"An Asylum to the Persecuted and Oppressed of Every Nation and Religion": Dissenters and Liberals in the Drive for Religious Freedom in Virginia

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Introduction:

America's religious heritage, our national understanding of the relationship between church and state, and the religious convictions of our Founding Fathers have recently taken prominence in historical and political debate. Professional scholars and journalists continually produce material in their efforts to determine whether the original ideas of the American Republic created a uniquely Christian or secular state. Since the days of colonial settlement the relationship between church and state has been a topic for heated debate. Few political subjects rely on a detailed understanding of history as does the issue of American religious liberty and church-state separation. Knowledge of the political struggle regarding this relationship in Virginia is integral to the larger national debate on the subject, since many of the legislators who first had to contend with the issue were the lawmakers who helped shape the national government. Virginia's unique religious and political climate in the latter eighteenth century created an environment in which legislators and clergy debated and decided the proper relationship between church and state based upon the principles of liberty commonly shared in Protestant theology and Natural Rights philosophy. These shared ideas brought Protestant religious dissenters, primarily Baptists and Presbyterians, into a union of thought with prominent statesmen, led by Thomas Jefferson and James Madison. The result of this unlikely amalgamation was the establishment of secularism and a brand of civil religion unique to Virginia based on common morality and republican ideas of civic responsibility.

Authors have filled numerous volumes with accounts relating to the events of the Great Awakening and its social and political impact in Virginia, the legislative progress regarding religious liberty in the Commonwealth, and the proper relationship between church and state. Still more monographs discuss the religious views of the founders and attempt to determine the

intent behind their most basic legislation. Although these works are legion, few take an objective, contextual approach to American religious history, the developing faiths of the founders, and the nature of the American understanding of separation of church and state in its earliest days. Noticeably missing from the historiography is a contribution that objectively examines the role of dissenters in Virginia politics and society, or the influence they and their theological ideas may have exhibited on Jefferson and Madison. Although many acknowledge some of the political and philosophical influences on Jefferson and Madison's views on church and state, few recognize the theological basis for religious liberty present in many strains of Protestant theology.

Political scientists, historians, and legal experts recognize the contributions of Jefferson, Madison, and dissenting religious groups to disestablishment and the assurance of full religious liberty in Virginia. The overwhelming tendency, however, is to examine their roles either in strict isolation or in some dualistic combination that focuses on one limited aspect of the issue. This does a disservice to the work of all three and overlooks the relationship among them that was essential to the success of their efforts. The struggle for religious freedom in Virginia was the result of a unique triangulation of ideas and actions that carried through nearly three decades of some of the most tumultuous events of the eighteenth century. Jefferson, Madison, and the dissenters shared common ground in the political struggle, not because of a common orthodoxy in religion, but because they shared common theological foundations in Reformed theology found in Lockean political philosophy.

That religious dissenters grounded their views of church-state separation in theology should come as no surprise, but scholars fail to make similar connections to Madison and especially to Jefferson. Madison's ideas of religious liberty emerged after a lifetime of Calvinist

education and his close contact with John Witherspoon at Princeton, evidenced by his firm support of religious dissenters that predated his political career. Some historians tend to disregard the influence of Presbyterian theology on young Madison, tending rather to see him as a moderate product of the Enlightenment and especially Lockean political philosophy. Others place too much emphasis on Witherspoon's influence and craft a Madisonian image that is perhaps too Calvinistically orthodox.

Jefferson receives much the same treatment from scholars, who in their zeal to cast the founder in a preconceived mold shape him into various theological incarnations. That Jefferson was religiously unorthodox is inarguable. His own claim to possessing a faith unto himself should provide enough evidence to support that claim, but the tendency among many to portray him as an anti-religious Enlightenment rationalist does him an injustice. They discount any early religious influence on Jefferson, and ignore evidence of his abiding interest in theological ideas across a broad spectrum. Studies of Jefferson's system of religion show a penchant for equating the ideas he expressed late in life to those he held early in his career. To remove Jefferson's ideas from their historical context skews a clear understanding of the progression of his religious views.

The work of John Locke was a common ideological tie between many of the founding generation, but Lockean political philosophy connected to the beliefs of dissenting religious groups due to its foundations in Reformed theology. This important connection provided an intellectual link between the seemingly competitive missions of religious dissenters and the liberal ideas of Jefferson and Madison. Their goal was identical, full religious liberty for all Virginians based on the rights of conscience granted to man by God. Although the three differed

in their orthodoxy, their common basis was a belief in human equality and liberty founded on Lockean ideals that emerged from the work of the Reformation.

Chapter 1: History, Historiography, and Definition of Terms

History:

In the eighteenth century, religious establishments and ideas on toleration varied from colony to colony. Some were more tolerant than others, Rhode Island and Pennsylvania provide good examples of colonial governments that allowed more latitude in religious practice. Each instituted by legislation some form of religious qualification for full citizenship and civil liberty.[1] This notion of church-state unification traveled across the Atlantic with European settlers into the first colonies. The European idea of church and state union began in the twelfth century with Pope Alexander III and Pope Innocent III when they consolidated Papal decrees into canon law, enforceable on all Catholic subjects. Innocent IV solidified the claim in the thirteenth century, asserting in his *Ad Apostolice Sedes* that "Christian society is essentially a single unified body with the Pope as its ultimate head." The most important claim to Papal supremacy came in 1302 when Boniface VIII proposed the "Two Swords" theory in his *Unam Sanctum*. His work assumed a division of authority into the temporal power of the king and the spiritual power of the church, with the temporal in a subordinate position to the spiritual.[2] The rise of humanist thought during the Renaissance brought the Church's claims to power into question. Martin Luther's Reformation writings contradicted the theory of two swords. He claimed only one existed, the secular, held by a prince who possessed Christian character. His was a temporal authority granted by the providence of God, and due respect and submission as ordained by God. Luther based his teaching on an understanding of Romans 13 and the

[1] Thomas E. Buckley, *Church and State in Revolutionary Virginia, 1776-1787* (Charlottesville: University of Virginia Press, 1977), 5-6.
[2] Quentin Skinner, *The Foundations of Modern Political Thought* (Cambridge and New York: Cambridge University Press), Vol. 1, 14-15.

admonition to esteem and obey those in authority, since all temporal authority emanated from heavenly power. He also claimed it was the duty of the ruler to support the spread of the gospel and encourage piety among his subjects.[3]

The political implications of Luther's theology were as controversial as the ideas were innovative. His understanding of the role of the Church, and the doctrine of the priesthood of the believer, meant that the church had no basis for its claims of power to regulate everyday Christian life. His claim that the Church is a spiritual entity with no temporal power effectively repudiated the very existence of canon law and contradicted any entitlement to special privilege the Church enjoyed. Luther stressed that the church was responsible only for the salvation of souls, not for the regulation of individuals.[4] The idea that church and state should be separate entities was not merely innovative in sixteenth century Europe it was incomprehensible. The thought itself "was widely denounced as the greatest folly, the equivalent of treason, and the end of any state social order."[5] Mainstream thought carried this conviction into eighteenth century America with little deviation. American colonial governments maintained the legislative right to interfere in matters of religion, even in those areas that did not maintain an established religion. It was not until the adoption of *Virginia's Statute for Religious Freedom* that any government separated religion and government by force of law.

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[3] Ibid., Vol. 2, 15.
[4] Ibid., 12-14.
[5] Edwin S. Gaustad, *Revival, Revolution, and Religion in Early Virginia* (Williamsburg, VA: Colonial Williamsburg Foundation, 1994), 2.

Historiography:

The political and theological ideas that fueled Virginia's struggle for religious liberty provide historians and members of denominations once labeled "dissenting" with a wealth of material. Once law, diverse groups appropriated the *Virginia Statute for Religious Freedom* as part of their own legacy, and interpreted its origins according to their individual philosophy. Religious denominations used the law and their role in its passage to legitimize their claim to a special place in Virginia history. Presbyterians utilized their role in the effort to move into a secure place alongside the former establishment, while the Baptists made it their way of taking a position in the Revolutionary history of the Commonwealth and nation and establish themselves as part of the mainstream of Virginia society.[6] Later groups used Jefferson and Madison's role in the struggle, and isolated statements from both, to claim that it was their intent to found a secular state and nation, devoid of any theological connections or religious conviction. Recent work tends to examine all denominational and philosophical claims to primacy and evaluate the contemporary documents more objectively in an effort to find connections between such seemingly divergent groups.

The importance of religion in colonial America, the faiths of the founders, and the increasing role of dissenting denominations in political matters in the wake of the First Great Awakening provide scholars with unlimited fodder for debate. The earliest such works were sectarian in nature, a recitation of the lives of prominent ministers and churches that shaped the organization of a denomination and provided young seminarians with a model for pious service.

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[6]Rhys Isaac, "'The Rage of Malice of the Old Serpent Devil': The Dissenters and the Making and Remaking of the Virginia Statute for Religious Freedom," in *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History,* ed. Merrill D. Peterson and Robert C. Vaughan (Cambridge and New York: Cambridge University Press, 2003), 156-159.

In the Progressive era, historians exhibited a tendency to marginalize religion and its importance to the culture and society in the Revolutionary Age. They preferred to view late colonial society as one formed by rationalist Enlightenment thinking and latitudinarian moralistic beliefs. The role of dissenting denominations in colonies where a strong religious establishment existed was usually confined to an examination of how religious language and pluralism contributed to the American Revolution. Other studies concentrated on the debates following independence, especially the dispute regarding establishment and general assessment in Virginia. These contest led the new nation in the discussion of the place of religion in a republican government. Few historians have connected early colonial belief systems, the upheaval of the Great Awakening, and the later drive for full religious liberty that culminated in Jefferson's statute. Fewer connect the theology of dissenters in Virginia with Jefferson and Madison's convictions regarding religion and government and the legislative language employed in foundational documents. [7]

The struggle for religious liberty in Virginia and its consequences for the emerging American republic became a focus for historians at the turn of the twentieth century and continues with a different emphasis in the twenty-first. In 1900, two works of a similar nature appeared that considered the drive for religious liberty in the Commonwealth. Both authors examined the role of Baptists in the religious debate that resulted in disestablishment and the

[7] For Virginia Baptist history, see Robert Baylor Semple, *A History of the Rise and Progress of the Baptists in Virginia* (Richmond: John O. Lynch Printer, 1810) and James Barnett Taylor, *Lives of Virginia Baptists Ministers* (New York: Sheldon & Company, 1838). Presbyterian denominational history in Virginia is covered well by William Henry Foote, *Sketches of Virginia, Historical and Biographical* (Philadelphia: J. B. Lippincott, 1856) and Henry Alexander White, *Southern Presbyterian Leaders* (New York: The Neale Publishing Company, 1911). Progressive views such as those in Evarts B. Greene, *Religion and the State: The Making and Testing of an American Tradition* (New York: New York University Press, 1941) argued that religious establishments were irrelevant since the political realm had taken precedence. Most influential was Perry Miller's two-volume work on the Puritans of New England and his "declension theory." *The New England Mind: The Seventeenth Century* (Boston: Beacon Press, 1939); *The New England Mind: From Colony to Province* (Cambridge, MA: Harvard University Press, 1953). Patricia Bonomi, *Under the Cope of Heaven: Religion, Society, and Politics in Colonial America* (New York: Oxford University Press, 1986) refutes Miller's declension thesis and draws a direct line of continuity from the Great Awakening to the American Revolution.

total separation of church and state. In his *Documentary History of the Struggle for Religious Liberty in Virginia*, Charles Fenton James considered documents from the Journals of the House of Burgesses, The Virginia Constitutional Convention, and the Virginia House of Delegates, as well as denominational records from the Baptist Associations, the Presbyterian Assembly, and the Hanover Presbytery. He consulted the writings of Baptist and Presbyterian histories, as well as those of such prominent eighteenth century Virginians as James Madison, George Washington, and Thomas Jefferson. His synthesis of the primary sources brought him to conclude that the Baptists were the "foremost, most zealous and most consistent and unwavering champions of soul liberty" in Virginia.[8] James asserted that the Baptists deserve primary credit for pressing toward complete religious freedom, while the Presbyterians opposed it in favor of toleration.[9] Many of the documents and petitions referred to in the governmental records were not examined in the course of James' study, and he included some occasional misrepresentations in the work in order to strengthen his claim. His failure to consult manuscripts that were readily available in the Virginia State Library, and his distortions of evidence detract from the strength of his argument, but lend other historians the opportunity to confirm or deny his claims to Baptist dominance in the struggle for religious liberty.[10]

The second work to appear in 1900 was William Taylor Thom's, *The Struggle for Religious Freedom in Virginia: The Baptists*. Thom considered roughly the same sources as James, and reached the same conclusion, but with a more questionable methodology. Thom

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[8] Charles Fenton James, *Documentary History of the Struggle for Religious Liberty in Virginia* (Lynchburg, VA: J. P. Bell and Company, 1899), 7.
[9] Ibid., 141.
[10] Some of the problems with James include a propensity for Presbyterians to press for change within the bounds of the law as conciliation. He also used assertions of a Baptist historian, without qualification, to criticize Presbyterian change mind during the debate over religious liberty in the 1770s with no contextual consideration of the war with Britain. He also asserted, with no evidence, that members of Baptist Associations and the Hanover Presbytery were present at meetings of the legislature and did "some effective 'lobbying'" while there.

expressed in his Preface that his goal was "to set forth in all good faith the part played by the Baptists in bringing about religious freedom in Virginia."[11] He provided no account of the actions taken by other denominations, or the part they may have played in increasing toleration or eventual disestablishment. Although he was sympathetic to the struggle of the Baptists, he was not uniformly uncritical. In his assessment of the successful Baptist petition movement for increased toleration in 1774 he noted, "Thenceforward the Baptists pursued the church establishment with a vindictive hatred that is repellent."[12] His desire to establish the primacy of the Baptists in Virginia's religious battle did not overshadow his distaste for some of their methods. Thom's work drew similar criticism to that of James. His obvious bias, failure to examine available primary documents, together with his exclusive concentration of Baptist contributions left a gap in the scholarship for other historians to fill.

In 1910, H. J. Eckenrode, a historian and archivist with the Virginia State Library attempted an objective study on the changing relationship between religion and government in the Revolutionary era. In *Separation of Church and State in Virginia*, Eckenrode considered the documents under his care as the head of the library's Manuscript Department. His work was the first to approach the subject from a perspective other than denominational. Eckenrode presented the struggle for religious liberty in Virginia as not only a contest over the place of government in religious belief, but as a larger illustration of the progress of individualism and democracy in eighteenth century society. He examined the Anglican Establishment in the colonial period, the effects of "The Parsons' Cause" on growing anti-clericalism, the rise of dissenters in Virginia, and the struggle for religious liberty that began with the new Virginia Constitution and ended with complete disestablishment in the late 1780s. Eckenrode's approach did not make

[11] William Taylor Thom, *The Struggle for Religious Freedom in Virginia The Baptists* (Baltimore: Johns Hopkins Press, 1900), 7.
[12] Ibid., 42.

significant connections between prominent Virginians and outspoken dissenting ministers who may have had some influence on the political debates. Many of the papers of the founders had yet to be collected and published, so a more thorough modern examination is needed to shed more light on Eckenrode's work.[13]

The historiography of the Great Awakening and the rise of dissenters in Virginia is rich with detailed accounts of evangelicalism and how it transformed society in the latter decades of the eighteenth century. In 1930, Wesley M. Gewehr published *The Great Awakening in Virginia*, an account of the rise of three predominant dissenting religions in Virginia. His work, although a marvelous resource, presented a skewed vision of the Anglican Establishment as an apostate entity in need of salvation by the Presbyterians, the Baptists, and later the Methodists. Gewehr especially credited the Baptists with being the primary evangelical force in Virginia, and named them the champions for religious liberty with the advent of the American Revolution.[14] His work offered a cogent argument regarding the primacy of dissenters in Virginia's changing political climate, but his lack of objectivity toward the established church and his questionable inclusion of Methodists in the ranks of dissenters weakened the force of his argument.

In the 1930s, as legal questions regarding the relationship between church and state arose, historians began to look at the statesmen who crafted legislation in the founding era. In 1933, William D. Gould published an article that examined Jefferson's statute and attempted to rescue the founder's religious reputation from disgrace. In "The Religious Opinions of Thomas Jefferson," Gould stated that the founder "was probably the object of more unjust personal

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[13] Hamilton James Eckenrode, and Virginia State Library, Archives Division, *Separation of Church and State in Virginia* (New York: DeCapo Press, 1971).
[14] Wesley M. Gewehr, *The Great Awakening in Virginia* (Durham, NC: Duke University Press, 1930), 108, 116-117.

attacks than any other statesman, before or since his time."[15] Reports that Jefferson was at worst an atheist and at best, a Deist colored American views of Jefferson's attitudes toward religious liberty and separation of church and state. Gould contended that the only written basis for accusations regarding Jefferson's atheism came from a few lines in his only published work, *Notes on the State of Virginia,* and subsequent attacks by Federalists during the election of 1800. Gould indicated that Jefferson's religious convictions developed over the course of his lifetime. He also stated that Jefferson was always reluctant to share his views with others because he did not wish to feel responsible for swaying the opinions of others.

One of Gould's most interesting assertions was that Jefferson's liberal ideas about religion led him to believe that the Quakers had the right idea about religious society. Although he rejected much of their pietistic doctrines, he admired their organizational structure that lacked paid ministers and supported individual decision-making.[16] Gould departed from the traditional opinion of Jefferson's religious views by proposing that it was not his antipathy toward faith, but his conviction that religious views were outside the scope of government that brought him to propose a draft for the Virginia Constitution and the later *Statute for Establishing Religious Freedom*. Gould was one of the first to assert that Jefferson adopted a Lockean principle "that the province of law was to prevent one man from injuring another, and that it was entirely unauthorized to interfere when men injure none but themselves."[17] This focus on Jefferson's assertion of Lockean principles in government caused a shift in the approach and focus of later historians.

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[15] William D. Gould, "The Religious Opinions of Thomas Jefferson," *The Mississippi Valley Historical Review*, Vol. 20, No. 2 (Sept., 1933): 191.

[16] Jefferson's 1783 library catalogue lists two works of Quaker theology which indicates that he probably had some knowledge of their organization and beliefs. A digital copy of Jefferson's catalogue is available from the Massachusetts Historical Society website.

[17] Gould, 206.

The study of the foundations of American religious liberty took and interesting direction with William Warren Sweet's 1945 article, "Natural Religion and Religious Liberty in America." Rather than giving primacy of influence to religious groups fueled by the fervor and individualism of the Great Awakening, he ascribed it to the political and religious philosophies of John Locke and Joseph Priestly. He stated that liberal philosophical ideas gained widespread acceptance because that made practical sense in an environment of religious pluralism and economic ambition.[18] He used contents of election sermons and political debates as evidence of a general acceptance of Lockean views of natural law and natural rights. He titled Locke, "America's philosopher *par excellence*" and named Priestley's work as an important component of American education.[19] Sweet claimed, "John Locke, and to a lesser degree, Joseph Priestly and others of the same school, furnished the American revolutionary fathers not only with the political philosophy which underlay their attitude toward the mother-country but also the religious philosophy which determined their attitude toward the church and its relation to the state."[20]

In 1950, Anson Phelps Stokes published his three-volume work, *Church and State in the United States.* His work was comprehensive in chronology and scope, covering church-state relations in the history of the United States from colonization to the 1940s. Stokes began his study with the conviction that religious freedom is only assured where there is a complete separation of church and state. He argued that the unique relationship that exists between the two is this nation's most significant contribution to the world, and as such deserved such a broad treatment. In his study of the Revolutionary era, Stokes credited religious pluralism, the Great

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[18] William Warren Sweet, "Natural Religion and Religious Liberty in America," *The Journal of Religion*, Vol. 25, No., 1 (January, 1945): 45-46.
[19] Ibid., 49.
[20] Ibid., 51.

Awakening, and the Enlightenment as the most prominent influences on the decision to separate church and state. He asserted that Jefferson and Madison's dedication to the Anglican Church was nominal, and that their personal religious convictions were deistic. He named Jefferson, Madison and Mason as the key political figures, and Samuel Davies and John Leland as the most influential religious leaders in Virginia's decision to separate religion and government. Stokes named Samuel Davies as "the forerunner of Thomas Jefferson in advocating complete separation of Church and State," putting religious leaders ahead of politicians in the cause.[21] Although Stokes' work was national in scope, he recognized that the struggle for religious liberty in Virginia influenced national theories on the separation of church and state and religious freedom more profoundly than any other historical factor.[22]

The historical context of the revival movements in Virginia and their impact on the larger struggle for religious freedom was the subject of William L. Lumpkin's *Baptist Foundations in the South* (1961). Of particular importance were his chapters entitled "All Ablaze in Virginia" and "Persecution and Struggle for Freedom in Virginia."[23] Lumpkin traced the expansion of the Baptist faith from the work of Shubal Stearns in Guilford County, North Carolina through the early days of the American Revolution, and credited the Separate Baptists with the growing political challenge to the established Anglican Church in Virginia. The author continued with the role of Virginia Baptists in defeating a general assessment scheme in the summer of 1785, and the passage of the law establishing religious freedom in the Commonwealth in December of the same year. In his examination of the drive for religious liberty in Virginia, Lumpkin acknowledged the contributions of "other dissenting groups [that] gave timely and significant

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[21] Anson Phelps Stokes, *Church and State in the United States* (New York: Harper and Row, 1950), Vol. 2, 19.
[22] Ibid., 366.
[23] William L. Lumpkin, *Baptist Foundations in the South* (Broadman Press: Nashville, TN, 1961), 87-120.

help to the Baptists. Presbyterians and Quakers in particular," but asserted the primacy of the Baptists by stating, "no group so consistently or so effectively campaigned for religious freedom" than they.[24] Lumpkin's bias toward Baptists ignores many of the well-worded petitions from Presbyterians at critical moments during the debate, and significantly weakened the force of his argument.

Prior to 1961, historians studied the theological influences on the prominent political figures in Virginia's struggle for religious liberty and surmised that they were primarily deists committed to the ideas of the Enlightenment. James H. Smylie corrected these assumptions about one of the founders in his article "Madison and Witherspoon: Theological Roots of American Political Thought." Concerned primarily with the founder's political philosophy as a whole, Smylie determined that Madison's politics were founded more in theology than in Enlightenment thinking. He asserted that in order to understand Madison's theological ideas scholars must comprehend his political ideas, and the "the immediate source of his political presuppositions was a Calvinism strained through the 'Common-Sense' philosophy of his college mentor, John Witherspoon."[25] Smylie examined Witherspoon's thought as evidenced through his published lectures on moral philosophy and sermons that Madison would have heard under his tutelage at the College of New Jersey. Under Witherspoon, Madison learned the Calvinist tradition of the depravity of man, but tempered it with the belief that man had the potential to do good. Smylie contended that Madison translated both Calvinist theology and Enlightenment philosophy into political action on the state and national level.[26]

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[24] Ibid., 120.

[25] James H. Smylie, "Madison and Witherspoon: Theological Roots of American Political Thought," *The Princeton University Library Chronicle*, Vol. XXII, No. 3 (Spring, 1961): 120.

[26] There is some question as to the content of Witherspoon's published lectures and those Madison would have heard, but it is doubtful that the fundamentals would have drastically changed.

The religious views of Jefferson received further scholarly attention in 1962 with Robert M. Healey's *Jefferson on Religion and Public Education*. He examined the founder's opinions on religion, government, religious liberty, education and the place of religion in public education. He concluded that Jefferson did not oppose religion, or religious instruction, but supported education in the moral teachings common to all religions as opposed to doctrine or denominational orthodoxy. Healey examined the letters and writings of Jefferson, supplemented with other primary and secondary documents, to emphasize Jefferson's unflinching commitment to freedom of conscience. He stated that Jefferson's views on religious liberty remained constant from the mid-1770s to his death, and that "all of his subsequent writings on the problem of religious liberty are commentary upon the Bill for Establishing Religious Freedom."[27] Contrary to other assessments, Healey found that Jefferson's religious beliefs were those of a Unitarian, not a Deist, one who believed in the providence of God and the teachings of Jesus undistorted by centuries of doctrinal disputes and compromises.

While historians grappled with the questions of primacy and ideological origins of church-state separation, prominent political scientists and philosophers began a debate regarding the foundations of Lockean political theory and its relevance to the modern world. John Dunn, a Cambridge political scientist, initiated the discussion by claiming that Locke's ideas were irrelevant to contemporary society due to their foundations in Protestant Christianity.[28] In 1971, philosopher John Rawls used Dunn's assertion as an accepted premise, but claimed that Locke's political ideas could be separated from his theological claims to form a kind of secular liberalism. This brand of liberalism was a form of political theory that utilized all of Locke's

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[27] Robert M. Healey, Jefferson *on Religion in Public Education* (New Haven: Yale University Press, 1962), 128-129.

[28] John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the "Two Treatises of Government"* (Cambridge: Cambridge University Press, 1969).

views on equality, natural rights, and private ownership but removed any theological basis for any of his assertions.[29] His work remained the standard for political theorists until the late twentieth century when Joshua Mitchell returned to the theological ideas in Locke's writings as they applied to his views on toleration. He asserted that Lockean theory accepted that God granted man the ability to reason at the creation, and had its foundations in Christian truths based on an understanding of Christ's fulfillment of Scripture.[30]

The most convincing and thorough argument for the theological foundations of Lockean political thought and its continued importance to modern understanding of its implications came in 2002 with Jeremy Waldron's *God, Locke, and Equality: Christian Foundations in Locke's Political Thought*. He argued that there is no way to understand or establish any kind of true equality without a basis in religious belief. Locke's assertions of equality stem from a conviction that man has a reasoned capacity to know God, and an understanding of individual purpose and significance in life. Waldron also asserted that Locke's theory is grounded in the necessity of the revelation of Christ in the New Testament to complete man's ability to reason. He disagreed with Rawls' characterization of Locke's philosophy as a secular liberalism and contended that any removal of theological foundations in his theories leave Lockean liberalism on unsteady philosophical ground.[31] In 2005, the debate came full circle with Michael Schwartzman's article, "The Relevance of Locke's Religious Arguments for Toleration." He argued that Lockean ideas could not be separated from their theological foundations, nor could they be discounted due to their importance to free democratic societies. He asserted that attempts by philosophers to

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[29] John Rawls, *A Theory of Justice* (Cambridge: Cambridge University Press, 1971, 1999); "Justice as Fairness: Political not Metaphysical," *Philosophy and Public Affairs*, Vol. 14 (Summer, 1985): 223-251; *Political Liberalism* (New York; Columbia University Press, 1993, 1996, 2005).

[30] Joshua Mitchell, "John Locke and the Theological Foundation of Liberal Toleration: A Christian Dialectic of History," *The Review of Politics*, Vol. 52, No. 1 (Winter, 1990): 64-83.

[31] Jeremy Waldron, *God, Locke and Equality: Christian Foundations in Locke's Political Thought* (Cambridge: Cambridge University Press, 2002).

secularize Locke only distorted his ideas and weakened the force of their own claims. Schwartzman argued instead for a type of liberalism that combines philosophical principles of reason with religious theology as a basis for political consensus. In short, he espoused a Jeffersonian moderation that culled ideas from various sources to form a rational ideology.[32]

Concurrent with the debates regarding the theological basis of Locke and his relevance to modern times, historians continued to discuss Virginia's pursuit of religious liberty in the eighteenth century. In 1977, Thomas E. Buckley delivered another account of the religious and political struggles in Virginia. His *Church and State in Revolutionary Virginia, 1776-1787*, traced the events from the Virginia Declaration of Rights in 1776 to the enactment of Jefferson's statute establishing religious liberty. Buckley "focused on the evolution of religious legislation in the General Assembly, the shifting strengths and interaction of the major churches in the Commonwealth, the development of both rationalist and evangelical thought on church and state, and the various positions taken not only by political and religious leaders but also the average citizen of the state."[33] He took issue with denominational historians who examined the debate in light of their own religious affiliation and presented the evidence with obvious bias. Buckley acknowledged the contribution of Eckenrode in the historiography, but stated, "His book is incomplete and at times inaccurate."[34] The work attempted to place the legislative debate in its cultural context, but because he began with the debates of 1776 and failed to examine the changes in the social and political structures of Virginia in the wake of the Great Awakening, he fell short of that goal.

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[32] Micah Schwartzman, "The Relevance of Locke's Religious Arguments for Toleration," *Political Theory*, Vol. 33, No. 5 (October, 2005): 678-705.
[33] Buckley, ix.
[34] Ibid., xi.

In his conclusion titled "The Evangelical Contribution," Buckley endeavored to connect the theological and ideological debates on the relationship between church and state, but his drive for objectivity and his chronology failed to demonstrate the evangelical fervor the revivals of the Great Awakening brought to the debate. The calm rationalism of Jefferson and Madison overshadowed the arguments influenced by Anglican traditionalism or zealous evangelicalism during the last half of the eighteenth century. Buckley did make important connections between members of the founding generation, but failed to present the post-1776 debates on religious liberty in its larger societal context.

Rhys Issac's *The Transformation of Virginia, 1740-1790,* provided an important source for the historical backdrop of the dissenting movement during the latter stages of the Great Awakening. Isaac described a social order based on a patriarchal system firmly entrenched in, and supported by, the Anglican establishment. Religion and the place of the Established Church was the key theme that bound his work in to a cohesive whole. Isaac described the changes taking place as a "double revolution in religious and political thought and feeling" that reshaped the culture as the colony morphed into a commonwealth.[35] He noted that the organizational structure of the Anglican Church fortified the established societal structure, which in turn supported the political structure. Rising anticlericalism, conflict "between parson and squire," and the rise of evangelical dissenter groups, especially the Baptists and Presbyterians, challenged the order and caused an unsettling instability within the colony.[36]

Isaac contended that the evangelical movement was critical to the changes in Virginia society. The Great Awakening not only prepared the colony for revolution, but also advanced the cause of religious liberty first in Virginia and then in the new nation. The final chapter in his

[35] Rhys Isaac, *The Transformation of Virginia* (Chapel Hill, NC: University of North Carolina Press, 1982), 6.
[36] Ibid., 144.

work traced the "long and intense struggle" that resulted in the adoption of Jefferson's *Statute for Establishing Religious Freedom* in Virginia.[37] Isaac credited the Baptists in Virginia for a relentless petitioning campaign that shaped the debate within the Commonwealth, resulting in it becoming "the first government in the world to establish by statute the complete divorce of Church and State, the greatest contribution of America to the sum of Western civilization."[38]

In 1985, Robert S. Alley presented a collection of essays titled *James Madison on Religious Liberty* that sought "to explore how and why the founders chose from among the various traditions available that peculiar form of church/state relationship we possess."[39] Contributions to this work included essays from authors across several disciplines expressing divergent points of view, some previously published, others original to the volume. In his introduction, Alley expressed his conviction of Madison's primacy "as America's premier exponent and practitioner of the principle of freedom of conscience."[40] He claimed that Madison's political ideas dominated the legislative landscape between 1785 and 1791, but the work concentrated primarily on Madison's contribution to American initiatives for religious liberty and separation of church and state. Robert Rutland's essay, "James Madison's Dream: A Secular Republic" was a recitation of Madison's legislative efforts in support of religious liberty from the revision of Mason's Virginia Declaration of Rights to the Constitutional Bill of Rights.[41] He argued that Madison's education at Princeton and experience with religious

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[37] Ibid., 275.
[38] Garnett Ryland, *The Baptists of Virginia, 1699-1926* (Richmond Virginia: Baptist Board of Missions and Education, 1955), 126.
[39] *James Madison on Religious Liberty*, ed. Robert S. Alley (New York: Prometheus Books, 1985), 15.
[40] Ibid., 11.
[41] Robert Rutland, "James Madison's Dream: A Secular Republic" in *James Madison on Religious Liberty*, 199-206.

persecution in Virginia created "a lifelong aversion to religious bigotry that antedated his association with that other great libertarian, Thomas Jefferson." [42]

Of particular interest in this volume is Ralph L. Ketcham's 1960 article, "James Madison and Religion: A New Hypothesis." [43] Ketcham attempted to change perceptions about Madison's reticence and his historical status as Jefferson's lackey in political, theological, and philosophical matters. He credited two sources for Madison's religious views, Rationalism and Scottish "Common Sense" philosophy learned under Witherspoon. He used Witherspoon's lectures and sermons along with the letters and papers of Madison to build his argument that Madison's religious beliefs were based on the idea that matters of religion were unique to the individual and as such are exempt from state power. Ketcham concluded, "Accepting this logic, and retaining his sense of reality of religious insight, Madison became a consistent and sympathetic supporter of the right of religious and non-religious groups and individuals to seek their own lights and pursue their own kinds of salvation."[44]

Some of the most important subsequent works on Virginia's struggle regarding religious liberty were the result of two separate gatherings of prominent scholars to discuss the importance of religion in Colonial Virginia and the significance of the *Virginia Statute Establishing Religious Freedom*. In September 1985, a group of scholars from a variety of disciplines met to commemorate the bicentennial of Jefferson's statute. The symposium produced a number of papers that Merrill D. Peterson and Robert C. Vaughan edited into a cohesive work. Essays in *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History* outlined the relationship between church and state in Colonial Virginia, examined the

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[42] Ibid., 200.
[43] Ralph L. Ketcham, "James Madison and Religion: A New Hypothesis," in *James Madison on Religious Liberty*, 175-196.
[44] Ibid., 193.

establishment of an American civil religion with religious disestablishment, and expounded on the wider political and constitutional ramifications of the statute to the growing republic. Of particular interest was Edwin S. Gaustad's contribution in which he asserted that disestablishment was impossible without the combined efforts of evangelical dissenters motivated by "deep religious conviction" and Jeffersonians dedicated to "religious liberty on the grounds of conscience."[45] The unlikely but essential combination of these two forces is an aspect of the debate often overlooked by historians, but one that deserves further examination.

Also of note in the work was Rhys Isaac's contribution. He asserted that passage of the act was the result "of a long confrontation between popular evangelical dissenters and traditional gentry authoritarians" that only became law "when it became clear that without it, the politicization of religious differences would destroy the otherwise unchallenged political domination of the proud Virginia gentry."[46] Isaac argued that lawmakers used the statute to project an image of Virginia to the world as a model Enlightenment state and as "the domain of a rationalist gentry," thereby maintaining their status as masters of Virginia and of America.[47] Isaac's interpretation presented members of the founding generation less as sympathetic supporters of evangelical belief and more desperate pragmatists who compromised on an issue in order to maintain control over society and government. While this cynical view of the early national period is arguable, his claim does allow other historians to view Jefferson's statute and the larger debate in a different light.

The inspiration for the second symposium came from a statement issued at the first. J. G. A. Pocock wrote, "The historical study of the statute [for religious freedom] is incomplete" if

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[45] Edwin S. Gaustad, "Colonial Religion and Liberty of Conscience" in *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History,* Merrill C. Peterson and Robert C. Vaughan, eds. (Cambridge and New York: Cambridge University Press, 1988), 40.
[46] Rhys Isaac, "'Rage of Malice'," 139.
[47] Ibid., 156.

religious considerations were ignored.[48] The essays contained in *Religion and Political Culture in Jefferson's Virginia* sought to complete the work of the earlier conference. The editors stated, "It is difficult to overstate the contributions of Thomas Jefferson and James Madison to the founding of the American republic and its institutions. It is similarly difficult to exaggerate the role of religion in shaping the political culture of the founding era."[49] The work primarily concentrated on the religious culture of Jefferson's Virginia, the theological and philosophical influences on Jefferson and Madison, and how those components affected their views on church and state. Of particular note were essays by Mark A. Beliles and Garrett Ward Sheldon. Beliles' work traced the "religious communities, leaders, and movements in the Central Virginia Piedmont where … Thomas Jefferson and James Madison lived most of their lives."[50] He asserted that the unique circumstances of the Piedmont created tolerant religious communities that dramatically impacted the founders who were "part and parcel" of a distinct religious culture.[51]

Sheldon's contribution asserted that Jefferson's political philosophy descended from his ability to merge the ideologies of "Classical Republicanism, Lockean Liberalism, and Christianity."[52] The addition of the Christian element is a modification of the claim of this earlier work that presented Jefferson's political thought as a combination of Locke and Classicism that differed in emphasis and was "an original and distinctly American political

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[48] Garrett Ward Sheldon and Daniel L. Dreisbach, eds., *Religion and Political Culture in Jefferson's Virginia* (Lanham, MD: Rowman and Littlefield, 2000), ix.
[49] Ibid., ix.
[50] Mark A. Beliles, "The Christian Communities, Religious Revivals, and Political Culture of the Central Virginia Piedmont, 1737-1813" in *Religion and Political Culture in Jefferson's Virginia,* 3.
[51] Ibid., 27.
[52] Garrett Ward Sheldon, "Liberalism, Classicism, and Christianity in Jefferson's Political Thought" in *Religion and Political Culture in Jefferson's Virginia,* 94.

theory."[53] In his later essay, Sheldon claimed that scholars find difficulty in isolating Jefferson's political ideas because they have failed to understand the nature of the man. Sheldon stated that Jefferson's views on religion must be understood as a product of his eclectic tastes in philosophical thought, and what is generally perceived as a rejection of religion was simply Jefferson's rational stance that man should be free to choose his religious beliefs. His cooperation with evangelical dissenters of separate denominations was evidence of his religious and political ideology.

Daniel Dreisbach's addition to the work tied the issue of religious liberty in the eighteenth century to modern America. His essay, "Church –State Debate in the Virginia Legislature: From the Declaration of Rights to the Statute for Establishing Religious Freedom" described the struggle in the Commonwealth to determine the relationship between religion and government as the most dramatic in the fledgling nation.[54] Dreisbach focused on Article XVI of the Virginia Declaration of Rights, passed in 1776, as the foundation for later contests, and claimed that it gave rise to controversial claims by dissenting denominations in the nascent state. He considered the legislative proposals of the late 1770s that attempted to alter or sever the relationship between church and state, and described the men who made up the committee of revisers who introduced such legislation.

Dreisbach concluded his study with a discussion of the failed General Assessment scheme and subsequent adoption of Jefferson's statute. Dreisbach argued, "Article XVI of the Virginia Declaration of Rights commenced a crucial conversation on religious liberty and the

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[53] Garrett Ward Sheldon, *The Political Philosophy of Thomas Jefferson* (Baltimore and London: The Johns Hopkins University Press, 1991), 147.

[54] Daniel Dreisbach, "Church-State Debate in the Virginia Legislature: From the Declaration of Rights to the Statute for Establishing Religious Freedom," in *Religion and Political Culture in Jefferson's Virginia*, 135-165.

prudential relationship between religion and the civil state."[55] He claimed that Madison's *Memorial and Remonstrance* and the *Virginia Statute for Establishing Religious Liberty* used Article XVI as their foundation, and further contended that it served as a rough draft of the First Amendment to the United States Constitution. He wrote, "By 1786, Virginia had replaced *toleration* with the principle of *religious liberty*, eliminated state restrictions on religious exercise, terminated direct tax support of the formerly established church, and placed churches on a purely voluntary footing."[56] Dreisbach argued that the events unfolding in Virginia were emblematic of the struggles taking place in other states, and the combination of this national experience formed the basis for the First Amendment.

Garrett Ward Sheldon subsequently added to the historiography of the Virginia founder with his *Political Philosophy of James Madison*. In this work he asserted that Madisonian shifts between Lockean Liberalism and Classical Republicanism were rooted consistently in Calvinist theology and its conviction of human depravity. Sheldon stated that what Madison learned at Witherspoon's Princeton created "a cerebral, intellectual Christianity that did not divorce reason from faith, but saw the two working together in complemtarity for the greater glory of God."[57] Sheldon further contended that Madison's political philosophy cannot be understood apart from recognizing his theology. Due to Madison's reticence regarding discussing his own religious views in any detail, Sheldon did tend to occasionally fill in gaps with speculative assertions of Madison's thoughts and words. His claim that the Anglican Church was in a state of decay is arguable, but his work does indicate a need for more research in that area. Furthermore, his contention regarding Witherspoon's influence on Madison is often overlooked by historians and

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[55] Ibid., 154.
[56] Ibid., 135.
[57] Garrett Ward Sheldon, *The Political Philosophy of James Madison* (Baltimore and London: The Johns Hopkins University Press, 2001), 2.

requires more inquiry. This examination of Madison's political philosophy draws the members of the great Virginia collaboration closer together. Jefferson and Madison's shared triangulation of Lockean Liberalism, Classical Republicanism, and Christianity into a unique form of American political ideology sheds additional light on how they combined their efforts with those of dissenters to achieve full religious liberty in Virginia.

Noticeably missing from recent historiography is a contribution that objectively examines the struggle for religious freedom in its entirety, from the role of dissenters in Virginia politics and society, to the influence they and their theological ideas may have exhibited on Jefferson and Madison. The current tendency is for historians to abandon the subject of church-state separation and the founders' relationship to religious dissenters to the care of political scientists and legal experts, who are apt to examine the problem as a national question rather than on the state level where it originated.[58] Although many of these acknowledge some of the political and philosophical influences on Jefferson and Madison's views on church and state, few recognize a theological basis for religious liberty present in Locke or acknowledge any strong religious basis in their political theory.

The work of one historian on the issue of Virginia religious liberty stands alone in the prominent historical journals. In 2008, John A. Ragosta published "Fighting for Freedom: Virginia Dissenters' Struggle for Religious Liberty during the American Revolution." Ragosta saw the American Revolution as the context for the efforts of all dissenting religious groups to gain more freedom in return for their support in the war effort. He divided the period from 1766 to 1786 into five periods of dissenter petitioning, each of which ended in a legislative

[58] Two good examples of the recent work by political and legal scholars are J. Judd Owen, "The Struggle Between 'Religion and Non-Religion': Jefferson, Backus, and the Dissonance of America's Founding Principles," *The American Political Science Review*, Vol. 101, Iss. 3 (August 2007): 493-503; and Mark S. Scarberry, "John Leland and James Madison: Religious Influence on the Ratification of the Constitution and on the Proposal of the Bill of Rights," *Penn State Law Review*, Vol. 113, No. 3 (2009): 733-800.

compromise calculated to guarantee their military support and the continued unity of the Commonwealth. Ragosta gave primacy in the fight for religious liberty to the dissenting petitioners and relegated legislative leaders such as Madison and Jefferson to a secondary role of political reactionaries instead of liberal activists who shared the dissenters' views. He made some interesting assertions regarding prevailing attitudes regarding many dissenting groups in his work, most importantly that religious freedom developed as a reward for faithful service against Great Britain. His assertion seems forced in the larger debate over church-state separation and the passage of Jefferson's statute due to the end of hostility four years previously.[59]

Definition of Terms:

The work of many historians shows that any examination of Virginia's struggle against religious establishment or church-state connection demands a definition of certain widely used and broadly interpreted terms. Purposes of clarity and context require that words and phrases such as religious liberty, toleration, separation of church and state, the Enlightenment, and natural rights must be interpreted as Virginians understood them in the decades that encompass the legislative debates before 1786. Charles Fenton James provided perhaps the best definition of religious liberty as understood by the founding generation. He stated:

> By religious freedom, or soul liberty, is meant the natural and inalienable right of every soul to worship God according to the dictates of his own conscience, and to be unmolested in the exercise of that right, so long, at least, as he does not infringe upon the rights of others; that religion is, and must be, a voluntary service; that only such service is acceptable to God; and hence, that no earthly

[59] John A. Ragosta, "Fighting for Freedom: Virginia Dissenters' Struggle for Religious Liberty during the American Revolution," *Virginia Magazine of History & Biography*, Vol. 116, Iss. 3 (2008): 226-261.

> power, whether civil or ecclesiastical, has any right to compel conformity to any creed or to any species of worship, or to tax a man for its support.[60]

This notion of religious liberty is not interchangeable with toleration or church-state separation. Toleration implies state power over religious matters, therefore, without separation there is no religious liberty. It is the logical partner to religious liberty. State churches placed restrictions on religious practice of individuals or groups. In the minds of some Protestant leaders, separation was necessary to protect the priesthood of the believer, and refusal of state support was necessary to keep the state out of individual congregational and denominational decisions.[61] For many of the legislative leaders "the basic American principle of church-state relations [was] not separation but religious liberty."[62]

Any study of the sources of the founder's convictions regarding religious liberty requires further definitions of terms. Two primary streams of thought influenced the ideas prevalent in eighteenth century American society and politics, Protestantism and the Enlightenment. Both terms are large banners under which are several distinctions and classifications. Some religious historians go to great lengths to delineate the strains of American Protestantism, but many scholars tend to homogenize the Enlightenment into one system or incompletely divide it without recognition of its many nuances.[63] Henry May suggested four categories of Enlightenment ideas that existed in the eighteenth century in an effort to better understand which ideas most profoundly impacted America. His four categories can be effectively narrowed into two larger schools of thought that influenced the views of pre-revolution British Colonial America.

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[60] James, 9.

[61] Victor Edsel Mantiply, "The Origin and Development in Virginia of the Concept of Separation of Church and State" (ThD diss., Southern Baptist Theological Seminary, 1959), xx; Robert G. Torbet, *A History of the Baptists* (Valley Forge, PA: Judson Press, 1969), 520.

[62] James Hastings Nichols, "John Witherspoon on Church and State," *Journal of Presbyterian History*, Volume 42, Issue 3 (1964): 174.

[63] Henry Farnham May, *The Enlightenment in America* (New York: Oxford University Press, 1976), xv-xvi.

One school, primarily centered in Britain and Scotland, stressed "balance, order, and religious compromise." This was the Enlightenment of Newton, Locke, and Bacon. The other, concentrated principally in France, was led by Voltaire who depended on wit to express his "dogmas [that] were often mere negations," and Rousseau who "believed in the possibility of constructing a new heaven and earth out of the destruction of the old."[64] The two strains of Enlightenment thought stood separate. Both schools placed emphasis on the individual, but the Scottish Enlightenment stressed rights and responsibilities while the French *philosophes* placed emphasis on rights and fairness. This fundamental difference descends from their theological backgrounds. The ideas of Locke, Hutcheson, Reid, and even Bolingbroke, though differing in orthodoxy, were grounded in theism and the assertion that the ability for man to use his reason was a gift of God. Most members of the French Enlightenment viewed the Bible and religion as mere superstition and judged man's reason as the supreme authority in the universe. Historians have argued that Puritanism was the most prominent force shaping the American mind in the later eighteenth century, followed closely by the European Enlightenment. What many fail to realize is that "the Enlightenment itself had important roots in the individualism and rationalism fostered by Puritanism," and that both drew from the same wellspring of Renaissance humanist thought.[65]

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[64] Ibid., xvi.

[65] Mantiply, 76; Mary Elaine Swanson, *The Education of James Madison: A Model for Today* (Montgomery, AL: Hoffman Education Center for the Family, 1992), 43-45; James Reichley, *Religion in American Public Life* (Washington, D.C.: Brookings Institution, 1985), 85.

Jefferson, Madison, and Locke:

Natural rights provided the foundation for most Enlightenment ideas of liberty and individual rights. This concept seemed to be the key idea used by religious and political leaders as applied to rights of conscience and religious liberty. The most influential thinker on American understanding of liberty and natural law was John Locke, not the originator of the philosophy, but its most eloquent and widely read representative. Underlying all Locke's arguments was the idea that each man possesses an innate knowledge of "God's law" which guarantees certain "natural rights." When man submits to government, he surrenders some rights, but not all of them; government must respect the laws of nature. Under Lockean thought, "The law of nature placed limitations upon governments, beyond which they had no power to go."[66] One document, more than any other, profoundly shaped Jefferson and Madison's attitudes regarding church – state relations. Locke's *Letter Concerning Toleration* (1689) argued that religious observation was a private matter between an individual and God, and so must be classified under natural law. "[T]he care of souls," stated Locke, "cannot belong to the civil magistrate, because his power consists only in outward force; but true and saving religion consists in the inward persuasion of the mind, without which nothing can be acceptable to God."[67] Locke did not press his ideas forward to their logical conclusions. He could not bring himself to tolerate Catholics or atheists, in spite of his own claims that religion was a private matter. For Locke, the idea of an "establishment" on a sectarian basis was against the laws of nature, but an establishment of Protestant Christianity as a basic tenet was acceptable. In eighteenth century Virginia, Jefferson

[66] Sweet, 46.
[67] John Locke, *A Letter Concerning Toleration*.

and Madison would see this contradiction in the arguments of many conservative legislators and seek to correct it.[68]

Locke's views on religious liberty were fundamentally grounded in a Judeo-Christian worldview based on three primary truths. First, there is a Creator. Second, it is the responsibility of every individual to make a personal account to that Creator and grant to Him due worship and respect. Third, this unalterable relationship between God and the individual occurs first in the mind and conscience. The American perception of natural rights hinges on these precepts. Michael Novak asserts that once understood as founded on these tenets "religious liberty…is not a natural right that comes into existence along with civil society. It is prior to civil society. It is rooted in nature itself, in the primordial relation of intelligent creature to creator."[69] Many of the founders understood this important idea, and acted upon it in constructing legislation regarding religious liberty.

Through their individual educational experiences Jefferson and Madison learned Locke's natural rights philosophy, filtered through Scottish "Common-Sense" Realism.[70] Jefferson's early tutor was a Scottish clergyman, William Douglas, and at William & Mary, he was heavily influenced by William Small, a Scottish Presbyterian who taught mathematics and moral philosophy.[71] Jefferson recorded in his autobiography that Small was his "daily companion when not engaged in the school" and that his mentorship "probably fixed the destinies of my life."[72] Madison's early tutors included the evangelical clergyman, James Marye and Donald Robertson, a Scotch-Irish minister. Prior to his entrance into the College of New Jersey,

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[68] Mantiply, 9-10.
[69] Michael Novak, "How Did the Virginians Ground Religious Rights?" *Human Rights Review* 4, No. 3 (April 2003): 22, 24.
[70] Reichley, 90.
[71] Beliles, "Christian Communities," 5.
[72] Thomas Jefferson, *Autobiography of Thomas Jefferson, 1743-1790* (New York and London: G. P. Putnam's Sons, 1914), 5-6.

where he studied under the celebrated John Witherspoon, Madison received instruction from Presbyterian trained Thomas Martin.[73] This prevalence of Presbyterian teachers working in Anglican Virginia, lends credence to George Marsden's claim that "so extensive was the Presbyterian educational program that it is not much of an exaggeration to say that, outside of New England, the Scots were the educators of eighteenth century America."[74] Jefferson's instruction at William & Mary, and Madison's lessons at Princeton each included courses in moral philosophy, classical republican thought, and Lockean natural law. Both read the ideas of Francis Hutcheson and Thomas Reid, rationalist members of the Scottish Enlightenment and principle founders of Common Sense Realism. "Both taught that there is a moral sense, or conscience, which teaches men the difference between right and wrong. According to Rev. Reid, there are certain first principles that all men, whether they are learned or not, are able to grasp through God's gift of reason."[75]

Jefferson and Madison's exposure to this theologically based strain of Enlightenment thought shaped their views on religious liberty in fundamental ways. In the early eighteenth century "rhetoric, faith, and reason were developing powerful new alliances within and across denominations."[76] In Virginia, this marriage of faith and reason became more pronounced as rational philosophy combined with the religious fervor that swept the colony in the wake of the Great Awakening. Jefferson and Madison came from the Piedmont of Virginia, where several ethnic and national groups mixed, bringing with them their own culture and set of religious beliefs. Religious diversity in this area, though initially tolerated, provided leaders in the

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[73] Beliles, "Christian Communities," 5.

[74] George M. Marsden, *The Soul of the American University: From Protestant Establishment to Established Nonbelief* (New York: Oxford University Press, 1994), 59-60. In further support of this claim, see the journal of Philip Vickers Fithian.

[75] Swanson, 42-43.

[76] James R. Andrews, *Rhetoric, Religion, and the Roots of Identity in British Colonial America* (East Lansing: Michigan State University Press, 2007), 306.

established church the opportunity for persecution when diversity threatened social stability. Jefferson and Madison's homes in Albemarle and Orange counties placed them in a position to judge the dissipation of Establishment clergy and growing violence toward dissenters that would further shape their commitment to separation of church and state.[77] Novak contends, "Abuses of religious freedom led three leading Virginians to draw an exceedingly bright yellow line between the state and not only the church, but even religion more generally."[78] Jefferson's personal experience with the negative effects of establishment on clergy came from two cases in which he served as counsel. In the case of the infamous Patrick Lunan, Jefferson noted that he "cared not of what religion he was so he got the tobacco, nor what became of the flock so that he could get the fleece."[79] Madison's opinion regarding religious persecution is evident in a rare letter concerning religion sent his Princeton classmate William Bradford in January 1774. He opines,

> That diabolical, hell conceived principle of persecution rages among some, and, to their eternal infamy, the clergy can furnish their quota of imps for such purposes. There are at this time in the adjacent county not less than five or six well-meaning men in close jail for publishing their religious sentiments, which in the main are very orthodox. I have neither patience to hear talk, or think of anything relative to this matter; for I have squabbled and scolded, abused and ridiculed so long about it, to little purpose, that I am without common patience. So I must beg you to pity me and pray for liberty of conscience to all.[80]

Madison's educational background caused him to have a practical view of religious differences. He understood that religious experience and belief was as real as any notion of political liberty, but since the human mind was finite, no man could know what "true religion" was to any certainty. His acceptance of faith and reason "made Madison modest and tolerant

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[77] Isaac in *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History*, 140.
[78] Novak, 21. He includes George Mason with Jefferson and Madison. A good article to consult is Daniel L. Driesbach, "George Mason's Pursuit of Religious Liberty in Revolutionary Virginia," *The Virginia Magazine of History and Biography*, Vol. 108, No. 1 (2001): 5-44.
[79] Healey, 124-125. Thomas Jefferson, *Reports of Cases Determined in the General Court of Virginia: From 1730 to 1740 and from 1768 to 1772*, (Richmond, VA: The Michie Company, 1900), 52-53.
[80] Quoted in James, 36.

rather than self-confident and fanatic in matters of conscience."[81] Madison's convictions about religious freedom were not due to any sudden change of mind due to his familiarity with religious persecution. It was a combination of education, experience, and critical thought influenced by Witherspoon's teaching.

Jefferson's principles also developed with education and logical consideration. He extended his ideas beyond Locke, Hutcheson, and other advocates of the rights of conscience. He stretched his views beyond theology and natural rights to an exposition of the practical benefits of religious pluralism that must necessarily emerge from freedom of religion that ended in his fundamental belief that free inquiry would eliminate error and establish truth.[82] Jefferson's ideas about church and state were basically theological in nature based on Lockean principles of natural law. This is not to say that his beliefs were orthodox, but the religion of Jefferson, what became the American civil religion, was not a repudiation of the faiths of Protestant denominations, but a means of establishing a collective identity among diverse people.[83]

While political theorists debated the roles of government and religion, there existed a division among Protestant dissenters regarding the correct relationship between church and state. One faction held to rigid separation based on theological divisions between spheres of creation (nature) and redemption (grace). This group believed the state existed in the state of nature and should conform to natural law without regard for church doctrine or Scripture. According to their views, "There could be no such thing as a 'Christian state'," the state should recognize that the church occupied the other sphere and understand that religion lay outside temporal authority.

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[81] Ketcham, "James Madison and Religion: A New Hypothesis," 184.
[82] Thomas E. Buckley, "The Political Theology of Thomas Jefferson," in *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History*, 89.
[83] Ibid., 77.

From the seventeenth century, this stream of thought developed into mainstream Baptist belief.[84] The second faction emerged at the Westminster Assembly. This group supported religious liberty but "refused to give up the notion of the bearing of Christian revelation on political life." This multiple establishment in which denominations received equal representation under "the common light of Christianity" came into existence under Cromwell, but was abolished with the Stuart Restoration. Denominations were independent entities working together in the Commonwealth to form a "Christian nation." Under this system of Presbyterian government, public support for religious institutions came from the local level where individuals maintained a greater voice.[85]

Events following the Great Awakening in Virginia brought these divisions together in a common cause against the Anglican establishment. In the second half of the eighteenth century there were several religious denominations present in Virginia, but the Anglican, Presbyterians, and the Baptists were the most prominent. "The Lutherans and Quakers were not numerous and seldom acted independently. The Methodists were more numerous, perhaps, but they were part of the Episcopal communion, and acted with that church until 1784."[86]

The revival spirit of the 1740s and 1750s translated into a change in church government. As Calvinistic and evangelical faiths spread across the Commonwealth, so too did the free-church ideal of religious self-government.[87] Anglican opposition to separation came from their understanding of the institutional church and the tradition of the church-state system from Europe. "To them, the Church could not be the Church without official connection with the

[84] Nichols, 171.
[85] Ibid., 171-172.
[86] James, 10.
[87] Mantiply, 125,129.

state. Nor could the state be a state without fostering Christianity."[88] The primary issue that dissenting clergy could agree on was religious disestablishment. The zeal and endurance of the Baptists and Presbyterians so altered society that libertarians such as Madison and Jefferson found the opportunity to break down the foundational structures of the religious establishment in Virginia and set the stage for religious liberty in the new republic.[89]

[88] Ibid., 123.
[89] Cline E. Hall, "The Southern Dissenting Clergy and the American Revolution," (PhD diss., University of Tennessee, 1975), iii.

Chapter 2: The Dissenters: Presbyterians and Baptists from 1738 to 1776

Dissenting religious denominations provided a nearly constant social and political impact in Virginia throughout the latter half of the eighteenth century. Although the colony possessed a strong church establishment and enforced laws against dissenters more stringently than any other southern colony, a wide diversity of religious groups existed within its confines. It was not until the evangelical fervor of the Great Awakening spread into Virginia that the question of religious conformity became a prominent political issue.[1] Legislators in the House of Burgesses declined to take serious action on matters of religious freedom until larger concerns regarding colonial political liberty prompted action from Williamsburg. Presbyterian and Baptist leaders combined their work through public petitioning with legislative efforts of James Madison and Thomas Jefferson to begin Virginia's religious transformation from church establishment to church-state separation.

Virginia's history of religious establishment stretched back to the founding in Jamestown in 1607. The original settlers transported the Anglican faith, and consistently reinforced its primacy through legislation in the seventeenth and eighteenth centuries. The Anglican Church was always an institutional church, established by statute with the king as titular head, from the reign of the Tudor monarchs, Henry VIII and Elizabeth I. Under the English form of church-state religion, Parliament could pass laws regarding religion, enforceable on all subjects. In Virginia, the governor and House of Burgesses enacted laws to strengthen the established church, especially after the Restoration of Charles II in 1660. Under these statutes, ministers

[1] Hall, 34. In the seventeenth century, there was an issue with a group of Puritan colonists in the Tidewater region that brought legislative measures from Governor Berkeley, but as they were officially part of the Anglican denomination they cannot be clearly defined as dissenters. For more on this group see Rachel M. Love, "A Inward Retreat: From Puritan to Quaker on the Chesapeake Bay," (MA thesis, Liberty University, 2010).

were not allowed to preach unless ordained by an Anglican minister. Establishment clergy were granted the right to take legal action against anyone who would disturb the peace of his parish. The statutes also imposed fines for non-attendance at Anglican worship and on parents who refused to baptize children. The laws also restricted the ability to perform marriages or funerals to ministers of the Church of England. The Act of Toleration, passed by act of Parliament in 1689, loosened some restrictions, but only granted the right of dissenting ministers the opportunity to apply for licenses to preach in specific locations. In Virginia, although law and policy regarding religious matters ultimately emanated from the royal governor or from London, it was "the local vestries which managed the affairs of each parish" and ultimately determined how law was enforced.[2]

The impetus for change in Virginia was the religious revivals collectively known as the Great Awakening. It began in New England in the 1730s and spread southward to Virginia in the mid-1740s through the work of missionaries sent from Tennent's Log College, and continued with great strength through the 1770s. Samuel Davies was responsible for most of the progress the Presbyterians saw in the spread of their denomination, especially in the Tidewater and Central Piedmont regions of Virginia. Their progress was primarily due to their emphasis on common doctrines between the Anglicans and themselves, and through their moderation in religious expression that made their dissent more palatable to the religious establishment. This first phase of the Great Awakening in Virginia by evangelical Presbyterians, though denounced by Anglicans as enthusiastic, gave way in the 1760s to the rise of the Separate Baptists who "entertained no illusions that they had any similarities to the Anglicans."[3]

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[2] Lumpkin, 105; Mantiply, 102,108; James, 19-20; Semple, 30-31,34; Gewehr, 31.
[3] Thomas Kidd, *The Great Awakening: The Roots of Evangelical Christianity in Colonial America* (New Haven and London: Yale University Press, 2007), 244.

In the late 1750s, the Baptists were such a small minority in Virginia that they held no practical influence, but within a decade of the establishment of their first congregation, they had revived the revival movement. The Baptists contributed religious enthusiasm and a zeal for missions to the continued Great Awakening in the American colonies. Baptist movement in Virginia occurred in two stages, the first from 1758 to 1769 was a slow and steady progression of the faith, hindered by the need to dispel prejudices among the common people of the colony. The second, from 1769 to 1775 saw the rise of the Baptist evangelist, an increase in the number of converts and churches and as a result, more determined persecution from the Anglican establishment. By the time of the American Revolution, they numbered more than ten thousand, and by 1790, there were more than two hundred Baptist churches and one hundred and fifty ordained ministers in Virginia. Their enthusiasm, the rapid rise in their membership, and their place in the social order created an environment of opposition that soon developed into open oppression and inspired the drive for religious liberty in Virginia.[4]

The first Presbyterian congregations came to the Shenandoah Valley in the 1730s. From 1732 to 1738, Scots-Irish Presbyterians from Pennsylvania and Maryland settled on the frontier in large numbers. In 1738, the Synod of Philadelphia petitioned Governor William Gooch for "favor in allowing them the liberty of their consciences, and of worshipping God in a way agreeable to the principles of their education." The Synod reinforced their loyalty to the Crown and guaranteed their submission to the government in return for the "free enjoyment of their civil and religious liberties."[5] The reply from Williamsburg "assured that no interruption shall be given to any minister of your profession who shall come among them, so as they conform

[4] Gewehr, 106; Lumpkin, 88.

[5] Philadelphia Synod to Governor William Gooch, May 28, 1738 in James, 22-23; see also Thomas Cary Johnson, *Virginia Presbyterianism and Religious Liberty in Colonial and Revolutionary Times* (Richmond, VA: Presbyterian Committee of Publication, 1907), 27-28.

themselves to the rules prescribed by the Act of Toleration in England, by taking the oaths enjoined thereby, and registering the places of their meeting. And behave themselves peaceably toward the government."[6] William Foote claimed that Gooch's motivation for granting this protection was to establish a frontier line farther away from the main body of the colony, with the Scots-Irish providing a buffer between the natives and the English colonists.[7] The physical distance and the geographical barrier of the mountains provided the governor with a sense of security regarding the main body of the colony as well. Separation between Presbyterians and members of the Anglican Establishment provided him reassurance that there would be no threat to entrenched social and political hierarchies elsewhere in the colony.[8]

As the Scots-Irish continued to flow into the Valley in the 1740s, other groups began to develop Presbyterian beliefs inspired by the fervor of the Great Awakening. A bricklayer named Samuel Morris experienced conversion and began reading works by Martin Luther, John Bunyan, and a book of George Whitefield's sermons.[9] Morris soon began to read the works aloud to a small gathering of like-minded people who occasionally chose to hear Morris read and speak rather than attend Anglican service. They met first in private homes to hear Morris, but soon decided to build a larger facility for their purposes. Morris' itinerant ministry became so popular that the Anglican establishment called him and his followers before the court to explain their absence from divine service. When asked what denomination they were, they declared themselves Lutherans, since Martin Luther's work on the Galatians was of special importance to them. Upon further examination by Governor Gooch, he determined that their beliefs conformed

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[6] Governor William Gooch to the Philadelphia Synod , Nov. 4, 1738 in James, 23, and Johnson, 28.
[7] Foote,103-105.
[8] Johnson, 29.
[9] Whitefield preached at Bruton Parish Church on December 16, 1739. Morris was unable to attend, but a friend purchased for him a book of Whitefield's sermons.

to the tenets of the Presbyterian Church, and so they were labeled. This group of believers in Hanover constituted the first Presbyterian congregation in eastern Virginia in 1743.[10]

The Hanover congregation benefited from the evangelical preaching of William Robinson and John Blair from 1743 to 1744, both graduates of Tennent's Log College. The Presbytery of New Castle in Virginia appointed John Roan to visit the churches in the colony during the winter of 1744-1745. His preaching helped spread the revival movement, but his public criticisms of the Anglican clergy brought Hanover Presbyterians into conflict with colonial officials. Governor Gooch, although he recently guaranteed toleration to Presbyterians in the Valley, could not countenance defections from the established church or attacks on its clergy. Roan and several other leaders faced charges before the court that resulted in fines for non-attendance and other infractions, but skillful intervention by such notables as Gilbert Tennent and Samuel Finley diffused the situation, while a visit from the great Whitefield encouraged and increased the congregation.[11]

The Hanover Presbyterians remained without a minister until the Presbytery sent Samuel Davies to serve them. Although accused of using itinerancy to stir the people into "great heights of religious phrenzy" that establishment ministers were later left to deal with, Davies proved to be the "consummate evangelical moderate."[12] Davies was the most prominent Presbyterian minister in Virginia during the mid-eighteenth century. His commitment to the pursuit of toleration for dissenters marks his most significant contribution to Virginia religious history. Davies held that the Toleration Act of 1689 granted all denominations the privilege to worship in

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[10] Kidd, 234-235; Johnson, 29-31.
[11] Kidd, 234-235; Johnson, 30-31; Samuel Davies, *The State of Religion Among the Protestant Dissenters in Virginia; in a Letter to Rev. Mr. Joseph Bellamy, Of Bethlem, in New England; from the Reverend Mr. Samuel Davies, VDM in Hanover County, Virginia* (Boston, 1751), 14-17.
[12] Kidd, 236.

their own manner. He claimed only the same considerations for dissenters in Virginia that were granted by law in England.[13]

Through the 1750s, evangelical Presbyterianism continued to spread under the ministry of Davies, John Todd and John Wright. New congregations formed across the colony, even making inroads into the Anglican dominated areas of the Tidewater and Northern Neck.[14] By the 1760s, the Presbyterian phase of the Great Awakening began to wane.[15] Toleration won by Davies through legal action and a quieting of religious enthusiasm allowed them to exist peacefully within the colony's existing religious and social framework. As tensions with Great Britain increased in the 1760s and 1770s, Presbyterian leaders began to fear for their position as legal dissenters and became more vocal in their demands for religious liberty. A new Toleration Bill, first proposed in the House of Burgesses in 1772 "contained very annoying and oppressive restrictions" that caused the Hanover Presbytery to finally speak out.[16]

Presbyterians preferred to advocate for increased religious considerations within the legal framework, and their petitions to the legislature reflect their claims to freedom of worship and freedom of conscience as a natural right, protected by the Act of Toleration. Presbyterians held religious freedom as a foundational right, but were content to remain submissive within the political and legal structure in Virginia. The American Presbyterian church expressed a commitment to religious liberty as early as 1729. In that year, they adopted the Westminster Confession, with one notable revision. They rejected the view of church and state it contained, refusing to acknowledge the power of the civil magistrate over the synods or government jurisdiction over religious opinion. "Colonial Presbyterianism … from its first official action in

[13] Mantiply, 45-46, 125.
[14] Kidd, 238-240.
[15] Beliles, "Christian Communities," 7.
[16] Mantiply, 46; James, 41-42.

these matters, declared for the independence of the state and for the religious liberty of all individuals."[17] Their secondary position in the colony permitted them only to move for liberty of conscience and separation of church and state when legislative opportunities presented themselves.

The Baptist phase of the Awakening in Virginia was "more far-reaching in its consequences than … the Presbyterian."[18] Early developments in the Great Awakening caused a division between the conservative and revivalist factions of the Baptists. The conservatives, who held to Calvinistic doctrines, styled themselves as "Regulars," while the revivalists, who tended toward Arminianism, took the name Separates. The first Regular Baptist Association in Virginia, the Ketokton Association adopted the Philadelphia Confession of Faith in 1742. Unlike the Regulars, the Separates refused to adopt an official creedal statement of doctrinal position, choosing to allow individual congregations authority within local assemblies. For the Separates, the Bible alone provided the framework for doctrine and correct religious practice. They feared dead orthodoxy and meaningless ritual more than they feared disagreement between congregations and among local believers. To the Separate Baptists, doctrine was most important, not form or practice.[19]

The Separate Baptists were the primary evangelical force in Virginia. Their methods were more revivalistic than the Regulars, prompting Baptist minister and historian John Leland to write, "The Regulars were orthodox *Calvinists*, and the work under them was solemn and rational; but the *Separates* were most zealous, and the work among them was very noisy."[20] The enthusiasm and expression of emotion evident in Separate Baptist sermons brought criticism

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[17] Mantiply, 46, 127-8; Nichols, 170.
[18] Lumpkin, v.
[19] Ryland, 41-42.
[20] John Leland, *The Virginia Chronicle* (Norfolk, VA: Printed by Prentis and Baxter, 1789), 21.

from the established church and from other, less intense, dissenting groups, such as the Presbyterians. Criticism also came because of their political views, which were a product of their strict adherence to the letter of Scripture. The Separates emphasized complete separation of church and state and refused to apply for licenses as Presbyterians and many Regulars had done under the 1689 Act of Toleration. Separate Baptists did not recognize the authority of civil government to regulate who could preach or where congregations could meet. In their view, their calling was from God, and as such could never be subject of the laws of men. As a result of these views, the Separate Baptists were the most severely persecuted and were the group that created much of the social instability that resulted in elimination of the establishment and religious liberty for all Virginians.[21]

The Separates came into Virginia through the work of Shubal Stearns, whose church in Guilford County, North Carolina evangelized southern areas of Virginia. Daniel Marshall, a former Presbyterian minister and Stearn's brother-in-law, won converts in the Southside that constituted the Dan River Church in 1760, the first Separate Baptist congregation in the colony. Contrary to common understanding, the Baptist Church was not solely the denomination of the lower classes. Traditionally, the denomination appealed to the common person's desire for community based on equality, but as the revival spread, many of the rural gentry began to embrace the new faith. Samuel Harris, one time Anglican vestryman, Colonel in the Virginia militia, and Burgess for Halifax County, became one of the most prominent and productive itinerant evangelists and church planters in the 1760s.[22] Apparently, Harris' message began to bear fruit early and pose a direct threat to the established church. James Craig, minister of an Anglican parish in Lunenburg County wrote, "in Halifax [County] one Samuel Harris, formerly

[21] Gewehr, 107-109; James, 13.
[22] Semple, 366-367; Newman, 292-293; Kidd, 244; Thom, 13; Maud Clement, *The History of Pittsylvania County, Virginia* (Baltimore: Regional Pub. Co., 1973), 58-60.

Burgess for that county and one William Murphy have raised and propagated a most shocking delusion, which threatens the entire subversion of true religion in these parts, unless the principle persons concerned in that delusion are apprehended or otherwise restrained."[23]

Due to Harris' position in society and the lack of a strong Anglican tradition among backcountry settlers, evangelistic efforts met minimal resistance south of the James. In the counties north of the river, conditions were much different. Rhys Isaac asserts,

> The first Separate Baptist churches were formed in Southern and Piedmont Virginia where institutions, although present as patterns of expected development, were not yet underpinned by generation of great-family dominance, as they were in the Tidewater. Nevertheless, during the tumultuous 1760s and 1770s the value and organization of the rebels in religion were inexorably carried from the periphery to the longer settled regions.[24]

As the numbers of Separate Baptist churches grew and membership in those churches began to increase, so too did the threat they posed to the authority of the Church of England. The Act of Toleration, which the Presbyterians and Regular Baptists relied on for their assurance for freedom of worship, granted only limited rights to dissenter groups throughout the empire. Clergy of any denomination could apply for licenses to preach only in specified locations. Separates, because of their foundational principles against surrendering religious matters to civil authority and their reliance on spontaneous meetings, refused to request such licenses and therefore exposed themselves to prosecution by judicial and ecclesiastical authorities. Persecution of Baptists was a process that began with simple disruptions and culminated in incarceration.

The first known case of imprisonment began on May 26, 1768, when established clergymen brought several Baptists before the grand jury in Orange County for failure to attend

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[23] Quoted in Ryland, 126. For more on Samuel Harris and his work in Virginia see Shelley D. Bailess, "Samuel Harris: Apostle of Virginia," *Journal of Backcountry Studies*, Vol. IV, Iss. 2 (August, 2009). http://library.uncg.edu/ejournals/backcountry.asp (accessed April 10, 2010).

[24] Isaac, *Transformation of Virginia*, 164.

Anglican service. They were questioned and released pending the jury's decision. On June 4, John Waller, Lewis Craig, and James Childs, all converts of Harris, were arrested and brought before the civil magistrates to answer to the charges of the grand jury. A local lawyer accused them of being "disturbers of the peace." His words bear witness to the evangelical fervor of these men, and suggest the prevailing attitudes of many citizens against them. In his address to the court the complainant stated, "May it please your worships, these men are great disturbers of the peace, they cannot but meet a man upon the road, but they must ram a text of scripture down his throat."[25] The three were found guilty and offered release if they would agree not to preach in the county for the period of a year and a day. They refused and were confined to the local jail for more than six weeks.[26] The pattern repeated itself across the colony. As Baptists condemned public drunkenness, dueling, cockfighting, and many other popular pursuits of the dominant class, those in power moved to defend their behavior through the legal system. They used government authority to attempt to force Baptist ministers into compliance with accepted social and cultural standards.[27] For some in the establishment, the debate became less about religion and orthodoxy and more about social and political authority.

In May1769, the first petitions regarding the spread of dissenting religious groups began to appear before the House of Burgesses. The earliest document that that records their disruption of the establishment came from Hamilton Parish. The Anglican clergyman and some of his parishioners petitioned the House of Burgesses to divide the parish due to its size. The request stated that the number of tithables in the parish had grown to such a number that the parson could not effectively fulfill his duties, which presented dissenters with the "opportunity and

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[25] Isaac, "'Rage of Malice'," 140-141; Semple, 15.
[26] Semple, 15-16.
[27] Ronald L.Hatzenbuehler, *"I Tremble for My Country"; Thomas Jefferson and the Virginia Gentry* (Gainesville, FL: University Press of Florida, 2006), 62.

encouragement to propagate their pernicious doctrines."[28] Requests for division of parishes and government intervention in church matters was common in this era, but the possibility that another group could draw away church members presented a new challenge to the governing elite. The growth of dissenters from the 1740s forced the gentry to examine their behavior and attempt to protect their social structure. Great Awakening preaching placed emphasis on personal experience and emotional worship without regard for denomination or creed, an idea that separated individuals from the Anglican establishment on many levels. As people began to think about and consider religion instead of merely practicing it, they built strong communities outside the traditional bounds of vestry and parish. "The Baptists did not challenge the gentry's wealth or control of the colony, but they did contribute to a growing sense of crisis among certain of the colony's leaders on the eve of the American Revolution."[29]

Over the next several years, as legal persecution of dissenters, especially the Baptists, continued to increase, more petitions from a number of denominations began to appear. Isaac notes, "The rapid rise and uncompromising style of the New Light Separate Baptists brought on Virginia's first full-scale debate on religious liberty."[30] On February 12, 1772, the *Journal of the House of Burgesses* records the first of several petitions from Baptists in the colony that appealed to their rights under the Act of Toleration in the same manner granted to Quakers, Presbyterians, and other denominations.[31] Two similar petitions from Mecklenburg and Sussex Counties appeared within the following two weeks. A third, from Amelia County, articulated a similar request, but questioned whether the Act of Toleration was applicable to "this colony." It asserted

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[28] *Journals of the House of Burgesses*, May 1769 (Williamsburg, VA: Printed by William Rind, 1769), 12. James puts the date of this petition at May 5, 1769, but the Burgesses did not convene until the 8th. The petition from Hamilton Parish was read into the record on May 10, 1769, but not acted upon during this session. The House took action and divided the parish in the November session.

[29] Gaustad, 6,8-9; Hatzenbuehler, 62.

[30] Isaac, "'Rage of Malice'," 142.

[31] *Journal of the House of Burgesses, February 1772* (Williamsburg,VA: Printed by William Rind, 1772), 11.

that if laws passed in England did not extend to Virginia, dissenters were prone to experience severe persecution, and if it did, circumstances in the colony prevented many from seeking the proper licensure.[32]

There are two items of note in this series of petitions to the House of Burgesses. First, the fact that these petitions mention licensure and the Act of Toleration suggests they are Regular Baptists, not Separates. Due to their distinct views on government involvement in matters of faith, Separates would not have requested this type of consideration. Regular Baptists behaved more like their Calvinist brethren, the Presbyterians, in their willingness to submit to legal authority. Separates never recognized the right to government to interfere in matters of religious faith or exercise. Second, the political climate of the time is evident in the question regarding the Act of Toleration. As questions arose as to the place of the colonies within the British Empire, the problem of extension of British law became problematic. Parliamentary authority to legislate in matters of religion, as expressed in the Act of Toleration, if accepted, meant that the colony must accept its power to legislate in all matters. Any action that acknowledged the Act suggested acceptance of British sovereignty and American subservience. Debates regarding sovereignty and English rights extended beyond matters of taxation in the early 1770s to include questions of religion and toleration of dissenters from the established church. During these debates, Baptist ministers and laypeople were beaten and imprisoned, even if officially licensed to preach and serve their congregations. The perception of the relationship between colony and empire determined to what level dissenters posed a challenge the establishment, since "the real control over the Colonial Church, lay neither in the Governor, the Commissary, nor the more

[32] *Journal of the House of Burgesses, February 1772*, 35.

distant Bishop of London, but rather in the local vestries which managed the affairs of each parish."[33]

In response to the legislative crisis regarding the 1689 Act of Toleration, the House of Burgesses took immediate action on the petitions before them. On February 25, 1772, the Committee for Religion returned a resolution that acknowledged the reasonableness of the claims from the four counties. The House then ordered that the committee draw up a bill for presentation to the House expressing Virginia's policy on religious toleration. On February 27, the House heard "A Bill for Extending the Benefit of the Several Acts of Toleration to His Majesty's Protestant Subjects in this Colony, Dissenting from the Church of England."[34] Following the second reading, the burgesses referred the legislation back to the Committee for Religion for amendment and reconsideration. While the toleration bill was in committee another petition arrived on the House floor. The Baptists of Caroline County requested the legislators move quickly on the matter as "their teachers are persecuted, whilst liberty of conscience is permitted to dissenting Protestants of other persuasions." The journal notes that the petition was allowed to "lie upon the table."[35] Three days later the Committee for Religion returned an amended bill to the House, which they ordered printed and read a third time when the Assembly reconvened on July 1.[36]

From April 1772 until May 1774, Governor Dunmore continually prorogued the House of Burgesses, with the exception of one short session held in March 1773.[37] Although several

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[33] Gewehr, 31.
[34] *Journal of the House of Burgesses, February 1772*, 47.
[35] Ibid., 92.
[36] Ibid., 96.
[37] This could almost constitute an "emergency session" as the primary item of business was the apprehension of a counterfeiting ring that had devalued the colonial currency to a dangerous level. This economic crisis forced Dunmore to put aside the issues that divided crown and colony at the time in order to deal with the pressing

petitions regarding religious matters arrived on the floor of the House from both dissenters and establishment, the burgesses allowed them to lay unnoticed in this session.[38] During this period, tensions continually escalated between all the colonial governments and Great Britain. In Virginia, when the Royal Governor finally summoned the House of Burgesses back into regular session on May 5, 1774, the social and political situation was highly volatile. In spite of the friction between crown and colony, the House attempted to conduct business as usual in Williamsburg. On May 12, the House again called the Committee of Religion to reintroduce the 1772 Toleration Bill. On the same day, a petition arrived from "Baptists and other Protestant Dissenters" who opposed some of the provisions in the legislation. It contained language that allowed worship only in daylight hours, a restriction they claimed was "inconsistent with the laws of England, as well as the practice and useage of the primitive churches, and even of the English Church itself."[39] The House referred the petition to the Committee for Religion, and postponed any action on the Toleration Bill as they concentrated on matters that concerned all of British Colonial America and English action against sister colonies.

Evidence suggests that the Presbyterians were content with matters as they were. The Journals of the House of Burgesses record no petitions from the Hanover Presbytery for this period, nor does it include any petitions from individual congregations or clergymen in opposition to the proposed Toleration bill. The only Presbyterian petition that appears during this session provides evidence of one congregation's willingness to accept the restrictions of the Establishment and utilize the legal system to change their position within the structure of the

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problem. Although they did attend to several matters of business, once the criminals were apprehended and the financial situation stabilized, the Governor dismissed the House once again.

[38] *Journal of the House of Burgesses, March 1773* (Williamsburg, VA: William Rind, Printer, 1773), 17, 20, 26. These petitions were requests from Anglican vestries for various considerations. The fact that these petitions were ignored speaks to the political and economic crisis, as they had traditionally been handled quickly and efficiently.

[39] *Journal of the House of Burgesses , May 1774* (Williamsburg, VA: Clementina Rind, 1774), 24.

colony. On May 17, the Presbyterian congregation from Bedford County requested permission to hold lands and slaves as a corporate entity for support of their minister. They lacked faith in a system of voluntary support for their clergy and sought the same assurance of income as enjoyed in Anglican parishes.[40] The petition never gained full consideration as Dunmore dissolved the House on May 26 in response to their proclamation of a day of fasting and prayer in support of Boston.[41]

The final session of the House of Burgesses met in June 1775. During this politically impotent gathering, two petitions arrived in response to the proposed Toleration Bill. On June 5, a petition from the Hanover Presbytery arrived on the floor of the House. The Presbytery claimed they sent their message "in behalf of themselves and all the Presbyterians in Virginia and all Protestant dissenters elsewhere." The members asserted that in 1738 Governor Gooch guaranteed "free exercise of their religion" when they formed "a barrier for the lower parts" of the colony. They expressed opposition to the Toleration Bill of 1772, and desired that "no bill may pass into a law but such as will secure to the petitioners equal liberties and advantages with their fellow subjects."[42] The next week a second petition arrived from the Baptists reinforcing their previous position on the proposed legislation.[43] By the end of the month, the House of Burgesses adjourned, never to conduct business again under the same title. They attempted to meet three separate times between the Fall of 1775 and Spring 1776, but never drew enough

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[40] *Journal of the House of Burgesses, May 1774*, 37.

[41] Parliament's decision to close the port of Boston was in response to the destruction of tea in December 1773. The day was to be observed on June 1, the same day that the Port Act was to go into effect. This show of colonial solidarity threatened the authority of the British government.

[42] *Journals of the House of Burgesses of Virginia, 1773-1776, Including the Records of the Committee of Correspondence* (John Pendleton, ed.), 189; *Journal of the House of Burgesses, June 1775 - May 1776*, 189.

[43] Ibid., 225.

members to proceed. The final entry in the Journal reads, "Several members met, but did neither proceed to business, nor adjourn, as a House of Burgesses. Finis."[44]

One of the primary reasons for the inability of the House of Burgesses to accomplish anything was the outbreak of armed conflict with Great Britain. The real political power in Virginia convened immediately after Dunmore dissolved the House of Burgesses in 1774 and carried on business as "The Late House of Burgesses" and the "Virginia Convention."[45] Before the last session of the official House convened in June, Jefferson penned "A Summary View of the Rights of British America," Patrick Henry delivered his "Liberty or Death" oration, the first shots of the war were fired in Lexington and Concord, the First Continental Congress had met, and the Second convened in Philadelphia. During the June 1775 session, it became clear that there would be no reconciliation with Britain without further military action.

The inability of colonial leaders in Philadelphia to reconcile with the King and his ministers in London, and increased tensions between Virginia's royal governor and the legislature brought an end to the period of intolerance and persecution of dissenters. On April 21, 1775, Governor Dunmore ordered the removal of gunpowder belonging to the colony from the magazine in Williamsburg, bringing immediate protests from the House leadership. The ensuing crisis, which ended in Dunmore's departure from the capital for the safety of a British warship, slowed efforts toward religious liberty for a short time. The attention of Virginia leaders initially focused on the political turmoil, but the growing conflict soon provided dissenters and those who sympathized with them a welcome opportunity to gain legal concessions.

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[44] Ibid., 283.

[45] Thomas Jefferson, *The Papers of Thomas Jefferson*, ed. Julian P. Boyd (Princeton, NJ: Princeton University Press, 1950), Vol. 1, 107-112.

When rhetoric devolved into armed conflict, Virginia's governing elites, who belonged or at least were sympathetic to the Anglican Church, were willing to submit to an uneasy truce with the dissenters in the common cause against the mother country.[46] The need for unity among the colonists with the outbreak of open war led to increased opportunities for religious dissenters to gain greater recognition and freedom of religious practice. In August 1775, the Baptists presented an important petition to the Virginia Convention. They pledged support in the "military resistance against Great Britain in her unjust invasion, tyrannical oppression, and repeated hostilities." In return, the Baptists requested that their ministers be allowed to preach to the soldiers during the campaign "without molestation or abuse."[47] The Convention granted their request with a resolution to "permit dissenting clergymen to celebrate divine worship and to preach to the soldiers, or exhort from time to time."[48] This important concession legally placed dissenters on equal footing with the Anglicans in the military setting.[49]

On May 15, 1776, the Virginia Convention resolved, "The united colonies [were] free and independent states, absolved from all allegiance to Great Britain," and ordered that a declaration of rights be drawn up that would "be most likely to maintain peace and order…and secure substantial and equal liberty to the people."[50] The House worked on the declaration over the next several weeks. It listed the rights of Virginians based on natural law and formed "the basis and foundation of government" for the emerging Commonwealth.[51] The primary author of

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[46] James, 47-48.
[47] *The Proceedings of the Convention of Delegates for the Counties and Corporations in the Colony of Virginia, held in Richmond town, in the county of Henrico, on Monday the 17th of July, 1775* (Williamsburg, VA: Printed by Alexander Purdie, 1775), 34.
[48] Ibid., 35.
[49] Jewel Spangler, *Virginians Reborn: Anglican Monopoly, Evangelical Dissent, and the Rise of the Baptists in the Late Eighteenth Century* (Charlottesville, VA: University of Virginia Press, 2008), 204.
[50] *Proceedings of the Convention of Delegates, held at the Capitol, in the city of Williamsburg, in the Colony of Virginia, on Monday the 6th of May, 1776* (Williamsburg, VA: Printed by Alexander Purdie), 31-33.
[51] Ibid., 100.

the document, George Mason, gathered many of his ideas and principles from the English constitution, colored with the natural rights philosophy of Locke. As originally penned, the final article concerning religion expressed liberal Anglican views based on a limited interpretation of John Locke's Letter on Toleration.[52] As proposed Article XVI read:

> That religion, or the duty which we owe to our divine and omnipotent Creator, and the manner of discharging it, can be governed only by reason and conviction, not by force or violence; and therefore, that all men should enjoy the fullest toleration in the exercise of religion, according to the dictates of conscience, unpunished and unrestrained by the magistrate, unless under colour of religion, any man disturb the peace, the happiness, or safety of society, or of individuals. And that it is the mutual duty of all, to practice Christian forebearance, love, and charity, towards each other.[53]

The language of the article as proposed by Mason remained unchallenged until a new delegate from Orange County presented his proposed revision. James Madison's first suggested revision presented a challenge to the Anglican Establishment in Virginia, and provides evidence of the division within the Virginia Convention. Mason and Madison represent two factions present within the members of Virginia's founding generation. Mason represented the conservatives, who sought political independence from Great Britain without change in the *status quo*. They favored the language of toleration and supported a continued establishment of religion. Madison represented the radical faction, who sought complete change in political and societal structures in the nascent state based on their understanding of fundamental civil liberties. For Madison, "toleration" was an outmoded principle, which implied a temporal power that held the right to grant privileges on questions of conscience and opinion. Madison viewed religious liberty as a

[52] Mantiply, 27.
[53] James Madison, *The Papers of James Madison*, eds. William T. Hutchinson and William M. E. Rachal (Chicago: Univeristy of Chicago Press, 1963), Vol. 1, 173.

natural, foundational right, granted by God not men and inextricably connected to civil liberties. In his opinion, there could be no true civil liberty without religious liberty.[54]

Madison's initial revision for Article XVI and its ideas regarding establishment read:

> That religion or the duty we owe to our Creator, and the manner of discharging it, being under the direction of reason and conviction only, not of violence or compulsion, all men are equally entitled to the full and free exercise of it according to the dictates of conscience, and therefore that no man or class of men ought, on account of religion to be invested with peculiar emoluments or privileges nor subjected to any penalties or disabilities, unless under colour of religion, the preservation of equal liberty, and the existence of the state be manifestly endangered. [55]

The wording of Madison's statement suggests his political skill even in this early stage of his career. There are two key phrases in this proposal that point to his eye for political subtleties. First, Madison was aware that the phrases regarding privileges for any religious individual or group struck at the heart of the Anglican Establishment, and he was aware there were enough churchmen in the assembly to easily defeat such a suggestion. Perhaps it explains his reasoning for including the second important phrase regarding the power of the civil authority to interfere when religious interests threatened the liberty of individuals or the welfare of the state. Inclusion of this kind of language may have been Madison's means of pacifying some of the more radical churchmen who supported a more libertarian stance but feared for the good of society if they removed government support of religion. Conservative members of the elite felt that a policy of toleration would be sufficient to unify society; the Established church belonged to them, they had served and governed it and felt they should continue to do so under the new government. Anglicans would permit dissenters to worship under a new form of tolerance, allowing those in power to continue with their way of life. To disestablish the church, no matter what the reason,

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[54] Lance Banning, *The Sacred Fire of Liberty: James Madison and the Founding of the Federal Republic* (Ithaca, NY: Cornell University Press, 1996), 77.
[55] Gaillard Hunt, *The Life of James Madison* (New York: Doubleday, Page & Co., 1902), 9.

was to eliminate their means of control and place of prestige. The radical change Madison presented in his first revision must have rendered his second proposal more palatable to the conservative members of the Virginia Convention.[56]

Madison's second attempt at revision for Article XVI was more moderate than the first. It substituted the principle of religious liberty for Mason's original language, but left the structure of the Establishment intact. As passed by the convention on June 12, 1776, the Article read:

> 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 forebearance, love , and charity, towards each other.[57]

There are three significant differences in the language of the drafts and the article as adopted into the law of the Commonwealth that bear further examination. The first is the most easily recognized and most widely examined by historians of religious liberty in Virginia. Madison substituted the phrase "free exercise of religion" for Mason's original "toleration in the exercise of religion." This change marked a fundamental shift in church-state relations in Virginia. The second, and largely ignored, alteration in the language of Article XVI is the omission of language present in the first two drafts regarding the power of civil authority to intervene in religious matters to preserve "the existence of the state" or "the peace, the happiness, or safety of society, or of individuals." This legislative change in state authority and government control of religious practice represents Madison's view of temporal and ecclesiastical authority adhered to by Madison. The third variation in wording occurs at the end of the article. Mason's original language regarding the responsibility of the citizen to "practice Christian forebearance …

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[56] Swanson, 116-118; Buckley, "Political Theology," 83; Ketcham, *James Madison*, 72.
[57] *Proceedings from the Convention of Delegates*, 102-103.

towards each other" did not appear in his first proposed revision, but does in the adopted form. This language challenged those who wielded power in local vestries to use a more liberal approach in connection with those of differing theological views. Article XVI was the first step toward complete religious liberty and "made possible complete liberty or belief or unbelief, and the utter separation of church and state…it made liberty of conscience a substantive right, the inalienable privilege of all men equally, rather than a dispensation conferred as a privilege by established authorities."[58]

On June 20, 1776, a Baptist petition arrived on the floor of the new legislature. It was too late to influence the Declaration of Rights, but it did reinforce the connection between civil and religious liberty and suggested potential benefits of disestablishment. The congregation from Prince William County wrote, "At a time when this colony … is contending for the civil rights of mankind…they are persuaded the strictest unanimity is necessary among ourselves." They asserted that certain divisions in society needed to be removed in order to achieve unity. Among those divisions were restrictions on religious practices. The Baptists requested three changes in Virginia law. First, they asked for freedom of worship without interference, something already granted by Article XVI. Their second and third requests struck at the heart of the Anglican establishment. They requested exemption from support of parish clergy in favor of voluntary support of their own ministers, and they asked that dissenting clergy be allowed to perform certain religious ordinances such as marriages and funerals. The Convention referred the Baptist petition to the Committee for Religion, but took no immediate action.[59]

Governor Patrick Henry expressed his relief regarding the "catholic spirit prevailing in our country" in an August 1776 letter to Virginia Baptists. Henry wrote he was relieved that

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[58] Mantiply, 29; Buckley, *Church and State in Revolutionary Virginia*, 22; Ketcham, *James Madison*, 73.
[59] *Proceedings from the Convention of Delegates, 1776*, 141.

religious tensions had calmed and hoped that "Christian charity, forebearance and love may unite all persuasions as brethren who must perish or triumph together."[60] As the war with England continued and as political, social, and financial difficulties loomed, Henry realized that arguments regarding theology would only break apart the solidarity Virginia so desperately needed. Many of the founders hoped to draw on the common values present in the separate denominations, creating a practical civil religion that all citizens could participate in daily on a political level while they worshipped separately in their own manner. Henry's thoughts for religious unity in the Commonwealth would prove short-lived, as the fall session of the General Assembly would receive numerous petitions from Anglicans and dissenters.

The first petition entered into the journal of the 1776 House of Delegates concerning religion came from "sundry inhabitants of the county of Prince Edward." The signers expressed their loyalty to Virginia and wished "the United American States" well. They marked Article XVI in the Declaration of Rights as "the rising sun of religious liberty" and requested that the House make religious and civil liberty equal in Virginia. More specifically, they asked the members to "make Virginia an asylum for free enquiry, knowledge, and the virtuous of every denomination" by eliminating the Establishment and all taxes associated with it. On October 11, the House ordered the Committee of Religion to review the document, as was their usual procedure.[61] Over the course of the session, nearly a dozen such petitions arrived in Williamsburg, most from groups who identified themselves only as "dissenters from the ecclesiastical establishment." Most stated the necessity of equality in religion to produce unity among the people. They also included assertions that the taxes levied for support of Anglican clergy placed an undue burden on the dissenting members of society. Each asked that the

[60] James, 170.
[61] *Journal of the House of Delegates of Virginia, Anno Domini, 1776*, 9.

Establishment be suspended or eliminated under the new form of government. The wording of their petitions indicate that these dissenters, primarily Baptists and Presbyterians, saw civil and religious liberty as inseparable and as such requested that "the legislature interferes only to support them in their just rights and equal privileges."[62] Legislative records suggest that matters of religion became so important in this session that dissenter petitions were referred to the Committee of the Whole House.[63]

Official Presbyterian opinion regarding establishment arrived in Williamsburg as a memorial from the Hanover Presbytery on October 24. By far the longest of all the petitions and memorials, the document opened with an assurance that the members of the denomination had "ever been desirous to conduct themselves as peaceable members of the civil government, for which reason they have hitherto submitted to several ecclesiastical burdens and restrictions, that are inconsistent with equal liberty." The Memorial contained some of the strongest language for complete disestablishment and presented clear political, theological, and practical arguments to support its claims. In many of the claims, a definite Lockean influence shaped the logic and rhetoric. One of the opening statements played on the sentiments of the age by asserting,

> In this enlightened age, and in a land where all are united in the most strenuous efforts to be free, they hope and expect that their representatives will cheerfully concur in removing every species of religious as well as civil bondage. That every argument for civil liberty gains additional strength when applied to liberty in the concerns of religion.

It continued with a theological claim that there is no basis in Christian theology or history for establishment, and any attempt to establish Christian faith is equivalent to the establishment of Islam in the East. On a political and theological note, the Presbytery asserted that establishments require a "chair of infallibility, which would lead us back to the church of Rome." They went on

[62] Mantiply, 91: *Journal of the House of Delegates, 1776,* Oct 16(19-20), Oct 22, (27-28), Oct 25 (35), Nov 1 (46-47), Nov 9 (64-65).
[63] *Journal of the House of Delegates, 1776,* Nov. 6 (58); Nov 9 (64-65).

to argue that on a practical level, establishments are "highly injurious to the temporal interests of any community … [they] greatly retard population, and consequently the progress of arts, sciences, and manufactures; witness the rapid growth and improvements of the northern provinces, compared with this." The Presbyters then moved to another theological argument that the gospel does not require "civil aid" rather "that when our blessed savior declares his kingdom is not of this world he renounces all dependence upon state power" and relies only on a spiritual change of heart. The final appeal to the House came in the form of a familiar Lockean refrain "that the only proper objects of civil government are the happiness and protection of men in the present state of existence, the security of the life, liberty, and property of the citizens, and to restrain the vicious and encourage the virtuous by wholesome laws, equally extending to every individual." They concluded with the request that the House establish no religion, that they repeal any law restricting or encouraging any denomination, protect religious practice, and place church support on a strictly voluntary basis.[64] In one document, the Presbyterians touched on themes of intellectual elitism, anti-Catholic sentiment, regional jealousies, evangelical primitivism, and Lockean political philosophy, each argument skillfully crafted to speak to a particular faction within the House of Delegates.

Two petitions in favor of the Establishment arrived shortly after the memorial from the Hanover Presbytery. The first, from "the people commonly called Methodists" stated that dissenters were "preparing to lay a petition before this House for abolishing the present establishment of the church," and this group of Methodists wanted to assure the House that they were "a religious society in communion with the church of England." They expressed their

[64] *Journal House of Delegates*, Oct. 24, 1776, 32-33.

support for the Anglican Church and for the Establishment in general as they perceived that "very bad consequences [would] arise from the abolishing the establishment."[65]

A "considerable number" of Anglican clergy submitted the second document, read into the House record on November 8, 1776. The memorial opened with the assertion that the clergy expected to be paid for life when they accepted positions in Virginia parishes. The clergymen claimed that they had no method of earning a living except through ministry within the Establishment. They stated, "They [were] far from favouring encroachments on the religious rights of any sect or denomination of men, yet they conceive[d] that a religious establishment in a state is conducive to its peace and happiness." The Anglican clergy declared their belief that "the doctrines of Christianity have a greater tendency to produce virtue amongst men than any human laws or institutions, and that these can be best taught and preserved in their purity in an established church." They discounted the common complaint regarding the financial burden placed on dissenters when forced to support the established clergy through taxes and their own ministers voluntarily. It was the claim of the clergy that a religious establishment was so beneficial to society that the burden on the population "ought not to be considered."[66] For evidence of the benefits of establishment, the clergymen pointed to one hundred and fifty years of peace in Virginia where "piety and virtue" prevailed and other opinions met with the "mild and tolerating spirit of the church established." They claimed there was no desire among the established clergy to restrain those of dissenting faiths, in spite of the fact "those very dissenters…now aim at its ruin." The memorial continued with an assertion that equality of denominations could not continue without eventually causing "civil commotions." The clergy requested that the House delay any decision regarding establishment until "the general

[65] *Journal of House of Delegates, 1776*, October 28, 40.
[66] *Journal of the House of Delegates*, Nov. 8, 1776, 63-64.

sentiments of the good people of this commonwealth can be collected."[67] The Anglican petition may have garnered more support had it been worded differently. The opening protest regarding incomes and expectation of public maintenance conveyed concerns of financial self-interest rather than the spiritual welfare of the citizens of Virginia. Their obvious dismissal of any occurrence of religious intolerance or persecution within recent years reduced their credibility with the House, especially those members already sympathetic to dissenting groups.

The House, as a Committee of the Whole, read four primary resolutions regarding religion into the record on November 19 and following heated debate and several amendments made them law on December 5, 1776. The measures placed denominations on a more equitable footing and relieved much of the financial burden felt by dissenters. The legislative conflicts that occurred during this session impressed Thomas Jefferson so much that he commented in his autobiography that they were the "severest contests in which I have ever been engaged." Political elites, such as Edmund Pendleton and Robert Carter Nicholas, both firm supporters of the establishment strongly opposed efforts of Jeffersonian liberals on behalf of the dissenters. Their attempts to bring greater religious liberty to Virginians resulted only in the decriminalization of religious dissent, elimination of coerced church attendance, and a suspension of tax levies for the support of the church by both dissenters and church members.[68]

Just as the idea of religious liberty seemed logical and right to liberals and dissenters, so it seemed dangerous and terrifying to those who viewed religion as crucial to the survival of the civil state. Although willing to grant minor concessions to dissenters in a time of crisis, legislators could not imagine, nor would they agree to a complete division between civil and ecclesiastical authority. Jefferson and those who aided him in the legislature sought to change

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[67] Ibid.
[68] Jefferson, *Autobiography*, 62-64.

society at a crucial point in time, even before independence was assured. The conservative members of the House, while willing to grant limited liberty, were not prepared for the complete transformation of the social order at that time. The representatives resolved to continue to regulate religious assemblies and supervise the succession and behavior of the clergy.

Issues regarding government support and regulation of religious institutions continued to hold the attention of legislators for the next decade. As the war intensified and the need for political unity increased so too did the willingness of Virginia lawmakers to grant increasing liberties to dissenting denominations. When political officials met again and decided on the necessity of forming a more stable set of laws conducive to the operation of a republican government, Jefferson again took the opportunity to advance the cause of religious liberty and complete separation of church and state in the Commonwealth.

Chapter 3: Jefferson and Virginia's Revision of Laws: 1776-1781

In May 1776, Thomas Jefferson returned to Philadelphia as a Virginia delegate to the Continental Congress. He wanted to remain in his "home country" in order to be part of creating a new government with his fellow burgesses, but duty called him north. While in Philadelphia, Jefferson penned three draft proposals of the Virginia Constitution for consideration by the committee in Williamsburg. His work was a plan "that he felt would not only break the political ties that bound the colony to the mother country but also begin a revolution to change the nature of Virginia society."[1] Jefferson addressed the structure of government and the rights of the citizen in his draft. In *Section IV: Rights Public and Private*, he listed positive and negative rights of the people in relation to the government. His short section on religion was his first public expression of his opinions on religious liberty. It read, "All persons shall have full and free liberty of religious opinion; nor shall any be compelled to frequent or maintain any religious institution."[2] This statement in his third draft was a simplified version of his previous drafts, but spoke in plain language his position on religion and the state. Jefferson penned this statement while patriotic fervor was running high, and the word "independence" was on every politician's lips. "For Jefferson, separation from Britain provided the occasion to establish 'the rights of conscience' given by God but denied by the state."[3]

Jefferson's draft constitution provides historians with two keen insights. First, it reflects the emerging Jeffersonian philosophy on religion and the separation of church and state. Second, it foreshadows his later efforts at legislative reform grounded on the republican principles he felt

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[1] Hatzenbuehler, 3.
[2] Boyd, *Papers of Jefferson*, Vol. 1, 363.
[3] Buckley, "Political Theology," 80-81.

Virginia legislators had ignored in favor of the societal *status quo*. Jefferson's commitment to a concept of freedom and liberty was never simply political. "He cared as much of the freedom and independence of the mind as for the freedom and independence of the state. He was as eager to safeguard the individual from the tyranny of priests and politicians as to liberate the nation from foreign oppression."[4] Legislative reform in matters of religion was as necessary for Jefferson as it was in matters of justice and trade.

In Jefferson's mind, "the only permissible form of establishment was to be the establishment of religious freedom."[5] He was always reluctant to speak of his religious convictions, especially as a young man. His early letters contain few references to any religious topics just as they contain only veiled references to other personal matters. Later expressions of any system of belief were reserved only for close friends. Jefferson was secretive about his faith with those he did not know or trust. He was not an orthodox Christian, but most of his constituents were, and to admit many of his views would have been political suicide. At any rate, for him religious belief was profoundly private; a matter between a man and his God, much like marriage was an intimate affair between husband and wife. What is known about Jefferson's faith during the Revolutionary era can only be surmised from his entries in his commonplace book, his library, and his legislative efforts regarding religious liberty.[6]

The traditional method of determining Jefferson's religious and political views is to read letters and documents that encompass the totality of his life and make overarching judgments regarding what he believed. Historians are fond of quoting passages from Jefferson's letters and ascribing the views contained in them to past events, but they fail to understand that Jefferson's

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[4] Francis W.Hirst, *The Life and Letters of Thomas Jefferson* (New York: The MacMillan Company, 1926), 140.
[5] Healey, 129.
[6] Dumas Malone, *Jefferson and His Time: Jefferson, the Virginian* (Boston, MA: Little, Brown, 1948), 106, 275; Healey, 25-26.

ideas developed over a lifetime of learning. Jefferson's mind, much like that of a modern young scholar, was an amalgamation of all the material he read and a sum of his experiences. Even views he ultimately rejected caused him to reconsider and reorient some of his ideas. The man historians see in totality must be understood as a constantly shifting blend of ideas and experiences that were never truly constant. The thirty-three year old Jefferson who penned the Declaration of Independence, three drafts of the Virginia Constitution, and the Virginia Statute for Establishing Religious Freedom was not the same man who later crafted his "Penknife Bible" or penned the Letter to the Danbury Baptists. A lifetime of self-imposed study and experience shaped Jefferson's attitudes towards many things as he progressed from a young political maverick to a seasoned statesman.

Scholars are especially prone to make Jefferson a student of the "Enlightenment" without delineating the ideological or chronological context of the term. To say that Enlightenment principles influenced Jefferson would be correct, but more particularly the Scottish Enlightenment shaped his philosophy in the 1770s more than that of the French *philosophes*. Jefferson's Literary Commonplace Book and his1783 library catalogue provides an indication of the material Jefferson owned, read, and studied.[7] In addition, to attribute as foundational to his philosophy all the ideas contained in any of the works Jefferson considered important enough to copy or own would be to contradict his own claim. When he later defended his position in opposition to some portions of the United States Constitution, Jefferson provided posterity with a primary means of understanding his adherence to ideological systems:

> I never submitted the whole system of my opinions to the creed of any party of men whatever in religion, in philosophy, in politics, or in anything else where I was capable of thinking for myself. Such an addiction is the last degradation of a

[7] Jefferson's Commonplace Book provides insight into the material he considered important, but contains no dates to indicate when he wrote material down. The material covers a time period from about 1758 to 1777, so we know he did read the works of Locke, Bolingbroke, and Shaftsbury before writing the Virginia Statute.

> free and moral agent. If I could not go to heaven but with a party, I would not go there at all.[8]

Jefferson submitted every thought and idea to his own critical method of reasoning, especially those that dealt with matters of religion. Historian Robert Healy assumes a religious crisis for Jefferson in his early twenties. His commonplace book shows a marked attention to the works of Bolingbroke and Locke, a greater emphasis on philosophies that encouraged historical criticism of the Bible, and principles of skepticism and scientific doubt. Jefferson also copied passages from the Stoic philosophers Cicero, Seneca, and Marcus Aurelius as ideas he wished to make part of his own intellectual heritage.[9]

The philosophy of Bolingbroke profoundly influenced Jefferson's early religious views, and this seems to have carried into the religious works purchased for his library. Jefferson owned multiple religious and ecclesiastical volumes that spanned a wide range of theological backgrounds. His 1783 Library Catalogue records a copy of the Latin Vulgate, several versions of the Septuagint, the Bible in several languages, and a copy of the Koran. He possessed several commentaries on religious themes, bound collections of sermons from a wide variety of clergy, works by the early church fathers, and denominational apologies. Jefferson's collection reflects his ideas that reason would always uncover truth when left to free inquiry. It also suggests that he adopted Bolingbroke's ideas regarding orthodoxy. One passage copied into his commonplace book seems to have been especially significant in shaping Jefferson's views on religious systems. He copied from Bolingbroke, "Orthodoxy is a mode. It is one thing at one time and in one place. It is something else at another place, or even in the same place: for in this religious country of

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[8]Thomas Jefferson to Francis Hopkinson, March 13, 1789, *The Portable Thomas Jefferson*, ed. Merrill D. Peterson (New York: Viking Press,1975), 435.
[9] Healey, 18-19; Reichley, 89-90.

ours, without seeking proofs in any other, men have been burned under one reign, for the very same doctrines they were obliged to profess in another." [10]

Close examination of Jefferson's library and copybook reveal that in the 1770s, he was a man more a product of the philosophy of Bolingbroke and Locke than of Voltaire and Rousseau. Closer study reveals a religious creed more Unitarian than "deist," the label that so many ascribe to Jefferson, but his Unitarianism has distinct leanings toward Christian primitivism. Throughout his life, Jefferson insisted that early Christianity was simple and "free from mystery." According to Jefferson, Judaic and Greek influences removed reason and made the religion of Jesus mystical.[11] As he saw it, the teachings of Jesus provided all that was necessary for salvation and a virtuous, moral life. Establishment of the Christian religion in Rome had further destroyed the true faith until it was unrecognizable. Jefferson asserted that the clergy were the real enemies of Jesus and his "true religion." It was the "natural religion" found in the Gospels that Jefferson sought to restore to society through the powers of reason.[12] Jefferson aligned himself with Protestant belief and "approved the Reformation as a movement for the purification of religion but privately condemned the dogmatic turn he believed it had taken under Calvin," and criticized the power that clerics exhibited on government through state establishments.[13]

Jefferson's faith in Christian primitivism aligned with Unitarianism by placing emphasis on rational thought. Unitarian religion stresses free inquiry and the working of God, but denies the divine attributes of Jesus. This is not Christian evangelicalism, but it is a religion grounded in moral responsibility and reason and shares a foundation in Renaissance humanism, which

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[10] Thomas Jefferson, *Thomas Jefferson's Literary Commonplace Book*, ed. Douglas L. Wilson (Princeton, NJ: Princeton University Press, 1989), 45-46.
[11] Healey, 111.
[12] Mantiply, 23.
[13] Reichely, 90.

gave rise to the Protestant Reformation and the Enlightenment.[14] Jefferson's writings bear out this Unitarian classification, as his *Notes on the State of Virginia* and the *Virginia Statute for Religious Freedom* emphasize man's responsibility to God and God's expectation of worship from man. This kind of reciprocal relationship is generally not attributed to traditional deistic beliefs.[15] The fundamental basis for Jefferson's philosophy of religion was his conviction that religion is nothing more than opinion, that opinions are formed in the mind, and that only the individual possesses power over his mind.[16]

This view of religion led Jefferson naturally to his understanding of the relationship between church and state. He viewed church-state relations in legal terms, by the definition of public and private spheres. In Jefferson's mind, opinions that fail to result in action are private, since they cannot infringe on the rights of others. Actions are public, as they possess the capacity to affect individuals and the society at large. It was his opinion that government can only legislate action, not opinion.[17] His views emanated primarily from the writings of Locke, an individual he considered as one of "the three greatest men that have ever lived."[18] Jefferson paraphrased Locke in his *Notes on Religion* when he asserted:

> The care of every man's soul belongs to himself. But what if he neglect the care of it? Well what if he neglect the care of his health or estate, which more nearly relate to the state. Will the magistrate make a law that he shall not be poor or sick? Laws provide against injury from others; but not from ourselves. God himself will not save men against their wills.[19]

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[14] J. G. A. Pocock, "Religious Freedom and the Desacralization of Politics," in *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History*, 68. This common foundation provides proof that atheism even has an origin in religious thought. It is a simple progression of ideas from common ground in separate directions. This same theory of progression could connect Renaissance humanism to Lutheran Protestantism to Great Awakening evangelicalism to the American civil religion better known as secularism.

[15] Buckely, "Political Theology," 86-87.

[16] Pocock, "Religious Freedom," 61.

[17] Buckley, "Political Theology," 88.

[18] Thomas Jefferson to John Trumbull, February 15, 1789, Peterson, *Portable Jefferson*, 435.

[19] "Notes on Religion" in Thomas Jefferson, *The Works of Thomas Jefferson* (New York and London: GP Putnam's Sons, 1904), Vol. II, 263.

Jefferson was convinced that the only way for true religion to thrive was through complete freedom of conscience. Included in this concept was the liberty to express and defend by argument opinions on religious matters and even refuse to be questioned on the subject at all. His approach to religious liberty and separation of church and state was pragmatic. He saw the problem of church establishment in Virginia; there was too much power vested in the hands of the rich and well connected. His ideas were also fluid. In his mind, when one group used power to curtail the liberties of another, that group should be deprived of any opportunity to serve in public office. When they relaxed their stance, they should have civil privileges reinstated. This position is evidenced in his views regarding Anglican clergy in the Virginia legislative debates.[20] Jefferson also saw a practical benefit to religious pluralism. His belief that "religion is reducable to morality" meant that the morality commonly taught by all religions could only be beneficial to society at large offered up another sound reason for religious liberty in Virginia.[21]

Jefferson's historical complaints regarding the relationship between church and state were legion. His first criticism stemmed from the biblical story of the arrest and crucifixion of Jesus. "As Jefferson saw the matter, the unholy alliance of Jewish church and Roman state had destroyed the world's leading moralist and benevolent reformer."[22] In his opinion, no good could come from church-state unification, and that any system that combined the two only corrupted both. He pointed out that Christianity flourished without state support for three hundred years. It was only after state recognition and union with religion that true Christianity

[20] Healey, 127, 139; Buckley, 70.
[21] Buckley, "Political Theology," 89-90.
[22] Healey, 119.

and the Empire suffered.[23] Jefferson drew further from Locke in his examination of why a particular brand of Christian religion historically dominated over any other:

> Why have [Christians] been distinguished above all people who have ever lived for persecutions? is it because it is the genius of that religion? no it's genius is the reverse. It is refusing toleration to those of a different [opinion] which has produced all the bustles and wars on account of religion. it was the misfortune of mankind that during the dark centuries the [Christian] priests following their ambition and avarice and combining with the magistrate to divide the spoils of the people could establish the notion that Schismatics might be ousted of their possessions and destroyed.[24]

Many of Jefferson's objections to established religion stemmed from his fundamental conviction that consolidation of power led to corruption, and corruption often led to ignorance and indolence. This also foreshadowed his later fears regarding a strong central government during the constitutional crisis of the 1780s.

Jefferson was also aware that his principles of religious freedom had inherent dangers. One of those was the possibility that church-state separation could be used by people with no religious convictions, or differing convictions, to limit or otherwise interfere with the practice of religious worship. In spite of many allegations to the contrary, Jefferson was not disgusted by religion, nor did he object to the use of religious observance to bring people together. He organized the Day of Fasting and Prayer in support of Boston on June 1, 1774, however, he never implied nor did he specifically instruct which denominational practice people should observe. The call was a general one, using common religious language and practice to create solidarity in Virginia. Jefferson actively supported religion in his revisal of Virginia's legal code in 1777, but his was an egalitarian approach that recognized the importance of religious principles but avoided any denominational favoritism. Although Jefferson later expressed a hope

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[23] Buckley, "Political Theology," 92.
[24] *Jefferson's Commonplace Book*, quoted in Healey, 117-118.

that the majority of Americans would become Unitarian, his convictions regarding freedom of conscience made his dedication to liberty stronger than any advocacy of orthodoxy.[25]

Above all, Jefferson was a proponent of human progress. He viewed America as the perfect environment to put Enlightenment ideals into practice without the constraints of history and tradition present in Europe. The new United States was a country set apart, where civilization emerged from the wilderness without constraint of "kings, nobles, or priests." Jefferson's view of the exceptionalism of his country and of his optimism for a government separate from religion is evident in his letter to George Wythe upon learning that his Statute was law. He wrote:

> The Ambassadors and ministers of the several nations of Europe resident at this court have asked of me copies of it to send to their sovereigns, and it is inserted at full length in several books now in the press; among others, in the new *Encyclopedie*. I think it will produce considerable good even in these countries where ignorance, superstition, poverty and oppression of body and mind in ever form, are so firmly settled on the mass of the people, that their redemption from them can never be hoped. If the almighty had begotten a thousand sons, instead of one, they would not have sufficed for this task. If all the sovereigns of Europe were to set themselves to work to emancipate the minds of their subjects from their present ignorance and prejudices, and that as zealously as they now endeavor the contrary, a thousand years would not place them on that high ground on which our common people are now setting out. Ours could not have been so fairly put into the hands of their own common sense, had they not been separated from their parent stock and been kept from contamination, either from them, or the other people of the world, by the intervention of so wide an ocean.[26]

Jefferson based his ideas of American exceptionalism on the growth of republican ideals made possible through advances brought about by free inquiry, the power of reason, and the application of common sense.

The concept of liberty formed the foundation of American republicanism, and Jefferson was one of the key proponents of civil and religious liberty in 1776. While in Philadelphia,

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[25] Healey, 135, 139.
[26] Peterson, *Portable Jefferson*, 398-399.

Jefferson purchased several copies of British Presbyterian minister Richard Price's sermon regarding the nature of liberty and the justness of the War for American Independence. The sermon circulated widely in America from New York to Charleston, and presented a view of the colonial conflict from a British perspective. Jefferson saw Price's examination of several forms of liberty and their necessary inter-dependence as an important concept for the basis of a republican government. Price's assertions that self-determinism is crucial to any form of liberty spoke to Jefferson's conviction that freedom of conscience is fundamental to all freedom. Jefferson viewed the sermon as so important that he returned several copies to friends in Virginia recommending its ideas as vital to the future of America.[27]

While Jefferson served in Philadelphia, the Virginia House of Delegates adopted George Mason's Declaration of Rights and Virginia Constitution with little change from the old system of government. Jefferson opposed the plan to form a permanent charter document so quickly due to his fear that political elites would ignore individual liberties in favor of retaining their own positions of power. He favored a plan to elect a new group of men solely for the purpose of drafting a republican constitution grounded in the principles of liberty being espoused across the former colonies. Those in the House who were "elder statesmen" felt they had the required expertise and experience to write such a document that the people of the Commonwealth may not find in new members who represented a greater cross-section of society. In August, Jefferson attempted to have the General Assembly replace the constitution, which had been hastily drafted, with a better version. As Jefferson feared, the system kept many of the colonial structures in place that maintained existing hierarchies. There was another fundamental problem with the Virginia Constitution. "In addition to empowering entrenched families and providing

[27] Richard Price, *Observations on the Nature of Civil Liberty, the Principles of Government, and the Justice and Policy of the War with America* (Philadelphia: Printed by John Dunlap, 1776). The sermon was printed in nearly every major city in 1776.

for a generally conservative political climate to block fundamental change, the constitution included no provision for amendment."[28]

Jefferson returned to Williamsburg for the October session of the House of Delegates. He entered the House determined to direct the legislature to reshape his "native country" of Virginia based on republican principles. As a member for the Committee on Religion, Jefferson reviewed the petitions and memorials that flooded the legislature from dissenting groups throughout the Commonwealth. His draft resolutions for changes in the legal code reflect his agreement with their positions on disestablishment and religious liberty. As presented for consideration in committee, Jefferson's legislation called for the complete disestablishment of the Church of England. It also demanded a repeal of all British or colonial laws that restricted religion or granted special privileges to any denomination or its clergy, and revocation of all taxes for the support of the Church of England placing financial concerns of all religious groups on a voluntary basis. Jefferson's move for complete disestablishment met fierce opposition from some of the most influential political figures in Virginia at the time. Churchmen led by Edmund Pendleton and Robert Carter Nicholas challenged and defeated the resolution against the Established Church by introducing their own proposition to regulate religious assemblies and provide for the supervision of clergy.[29]

Sometime before the bill emerged from committee another of Jefferson's resolutions disappeared from the text. As presented to the House for debate, the bill did not contain the clause regarding the repeal of acts of Parliament regarding religious dissenters. According to the legislative record, on November 29, Jefferson requested and "obtained a leave of absence for the

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[28] Edmund Randolph, *History of Virginia* (Charlottesville, VA: University Press of Virginia,1970), 251; Hatzenbuehler, 61.
[29] Buckley, 30.

remainder of the session."[30] His bill arrived for debate on the floor of the House on December 3, without the passage regarding repeal of any former legislation. The next day, Jefferson reappeared at session, as did his missing resolution.

At some point between the House's November 9 decision to refer matters of religion to the Committee of the Whole on the state of the Country and final passage of legislation redefining religious liberty in Virginia on December 5, Jefferson prepared and delivered an argument for his resolutions to the House. Thomas Buckley asserts that Jefferson developed his philosophy of religious liberty during committee meetings of the General Assembly, but close examination of the argument in support of his resolutions supplies evidence that his opinions must have been at least partially developed prior to 1776.[31] Although undated, "Jefferson's Outline of Argument in Support of His Resolutions," and his copious notes that reinforce it, provide insight into his thoughts regarding church and state. Also of note is the fact that Jefferson was not a man known for presenting oral argument in larger assemblies. Throughout his political career, commentators noted that he seemed reticent in legislative debate and lacked a voice that carried well to an assembly. The care Jefferson put into this outline suggests the importance of the issue at hand and his commitment to creating a new kind of government separate from religious establishment.[32]

Jefferson advanced against the Establishment from a variety of angles. He began with a legal history of church-state relations that provided historical examples of how governments dealt with religious dissent throughout the centuries. His next point questioned the authority of state over religion and referenced Lockean views of natural law as contrary to church-state

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[30] Boyd, *Papers of Jefferson*, Vol. 1, 527.
[31] Buckley, 47.
[32] Boyd, *Papers of Jefferson*, Vol. 1, 535-539.

unification. He further asked if uniformity in religion was either desirable or attainable, and if so, how does fallible man decide which religion is the correct one. His argument closed with proposed advantages to religious plurality and disestablishment.[33]

In his outline, Jefferson presented several common objections to disestablishment and answered them with combinations of practicality and philosophy geared to satisfy men from any number of perspectives. He replied to the most common objection that religion would decline if not supported with a biblical reference to Jesus words in Matthew that "the Gates of Hell shall not prevail" against the church.[34] A cultural claim that all states had established religion brought the reply that "then all religions have been established." Jefferson supported this answer with two interesting rhetorical questions. He asked if establishment meant government was infallible, and more interestingly, "has God stamped us with a mark?" to determine religious belief. Jefferson noted that only reason could provide man with the confidence that his religious persuasion was the right one.[35]

The questions regarding desirability and attainability of religious uniformity and Jefferson's proposed advantages to religious equality relied on a combination of history, philosophy, law, and theology to argue that not only is homogeneity unattainable, it is counterintuitive to the growth and prosperity of religion and society. He argued the pursuit of religious conformity produced conflict from those who would not submit to a belief system they did not agree with, and made hypocrites of those who did. On a practical level, he claimed that uniformity suffocates free enquiry and all improvements in religion and philosophy have emerged from systems that set up private judgment against public. Jefferson maintained that

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[33] Ibid.
[34] Matthew 16:18.
[35] Boyd., *Papers of Jefferson*, Vol. 1, 537-538.

placing all religions on an equal level would make ministers more industrious and foster loyalty to the state among the citizens. He argued that the Declaration of Rights guaranteed freedom of religion, and to force a man to support heresy by supporting a religion he did not favor was counter to that freedom.[36]

Jefferson's views on church-state relations and his use of historical detail in support of his resolutions did not meet with approval from all members of the House. In his *History of Virginia*, Edmund Randolph criticized Jefferson's use of historical examples of political and ecclesiastical persecutions of dissenters. He wrote:

> In support of this law, the severest persecutions in England were ransacked for colors in which to paint the burdens and scourges of freedom in religion; and antiquated laws in England, against the exercise of which the people would even there have recoiled, were summoned up as so many demons hovering over every scrupulous conscience not bending to the church.[37]

Randolph consistently doubted Jefferson's motives behind the move toward disestablishment, and questioned whether dissenters would have supported his efforts at disestablishment had they been aware of his unorthodox religious opinions. He recorded:

> When Mr. Jefferson first attracted notice, Christianity was directly denied in Virginia only by a few. He was adept, however, in the ensnaring subtleties of deism and gave it, among the rising generation, a philosophical patronage, which repudiates as falsehoods things unsusceptible of strict demonstration. It is believed that while such tenets as are in contempt of the Gospel inevitably terminate in espousing the fullest latitude in religious freedom, Mr. Jefferson's love of liberty would itself have produced the same effects. But his opinions against restraints on conscience ingratiated him with the enemies of the establishment, who did not stop to inquire how far those opinions might border on skepticism or infidelity. Parties in religion and politics rarely scan with nicety the peculiar private opinions of their adherents.[38]

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[36] Boyd, *Papers of Jefferson*, Vol. 1, 537-539.
[37] Randolph, 264.
[38] Ibid., 183.

In spite of Jefferson's best arguments, and broad popular support as evidenced by the number of petitions in the legislative record, the churchmen won an important victory. They voted to keep the principle of church establishment in law, but in practice, religion in Virginia changed into a voluntary expression by the end of 1776. The General Assembly retained the power to license meetinghouses and ministers, and local magistrates still possessed the ability to restrict religious liberty in their jurisdictions. Anglican clergymen maintained sole authority to perform marriage ceremonies, but the Assembly suspended tax support for Anglican parishes and allowed more freedom of worship for dissenters than previously enjoyed. [39]

Debates regarding religious establishment and the possibility of a general assessment continued as five members of the House of Delegates worked to revise the laws of the Commonwealth. In October 1776, Jefferson proposed several controversial measures that challenged long held institutions transplanted from the British Isles. His legislation to reorganize the Courts of Justice and end primogeniture lent him a degree of popularity among some, but made him unpopular with some of the established gentry in the Tidewater and Northern Neck. Jefferson, and others like him, agreed that the laws of Virginia needed to represent their ideals of "equality of political rights and equality of economic opportunity."[40] Jefferson proposed the bill, and on October 24 the General Assembly ordered that "a committee…be appointed…to revise, alter, amend, repeal, or introduce all or any of the said laws, to form the same into bills, and report them to the next meeting of the general assembly."[41] Edmund Pendleton, George Wythe, George Mason, and Thomas Ludwell Lee were elected, along with Jefferson, to complete this important work that would occupy the better part of the next three years.

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[39] Buckley, *Church and State in Revolutionary Virginia*, 36.
[40] Hirst, 131.
[41] Boyd, *Papers of Jefferson*, Vol. 1, 562-563.

Jefferson's election to such an important committee among so many senior legislators was not a result of his political strength. It was his gentlemanly manner, his skill at intrapersonal relationships, and his dedication to the patriotic spirit that recommended him to his colleagues. His reasoned calmness gave assurance to members of the House that the revisal of Virginia's legal code would be carried out with a composure that would achieve the best results for a republican government. These personal traits allowed him to introduce more comprehensive government reforms than had ever been attempted, and his patient nature allowed him to wait for necessary changes in society to implement them.[42] The main body of the work fell to Jefferson, Wythe, and Pendleton as Mason and Lee resigned early in the process. The three worked at their task from the spring of 1777 until they presented their report to the General Assembly in June 1779.

The Committee of the Revisors used English common law as "the basis of the work." They then reduced all British statutes and all the colonial laws of Virginia down to 126 bills they considered worthy of inclusion in the code of the new Commonwealth. Two of the most remarkable, proposed and written by Jefferson, struck at Virginia's most firmly entrenched institutions. The first called for the emancipation of "all slaves born after passing the act."[43] The other represented his second legislative attempt to disestablish the Anglican Church. Jefferson recorded in his *Notes on the State of Virginia* his reasoning for moving so quickly to change the laws of the Commonwealth:

> [T]he spirit of the times may alter, will alter. Our rulers will become corrupt, our people careless. A single zealot may commence persecutor, and better men be his victims. It can never be too often repeated, that the time for fixing every essential right on a legal basis is while our rulers are honest, and ourselves united. From the conclusion of this war we shall be going down hill. It will not then be necessary to resort every moment to

[42] Dumas Malone, *Jefferson the Virginian*. 249.

[43] Peterson, *Portable Jefferson*, 185. Jefferson never meant to have a racially plural society. Freed slaves were to leave the Commonwealth within a year of emancipation. Ford, Vol. II, 202.

> the people for support. They will be forgotten, therefore, and their rights disregarded. They will forget themselves, but in the sole faculty of making money, and will never think of uniting to effect a due respect for their rights. The shackles, therefore, which shall not be knocked off at the conclusion of this war, will remain on us long, will be made heavier and heavier, till our rights shall revive or expire in a convulsion.[44]

Jefferson penned his "Bill for Establishing Religious Freedom" some time during 1777, shortly after members of the House defeated his November resolutions.[45] Jefferson remained convinced that any form of religious establishment or religious test for public service was contrary to the very notion of liberty. He argued the people of Virginia remained willing to remain under "religious slavery" while spending their "lives and fortunes for the establishment of their civil freedom." He further claimed that matters of religious belief are answerable only to God, and could never be ceded to the civil magistrate. Jefferson's two most controversial motions for revision of law struck at two forms of slavery, physical and intellectual.[46]

In spite of his obvious dedication to religious liberty in Virginia, Jefferson was not able to present his bill or debate it on the floor of the House. Two weeks prior to the submission of the committee's report, which contained the resolution, Jefferson began his first of two terms as governor of the Commonwealth. Jefferson's neighbor, fellow vestryman from St. Anne's Parish, and associate supporter in the Calvinistical Reformed Church in Charlottesville, John Harvie, presented the draft bill to the House on June 12 for consideration.[47] Jefferson's original draft of the Bill for Establishing Religious Freedom was a tribute to his fundamental belief in the power of reason, his dedication to the philosophy of natural rights, and his fear of concentrated power

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[44] Jefferson, *Notes*, 220.

[45] This bill was a source of lifelong pride for Jefferson. He included it among the three most important accomplishments of his life that he wished inscribed on his tombstone. Each of them represented his contribution to an ideal he held as important. The Declaration of Independence represents his gift to political liberty, the Statute for Establishing Religious Freedom to liberty of conscience, and the University of Virginia to free enquiry and education.

[46] Jefferson, *Notes*, 216.

[47] Beliles, "Christian Communities," 50. Jefferson helped constitute this short lived congregation of Presbyterians and Anglicans in Charlottesville in February 1777.

and its proclivity to undermine the liberty of the individual. It also reflects some of the Reformed Calvinist theological positions he learned under William Small and supported in the form of the new church he helped constitute and fund in Charlottesville.

The draft, as submitted to the House, contained three sections. The first outlined his theological, philosophical, and practical rationale for establishing complete religious liberty in Virginia. The second section contained the legislative language of the act, and the third, and perhaps most important section, declared religious liberty was founded in natural law, making any change in the statute a violation of the social contract. Some of the language of Jefferson's bill closely resembles that of Locke's *Letter Concerning Toleration*, something that historians have acknowledged for a number of years.[48] What scholars fail to note are some interesting parallels and correlations between the ideas of Locke and Jefferson and some of the tenets of Reformed theology. Close examination of both Locke's *Letter Concerning Toleration* and Jefferson's bill reveals that portions of both contain language that exhibit similarities with ideas contained in four fundamental Reformed doctrines. Although it may never have been Jefferson's intention to draw the connections, his affinity for Lockean thought may have emanated from his own religious and educational background.

Underlying each of Jefferson's assertions is the idea that men will understand true religion by power of reason, and that any attempt to coerce faith is an assumption of the role of God to determine the elect. The opening statement of the bill provides the basis for his claims and the first link with Reformed theology. Although it is common to assume that Jefferson detested Calvinism, it must be understood that it was the form of the theology that stifled free enquiry that he most vehemently opposed. Jefferson's language resembles the doctrine of "total

[48] S. Gerald Sandler, "Lockean Ideas in Thomas Jefferson's Bill for Establishing Religious Freedom" *Journal of the History of Ideas,* Vol. 21, No. 1 (Jan-Mar., 1960), 110-116.

depravity" in its assertion that men cannot bring themselves to belief by their own will, but must be brought to it by an outside influence. Jefferson wrote, "[T]he opinions and belief of men depend not on their own will, but follow involuntarily the evidence proposed to their minds." Jefferson stated that the mind is "insusceptible of restraint." Any attempt to bend man's will toward a particular system of beliefs is a "departure from the plan of the holy author of our religion." These ideas derive almost directly from this passage from Locke's *Letter Concerning Toleration*:

> All the life and power of true religion consists in the inward and full persuasion of the mind; and faith is not faith without believing. Whatever profession we make, to whatever outward worship we conform, if we are not fully satisfied in our own mind…we add unto the number of our other sins, those also of hypocrisy, and contempt of his Divine Majesty.

Both recognized the importance of an outside influence on the persuasion of men toward acceptance of a system of faith. For Locke and Jefferson, any attempt by man himself or an outside influence resulted only in hypocrisy and "meanness."[49]

Locke and Jefferson also asserted that men are responsible for their own religious beliefs, un-coerced by God or man, which could have been influenced by the doctrine of "unconditional election." This tenet of Reformed theology states that God chose individuals to salvation from the foundation of the world, not based on merit or eventual acceptance but by His own will. This does not negate man's responsibility to believe, but emphasizes the idea that man must have his mind brought to belief. Jefferson and Locke each asserted that civil and ecclesiastical authorities attempt to usurp the authority of God by "setting up their own opinions and modes of thinking as the only true and infallible." Jefferson also claimed that God could coerce man to belief by His

[49] Peterson, *Portable Jefferson*, 251; Locke, *Letter Concerning Toleration*.

divine power, but chooses to "extend it by its influence on reason alone."[50] Jefferson's study of Bolingbroke influenced him to be skeptical of any system of religious thought and to decline any adherence to strict orthodoxy that was the product of human thinking. Reformed theological influences in his education under William Small informed him that men must hear truth before it was possible for them to accept it. This may have been one of the primary reasons that Jefferson placed so much emphasis on the necessity of free inquiry in matters of religion.

The third point of Reformed theology reflected in Locke's *Letter* and in Jefferson's bill is that of "particular redemption" or "limited atonement." This precept states that some men are destined to find what Jefferson would call "true religion," while others are destined to believe a fallacy. This idea goes to the heart of Locke's natural rights philosophy and Jefferson's idea that man must be free to follow the dictates of his own conscience without interference as long as it does not infringe on the rights of another. It also reinforces their assertion that any attempt to force a man to believe or support opinions he cannot support is "sinful and tyrannical."[51] This claim leads directly into the most important correlation between Reformed theology and Jefferson's bill. The doctrine of "irresistible grace" states that the elect will come to belief when issued the outward call. This claim seems to tie directly with the assertions of both Jefferson and Locke that, left unimpeded, truth will reveal itself to men. Jefferson closed the first section of his bill with the statement:

> [T]ruth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapons, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.[52]

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[50] Peterson, *Portable Jefferson*, 251-252.
[51] Ibid., 252.
[52] Ibid., 253.

While it is true that the works of Jefferson and Locke were more inclusive in their understanding of faith and truth, it is interesting to note that they used theological precepts to communicate their understanding of the proper relationship between religion and temporal authority.[53]

Jefferson's political and practical views on religious liberty completed his argument in Section I of the bill. He restated his previous claims that voluntary support of clergy allowed congregants to exercise their liberty of conscience by directing their "contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels the most persuasive to righteousness." It also provided "an additional incitement to earnest and unremitting labours for the instruction of mankind" on the part of ministers. Jefferson continued with the assertion that civil liberty is not subject to religious opinion any more than it is subject to opinion on any other subject. He stated that deprivation of an individual's civil liberty on the grounds of religious belief was a corruption of liberty and religious principles. Jefferson argued that the only proper time for the civil magistrate to interfere with religious belief is "when principles break out into overt acts against peace and good order."[54] These libertarian views underpinned each of Jefferson's ideas regarding the place of government in a republican society.

The language of Sections II and III of Jefferson's draft bill represent the logical and legal conclusions of the contents of Section I. The bill proposed complete religious liberty in the Commonwealth of Virginia, free from any state coercion "to frequent or support any religious worship, place or ministry whatsoever." The document also established the freedom of the individual from any physical or financial penalties "on account of his religious opinions or

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[53] For works on Reformed theology and Calvinist doctrine see R. L. Dabney, "The Five Points of Calvinism,"; C. H. Spurgeon, "A Defense of Calvinism,"; John Calvin, *The Institutes of the Christian Religion* (Philadelphia, PA: Presbyterian Board of Publication and Sabbath-School Work, 1921); and Charles Partee, *The Theology of John Calvin* (Louisville, KY: John Knox Press, 2008). Jefferson was familiar with the work of Calvin and owned a copy of *The Institutes* in his library at Monticello as is evidenced by his 1783 library catalog.

[54] Peterson, *Portable Jefferson*, 252-253.

belief." Jefferson's draft also claimed a right to free speech in his declaration "that all men shall be free to profess, and by argument maintain, their opinion in matters of religion." The bill also addressed a form of religious intolerance in civil matters by removing all restrictions on the civil capacities of citizens based on their religious opinions. Jefferson realized that future legislative bodies had the power under the law to change any decision made in the General Assembly at any time, so to declare the act irrevocable had no legal effect. To prevent this occurrence, Jefferson added a clause that declared any attempt to revoke the act was "an infringement of natural right," an assertion that carried profound meaning in 1779. [55]

Jefferson's proposed Bill for Establishing Religious Freedom drew intense criticism in the press following its publication during the summer of 1779. Two separate articles appeared in the *Virginia Gazette* in August and September as a response to the idea of total disestablishment and complete religious liberty. The first article appeared on August 14 as a letter addressed "To the Publick." The author, identified only as "An Eastern Layman" claimed his work was a "humble attempt to point out the folly and absurdity" of accepting Jefferson's vision of a religiously pluralistic society. He argued against Jefferson's claim to religious liberty based on natural rights by asserting that when man enters into society he surrenders some of "that personal equality which formed the basis of his natural independence."[56] The second article, which extended over two successive issues, continued the attack against Jefferson's bill. "A Social Christian" claimed that the proposed legislation sought "to discontinue all publick religious worship and to tolerate the propagation of Atheism; and every degree of impiety which the weaknesses of individuals may suggest." The article addressed each of Jefferson's arguments in favor of religious liberty with assertions based on an opposite philosophic point of view. It

[55] Ibid., 253.
[56] *Virginia Gazette* (Dixon and Nicolson), August 14, 1779.

answered fears regarding abuse of power in matters of religion with the claim, "To argue from the abuse of things against their use, is idle and unsatisfactory; and if allowed would overturn every system necessary to man." He asserted that he did not wish for a particular establishment of religion in Virginia, but rather "wish[ed] to establish Christianity at large," as a stabilizing force in society. The author claimed that if government did not force men into some form of religious observance, they would fall into dissipation and vice and society would fall into confusion and chaos.[57]

The ideas contained in these essays against Jefferson's bill represented not just an opposition to the idea of disestablishment, but provide evidence of contrasting philosophical understanding of the nature of man and government present in the members of the founding generation. The contrast between the Lockean view of Jefferson and the Hobbesean view of these authors is clear in their assertion that the good of society trumps the liberty of the individual. Hobbes' scientific explanation of man in a state of nature reduces him to little more than an animal behaving without thought except for that of survival and acquisition. Locke argued that man could exist peacefully in a state of nature, which is not a state of complete liberty but is a condition in which natural law, through the power of reason, provides a form of self-government to regulate the behavior of individuals. According to Hobbes, government is essential to civil society, and when citizens surrender to a power, they relinquish all their rights except those granted by the government. Locke argued that men submit to civil government as a remedy against the inherent problems found in a state of nature. Men consented to government as an arbiter of conflict, but did not grant absolute sovereignty to civil authority. The people

[57] Ibid., September 11, 1779 and September 18, 1779.

reserved their natural rights from the government, and reserved the right to reassert power if those natural rights were violated.[58]

The authors of the essays in the *Virginia Gazette* took issue with Jefferson's Lockean philosophy as much as they did his questionable theology. They asserted that his "[c]onclusions, though drawn from established premises with the utmost fairness and regularity, are not always an advantage in the science of politics." They disagreed with Jefferson's ideas that man retained certain rights from the government and instead argued, "when this individual takes upon himself the obligations of society, there are other regards beside those which are immediately confined to his own person."[59] "A Social Christian" more forcefully argued that man in his natural state is subject only to natural law, but the social contract curbs the right of the individual in consideration of "what is the collective interest, or will most probably effect the great purposes of the union." He argued against Jefferson's assertion that the mind is created free by highlighting that it "lost its character of freedom when it became depraved and submitted to the dominion of unruly passions" at the time of Adam's fall. He further asserted, "Every law is a restraint upon the freedom of the mind, and whether the injunction hath for its object the worship of God and hearing the scriptures read and expounded, or to prevent murder, adultery, theft, perjury, or covetousness … the authority of the law is derived from the same source, the people, and its end the same their good."[60] The author closed with a request that the General Assembly reject Jefferson's bill in favor of a general assessment for a broad establishment of the Christian religion.[61]

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[58] Leo Strauss and Joseph Cropsey, eds, *History of Philosophy* (Chicago, IL: Chicago University Press, 1987), 396-420, 475-512.
[59] *Virginia Gazette* (Dixon and Nicholson), August 14, 1779.
[60] Ibid., September 11, 1779.
[61] Ibid., September 18, 1779.

The House of Delegates failed to move on either measure in their next session. As the war moved more vigorously into the southern theater, the legislature seemed hesitant to move on the issue of religion for two distinct reasons. The first was the continued need for unity among the people of Virginia. Matters concerning religion were so divisive and were so firmly grounded in contrasting philosophical and theological differences, that to move in either direction would have threatened the fragile unity among the majority of the citizens of the Commonwealth. Secondly, British troops began moving toward Virginia from the south in 1780, creating a priority for military preparedness in the face of imminent danger. The attention of the House of Delegates and Governor Jefferson remained consistently on the problem of men, supplies, and the defense of the Commonwealth until the end of the war. After 1781, Jefferson's retired to Monticello to finish his *Notes on the State of Virginia* and tend to his ailing wife. Revision of the legal code of Virginia and a clearer definition of the relationship between religion and government in the state would fall to a young man who would be Jefferson's political partner for the remainder of his life. The close friendship between Jefferson and Madison began upon Jefferson's election to the governorship in June 1779. Working together at the council table provided them the opportunity to discover their shared convictions regarding ordered liberty, their common passion in the pursuit of continued education, and their love for the world of ideas. Their collaboration would change the shape of government in America and in the world.[62]

[62]Hirst, 141-180; Ketcham, *James Madison*, 84.

Chapter 4: James Madison and The Virginia Statute for Establishing Religious Freedom, 1782- 1786

In the immediate post-war period, it seemed Jefferson's opposition was correct in asserting that a decline in morality and religious commitment would result from denominational plurality. During the war dissenting ministers gained more freedom of practice, and Anglican clergymen who remained loyal to Great Britain fled the former colonies leaving parishes vacant and church buildings neglected. Many of the founders feared that a decline in organized religious practice would translate into loss of virtue that formed the basis of republican government. In a letter to Patrick Henry celebrating American independence, George Mason expressed his anxieties regarding the future of the republic. He wrote:

> We are now to rank among the Nations of the World; but whether our Independence shall prove a Blessing or a Curse, must depend upon our own Wisdom or Folly, Virtue or Wickedness; judging of the future from the Past, the Prospect is not promising. Justice & Virtue are the vital Principles of republican Government; but among us, a Depravity of Manners & Morals prevails, to the Destruction of all Confidence between Man & Man.[1]

Mason urged Henry to use his considerable influence with the public and politicians to focus attention on public virtue and an interest in the good of the community. Henry's preconceived notions on the relationship of church to state influenced his actions on Mason's request. Mason framed his appeal in reference to legislative activity, but Henry chose to view it as a plea for a return to religious commitment by the people of Virginia. He remained firmly convinced that public virtue and the success of America were inalterably tied to matters of faith. Either due to age or experience, Henry's views seemed to become less revolutionary over the course of the war. Although a strong advocate of personal liberty, as self-interest began to trump public virtue

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[1]George Mason, *The Papers of George Mason*, ed. Robert A. Rutland (Chapel Hill, NC: University of North Carolina Press, 1970), Vol. 2, 770.

in Virginia his views on personal liberty became secondary to his perception of societal needs. In matters of religion, he accepted the notion of "toleration" and felt that a general establishment of religion was necessary to maintain civil society. His combined religious background in the Presbyterianism of Samuel Davies and strong family ties to Anglicanism created a unique religious expression that was still tied to combined church-state support of public virtue.[2]

Thomas E. Buckley asserts that Henry's dedication to religious revival was a result of his concern over the growth of European rationalism and his own rededication to matters of faith. Henry published his concerns in September 1783 as an article in the *Virginia Gazette*. He articulated the need for legislatures to foster public virtue by assuming the place of "nursing fathers to the church" in order to maintain the liberty of future generations. He proposed that the General Assembly "form a genuine system and mode of worship, on the true basis for Christian freedom," in the expectation that all Protestant groups would come together under a common banner created by the legislature.[3] In the fall session of the House of Delegates, petitions once again began to come in from all areas of the Commonwealth from those in favor of a general establishment of religion and from those who opposed any union of church and state. The precarious state of unity in the fledgling nation and Commonwealth meant that legislators must handle matters of religious establishment and support with great delicacy. Divisions already in place among the people could easily become serious fractures if not evaluated and acted upon with thoughtful consideration.[4] This set of circumstances would be particularly important in the ensuing three years. Virginia elections brought a fresh group of delegates to the Assembly in

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[2] Richard R. Beeman, "The Democratic Faith of Patrick Henry," *The Virginia Magazine of History and Biography*, Vol. 95, No. 3 (July, 1987), 306-307. For Henry's Presbyterian and Anglican religious foundations see Katie Kitchens, "Patrick Henry: The Significance of Harmonized Religious Tensions," (MA thesis, Liberty University, 2010), 17-57.

[3] *Virginia Gazette or American Advertizer*, September 12, 1783. Quoted in Buckley, *Church and State in Revolutionary Virginia*, 73.

[4] Buckley, *Church and State in Revolutionary Virginia*, 89.

1784; this was a younger and less experienced collection of men than had previously served. A letter to Thomas Jefferson reported that "a Majority of this Assembly are new Members and consequently we may expect new Measures. Many Officers of the late Army and more young Men compose this Majority."[5] James Madison emerged as one of the key leaders in the House of Delegates during the mid-1780s.

The Virginia Convention of 1776 was James Madison's first political role in the state and the nation. His changes to Article XVI of the Virginia Declaration of Rights represented "his first important contribution to a lifelong battle for religious freedom, standing on a set of principles that placed him from the start among the most advanced reformers of his age."[6] Madison's substitution of the word "liberty" for "toleration" and the Assembly's acceptance of the changes acknowledged that religious freedom was a natural right derived from liberty of conscience rather than a privilege granted by concession of government. His work on the Article "reduce[d] ecclesiastical law to the level desired by Locke, who wanted it made 'destitute of all compulsive power'."[7] Madison arrived in Williamsburg on October 14, 1776 to serve in the newly formed House of Delegates as a representative of Orange County. While in the House, Madison served on the Committee on Religion, which was already receiving petitions to end the establishment, but the legislature refused to move on the issue during this session. In 1777, Madison lost his bid for re-election to the House because of his scruples against supplying the customary "refreshments" to those who would vote for him. His legislative abilities gained the attention of some in Williamsburg who elected him to the Virginia Council of State where he served under governors Henry and Jefferson. His three-year term in the Continental Congress

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[5] Boyd, *Papers of Jefferson*, Vol. 7, 257.
[6] Banning, "James Madison, the Statute for Religious Freedom, and the Crisis of Republican Convictions" in *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History*, 111.
[7] Irving Brant, *James Madison: The Virginia Revolutionist, 1751-1780* (Indianapolis, IN: Bobbs-Merrill Company, 1941), 245-246.

beginning in 1780 allowed him to prove his political prowess in foreign and domestic matters, and gave him the kind of experience necessary to make him a man of consequence in Virginia. The legislative elections in the spring of 1784 brought James Madison to the new capital of Richmond to serve his last, and most significant, term in the House of Delegates where important legislative battles would shape the role of religion in Virginia and eventually the nation.[8]

Madison's convictions regarding the necessary relationship between church and state never wavered during his lifetime. His opinions on religious freedom and the dangers of intolerance were firmly entrenched before his service in the House of Burgesses or his acquaintance with Jefferson. [9] His personal religious beliefs are very difficult for historians to determine, as he was even more private than Jefferson. He was reared and remained an Anglican during his lifetime, but heard sermons from dissenting ministers and received his education from Presbyterian clergy. Madison "knew the Bible and read divinity," but believed in fundamental "liberty both civil and religious."[10] The persecution of the Baptists in Virginia, in his own and in adjoining counties, first drew Madison into public life in Virginia. He recorded that during the mid-1770s he "spared no exertion to save them from imprisonment, and to promote their release from it."[11] In April 1774, Madison voiced doubts that petitions for greater religious liberty from dissenters would be successful in light of discussions during the previous session of the House of Burgesses. He expressed the attitude of Virginians on matters of religion and his preference for New England's way of seeing religion in a letter to his The College of New Jersey classmate, William Bradford:

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[8] Ketcham, *James Madison*, 75.
[9] Rutland, "James Madison's Dream," 200.
[10] Banning, "James Madison and the Crisis of Republican Convictions," 109-110.
[11] Swanson, 105.

> Petitions I hear are already forming among the Persecuted Baptists and I fancy it is in the thoughts of the Presbyterians also to intercede for greater liberty in matters of Religion. For my part I can not help being very doubtful of the succeeding in the Attempt.… I believe they lost their footing … and …[many] are too much devoted to the ecclesiastical establishment to hear of the Toleration of Dissentients… The Sentiments of our people of Fortune & fashion on this subject are vastly different from what you have been used to. That liberal catholic and equitable way of thinking as to the rights of Conscience, which is one of the Characteristics of a free people and so strongly marks the People of your province is but little known among the Zealous adherents to our Hierarchy …You are happy in dwelling in a Land where those inestimable privileges are fully enjoyed and public has long felt the good effects of their religious as well as Civil Liberty.

Madison continued with the observation that commerce and the arts flourished in areas to the north where religious liberty encouraged free enquiry. [12]

Historian Ralph Lewis Ketcham has posed several possible sources for Madison's political convictions including experience with religious persecution in Virginia, his education under John Witherspoon at The College of New Jersey, Lockean thought, Enlightenment reactions to clerical corruption, religious reliance on superstition, and the works of popular political authors of the day.[13] Ketcham argued that Madison's ideas regarding religion and the relationship between church and state emanate from two primary sources. First, they came from rationalist tendencies found in eighteenth century theology and Scottish Common Sense philosophy learned as a student of Witherspoon.[14] When young Madison, at the direction of his father, chose to travel to New Jersey to study at The College of New Jersey instead of attending Virginia's William and Mary, "he placed himself at the center of the English dissenting tradition in North America." The administration there expressed their opposition to "religious

[12] Hutchinson, *Papers of Madison*, Vol. 1, 112-3.
[13] Ketcham, "James Madison and Religion," 191; Ketcham, *James Madison*, 39-41.
[14] Ketcham, "James Madison and Religion," 177.

establishment, ecclesiastical hierarchy, courtly influence, and every other manifestation of privileged and therefore easily and inevitably corruptible power."[15]

Madison's opposition to religious establishment and conviction regarding the proper relationship of church and state did not mean that he was hostile to religion. He argued that "freedom of religion enhanced both its intrinsic vitality and its contribution to the common weal," and that separation of church and state would benefit both society and religion. [16] Madison concluded from his understanding of Lockean philosophy that religious freedom was an inalienable right that supported republican liberty and the ability of citizens to choose to follow their own religious convictions eliminated points of contention and strengthened society as a whole.[17] Madison rejected the notion of "toleration" as followed in Virginia. His experiences in the Piedmont and his education at The College of New Jersey made him view the term as a slippery concept that could be altered at the whim of those who wielded power and as a hindrance to evangelical work. To Madison ministry was a high calling, one he nearly undertook, and "nothing was more absurd, unwise, and unjust than the spectacle of a moribund Anglican establishment using civil power to imprison 'well-meaning men' who sought no privilege other than to preach their faith to those who would listen." Madison's exposure to colonial environments where matters of religion were secondary caused him to re-evaluate conditions in his home colony, while instructions from Witherspoon to "go out and save souls" gave the work of the Baptists significance. [18]

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[15] Mark Noll, *The College of New Jersey and the Republic, 1768-1822: The Search for a Christian Enligtenment in the Era of Samuel Stanhope Smith* (The College of New Jersey: The College of New Jersey University Press, 1989), 32; Ketcham, *James Madison*, 38.
[16] Ketcham, *James Madison*, 167.
[17] Ketcham, "James Madison and Religion," 189.
[18] Ketcham, *James Madison*, 58.

Madison's education under Witherspoon at The College of New Jersey was a combination of the secular and the spiritual. Although Witherspoon's theology, philosophy, and political theory were not original, he did have an opportunity to disseminate it across the American colonies to a greater effect than any other educator of his time. He was actively engaged in education and politics, making one a perfect laboratory for the other, and building The College of New Jersey into a center for patriotic thought and action in the 1770s.[19] The number of Witherspoon's students who rose to political prominence is more than impressive. Five of the fifty-five delegates to the Constitutional Convention were The College of New Jersey graduates, and in total, nearly one hundred of his former students served in some capacity of leadership in the new federal government. Witherspoon's influence on American public life prompted one author to name him "probably the most influential teacher in the entire history of American education."[20]

It is important to remember that Madison and his classmates did not only study Moral Philosophy under Witherspoon, but they also learned scripture in his Divinity classes and heard his expositions in Sunday sermons. Witherspoon's The College of New Jersey created a harmony of three elements, Protestant Christianity, revolutionary republicanism, and Scottish Common Sense philosophy. Mark Noll asserts that although he taught an "amalgam of republican, Enlightenment, and Christian values" in his new curriculum, "religious considerations were always central to the outworking of republican theory." [21] Witherspoon emphasized Common Sense philosophy as the foundation of all knowledge, and replaced the

[19] Nichols, 166.
[20] Jeffry Hays Morrison, "John Witherspoon and 'The Public Interest of Religion'," *The Journal of Church and State*, Vol. 44, No. 3 (Summer, 1999): 553.
[21] Noll, 5-6, 8-10.

idealistic Calvinism present when he arrived with a theology dependent on reason and dedicated to public service.[22]

Witherspoon taught a particular type of Christianity that resulted first in an inward conversion and then exhibited itself through outward behavior. He focused less on divisive doctrinal differences and more on "universal Christian practice" that resulted in virtuous living.[23] In the sermon "The Dominion of Providence over the Passions of Men," he emphasized the need for all religious sects to work together to oppose vice and immorality. He expressed his acceptance of other expressions of the Christian faith by stating, "Perhaps there are few surer marks of the reality of religion than when a man feels himself more joined in spirit to a true holy person of a different denomination, than to an irregular liver of his own."[24] His conviction was that the civil magistrate should lead by example and encourage piety in their constituents through his own action and public religious observance.[25]

Witherspoon's teaching also imparted to Madison the Calvinist understanding of the total depravity of man, although in a modified version. According to Witherspoon's early lectures in moral philosophy, he believed that human nature provides evidence that people have an innate ability to make good moral choices. Noll claims that "Witherspoon set aside the Augustinian distrust in human nature," and embraced the view that original sin did not hamper man's ability to reason and decide to do good.[26] In Scotland, Witherspoon had used this doctrine to oppose the power of the synods over individual Presbyterian congregations. This opinion reflected in

[22] Ibid., 36, 40.
[23] Morrison, 562.
[24] John Witherspoon, "The Dominion of Providence over the Passions of Men," 40-41.
[25] Nichols, 172-173.
[26] Noll, 41, 43.

Madison's reluctance to give too much political power to any one group, which formed the basis for the separation of powers in the United States Constitution.[27]

Witherspoon clearly stated the ideas on religious and civil liberty that most influenced Madison in "The Dominion of Providence." Although the sermon dates from after Madison's years of attendance, the ideas contained in it were those that Madison heard during his years at The College of New Jersey. Witherspoon stated his position on the importance of religious liberty when he said, "There is not a single instance in history in which civil liberty was lost, and religious liberty preserved entire."[28] For Witherspoon, the question of religious liberty took primacy because liberty, virtue, and religion existed in a unique relationship. Jeffry Morrison states Witherspoon's view of religion republicanism as, "no republic without liberty, no liberty without virtue, and no virtue without religion."[29] The primary goal was to guarantee freedom of religious practice to all religious denominations. Separation was important, but it only served to facilitate religious liberty.[30]

Witherspoon taught that democracy, in the Aristotelian sense, was a negative; representative republicanism, when served by virtuous citizens, was preferable to any other form of government. This provides another motivation for religious liberty and the removal of the establishment. In a society with an established religion, even in a republican government, rule by a virtuous few could be corrupted by pressure from clerical interests. Religious diversity would guarantee diversity of interests and ensure a tendency toward virtue in governmental leaders.[31] Witherspoon's ideas and teaching on government and toleration seem to derive

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[27] Swanson, 78; Ketcham, *James Madison*, 38.
[28] Swanson, 84-85.
[29] Morrison, 565.
[30] Nichols, 173.
[31] Ketcham, *James Madison*, 42-43.

directly from Locke. His published *Lectures on Moral Philosophy* spring from Lockean social contract theory and the *Letter Concerning Toleration*.[32] Witherspoon's adoption of Lockean principles is a natural progression. Presbyterian historian T. J. McNeill stated that Reformed Calvinist principles are grounded in the natural law tradition because natural law "is not earthly but divine in origin, engraved by God on all men's hearts."[33] Ketcham summarizes the impact that the combined influence of spiritual and secular made on Madison's political and religious views:

> From the Christian tradition, he inherited a sense of the prime importance of conscience, a strict personal morality, an understanding of human dignity as well as depravity, and a conviction that vital religion could contribute importantly to the general welfare. From Locke, he learned that to be fully human, men had to be free, and that to be free, they had in some way to take part in their government.[34]

As a member of the House of Delegates in 1784, Madison found the opportunity to continue to utilize the principles learned at The College of New Jersey while serving on the Committee for Religion. In the spring of 1784, members of the legislature seemed ready to act on matters of religion. Petitions began to flow into Richmond, many in favor of a general tax to support religious institutions, some requesting full religious liberty. Widespread support for a general establishment took Madison by surprise, as he supposed that Article XVI of the Declaration of Rights and continued suspension of church taxes from 1777 had put an end to the Establishment.[35] The first petition to reach the floor of the House came from "sundry inhabitants of the County of Warwick." It stated, "[T]hat in the present neglected state of religion and morality, they conceive a general assessment would greatly contribute to restore and propagate

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[32] Nichols, 167.
[33] T. J. McNeill, "Natural Law in the Teaching of the Reformers," *Journal of Religion*, XXVI (1946): 182.
[34] Ketcham, *James Madison*, 50.
[35] Ibid., 162; Swanson, 139-140.

the holy Christian religion; and praying that an Act may pass for an assessment upon all tithables for the support of religion."[36] Opposing petitions followed in the ensuing weeks, including a Presbyterian petition signed by Madison's The College of New Jersey schoolfellow, John Blair Smith, President of Hampden-Sydney College, which called for "an end to any civil interference in the affairs of any religious sect, including the use of the poor tax levies by the Episcopal vestries."[37]

The House made its first move toward a general assessment in support of religion on May 27, when it referred the Warwick County petition to the Committee of the Whole House for consideration. General assessment for the support of religion was not an unknown concept in the eighteenth century, other colonial and state governments maintained a plural establishment supported by taxation with little disruption to the fabric of society. Lance Banning asserts, "In the eighteenth century, almost no one doubted that good conduct rested on religion, and a general assessment that would free a citizen to designate which church would get his taxes seemed to many a fair and liberal way to secure the morality without which no republic could endure."[38] The delegates postponed further action on the measure until the General Assembly reconvened in the fall.

In mid-October 1784, the House of Delegates met in Richmond to conduct the business of the Commonwealth. The subject of religion and the proper relationship between government and religious institutions was the primary concern of the fall legislative session as more petitions continued to arrive in favor of a general assessment for religion. Henry, one of the most powerful politicians in Virginia, stood firmly in favor of a general establishment, as did Richard

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[36] *Journal of the House of Delegates*, May 15, 1784, 9.
[37] Rutland, *Papers of Madison*, Vol. 8, 262.
[38] Banning, "James Madison and the Crisis of Republican Convictions," 116.

Henry Lee.[39] Initially, Madison was unconcerned regarding any assessment scheme. Following Henry's election to the governorship and removal from the House of Delegates, "a circumstance very inauspicious to his offspring," Madison was certain that the legislation would die in committee without causing a significant amount of debate. However, overwhelming numbers of petitions continued to arrive on the House floor and by December 3, the *Bill for Establishing a Provision for Teachers of the Christian Religion* was read a second time and committed to the House as a Committee of the Whole for consideration. Madison realized that passage of this legislation would result in a relationship between church and state that he and Jefferson had opposed for over a decade.[40] The House moved that the bill "be published as hand-bills, and twelve copies thereof delivered to each member of the General Assembly, to be distributed in their respective Counties, and that the people thereof be requested to signify their opinion respecting the adoption of such a Bill."[41] The delegates postponed any additional action on the measure until the spring 1785 session.

As disseminated to the public, the bill argued, "the general diffusion of Christian knowledge hath a natural tendency to correct the morals of men, restrain their vices and preserve the peace of society," and as such required men "who may be…enabled to devote their time and attention to the duty of instructing such citizens." It proposed that the legislature, without giving prominence to any denomination over another, impose a "tax on the property within [the] Commonwealth" for "the support of Christian teachers." The bill outlined the manner in which the assessments were to be collected and how the funds were to be distributed to each religious

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[39] Richard Henry Lee to James Madison, Nov. 26, 1784 in Rutland, *Papers of Madison*, Vol. 8, 149-152; for petitions and legislative measures on the bill see *Journal of the House of Delegates*, (Oct 1784), 9, 13, 16, 17, 25, 26, 29, 46, 49, 51.

[40] Banning, "James Madison and the Crisis of Republican Convictions," 115-116; James Madison to James Monroe, November 27, 1784 in Rutland, *Papers of Madison*, Vol. 8, 156-159.

[41] *Journal of the House of Delegates*, 1784, 79.

society. The publication not only contained the text of the proposed legislation, it also informed the public as to the votes of the individual members on the bill as proposed.[42]

The assessment debates provide the first full expression of Madison's ideas on separation of church and state. Two outlines of speeches survived among his papers and provide evidence of his concerns regarding the relationship between civil and spiritual authority. Madison's chief concern with the general assessment scheme was that it would give government the power to set parameters on Christian faith, something he viewed as a regression to the old church-state relationship of the previous centuries.[43] Reflected in Madison's outlines is his concern for liberty rather than morality. He argued, as Jefferson did in his proposed legislation in 1779, that civil government had no jurisdiction in religious matters. In his plans for debate, Madison questioned who would decide the definition of "Christianity" or what texts would be considered canonical. He noted that the true question was not whether religion is necessary, but are establishments necessary for religion. Madison argued that men naturally tend toward religious expression, but religious establishments corrupt true religion. Like Jefferson, Madison referenced historical examples from primitive Christianity, the Reformation, and past experiences of dissenters from establishments. He argued that any assessment constituted an establishment, and historically, establishments were detrimental to liberty and religion. Madison pointed to the Virginia Declaration of Rights as a guarantee of religious liberty and asserted that good laws would create good citizens. He also addressed the growing problem of emigration from Virginia to western lands. The new territories of Tennessee, Kentucky, Ohio, and Indiana provided open land, some granted to veterans for service in the War of Independence, and a promise of complete religious

[42] *Bill Establishing a Provision for Teachers of the Christian Religion.*
[43] Swanson, 141-143; Mantiply, 31.

freedom. Tax revenues and agricultural productivity lost to this outflow placed Virginia in a precarious financial position. [44]

During the 1785 General Assembly, Madison emerged as the strongest leader in the House of Delegates. Henry sat in the governor's chair, unable to actively participate in the debate, and Richard Henry Lee, another powerful advocate of general assessment, served in Congress.[45] Due to some skillful political manipulation, Madison and his colleagues had nearly a year to gather their forces and influence greater opposition to the Bill for Establishing a Provision for Teachers of the Christian Religion.[46] By June, he had formed his arguments into the textual form of his *Memorial and Remonstrance Against Religious Assessments*, which Mason had printed as broadsides and distributed throughout Virginia. The ideas contained in Madison's work made his legislative debate points known to the public and prompted further discussion among the citizens of the Commonwealth and "[a]s Baptists, Presbyterians, and Methodists learned more about the bill, they began to see its dangers and oppose it."[47] Madison addressed various segments of Virginia society in his *Memorial and Remonstrance*, and drew from several sources when forming his arguments. His work "attempted to arouse the intellects and feeling of…evangelicals and skeptics, Baptist ministers as well as the enlightened members of the vestries, all who shared or could be taught to share his own abiding love of freedom."[48] The ideas contained in the document are a combination of political, philosophical, and theological principles based upon Madison's Presbyterian education, his experiences in government, and his work on the Virginia Declaration of Rights.

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[44]Rutland, *Papers of Madison*, Vol. 8, 195-9. For further study on emigration from Virginia and its effects on the Commonwealth see David Hackett Fischer and James Kelly, *Bound Away: Virginia and the Westward Movement* (Charlottesville, VA: University of Virginia Press, 2000).
[45] Banning, "James Madison and the Crisis of Republican Convictions," 124.
[46] Ketcham, *James Madison*, 163.
[47] Swanson, 145.
[48] Banning, "James Madison and the Crisis of Republican Convictions," 118.

The *Memorial and Remonstrance* represents Madison's perception of the foundational ideas of American liberty and government using religious freedom as a point of reference to define the source and proper exercise of freedom and power. Many of the arguments against religious assessments mirrored points from previous legislative measures. He used language from Article XVI of the Declaration of Rights to establish claims to natural rights, and he borrowed ideas found in Jefferson's failed Bill Establishing Religious Freedom to provide logical arguments against any legal connection between church and state. Since both of the previous documents relied heavily on Locke, especially his *Letter Concerning Toleration*, it is natural to find similarities in the *Memorial and Remonstrance*. At the heart of Locke's theory of natural rights, lay aspects of Protestant theology that acknowledged the sovereignty of God over men and man's duty to God, ideas that Madison gained under the tutelage of Witherspoon at The College of New Jersey. Madison used the language of Article XVI to re-emphasize that religious worship is the duty of man, but is subject only to reason, not coercion. He argued that religion is an "unalienable right" because it is grounded in individual conviction and not "the dictates of other men and because "[i]t is the duty of every man to render to the Creator such homage and such only as he believes to be acceptable to him."[49] Following Locke's assertion, Madison wrote that man is subject to God first and civil society second, placing matters of religion, as man's duty to God, outside the realm of society and government.

Madison further argued that all divisions of government are "but the creatures and vicegerents" of civil society and as such the power of any legislative body is "both derivative and limited" by other branches of government and by the people. He echoed Lockean thought and assertions from earlier debate when he claimed,

[49] *Memorial and Remonstrance*, Rutland, *Papers of Madison*, Vol. 8, 299.

> The preservation of a free Government requires not merely, that the metes and bounds which separate each department of power be invariably maintained; but more especially that neither of them be suffered to overleap the great Barrier which defends the rights of the people. The Rulers who are guilty of such encroachments, exceed the commission from which they derive their authority, and are Tyrants. The People who submit to it are governed by laws made neither by themselves nor by an authority derived from them, and are slaves.[50]

Madison used this claim to summon up recollections of British usurpation of authority before the American Revolution declaring that it is the "first duty of Citizens" to take action at the first hint that liberty was being threatened. He reminded Virginians that patriotic citizens did not wait for England to consolidate their power before they acted, and cautioned them not to forget the lesson. Madison argued that any government that could "establish Christianity, in exclusion of all other Religions" could also establish any denomination they chose; and any government that could enact taxes for the support of an establishment could force citizens to conform to only those sects recognized as established.[51]

Madison's next argument turned again to the text of Article XVI and the principles of Locke and Christian theology. He asserted that if the proposition is true that all men are equally free and independent under nature, then when they enter civil society they retain equality of natural rights. He maintained that the Declaration of Rights already guaranteed "equal title to the free exercise of Religion according to the dictates of Conscience," and that while Christian denominations enjoyed the freedom to believe and worship as they chose, to deny a non-Christian the same rights would be an abuse of their natural rights.[52] Madison wrote, "If this freedom be abused, it is an offense against God, not against man," as a violation of the

[50] Ibid., 299-300.
[51] Ibid., 300.
[52] Ibid.

providence of God to shape the mind of man.[53] He also took offense at provisions in the Bill that provided exemptions for "Quakers and Menonists" as sects that did not support regular ministers, while every other member of society contributed to religious establishments. He asked if "their Religions [were] to be endowed above all others with extraordinary privilege by which proselytes may be enticed from all others." Madison questioned whether such exclusions translated into true equality under the law.[54]

The arguments against general assessment then take a less philosophical turn for Madison, again echoing the preamble in Jefferson's 1779 bill and Locke's *Letter on Toleration*. He underscored the problems inherent in making any civil authority the judge of religious veracity, and asserted that the general assessment bill would provide government officials an opportunity to use religion as "an engine of Civil policy." He continued with the claim that since religion "both existed and flourished" without support, and at times in direct opposition, to human laws, support from the government was not only unnecessary, it was contradictory to the prosperity of religious belief. Madison continued with the argument that ecclesiastical establishments produced negative effects on both religious institutions and the government. He used the example of history to show that fifteen centuries of established Christian religions had produced "more or less in all places, pride and indolence in the Clergy, ignorance and servility in the laity, in both, superstition, bigotry and persecution." Madison remarked that in the places and times where religious leaders depended on voluntary contributions for support, Christianity "appeared in its greatest lustre."[55] Madison then asked how individuals could reason that legal establishments of religion were necessary to civil government if matters of faith lay outside its

[53] Ibid.
[54] Ibid., 300-1.
[55] Ibid., 301.

jurisdiction. He contended that legal connections between ecclesiastical entities and temporal authority historically resulted either in dominance of religious institutions or support of tyrants. Leaders found ready accomplices in established clergy to satisfy nefarious goals, and Madison insisted that just governments did not need those connections. He claimed that "in no instance have they been seen the guardians of the liberties of the people." Madison clearly expressed his Lockean views on the role of government when he wrote, "Government will be best supported by protecting every Citizen in the enjoyment of his Religion with the same equal hand which protects his person and his property; by neither invading the equal rights of any Sect, nor suffering any Sect to invade those of another."[56]

Madison addressed concerns regarding the alarming population shifts in Virginia, and the social and economic problems caused by it, in portions of his *Memorial and Remonstrance*. He noted that the proposed general assessment was a "departure from the generous policy, which, offering Asylum to the persecuted and oppressed of every Nation and Religion, promised a luster to our country, and an accession to the number of its citizens." He argued that the bill would discourage future immigration into Virginia for fear of persecution by a religious establishment. Recognized religious inequalities might appear benign, but immigrants from areas that suffered under tyrannical regimes would see the potential to move toward stronger measures as a threat. Madison also directed attention to the likelihood that the Bill would encourage Virginians to leave the Commonwealth. He noted, "The allurements presented by other situations are every day thinning their number. To superadd a fresh motive to emigration by revoking the liberty which they now enjoy, would be the same species of folly which has dishonored and depopulated

[56] Ibid., 302.

flourishing kingdoms."[57] In 1785, Virginia was in economic crisis. An initial economic boom following the Revolution allowed merchants to extend more credit to tobacco planters, extending their debt. By the time of Madison's *Memorial*, tobacco prices were falling, taxes were rising, and the once wealthy Virginia elite were consistently unable to meet their obligations. In 1784, the Virginia legislature voted to delay tax collections, and cut the amounts due in half for the next year in order to guarantee some revenue. When the tobacco market plunged, Virginia lawmakers realized that they would need to delay tax collections further. Madison's warnings regarding the threats to Virginia's population, and therefore her source of revenue, struck at a sensitive political and economic topic.[58]

Madison's subsequent arguments against a general assessment deal with the possibility of further societal disruptions in the Commonwealth. He recognized the "moderation and harmony" that existed in Virginia between religious societies and expressed his fear that the Bill would create discord among the people. It was evident that "equal and compleat [sic] liberty" destroyed any threat to civil society by forestalling any jealousy that might appear between sects if one took precedence over another.[59] Madison addressed the Christian community with a pointed argument regarding the Bill's negative influence on evangelism. He noted that true Christians sought first to spread "the light of Christianity [but] the Bill with an ignoble and unchristian timidity would circumscribe it with a wall of defense against the encroachments of error."[60] The tensions between religious groups and the lack of evangelistic opportunities created by the Bill would "slacken the bands of Society" in Virginia. Madison asked if the risk

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[57] Ibid.
[58] Buckley, "James Madison and the Crisis of Republican Convictions," 153-155.
[59] *Memorial and Remonstrance,* Rutland, *Papers of Madison* , Vol. 8, 302-3.
[60] Ibid., 303.

of these consequences was worth passage of a questionable piece of legislation.[61] He appealed to the people of the Commonwealth to make their opinions known to the General Assembly, and expressed confidence that the people would decide in favor of liberty.

The final paragraph of the *Memorial and Remonstrance* presented a logical argument against general assessment and any form of establishment as a violation of natural rights and Virginia law. Madison considered whether the guarantee of "free exercise of …Religion according to the dictates of conscience" found in the Declaration of Rights came from nature or government. He argued that if it originated in nature, it was on par with every other right claimed by the citizens of the Commonwealth; however, if that right emanated from the "Will of the Legislature" then no citizen possessed any guaranteed rights. In reference to the general assessment question, Madison wrote:

> Either we must say, that they may control the freedom of the press, may abolish Trial by Jury, may swallow up the Executive and Judiciary Powers fo the State; nay that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary Assembly or, we must say, that they have no authority to enact into law the Bill under consideration.[62]

He reaffirmed that the legislature held no authority to curb any rights, and closed with a prayer that "the Supreme Lawgiver of the Universe" would show the legislators their error and guide their future efforts. In addressing the source of liberty, Madison used the competing social contract theories of Hobbes and Locke to illuminate the inherent dangers of submitting one point of liberty to the government while attempting to guard others. A citizenry so recently removed from a war fought over those principles would have considered carefully whether they were willing to allow any government, even a republican one, any degree of latitude.

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[61] Ibid.
[62] Ibid., 304.

During the summer and into the fall, Madison corresponded with other Virginia leaders regarding the general assessment bill and the conflicts that were sure to arise in the October session. In a letter to James Monroe, who was serving in Congress in New York, Madison discussed the prevailing attitude of the people to the proposed legislation and expressed confidence that "the people of the middle and back Counties" would strongly oppose it. He recorded, "They do not scruple to declare it an alarming usurpation on their fundamental rights," and knew the people would use their power of petition to claim their rights under Article XVI of the Declaration of Rights.[63] Madison expressed in a letter to Edmund Pendleton his intention to widely distribute the *Memorial and Remonstrance*, but requested that his authorship remain hidden from the general public.[64] Privately he claimed authorship when he enclosed a copy in a coded letter to Jefferson who was serving in Paris. He reported that opposition to the bill increased among the people of the state, especially among Presbyterian clergy. He wrote that their motivation for opposition was either "a fear of their laity or a jealously of the Episcopalians." Madison confessed to Jefferson that he was "far from being sorry" of the "mutual hatred" between the two sects, because a "coalition between them could alone endanger our religious rights." He suspected that there was some possibility of a reconciliation between the competing denominations, which would shift the trend of opinion toward a general establishment. Madison included an expression of doubt that he would have any opportunity to re-introduce Jefferson's 1779 revision of laws to the fall session of the legislature, which contained measures that would forestall any future debate on government interference in religious matters.[65]

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[63] James Madison to James Monroe, June 21, 1785, Rutland, *Papers of Madison*, Vol. 8, 306.
[64] James Madison to Edmund Pendleton, July 26, 1785, Ibid., 327-329.
[65] James Madison to Thomas Jefferson, August 20, 1785, Ibid., 344-347.

A variety of important issues lay before the Virginia General Assembly in the fall of 1785. On October 24, there were enough members present to proceed with government business and within a week, Madison presented 117 bills from Jefferson's former revision of laws for consideration by the House.[66] Among these proposals was an initiative regarding the institution of slavery and the eventual emancipation of all enslaved people in the Commonwealth. An unattached petition to separate Kentucky from Virginia as a sovereign state also claimed the attention of legislators. Although hotly debated, the question of emancipation of slaves failed to pass the House, while they debated and reached a decision that Kentucky should gain statehood late in the session. One of the most important issues discussed in the session concerned the proper relationship between government and religion. Printed copies of the General Assessment Bill and the *Memorial and Remonstrance* had circulated throughout Virginia during the summer, and the people seemed eager to express their opinions to the legislature. Between late October and early December over sixty petitions and memorials arrived on the floor of the House of Delegates regarding the proposed *Bill Establishing a Provision for the Teachers of the Christian Religion*. Only seven of the documents expressed approval for the bill, finding it "founded in a pious regard for the advancement of Christianity on principles of equal justice," and "tending to promote the great interests of religion."[67] Most petitions articulated objections to the idea, calling it "contrary to equal rights," "detrimental to the interests of religion," or "repugnant to good policy, public justice, and the principles of religious freedom."[68]

As the people continued to advise the delegates on where they stood on the idea of general assessment, the House continued to move through the revision of laws. In a letter

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[66] *Journal of the House of Delegates*, Oct. 1785, 10-11.
[67] Ibid., 4, 34.
[68] Ibid., 4, 21.

summarizing the legislative session, Madison informed Jefferson that the House devoted three days per week to the task of revising the code. He recorded that "we went on slowly but successfully, till we arrived at the bill concerning crimes and punishments," when "adversaries of the code exerted their whole force" to stop any further action.[69] In a letter to George Washington, Madison criticized members of the House for wasting time arguing whether they could accomplish the revision in total before the end of the session when their time would have been better spent "forwarding the work." Madison realized that the House would never work through the entire code during what was left of the fall session, especially if the members prolonged debate on every issue. He told Washington that he was "content…with passing a few more of the important bills," which included one bill that had fair prospects considering the new political environment in Virginia.[70]

Madison's letter to Jefferson reported that "[t]he steps taken throughout the Country to defeat the Genl. Assessment, had produced all the effect that could have been wished." The legislative record is quiet on the subject in the fall of 1785, except for the numerous petitions and memorials that loaded the clerk's table and curtailed any hope of forwarding it. In mid-December, Madison recognized that he must take advantage of favorable political momentum to introduce the bill regarding religious liberty before his opponents gained more strength. On December 14 a motion was made and a resolution carried that further consideration on the revised code be postponed until the next legislative session with the exception of four provisions. The next day the House resolved itself into a Committee of the Whole to consider the resolutions, one of which was the Bill for Establishing Religious Freedom. An immediate amendment and a request for a report the next day delayed further discussion, but on December

[69] James Madison to Thomas Jefferson, January 22, 1785, Rutland, *Papers of Madison*, Vol. 8, 473.
[70] James Madison to George Washington, December 9, 1785, Ibid., 439.

16, the House rejected a motion to strike the preamble and insert the wording from Article XVI from the Declaration of Rights. On December 17, the House passed the bill virtually unchanged from Jefferson's original by an overwhelming margin. The legislation then titled "An Act for Establishing Religious Freedom" moved to the Senate for consideration.[71]

Madison pushed Jefferson's bill through the House in only four days, but the Senate stalled action on the measure for nearly a month. The idea of complete religious liberty and the absence of any form of establishment was difficult for the more conservative members of the upper house to consider. They objected to the wording of the preamble and on December 29 requested that the language be replaced with Article XVI, the same proposition the House rejected earlier. The House denied the motion and returned the bill to the Senate for further consideration. In his letter to Jefferson, Madison called objections by the Senate "frivolous," and the struggle to keep or replace the preamble became a battle of political wills.[72] A cooperative meeting on January 12 between representatives of the House and Senate, in which they discussed amendments to the bill resulted in the House sending up the preamble again "with one or two verbal alterations."[73] On January 16, the House reconsidered Senate changes to their proposals, but "as they did not affect the substance, although they somewhat defaced the composition" the bill with the Senate amendments passed the House. The changes shortened Jefferson's original text, and made it slightly more conservative. Madison was not concerned about the alterations in the language, and realized that passing the bill was better than running risk of defeat due to the fact that it was "late in the Session and the House [was] growing thin." Following the January 19 signing of the bill, Madison expressed his satisfaction at its passage. He wrote, "I flatter myself

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[71] *Journal of the House of Delegates, 1785*, 91-94.
[72] James Madison to Thomas Jefferson, Rutland, *Papers of Madison*, Vol. 8, 474; Buckley, *Church and State in Revolutionary Virginia*, 161-163.
[73] James Madison to Thomas Jefferson, Rutland, *Papers of Madison*, Vol. 8, 474.

[we] have in this country extinguished forever the ambitions hope of making laws for the human mind." [74]

When the Virginia Act for Establishing Religious Freedom became law in January 1786, the Commonwealth became the first civil government in the history of the world to incorporate the complete separation of religion and government into written legal code. Both Jefferson and Madison considered this particular contribution as one of the crowning accomplishments of their careers and one of their most important contributions to American liberty. Madison would utilize his experiences with the revision of laws in the Virginia legislature as he moved back into national politics at the Constitutional Convention. Many of the laws and statutes passed by the House of Delegates in the period between the American Revolution and the drafting of the United States Constitution would translate directly into that document and become the foundation for the federal system of government. The devotion to liberty over any other consideration exemplified by Jefferson and Madison in the long struggle for religious liberty provides a pattern for modern lawmakers to follow.

[74] Ibid.

Conclusion:

In spite of their best efforts, the repeated petitions of dissenters to the legislature did little to alter their position within Virginia society. Until political and social structures began to break down, they were little more than a nuisance to the ruling elite and establishment clergy. Although evidence shows that Madison and Jefferson were sympathetic to the cause of religious liberty, they were powerless to act until the conditions were right. With the advent of tensions between the colonies and Great Britain, the need for unity and the cry for liberty transformed the social and political climate of Virginia. Most religious dissenters, though religious conservatives, became political liberals in order to tear down long standing hierarchical structures that prevented them from enjoying full liberty of thought and expression. When questions of parliamentary authority challenged the mother country on matters of taxation, the same issue created a atmosphere of anxiety regarding matters of religion and presented dissenters with an opportunity to gain some ground in their drive for liberty. The first shots at Lexington and Concord signaled a shift in politics and government in Virginia. The need for unity among all citizens provided the opportunity to fundamentally transform the relationship between church and state in incremental ways. Madison himself presented the first genuine threat against the establishment with his original amendment to Article XVI of the Declaration of Rights, while petitions from citizens of many backgrounds supplied some measure of public support for the effort. The language of the article as accepted by the General Assembly, though not as innovative as Madison would have liked, represented the revolutionary nature of the times. Though the structures of the establishment remained intact, another framework built on religious liberty was rising to take its place.

Jefferson's ideas contained in his original draft for the Statue for Establishing Religious Freedom were the next logical step in building a government based on full liberty. His firm convictions regarding rights, granted by God, and guaranteed by the nature of man as a special creation made the statute a clear statement of the relationship of church and government and its role in guaranteeing liberty. For Jefferson, the most important freedom was freedom of conscience, the ability of man to think and reason for himself, without control from any outside influence. Liberty was preeminent in Jefferson's philosophy, before any other consideration including religion. His liberal views on freedom gained Jefferson unquestioning support from the religious community, while they brought criticism from members of the Virginia elite. Jefferson realized the inherent dangers in recognizing freedom of religion as a foundational precept, secularization of society was a very real threat, but he accepted the risk in the interests of liberty with an assurance that man's reason would curtail any real breach of the social contract. Jefferson's philosophy was not religiously neutral, nor was he hostile to religion. He understood every religion to have a common basis in morality that he believed would contribute to the maintenance of a virtuous citizenry. Religion was a private matter to Jefferson, a matter between a man and his God. When he did speak or write of his views, he expressed his belief that primitive Christianity was the "true religion," and that orthodoxy was merely a form pressed on men by other men as a form of control. Just as Jefferson himself was not religiously neutral, neither is his statute. He penned it in a culture of religious faith, and its precepts have become the American civil religion, but it is a secular faith grounded in Christian theology.

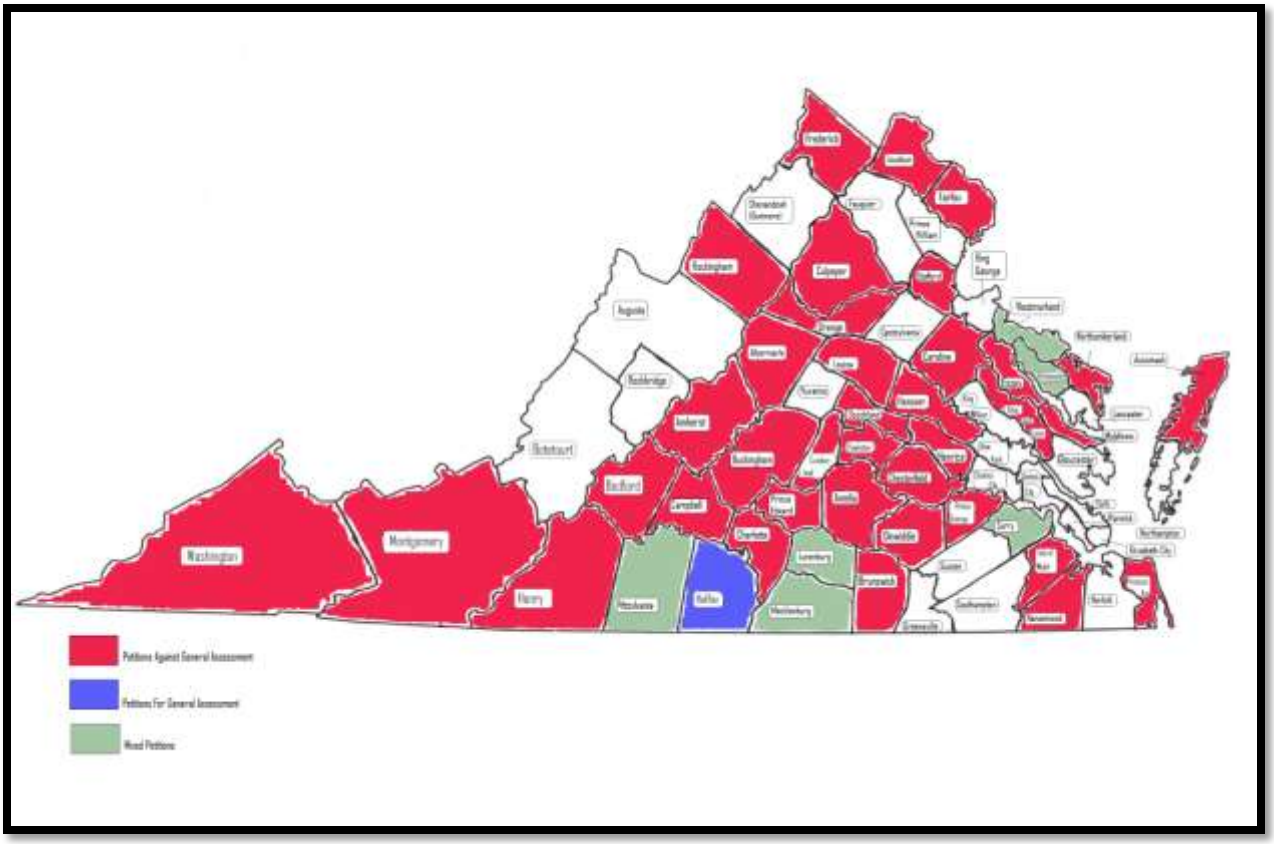
Madison re-emerged on the Virginia political scene at precisely the right moment. The dissenters and liberal politicians needed social, political, and economic conditions to come together in such a way that disestablishment and complete religious liberty would be achievable,

and those circumstances existed in the mid-1780s. Madison's arguments in the *Memorial and Remonstrance* present the very fundamentals of American liberty using religion as a point of reference. Madison reminded the people of Virginia that they needed to decide where their rights originated. If their freedoms emanated from God, they were unalterable; if they came from government, there was no assurance of any right. An essence of Reformed Calvinism permeated the Lockean arguments, an appeal to fear of tyranny sent thoughts back to the recent war, and reminders of economic woes reminded Virginians how important the issue was on many levels. As is evidenced by the overwhelming number of petitions against the general assessment scheme, the people of the Commonwealth chose liberty over any possibility of tyranny.

Without Jefferson and Madison, the struggle begun by the dissenters in the 1760s would not have been won. Without the dissenters, Jefferson and Madison would have lacked the necessary context, rhetoric, and passion to effect change. The forces joined in a crystallizing moment of American history that laid the foundation for the modern concept of separation of church and state and the foundation of an American civil religion based on morality and public virtue. That Jefferson's statute and the subsequent Constitution established secularism by disestablishing religion is unarguable, but the system put in place by Jefferson and Madison allow virtue and corruption to balance one another so that zealots on neither side ever gain a true and lasting advantage. The American civil religion as established by Jefferson was not totally secularist, theistic, or deistic. Rather it was "a complex of ideas, values, and symbols related to and dependent on a transcendent reality we call God. This civil religion interpreted the historical experience of the American people, validated their republican political arrangements, and shaped

the political culture that united the citizens of the new republic."[1] Understanding this brings the necessary relationship between government and religion into focus. It is symbiotic, a delicate balancing act where each is dependent on the other to both nourish and provide a check on growth. Neither entity can be too strong or too weak; they must exist alongside one another as equals, but they must never combine, to do so would risk a loss of balance and a loss of liberty.

[1] Buckely, "Political Theology," 97.



Virginia Counties in 1785

62 Petitions arrived in the House of Delegates regarding General Assessment between October and December 1785. This is a geographic breakdown of their points of origin.

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