madison wrote to Monroe on April 12, 1785: "the Presbyterians who seem as ready to set up an establishment which is to take them in as they were to pull down that which shut them out." See Stokes, p. 390.

¹³Stokes, p. 391.

¹⁴Ibid., p. 373.

¹⁵Ibid., pp. 389-392.

¹⁶Ibid.

¹⁷Ibid., p. 334.

¹⁸Ibid., pp. 393-394.

¹⁹Pfeffer, p. 105.

²⁰Stokes, p. 379.

²¹Chester J. Antieau, Arthur T. Downey, and Edward C. Roberts, Freedom from Federal Establishment: Form and Early History of the First Amendment Religious Clauses (Milwaukee: The Bruce Publishing Co., 1964), p. 148.

²²Robert A. Rutland, The Birth of the Bill of Rights 1776-1791 (Durham: Seeman Printery, 1955), p. 43.

²³Ibid., p. 12.

²⁴Antieau, Downey and Roberts, p. 96.

²⁵Ibid., p. 147.

²⁶Stokes, p. 191.

²⁷Rutland, p. 52.

²⁸Stokes, pp. 402-407.

²⁹Antieau, Downey and Roberts, p. 108.

³⁰Ibid., pp. 45-46.

³¹Rutland, pp. 64-65.

³²Antieau, Downey and Roberts, pp. 38-39.

³³Stokes, p. 411.

³⁴Antieau, Downey and Roberts, p. 108.

³⁵Rutland, pp. 28-29.

³⁶Stokes, pp. 460-461.

³⁷Ibid., pp. 466-467.

³⁸Rutland, pp. 102-103. See also Stokes, p. 480.

³⁹Rutland, p. 100.

⁴⁰The Declaration of Independence, in Richard Hofstadter, William Miller and Daniel Aaron, The United States: The History of a Republic (Englewood Cliffs: Prentice-Hall Inc., 1961), p. 763.

⁴¹The Constitution of the United States of America, in Hofstadter, Miller and Aaron, p. 765.

⁴²Clinton Rossiter, 1787 The Grand Convention (New York: The MacMillan Company, 1966), p. 148.

⁴³Stokes, pp. 526-527.

⁴⁴Pfeffer, p. 123.

⁴⁵Stokes, p. 527.

⁴⁶The Constitution of the United States of America, Article VI, Section 3, in Hofstadter, Miller and Aaron, p. 770.

⁴⁷This is the argument of Madison in Number 51 of The Federalist Papers.

⁴⁸Stokes, p. 46.

⁴⁹Hofstadter, Miller and Aaron, pp. 135-136.

⁵⁰Ibid., p. 136.

⁵¹Stokes, p. 351.

⁵²Rutland, pp. 154-155.

⁵³Hofstadter, Miller and Aaron, p. 136.

⁵⁴Antieau, Downey and Roberts, pp. 119-120.

⁵⁵Ibid., p. 49.

⁵⁶Hofstadter, Miller and Aaron, p. 136.

⁵⁷Ibid.

⁵⁸Antieau, Downey and Roberts, p. 121.

⁵⁹Pfeffer, p. 125.

⁶⁰Rutland, pp. 182-183.

⁶¹Stokes, p. 541.

⁶²Ibid.

⁶³Antieau, Downey and Roberts, p. 127.

⁶⁴Ibid.

⁶⁵E.M. Halliday, "Nature's God and the Founding Fathers," American Heritage, XIV (October 1963), 104.

⁶⁶Stokes, p. 543.

⁶⁷Antieau, Downey and Roberts, pp. 130-131.

⁶⁸Ibid.

⁶⁹Ibid.

⁷⁰Stokes, p. 546.

⁷¹Halliday, pp. 104-105.

⁷²The Constitution of the United States of America, Amendment I, in Hofstadter, Miller and Aaron, p. 771.

⁷³Antieau, Downey and Roberts, pp. 155-156.

⁷⁴Ibid., pp. 152-154.

⁷⁵Ibid., p. 145.

⁷⁶Ibid., p. 150.

⁷⁷Ibid., p. 151.

⁷⁸Ibid.

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¹Anderson P. Stokes, Church and State in the United States (New York: Harper & Brothers, 1950), I, 352.

²Edward F. Humphrey, Nationalism and Religion in America 1774-1789 (New York: Russell & Russell, 1965), p. 362.

³F.E. Mayer, Religious Bodies of America, revised by Arthur Carl Piepkorn (Fourth revised edition; St. Louis: Concordia Publishing House, 1961), p. 248.

⁴Leonard W. Bacon, A History of American Christianity, in American Church History Series (New York: The Christian Literature Company, 1897), XIII, 221-222.

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⁶Humphrey, pp. 320-321.

⁷This was already noted at the time of the writing of the Constitution. See The Federalist Papers, Number 51.

⁸The Declaration of Independence, in Hofstadter, Miller and Aaron, The United States: The History of a Republic (Englewood Cliffs: Prentice-Hall, Inc., 1961), p. 763.

⁹Max Savelle, Seeds of Liberty: The Genesis of the American Mind (Seattle: University of Washington Press, 1965), p. 71.

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