

LIBERTY UNIVERSITY
COLLEGE OF ARTS & SCIENCES

**Patrick Henry and John Jay:
True Patriots and Advocates for Civil and Religious Liberty**

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by

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Abstract

Patrick Henry and John Jay had a significant impact in the founding of the United States of America as two of the principal and most influential Founders. They were also among the most public Christians of all the Founding Fathers. Their dedication in their fight for civic and religious freedom as a means to maintaining liberty was well-known. Despite these similarities, they opposed each other on most every major issue. Each envisioned different governments in which to obtain liberty and to keep the American republic. This thesis seeks to explore the differences and similarities between Henry, as a leader of the Anti-Federalists, and Jay, as a leader of the Federalists, in order to highlight some of the major issues throughout the founding period given their close religious similarity when American evangelicalism was in its infancy.

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Chapter One

Introduction and Historiography

Introduction

As two of the most influential of all the Founding Fathers, Patrick Henry and John Jay's contributions to the founding of the United States of America were substantial. They were Christian men who cared deeply about their God, their families, and their country, known for their public support of Christianity and their fight for civic and religious freedom as a means to maintain liberty and keep the American republic. Their religious beliefs influenced every area of their lives, including their political lives, as can be seen in their writings, speeches, and legislation. They are in a different category when it comes to the Founding Fathers and religion. For many of the Founders, their personal religious beliefs were not clear, but this is not the case with Henry and Jay. Both were committed orthodox Christians who publically displayed their Christianity. Despite their similarities, they had opposing views as to the form of republican government that would keep America's hard-won liberty. In the end, they agreed the nation was morally in decline after the American Revolution and worked towards making America a virtuous nation. The purpose of this thesis is to compare Henry, who became a staunch Anti-Federalist, and Jay, who became just as dedicated to the Federalist side, in order to highlight the opposing views of some of the major issues during the Continental Congresses, treaty debates, and arguments over the pros and cons between the Articles of Confederation and the Constitution.

The Founding Era is a historically significant topic today. America is currently divided over many similar issues as during the time of Henry and Jay. Slowly, Americans' liberties are being stolen. Britain, through their policies, encroached upon the liberties of the American

colonists. Later, Henry warned that if the delegates ratified the Constitution that one day Americans' freedoms would be taken away. Second, there is a disregard for the Constitution today. Henry warned that a time would come when this Constitution would be discarded just as they had done to the Articles of Confederation. Third, all across America there is concern regarding the loss of morals in America—that America has strayed from God and His Word. Henry and Jay both feared that with the decline of virtue after the Revolutionary War, a loss of liberty would follow and eventually America would not be able to keep her republic. With the similarities between today and at the Founding, it is beneficial to go back to examine some of the warnings and concerns through the thinking and views of these two Founders. Much can be learned from their wisdom and foresight.

To begin to understand the Founding Era, both sides of the debates need to be discussed. Sometimes, there is a tendency to focus on the side of the Federalists, those that favored ratification of the new Constitution, as they won the debate and that is the Constitution that we now have in America. Often, the views of the Anti-Federalists, those who opposed ratification of the new Constitution, are glossed over or outright ignored when teaching or discussing American history. The same can be said regarding the short-lived Articles of Confederation, America's first constitution, which are commonly presented as weak and ineffective with no discussion of the pluses of the Articles and the weaknesses of the Constitution. Both sides presented valid concerns and criticisms, especially during the ratification debates, which are still very relevant issues that will stimulate discussions about the Constitution and the government we have today and the nation we have become.

Chapter one covers the historiography of Henry and Jay. Their family backgrounds, youth, education, and religion all influenced their political views and are considered in chapter

two. Chapter three goes back to the beginning of the Founding Era when Henry and Jay first had their differences. Issues after the American Revolution and some of their differences regarding the Constitution are explored in chapter four. In chapter five, Henry and Jay are troubled regarding the decline of virtue in the nation. Some of their concerns and what they did to try to help remedy this are discussed.

Contributions

Henry and Jay's contributions to the United States of America are significant. Henry was best known for his fiery oratory that helped to persuade and encourage Americans in their fight for liberty. He was in the Virginia House of Burgesses; Commander in Chief of the Virginia army for a short time; helped to draft Virginia's first constitution and Declaration of Rights; attended the First and Second Continental Congresses; and served as the first governor of Virginia for three terms from 1776-1779, and then again for two more terms from 1784-1786. As governor of the largest and richest state, Henry worked closely with General Washington during the Revolutionary War. He never held a national office, though he had been offered several positions during his career, which he turned down. Even after opposing the Constitution, once it was ratified, President George Washington (unsuccessfully) continued to offer him positions in his administration. Obviously, Washington still thought highly of Henry.

Jay held more high-level government appointments than all but a few of the Founders.¹ He was in the New York Provincial Congress. He was the primary author of the first New York Constitution (1777) that was used as a model, at least in part, in the writing of the U. S. Constitution. He served as the first chief justice of New York's Supreme Court and as the second governor of New York. He attended the First and Second Continental Congresses, where as

¹ David L. Holmes, *The Faiths of the Founding Fathers* (Oxford: Oxford University Press, 2006), 154.

president of the Second Continental Congress, he worked closely with General George Washington during the Revolutionary War. During the war, Jay became the country's first head of counterintelligence. Congress sent Jay to Spain as an ambassador to attempt to obtain aid for the war effort. Along with Benjamin Franklin and John Adams, he negotiated the Treaty of Paris with Britain that ended the Revolutionary War (1783). He served as the influential Secretary for Foreign Affairs.² President Washington appointed him as the first Chief Justice of the Supreme Court of the United States and then sent him as an envoy to England to try to avoid another possible war. The result was Jay's Treaty (1794). He became a founding member and the first president of the New York Society for Promoting the Manumission of Slaves (1785).³ In retirement, he served as the first Vice-President and second President of the American Bible Society.⁴

Lack of Primary Sources

Biographers of both Henry and Jay have complained of a lack of primary sources. In the centuries since Henry's death, he, more than any other Founding Father, has been portrayed as a bit of an enigma. He has been held up as a type of folk-hero legend by some. William Wirt, Henry's first biographer, did much to contribute to Henry's hero status and to keep that image alive. Others have portrayed him as a not-so-well-educated backwoodsman. Thomas Jefferson's negative remarks helped to instill this stereotype of Henry. It was to the benefit of Jefferson and others who opposed Henry to portray him in this way. And still others, such as Judge Spencer

² John Jay and Sarah Livingston Jay, *Selected Letters of John Jay and Sarah Livingston Jay: Correspondence by or to the First Chief Justice of the United States and His Wife*, eds. Landa M. Freeman, Louise V. North, and Janet M. Wedge (Jefferson, NC: McFarland & Company, Inc., 2005), 1.

³ "John Jay, Anti-Slavery, and the New-York Manumission Society: Editorial Note," accessed November 11, 2021, <https://wwwFOUNDERS.archives.gov>.

⁴ Jay and Jay, *Selected Letters of John Jay and Sarah Livingston Jay*, 1; Walter Stahr, *John Jay: Founding Father* (New York: Diversion Books, 2012), xii.

Roane, thought of Henry as an educated, well-read, and talented man—even a genius. In a large part, Henry could be blamed for the mystery surrounding him and his portrayals as legend/myth and the misconceptions of him because he left so few personal papers behind for posterity. He does not seem to have had much of a sense of the important part he played in the founding of our nation or a concern to leave behind personal papers for the part he played in history. In comparison, George Washington’s writings filled thirty-nine volumes and Thomas Jefferson’s fifty to sixty volumes, whereas Henry’s writings filled only one volume.⁵ Thus, much of what is known about Henry has been reconstructed from the memories of his peers, both those who agreed with him, and those who did not. And, unfortunately for Henry, his main political enemies “not only outlived him by several decades but also possessed in abundance that keen historical sense that Henry so obviously lacked.”⁶

Despite Henry’s lack of letter writing and unrecorded speeches, there is no dispute that Henry played an enormously important part in America’s founding. As M. E. Bradford commented, “Patrick Henry *made* a revolution, though he did not write about one.”⁷ Because there was a secretary at the First Continental Congress (1774) and one at the Virginia Ratifying Convention (1788) who recorded the speeches and debates, we have Henry’s thoughts on the Revolution, liberty, and the government that he favored to keep our liberties.⁸ Henry took the floor to speak eighteen of the twenty-three days that the Ratifying Convention met. His speeches

⁵ Bernard Mayo, “The Enigma of Patrick Henry,” *The Virginia Quarterly Review* 35, no. 2 (Spring 1959): 178.

⁶ Richard R. Beeman, “The Democratic Faith of Patrick Henry,” *The Virginia Magazine of History and Biography* 95, no. 3 (1987): 301-302.

⁷ M. E. Bradford, “According to their Genius: Politics and the Example of Patrick Henry,” in *A Better Guide than Reason: Federalists & Anti-Federalists* (1979; repr., New Brunswick, NJ: Transaction Publishers, 1994), 97.

⁸ *Ibid.*, 99-100.

at the Convention took up almost one quarter of the 666 pages.⁹ So, despite not having an abundance of primary sources from Henry, we do know his views.

Jay was one of the most influential Founders, but many people do not know a lot, if anything, about him and his contributions to America. One reason his papers are not as abundant as other Founding Fathers' are that he had instructed his sons to burn many of his papers after his death.¹⁰ Also, his papers were separated, and for a long time, Jay's family denied scholars access to his still extant private papers making it difficult for biographers and scholars.¹¹ Nonetheless, there are plenty of existing official documents he wrote, speeches he gave, written correspondence, and five essays in the *Federalist Papers* by Jay to help discern his thoughts.

Historiography

Before getting into the similarities and differences between Henry and Jay, the historiography will be presented on how historians throughout the years have portrayed the two. After the Revolutionary War and into the early 1800s, Americans gave the men associated with the Founding a romanticized and nationalistic interpretation. In order to keep the young nation united in support of the new government, Americans thought it would help to show the founding of America in a patriotic and advantageous light. And, in order to help instill in Americans the

⁹ John Eidsmoe, *Christianity and the Constitution: The Faith of our Founding Fathers* (1987; repr., Grand Rapids: Baker Books, 2001), 305.

¹⁰ Jonathan Den Hartog, "John Jay and the 'Great Plan of Providence,'" in *Forgotten Founders on Religion and Public Life*, eds. Daniel L. Dreisbach, Mark D. Hall, and Jeffrey H. Morrison (Notre Dame: University of Notre Dame Press, 2009), 149.

¹¹ Ibid; Frank Monaghan, *John Jay: Defender of Liberty* (1832; repr., New York: AMS Press, Inc., 1972), x.

virtues needed to keep our Republic, history gave us American heroes, who were model citizens.¹²

William Wirt (1772-1834), the first biographer of Patrick Henry, followed in this vein with his biography, *Sketches of the Life and Character of Patrick Henry* (1817). Wirt, a practicing attorney, did not know Henry personally, but in the summer of 1805 (for reasons he does not specify), conceived of the idea to write a biography of him. Once he made his decision, he wasted no time in sending out letters to Henry's peers that were still alive. As Wirt began to receive the memories of Henry, several of the statements from the correspondents were "diametrically opposed to each other" and sometimes they contradicted "the public prints, or the records of the state." This was understandable since it had been some time since many of these events had occurred, and people remember events differently.¹³

After ten plus years of collecting information, receiving correspondence back from his inquiries, and interviewing people, Wirt had a lot of information, but it was not much more than "anecdotes and reminiscences with virtually no primary sources except a few letters."¹⁴ Wirt struggled with how to portray Henry. For one, he said in his preface that he was "...entirely conscious that the materials, which he has been able to collect, are scanty and meager..."¹⁵ Also, Wirt received some information about Henry that was not complementary. Most well-known were some of the negative comments made by Thomas Jefferson. In the end, Wirt decided to

¹²Nancy Greenwood, "Historiographical Essay Review: The American Revolution," paper written for HIST 501, Liberty University, Fall 2018; Caroline Hoefflerle, *The Essential Historiography Reader* (Upper Saddle River, NJ: Prentice Hall, 2011), 44

¹³ William Wirt, *Sketches of the Life and Character of Patrick Henry*, 15th ed. (New York: Derby & Jackson, 1860), v, xii.

¹⁴ Mayo, "The Enigma of Patrick Henry," 178.

¹⁵ Wirt, *Sketches of the Life and Character of Patrick Henry*, xv.

include the high praise in his biography but not the ugly, unless it was “to refute or to soften them down in innocuousness.”¹⁶ He portrayed Henry as a virtuous folk-hero type of figure “who symbolized America’s aspirations for freedom and her frontier democracy,”¹⁷ and as a man who would be an inspiration to Americans, especially the young men. In the dedication of his book, he said it was “Written for the Young Men of Virginia.”¹⁸

To counter Henry’s “bright” image portrayed by Wirt, attacks and criticisms of Henry arose that evolved into an “anti-Henry ‘dark’ image.”¹⁹ Each image was “equally false in its imbalance and equally offensive.”²⁰ The villain to those that thought highly of Henry was Thomas Jefferson. From 1805-1816, Jefferson wrote nine manuscript letters, which at times highly praised Henry, but he also said some very “ugly” things about him too.²¹ Jefferson praised Henry’s oratory skill, saying of him, “Call it oratory or what you please, but I never heard any thing like it. He had more command over the passions than any man I ever knew; I heard all the celebrated orators of the National Assembly of France, but there was none equal to Patrick Henry.”²² But then there were the not-so-complementary comments written by Jefferson that upset many who admired Henry. Following are two excerpts from one of Jefferson’s letters that historians often quote as examples of the derogatory comments about Henry. Jefferson said:

¹⁶ Mayo, “The Enigma of Patrick Henry,” 183.

¹⁷ *Ibid.*, 180.

¹⁸ Wirt, *Sketches of the Life and Character of Patrick Henry*, dedication page.

¹⁹ Mayo, “The Enigma of Patrick Henry,” 182.

²⁰ Mary Wells Ashworth, Review of *Myths and Men: Patrick Henry, George Washington and Thomas Jefferson*, by Bernard Mayo, *Southern Historical Association* 26 (1960): 105-106.

²¹ Mayo, “The Enigma of Patrick Henry,” 183.

²² Kevin J. Hayes, *The Mind of a Patriot: Patrick Henry and the World of Ideas* (Charlottesville: University of Virginia Press, 2008), 5.

...occasions became very rare for any display of mr Henry's eloquence. in ordinary business he was a very inefficient member. he could not draw a bill on the most simple subject which would bear legal criticism, or even the ordinary criticism which looks to correctness of stile & idea: for indeed there was no accuracy of idea in his head. his imagination was copious, poetical, sublime; but vague also. he said the strongest things in the finest language, but without logic, without arrangement, desultorily. this appeared eminently & in a mortifying degree in the first session of the Congress...²³

Jefferson also wrote this of Henry:

...he turned his views to the law, for the acquisition or practice of which however he was too lazy. whenever the courts were closed for the winter season, he would make up a party of poor hunters of his neighborhood, would go off with them to the piney woods of Fluvanna, & pass weeks in hunting deer, of which he was passionately fond, sleeping under a tent, before a fire, wearing the same shirt the whole time, & covering all the dirt of his dress with a hunting shirt.²⁴

These private letters of Jefferson's with the derogatory comments were in part published, and this is what started the battle over Henry's reputation.²⁵

Kevin J. Hayes discussed the relationship between the two men in the first chapter of his book *The Mind of a Patriot* (2008). Hayes did not think that Jefferson's animosity was as great as Henry's defenders have made it out to be. None the less, there were many who defended Henry's reputation as portrayed in the Jefferson letters, as well as Wirt's representation of Henry "as a child of nature, someone whose knowledge came through intuition, not through extensive study."²⁶

Henry's grandson, William Wirt Henry (1831-1900), not to be confused with William Wirt, was one of the first to respond to the printed Jefferson letters. He wrote a letter to the editor

²³ Thomas Jefferson's Notes on Patrick Henry, [Before 12 April 1812], National Archives, Founders Online, <https://www.efounders.archives.gov>.

²⁴ Ibid.

²⁵ Mayo, "The Enigma of Patrick Henry," 184.

²⁶ Hayes, *The Mind of a Patriot*, 1, 4.

of the *Richmond Dispatch* that was printed in the November 22, 1867 paper in defense of his grandfather.

Jay was also a popular figure during this same time period, after the Revolutionary War and into the early to mid-1800s. In 1787 and 1788, Jay was more admired than either Hamilton or Madison. John Adams, when speaking of the early Federalists, said that Jay was “of more importance than any of the rest, indeed of almost as much weight as all the rest.”²⁷

Jay’s son, William, wrote the first serious biography of his father, *The Life of John Jay: With Selections from his Correspondence and Miscellaneous Papers* (1833), in two volumes that attempted to present the major facts of Jay’s career. Jay biographer, Frank Monaghan, said of the biography that “He rigorously suppressed harmless and interesting details, picturing his father as having lived in an atmosphere which no mortal could long have breathed... a great American, who was frequently witty and sometimes ribald, became the cold personification of austere virtue. Jay was virtuous and dignified, yet the juice of life ran strong through him.”²⁸ Historian, Jonathan Den Hartog, said of the biography that William “did his father’s reputation no favors when he produced a long and meandering ‘life and letters’ biography after Jay’s death.”²⁹ Peter Augustus, William’s older brother, “strongly criticized” his brother’s treatment of their father. William said he knew of the faults of the book, and that “the only merit to which I expect to be entitled is industry in collecting materials and patience and honest in putting them together.”³⁰

²⁷ Monaghan, *John Jay*, 284.

²⁸ *Ibid.*, ix-x.

²⁹ Den Hartog, “John Jay and the ‘Great Plan of Providence,’” 149.

³⁰ Monaghan, *John Jay*, x.

The biography does have a lot of Jay's important correspondence and gives personal anecdotes and quotes.

Shortly before, during, and after the American Civil War, supporters of both the North and the South used Henry and his beliefs to support their sides.³¹ North Carolinian Hinton Rowan Helper (1829-1909) was an anti-slavery advocate who wrote the book *The Impending Crisis of the South: How to Meet It* (1857). In his chapter "Southern Testimony against Slavery," he quotes a letter written by Henry to abolitionist Robert Pleasants dated January 18, 1773 that speaks out against slavery. But, says historian Thomas Kidd, "...Helper exaggerated the extent of Henry's revulsion, which never took hold in action against slavery."³²

Confederate apologists also used Henry "to highlight what they saw as the deficiencies of the Constitution and its disempowerment of the states."³³ In his book, *A Constitutional View of the Late War Between the States*, 2 vol. (1868-70), the former vice president of the Confederate States, Alexander H. Stephens (1812-1883), spoke admiringly of Henry and his good sense to oppose the Constitution.³⁴

Confederate, Patrick Henry Fontaine, a descendant of Henry's, wrote an article in *DeBow's Review* (1870), a pro-south magazine that was the most widely circulated southern periodical by the start of the Civil War.³⁵ In this article, Fontaine argued that Henry had been right about the Constitution. His predictions regarding the dangers of the Constitution had all

³¹ Thomas S. Kidd, *Patrick Henry: First among Patriots* (New York: Basic Books, 2011), 247.

³² *Ibid.*, 248.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ "Debow's Review," University of Virginia, accessed December 7, 2020, <https://www.c.iath.virginia.edu>.

come true. Fontaine said that Henry opposed the Constitution because he saw it as a betrayal of the American Revolution.³⁶

On the other side were those that thought of Henry as a great patriot, but that he had lost his way when he opposed the Constitution.³⁷ Albert J. Beveridge (1862-1927) was a U.S. senator from Indiana. He became one of the leaders in the Progressive Movement of the early 1900s. After his political career, he became a historian.³⁸ In 1900, Beveridge remarked that just because Henry was sincere in his opposition to the Constitution, it did not make him right.³⁹

In the time period after the Civil War, Federalist historians arose who would be categorized in the Romantic or Nationalistic school of thought. George Bancroft (1800-1891), Francis Parkman (1823-1893), John Fiske (1842-1901), and John Bach McMaster (1852-1932) were historians in this group. These men, committed to keeping the Union together, had recently almost lost the South to secession. They tended to identify with the Federalists, like Jay, and idealized them and the Constitution – and even to some extent demonized the Anti-Federalists, like Henry.⁴⁰

Federalist historian, Richard Hildreth, in the middle of the 1800s, considered Washington, Hamilton, and Jay [all Federalists] to be a trio not to be matched. Hildreth and

³⁶ Kidd, *Patrick Henry*, 248-9.

³⁷ *Ibid.*

³⁸ “Albert Jeremiah Beveridge,” accessed December 7, 2020, <https://www.encyclopedia.com>.

³⁹ Kidd, *Patrick Henry*, 249.

⁴⁰ Mark Landis, *Recent Scholarship on the Origins of the U.S. Constitution: A Guide for Teachers of American History* (Hempstead, NY: Hofstra University, 1990), 18.

many of his contemporaries believed Jay was “one of the three granite pillars of America’s political greatness.”⁴¹

These Federalist historians portrayed the conflicts over the Constitution as relatively minor, and attributed the conflict to a small number of Anti-Federalists who went against the majority of Americans who wanted change, while the Anti-Federalists were either opportunists or too timid for change.⁴² The Federalists, on the other hand, they represented as brilliant men, who were totally unselfish and wanted nothing more “than to assure rule by the people and a guarantee of personal liberties.”⁴³ The Federalist historians’ rationalist conception of the Founders and the Constitution was that “ideas, theories, principles, and doctrines were the main sources of Framers’ decisions at Philadelphia.”⁴⁴ They downplayed the amount of actual differences between the two groups. The view of many Americans into the 1900s, and even by some groups in the 2000s, was still this view of the Founders as brilliant men who embodied democratic principles cheered on by the majority of Americans. The Founders were great men, but this was a romanticized version of what really happened at the Founding.

Moses Coit Tyler (1835-1900) enlarged the scope of historical research by his use of primary sources.⁴⁵ Tyler wrote a biography of Henry titled *Patrick Henry* (1887), in which he defended Henry “against all who had scoffed at his mental prowess and social graces, diminished his oratorical and legal fame, and blackened his character by calling him a detestable demagogue

⁴¹ Landis, *Recent Scholarship on the Origins of the U.S. Constitution*, 18.

⁴² *Ibid.*

⁴³ *Ibid.*, ix.

⁴⁴ *Ibid.*, 19.

⁴⁵ “Moses Coit Tyler: American Historian,” accessed December 4, 2020, <https://www.britannica.com>.

and political apostate.”⁴⁶ Since the time of Wirt, additional sources had become available.

Tyler’s biography, with his use of primary sources, did much to separate romance from fact.⁴⁷

In 1891, William Wirt Henry, a confederate veteran and lawyer, published “three glowingly commemorative volumes on his grandfather.”⁴⁸ This biography, titled *Patrick Henry: Life, Correspondence, and Speeches* (1891), was valuable for the new primary source material he had acquired through his father, John Henry, the youngest son of Patrick.⁴⁹ It is to date the best published collection of Henry’s papers available.⁵⁰

These volumes were followed by several popular Henry biographies “in the Wirtian tradition,”⁵¹ such as Elbridge S. Brooks’ (1846-1902) book *True Stories of Great Americans for Young Americans: Telling in Simple Language Suited to Boys and Girls, the Inspiring Stories of the lives of George Washington ...Patrick Henry ...* first published in 1897. This was followed by George Morgan’s (1854-1936) book *The True Patrick Henry* (1907). He wrote true biographies and histories for this new generation of young boys and girls.⁵² The last of these biographies was published in 1947, by Jacob Axelrad. They were popular at the time, and each had its merits, but they were inferior as biographies to Tyler’s.

Fifty-seven years after William Jay’s book, the next serious attempt at a Jay biography was written by George Pellew, a nephew of Jay’s grandson, titled *John Jay (American Statesman*

⁴⁶ Mayo, “The Enigma of Patrick Henry,” 185.

⁴⁷ Bernard Mayo, “Forest-Born Demosthenes,” *The Virginia Quarterly Review* 34, No. 1 (Winter 1958): 141.

⁴⁸ Mayo, “The Enigma of Patrick Henry,” 185.

⁴⁹ *Ibid.*

⁵⁰ Kidd, *Patrick Henry*, 249.

⁵¹ Mayo, “The Enigma of Patrick Henry,” 185.

⁵² Accessed November 30, 2020, <https://www.trinitybookservice.com>.

Series) published in 1890. It was criticized for being too short, and the author failed to adequately study Jay's private papers. Pellew largely based it on William Jay's biography, and some criticized that he too readily accepted William Jay's attitude. Pellew's biography was inspired by (and some of it had been dictated by) John Jay II.⁵³

Henry P. Johnston (1842-1923) edited in 1890-93 *The Correspondence and Public Papers of John Jay, 1745-1829, Four Volumes*. William Jay, Pellew, and Johnston all had access to Jay's private papers, yet Jay's family still refused access to anyone else.⁵⁴

After 1890 and into the early twentieth century, the view of Progressivism became popular.⁵⁵ Progressives had a more negative view of America. Having been influenced by "the political corruption, social chaos, and economic turmoil of the late nineteenth century," they wanted constitutional and economic reforms.⁵⁶ Progressive reformers had emerged in response to the growth of urban and industrial society where there was a rapid shift from local small-scale manufacturing to large-scale factory production and huge national corporations. Their goal was to strengthen the national government stressing collective responsibilities and duties. They believed the elite men at the head of the big factories and corporations threatened the freedom of others, such as the small farmer and industrial workers, to earn a living, and that the big companies were corrupting the politicians for their own profit.⁵⁷ When they wrote about the Constitution and the debates among the Founders, they thought more than constitutional issues were the motives. Many, having Marxist leanings, made it about class struggles, teaching "that

⁵³ Monaghan, *John Jay*, x.

⁵⁴ Ibid.

⁵⁵ Greenwood, *Historiographical Essay Review*; Hoefflerle, *The Essential Historiography Reader*, 114-115.

⁵⁶ Hoefflerle, *The Essential Historiography Reader*, 114-115.

⁵⁷ Accessed November 22, 2021, <https://www.britannica.com>.

behind the patriotic posturing of politicians often lurked ulterior motives and domestic struggles...”⁵⁸ They saw the Constitution as the result of class conflict during the Revolutionary Era. It represented “a counter-revolutionary triumph of an upper-class elite over the agrarian radical masses.”⁵⁹ The Progressive historians saw the Federalist historians as being naïve in their belief that the Framers were motivated “mainly by ideas of good government and proper political principles.”⁶⁰ They thought of the Framers as being materialists who were primarily motivated by their own economic interests.⁶¹

Charles Beard (1874-1948), led the Progressive school of thought. He was one of the first professionally trained historians. In his book *An Economic Interpretation of the Constitution of the United States* (1913), he was the first historian to challenge the motives of the Founders.⁶² He argued that the Founders who supported the new Constitution did so for economic reasons. They needed a stronger governing document than the Articles of Confederation in order for the affluent Founders to become richer through the taxes of ordinary citizens.⁶³

With Beard’s critique of the Constitution and its framers, the Anti-Federalists began to be seen in a more favorable light.⁶⁴ But even with Beard’s rehabilitation, the individual Anti-Federalists and their arguments still did not receive the attention they deserved. They often were

⁵⁸ John E. Selby, “Revolutionary America: The Historiography,” *Organization of American Historians Magazine of History* 8, no. 4 (Summer 1994): 6.

⁵⁹ Landis, *Recent Scholarship on the Origins of the U.S. Constitution*, 19.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Burton W. Folsom, “The Founders, the Constitution, and the Historians,” *FEE Foundation for Economic Education* (June 11, 2009) <https://fee.org>.

⁶³ Ibid.

⁶⁴ Herbert J. Storing, *What the Anti-Federalists Were For* (Chicago: The University of Chicago Press, 1981), 3.

portrayed as “simple-minded dupes incapable of resisting tyranny. Thus many of the patriots of the Revolution, men like ..., Patrick Henry ... were reduced to the unenviable position of being on the wrong side of history, with no defenders.”⁶⁵

Progressive historian Merrill Jensen (1905-1980) brought up the need to seriously study the thought of the Anti-Federalists and the possibility that there was a need for only modest changes in the Articles of Confederation and that the Constitution did stray from the principles of the Revolution.⁶⁶

Burton W. Folsom (b. 1947) stated that it was with the start of the Progressive Movement that Americans began to distrust the Founders. This was the first step in getting Americans to disregard the Constitution.⁶⁷ They brought in the idea of a living constitution. As we progressed with time, the Constitution also needed to change with the times—to evolve.

During the rise of the Progressives, Frank Monaghan (1904-1969) came out with a biography of Jay, titled *John Jay: Defender of Liberty* (1935).⁶⁸ This was the first time access to Jay material, without any restrictions, was allowed to someone outside of the family. Monaghan obtained access to the vast Iselin Collection of Jay materials, as well as access to nine other private collections belonging to descendants of Jay. Monaghan was also the first biographer to have access to seven other private and fifteen public collections with valuable materials on Jay.

⁶⁵ Michael J. Faber, *An Anti-Federalist Constitution: The Development of Dissent in the Ratification Debates* (Lawrence: University Press of Kansas, 2019), 8.

⁶⁶ Storing, *What the Anti-Federalists Were For*, 3-4.

⁶⁷ Folsom, “The Founders, the Constitution, and the Historians,” <https://fee.org>.

⁶⁸ Frank Monaghan, *John Jay: Defender of Liberty Against Kings & Peoples, Author of the Constitution & Governor of New York, President of the Continental Congress, Co-Author of the Federalist, Negotiator of the Peace of 1783 & the Jay Treaty of 1794, First Chief Justice of the United States* (1832; repr., New York: AMS Press, Inc., 1972), x.

In preparation for Jay's biography, he took five years to examine more than twenty-five thousand pages of manuscript materials, mostly unpublished.⁶⁹

In response to the Progressive historians' claim of class struggles in America, Consensus historiography followed in the postwar era of the 1950s, downplaying conflict. Instead, they emphasized shared American values of, for example, individual freedom. Americans' shared values were far more important than class struggles. Among the Consensus historians were Robert Brown and Forrest McDonald, who damaged Beard's thesis. They demonstrated "that the Federalist and Anti-Federalist coalitions had been roughly similar in terms of their economic holdings... [making] it very difficult to argue that the struggle over the Constitution involved class conflict."⁷⁰ Richard Hofstadter, Edmund Morgan, Daniel Boorstin, and Louis Hartz were also important Consensus historians who argued that "class conflict had never been important in American society."⁷¹

Though they generally adhered to the Consensus view, Douglass Adair, Cecelia Kenyon, and Martin Diamond led a third school in the 1950s. Unlike the Conflict and Consensus historians who agreed that "socio-economic forces had been the prime elements shaping the constitutional era," they instead said that "ideas rather than interests had, after all, been the dominant force at work in Philadelphia in 1787."⁷² Rather than socio-economic forces at play, Diamond suggested that the differences over the Constitution had involved two competing visions of American society. These two visions of the Founders, a small republic versus the extended republic, were not merely the private interests of the Framers, but genuine visions as to

⁶⁹ Monaghan, *John Jay*, x-xi.

⁷⁰ Landis, *Recent Scholarship on the Origins of the U.S. Constitution*, 8.

⁷¹ *Ibid.*, 9.

⁷² *Ibid.*, 10.

how to achieve the best form of government possible for America. Thus, their ideas, their theories, their political philosophy really had mattered and “the ideas of the Framers could not be written off as mere rationalizations for their economic interests.”⁷³

Kenyon (1923-1990) wrote shortly after the end of World War II when the country was ready for change. She critiqued Beard by giving a “careful analysis of the Anti-Federalist position.”⁷⁴ Kenyon’s critique was the first serious attempt at analyzing and evaluating the political thought of the Anti-Federalists.⁷⁵ Her work began a new realm of inquiry regarding the Revolutionary and Founding Eras, that of ideology.⁷⁶ In her most famous essay, “Men of Little Faith: The Anti-Federalists on the Nature of Representative Government,” she called the Anti-Federalists “men of little faith” because she said, “They lacked both the faith and the vision to extend their principles nation-wide.”⁷⁷ She did not think they grasped the bold national vision that the Federalists did.⁷⁸ Herbert J. Storing, in his book *What the Anti-Federalists Were For*, disagreed with Kenyon. He did not believe they failed “to see the opportunity for American nationhood that the Federalists seized so gloriously.”⁷⁹ Rather, it was that they could not join them, not due to a lack of will or courage, but based on reasons. This national opportunity, they

⁷³ Landis, *Recent Scholarship on the Origins of the U.S. Constitution*, 10, 21.

⁷⁴ Faber, *An Anti-Federalist Constitution*, 8.

⁷⁵ Ibid.

⁷⁶ Stanley Elkins and Eric McKittrick, “Originality Underestimated: The Political-Historical Writings of Cecelia Kenyon,” In *Men of Little Faith: Selected Writings of Cecelia Kenyon*, edited by Stanley Elkins, Eric McKittrick, and Leo Weinstein (Amherst and Boston: University of Massachusetts Press, 2002), 2.

⁷⁷ Cecelia Kenyon, “Men of Little Faith: The Anti-Federalists on the Nature of Representative Government,” In *Men of Little Faith: Selected Writings of Cecelia Kenyon*, edited by Stanley Elkins, Eric McKittrick, and Leo Weinstein (Amherst and Boston: University of Massachusetts Press, 2002), 61.

⁷⁸ Faber, *An Anti-Federalist Constitution*, 9.

⁷⁹ Storing, *What the Anti-Federalists Were For*, 6.

thought, was “profoundly problematical, that it could be neither grasped nor let alone without risking everything.”⁸⁰

Robert A. Rutland wrote *The Ordeal of the Constitution: The Antifederalists and the Ratification Struggle of 1787-1788* (1966). He presented the Anti-Federalists as lacking vision compared to the Federalists. As had Kenyon, he concluded “that the Anti-Federalists were leaderless, could not agree on a clear course of action, and most of all ‘never had an unlimited view of the Union.’”⁸¹

Stanley Elkins and Eric McKittrick, who put together the writings of Kenyon into one book, aligned with Kenyon and Rutland’s conclusions. They advanced the notion that the Federalists were “younger and more dynamic” while the Anti-Federalists were “older and more set in their ways.”⁸² Jackson Turner Main disagreed with them, as he said that all things considered, the Federalists were only about two years younger than the Anti-Federalists, so this could not have made any difference.⁸³

Also, in the 1950s was the next significant Henry biography. Robert D. Meade wrote *Patrick Henry: Patriot in the Making* (1957), his first of two volumes on Henry. This was followed by *Patrick Henry: Practical Revolutionary* in 1969. A total of approximately twenty-five years was spent researching for his two volumes on Henry, but still not many new sources were found. Meade wrote in his preface that since the time of William Wirt Henry’s biography “a mass of new data had been uncovered for historians...I would not assert that I have uncovered

⁸⁰ Storing, *What the Anti-Federalists Were For*, 6.

⁸¹ *Ibid.*

⁸² Faber, *An Anti-Federalist Constitution*, 9.

⁸³ *Ibid.*, 10.

a *trouvaille*, a major unpublished collection of Henry material. But I have found numerous batches of unpublished manuscripts which include Henry items.”⁸⁴ Historian Bernard Mayo said in a review, “For the first time we have an account of Henry’s ancestry, education, and formative years based on fact rather than fanciful supposition.”⁸⁵ But not all praised Meade’s book. Some historians criticized Meade for being too “Wirtian,” painting too bright a picture of Henry.⁸⁶ Dale E. Benson, in a 1970 review said, “Meade seems compelled to uphold the legend...”⁸⁷ There were others, though, who also painted a bright picture of Henry, such as John R. Alden in his book *The South in the Revolution, 1763-1789* published in 1957.

On the other side, Henry was portrayed as “dark” in historian Dumas Malone’s (1892-1986) six-volume biography *Jefferson and His Time* published between 1948-1981 and in Irving Brant’s (1885-1976) six-volume biography of James Madison published between 1941-1961.⁸⁸ This makes sense as both Jefferson and Madison often opposed Henry.

In the turbulent 1960s emerged the Neo-progressive school of which Jackson Turner Main was a leader. He reshaped and refined Beard’s views of the 1950s Progressive school of thought. In his 1961 book *The Antifederalists: Critics of the Constitution, 1781-1788*, he saw the division over the Constitution between the Federalists and the Anti-Federalists as breaking down

⁸⁴ Robert Douthat Meade, *Patrick Henry: Patriot in the Making* (Philadelphia and London: J. B. Lippincott Company, 1957), viii

⁸⁵ Mayo, “Forest-Born Demosthenes,” 142.

⁸⁶ Mayo, “The Enigma of Patrick Henry,” 185.

⁸⁷ Dale E. Benson, Review of *Patrick Henry: Practical Revolutionary*, by Robert Douthat Meade, *The William and Mary Quarterly* 27, no. 3 (July 1970): 497.

⁸⁸ Mayo, “The Enigma of Patrick Henry,” 185.

along class lines. He admired the Anti-Federalists and gave them a careful and in-depth analysis.”⁸⁹

In the mid- to late 1960s, the Republican Revision school of thought began, led by Bernard Bailyn, his student Gordon Wood, and historians J. G. A. Pocock and Lance Banning. They followed in the footsteps of Kenyon where they also focused on the ideology of the Founders. This group argued that classical republicanism “had had a far greater impact on American political thought than had John Locke.”⁹⁰ They began to look more closely at what the Founders, both Federalists and Anti-Federalists, said and the historical context in which they said it.⁹¹

In Banning’s (1942-2006) essay, "1787 and 1776: Patrick Henry, James Madison, the Constitution, and the Revolution," he focused on the Virginia Ratifying Convention, discussing the opinions of Henry (Anti-Federalist) and Madison (Federalist) and their views on what the Constitution should look like. Banning laments that, “History, regrettably, has been increasingly ungenerous to Henry...”⁹²

This reconsideration of the Anti-Federalists in the 1950s and 1960s prompted more research and analysis. Led by Steven Boyd, a group of historians arose who defended the Anti-

⁸⁹ Faber, *An Anti-Federalist Constitution*, 11.

⁹⁰ Landis, *Recent Scholarship on the Origins of the U.S. Constitution*, 12.

⁹¹ Christopher M. Duncan, *The Anti-Federalists and Early American Political Thought* (DeKalb: Northern Illinois University Press, 1995), 123.

⁹² Lance Banning, "1787 and 1776: Patrick Henry, James Madison, the Constitution, and the Revolution," in *Founding Visions: The Ideas, Individuals, and Intersections That Created America* (Lexington, KY: University Press of Kentucky, 2014), 146.

Federalists. They said the Anti-Federalists were not “unorganized, unsophisticated country rubes” but that they had something important to say.⁹³

Postmodernists appeared during “the social and political unrest of the 1960s and the Vietnam War era.”⁹⁴ Their approach was “toward bottom-up histories of the poor, the marginalized, the oppressed, and the silent.”⁹⁵ Historical interpretations that elevated the establishment when the call of the times was anti-establishmentarianism did not sit well with many in the 1960s and early 1970s. They brought in an interest in the social history of the past.

Influenced by the Civil Rights and Feminist Movements, the New Social historians found it ironic that with all the revolutionaries’ talk about liberty, blacks in America during the 1700s were still slaves, and women, for the most part, saw little change in their legal status or society’s attitude towards them after the Revolutionary War. With this focus, the Founding Fathers were more and more portrayed as affluent white men who were slaveholders.

There were still those in the 1960s and 1970s, though, who admired the Anti-Federalists and thought their ideas should be studied, such as Gordon Wood, who greatly added to the understanding of the Anti-Federalists’ views, though Wood had looked at the Anti-Federalists more sociologically than they saw themselves.⁹⁶

Herbert J. Storing’s book *The Complete Anti-Federalist* was published in 1981. He said, “There has been no sustained, comprehensive attempt to examine the thought, the principles, the argument of the Anti-Federalists, as they were understood by the Anti-Federalists themselves and by

⁹³ Faber, *An Anti-Federalist Constitution*, 12-13.

⁹⁴ Selby, “Revolutionary America: The Historiography,” 7.

⁹⁵ Gordon S. Wood, *The Purpose of the Past: Reflections on the Uses of History*: 2, cited in Hoefflerle, *The Essential Historiography Reader*, 282.

⁹⁶ Storing, *What the Anti-Federalists Were For*, 4.

the other men of that time.”⁹⁷ Storing’s aim in writing was to “try to proceed from inside Anti-Federal thought, seeing the questions as they saw them, following the arguments as they made them... with the idea that the Anti-Federalists may have something to teach.”⁹⁸ He was the first to make a serious attempt to explain what the Anti-Federalists were for, which is the title of his introduction. Storing lamented the way historians in the past and recently had treated the Anti-Federalists.⁹⁹

Others followed Storing, who also focused on the Anti-Federalists and their views. Michael Lienesch stands out as one who carefully examined the ideas and positions of the Anti-Federalists as a coherent political ideology.¹⁰⁰ Saul Cornell is also known for his research on the Anti-Federalists in his book *The Other Founders: Anti-Federalism & the Dissenting Tradition in America, 1788-1828* (1999).

As 1987 approached and the country prepared for the Bicentennial of the Constitution, the document Henry opposed, it would be “hard to avoid depicting Henry as one of history’s losers...”¹⁰¹ Richard R. Beeman wrote *Patrick Henry: A Biography* (1974). He addressed the Virginia Historical Society on October 15, 1986, where he said he felt that since the death of Henry, he has never “received the respect that most of his contemporaries would have expected him to enjoy.”¹⁰²

Another who commented on the approaching Bicentennial was M. E. Bradford. He, too, thought Henry would not receive the attention and true depiction of what he had contributed to

⁹⁷ Storing, *What the Anti-Federalists Were For*, 4.

⁹⁸ *Ibid.*

⁹⁹ Faber, *An Anti-Federalist Constitution*, 13.

¹⁰⁰ *Ibid.*, 15.

¹⁰¹ *Ibid.*, 302-3.

¹⁰² Beeman, "The Democratic Faith of Patrick Henry," 301.

America's founding. There would not always be honest interpretations. Bradford said that as much as they tried, the Bicentennial, in their dedication to the revolutionary forefathers, would become a partisan event.¹⁰³ He goes on to say regarding the Founders that "What they attempted and achieved embodied a political intention and a theory of the politically good. And no less than the New Left distortions of the People's Bicentennial Commission, the supposedly value-free and 'factual' accounts of our received historiography which stand behind the rites and ceremonies of our official and federally sponsored celebrations obscure that intent and theory."¹⁰⁴ He thought there had been something similar to a conspiracy of silence concerning Henry's political thought, "its ancient antecedents, and its obvious relevance to disruptions in American life today."¹⁰⁵ Bradford went on to say, scholars today, "most of them rationalists and neo-Federalists," benefitted from portraying Henry as "a simple-minded country politician turned demagogue, a Populist trimmer whose talents happened to serve his more far-sighted contemporaries when the Revolutionary crisis came."¹⁰⁶ They promoted Jefferson and Madison as the ones to read. Henry, felt Bradford, should have had a more prominent position in the Bicentennial celebrations and current history, and instead he had been replaced by politicians who represented the present dispensation of America, depriving the country of the political paradigm that should be debated at the Bicentennial.¹⁰⁷

¹⁰³ M. E. Bradford, "According to their Genius: Politics and the Example of Patrick Henry," *A Better Guide than Reason: Federalists & Anti-Federalists* (1979; repr., New Brunswick, NJ: Transaction Publishers, 1994), 97.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid., 107.

¹⁰⁶ Ibid.

¹⁰⁷ Bradford, "According to their Genius," 107-108.

After the Bicentennial celebrations of the 1980s, into the 1990s and 2000s, there have been many more biographies written about Henry from David A. McCants' *Patrick Henry, The Orator* (1990), to as recent as Jon Kukla's *Patrick Henry: Champion of Liberty* (2017). These historians did not have any new primary sources with which to work, and many of them continued in the "Wirtian" tradition. Thomas S. Kidd's *Patrick Henry: First among Patriots* (2011) did use some printed sources that helped to "supplement Henry's biography."¹⁰⁸

Thomas S. Kidd said in his book that in recent times conservative groups have venerated Henry's defense of American liberty.¹⁰⁹ The Tea Party movement was founded in 2009 in opposition to President Obama's enormous increases in domestic spending.¹¹⁰ In general, they opposed "excessive taxation and government intervention in the private sector while supporting stronger immigration controls."¹¹¹ The Tea Party group and others, though, unlike Henry, supported the Constitution as originally intended, believing it to give America the "best guarantees of our liberties."¹¹²

Kidd goes on to say that many Christian conservatives today see Henry as a defender of both Christian virtue and liberty.¹¹³ Often, homeschoolers see Henry "as one of their own, because he was tutored by his Christian family at home and yet achieved great heights in the public sphere."¹¹⁴

¹⁰⁸ Kevin J. Hayes, Review of *Patrick Henry: First among Patriots*, by Thomas S. Kidd, *The Virginia Magazine of History and Biography* 120, no. 4 (2012): 394.

¹⁰⁹ Kidd, *Patrick Henry*, 250.

¹¹⁰ Ibid.

¹¹¹ Michael Ray, "Tea Party Movement," *Encyclopedia Britannica*, August 4, 2021. <https://www.Britannica.com>.

¹¹² Kidd, *Patrick Henry*, 250.

¹¹³ Ibid.

¹¹⁴ Ibid., 250-251.

Christian conservatives who want to keep the image of America as a Christian nation admire Henry. He was one of the most committed Christians of the Founding Fathers and his political thought was based on his Christian principles.¹¹⁵

Christian conservatives (despite Jay's strong orthodox Christian stance) and others do not often mention Jay. After the last generation that knew Jay and was influenced by him died off, his reputation began to decline.¹¹⁶ Jay's name, which before had often been linked with that of Washington and Hamilton as part of a triumvirate of political greatness, was no longer mentioned. Some publications have even named John Marshall as the first Chief Justice of the Supreme Court rather than Jay. Historian, Claude H. Van Tyne wrote in 1927 on *The Opposing Diplomats of England and America* during the American Revolution, and he does not even mention Jay, who was an important foreign diplomat during and after the American Revolutionary War.¹¹⁷

Walter Stahr attempted to remedy the lack of knowledge regarding Jay with his 2017 biography *John Jay: Founding Father*. This was the first biography written about Jay since Frank Monaghan's biography in 1935.¹¹⁸ Stahr was filling the need for a complete work of the life of Jay. Stahr says, "There have been articles and theses on aspects of his life ... but no attempt to integrate these into a full life."¹¹⁹ It is easy to find a myriad of books on other Founding Fathers such as Washington, Jefferson, Adams, Madison, Franklin, and Hamilton, but

¹¹⁵ Kidd, *Patrick Henry*, 251.

¹¹⁶ Monaghan, *John Jay*, x-xi.

¹¹⁷ *Ibid.*, ix.

¹¹⁸ Terence Ball, "John Jay: Founding Father," *The Journal of American History* 93, no. 2 (09, 2006): 505.

¹¹⁹ Walter Stahr, *John Jay: Founding Father* (New York, NY: Diversion Books, 2012), xiv.

not so for Jay. Stahr said, “After these six men, however, no other American of the revolutionary generation contributed more than Jay.”¹²⁰ Despite all of Jay’s accomplishments, Stahr says today, “Jay is largely forgotten and sometimes misrepresented.”¹²¹ Throughout the book, he proves Jay deserves a place as one of the most important contributors of America’s founding generation. The purpose of his book, Stahr said, “is... to tell the story of Jay’s life to a new generation of Americans.”¹²² Stahr uses primary sources previously unavailable. Among primary sources used are business and private letters and correspondence from and to Jay, papers and diaries of other Founding Fathers, committee meeting minutes, manuscripts, censuses, speeches, and documents. Many secondary books and articles are used, such as Monaghan’s previous biography of Jay, as well as books and articles that deal more with one area of his life, such as serving as Chief Justice of the Supreme Court.

Jonathan Den Hartog thinks much more should be written about the strong connection between Jay’s orthodox Christian beliefs and his politics. In Monaghan’s biography (1935), he mentioned Jay’s religious and charitable works at the end of his life but neglected his religious beliefs. Stahr’s biography also offers little analysis of the influence of Christianity on Jay’s politics. Patricia Bonomi, in her writings of Jay such as her article “John Jay, Religion, and the State” (2000), attempted to connect Jay’s religion and his politics. She gives some initial thoughts, suggested he was an orthodox Christian, and that his religious beliefs did, to some extent, influence his politics, but she does not elaborate. David Holmes, in his book *The Faiths of the Founding Fathers* (2006), has a chapter on Jay, along with Samuel Adams and Elias

¹²⁰ Stahr, *John Jay*, 387.

¹²¹ *Ibid.*, xiii.

¹²² *Ibid.*, xiv.

Boudinot, as three orthodox Christians. In the chapter, he did a good job accessing Jay's faith, but he basically described his religious beliefs, making no attempt to connect his religious beliefs with his politics.¹²³ Den Hartog has written several articles trying to fill this gap connecting Jay's religious beliefs with his politics.

In conclusion, Henry is still somewhat of an enigma. From Henry's first biographer to his last, though more sources are available today than Wirt had in 1817, their number one complaint has been a lack of primary sources. Some took liberties and filled in the gaps, while others were more careful to stick to only the facts, and still other historians vilified Henry leaving us with an often not much clearer picture of Henry than what we first knew. Because we do not have any new primary sources, Kevin J. Hayes thinks that we do not need another biography of Henry. Instead, what is needed "is a thorough scholarly edition of Henry's letters, speeches, and other writings" together in one source.¹²⁴ There has not been an attempt to collect Henry's papers into one source since William Wirt Henry's *Patrick Henry: Life, Correspondence, and Speeches* in 1891. As for Jay, to this day, not as many people know about Jay as they do Henry. For such an influential Founding Father more should be written about him and his contributions to the United States of America. As Den Hartog mentioned, there is also a need for more writings connecting Jay's religious beliefs with his politics, as well as for Henry's.

¹²³ Den Hartog, "John Jay and the 'Great Plan of Providence,'" 149-150.

¹²⁴ Hayes, "Review of *Patrick Henry: First among Patriots*," 395.

Chapter Two

Family Background, Youth, Education, and Religious Liberty

It is beneficial to look at the families of Henry and Jay, as these are the forces that helped to shape their beliefs, influenced their political policies, and made them into the men they became. Their family background, youth, and education are considered, as well as their religious beliefs. Because their religion was such an integral part of their lives, it was also instrumental in shaping their politics.

Henry's Family Background

Henry had many family members, on both sides, who were educators, orators, statesmen and preachers.¹ His paternal grandfather was Patrick Alexander Henry of Scotland. The Henrys descended from the Normans who came over with William the Conqueror in 1066. Some Henrys settled in Scotland, like Patrick's family, and others in England.²

Alexander married Jean (or Jane) Robertson. The Robertson family descended from the Duncan's of Scotland. Jean's brother was the Rev. William Robertson whose son was Dr. William Robertson, a well-known and distinguished scholar, historian, and divine in Scotland who was said "to have had the blood of John Knox in his veins."³ His essay on "Chivalry" with the principles of honesty, generosity, courage, and loyalty impressed Henry.⁴

Patrick Alexander Henry and Jane Robertson Henry had five children, two sons and three daughters. The younger son was Henry's father, John Henry, who was born around 1704

¹ John Eidsmoe, *Christianity and the Constitution: The Faith of our Founding Fathers*, 5th ed. (Grand Rapids, MI: Baker Books, 2001), 298.

² William Wirt Henry, *Patrick Henry: Life, Correspondence and Speeches*, Vol. 1 (New York: Charles Scribner's Sons, 1891), 3-4.

³ Ibid.

⁴ Eidsmoe, *Christianity and the Constitution*, 298.

about twelve miles north of Aberdeen, Scotland. Of the three sisters, only one made it to adulthood. John and his older brother, Patrick, were instructed for a few years in a parish school, then both won scholarships to universities in Aberdeen, Scotland, where practically the entire curriculum was in Latin.⁵

Henry's uncle, Patrick, attended Marischal College from 1713 to 1718, where he earned the degree of Master of Arts, and was then ordained in the Episcopal Church of Scotland. Henry's father, John, attended King's College from 1720 to 1724, but did not receive a degree. Students not contemplating careers in the universities or the church sometimes would not pay the extra money to obtain a formal diploma and official Bachelor's degree, especially frugal Scots like John Henry.⁶

In his mid-twenties, John emigrated from Scotland to the colony of Virginia around 1727. He found work as a surveyor's assistant and lodged with John and Sarah Syme helping them to run their plantation. By ten years later, in April 1737, John had been named as a justice of the peace, a major in the militia, and a member of Hanover County court.⁷ He also filled the offices of county surveyor and presiding magistrate of the county of Hanover, and made it to the rank of colonel of his Virginia regiment. John convinced his brother Patrick to follow him to Virginia five years after he arrived and helped to get him a position as rector of St. George's parish, in Spottsylvania County, in April, 1733.⁸ Three years later, on June 11, 1736, Patrick was named

⁵ Jon Kukla, *Patrick Henry: Champion of Liberty* (New York: Simon and Schuster, 2017), 12.

⁶ Ibid.

⁷ Ibid.

⁸ Henry, *Patrick Henry*, 4, 7-8.

minister of St. Paul's Parish, Hanover County, where he remained its rector for forty years. At the same meeting, John took the oath of vestryman.⁹

John had a classical education and knew his Bible. His acquaintances described him as being "a man of plain but solid understanding, a zealous member of the Established Church, and warmly attached to the reigning family. He led a life of irreproachable integrity and exemplary piety, and won the full confidence of the community in which he lived."¹⁰

Henry's maternal grandfather, Isaac Winston, emigrated from Wales to the Colony of Virginia with his two brothers, William and James.¹¹ The Winston's were an honorable family who descended from King Alfred the Great.¹² Isaac and his first wife, whose identity has been lost, had a daughter named Sarah. Sarah was raised by Isaac's second wife, Mary Dabney. They lived in the County of Hanover, Virginia. Sarah had five half siblings. Many of her cousins and uncles were leaders in the community serving as the county's justices, sheriffs, and vestrymen.¹³ At seventeen, Sarah married the widower, Colonel John Syme. They, too, lived in Hanover County and had one son, John Syme, Jr. In 1731, Colonel Syme died. Sarah married John Henry at Studley Plantation on October 7, 1732. They had two sons and seven daughters (plus Sarah's son from her previous marriage). Patrick was the second son born to them on May 29, 1736.¹⁴

In the early 1700s, a lot of the ministers of the Established Church in Virginia, in both their preaching and their lives, were not faithful to the Bible. For one, they were far away from

⁹ Kukla, *Patrick Henry*, 12.

¹⁰ Henry, *Patrick Henry*, 4.

¹¹ Kukla, *Patrick Henry*, 11.

¹² Eidsmoe, *Christianity and the Constitution*, 298.

¹³ Kukla, *Patrick Henry*, 11.

¹⁴ Henry, *Patrick Henry*, 7.

the scrutiny of their diocesan, the Bishop of England, and for two, they often sought positions in the colony for materialistic motives. Not only did they not faithfully preach the gospel of Jesus Christ, but they did not want their parishioners to hear it from anyone else either. They made sure the laws required attendance at the Episcopal services and that penalties for attending the preaching of the Dissenters, were rigorously enforced.¹⁵ Dissenters were Protestants who did not conform to and/or differed with the Established Church.

Around the year 1740, there were four men in the county of Hanover who became convinced that the parish minister was not preaching the gospel. All four had been regular attenders, and unbeknownst to each other, on the same Sunday, they all decided to not attend church. It was not until all four were summoned before the magistrate to answer for their conduct that each learned of the other three like-minded men. All the men were fined. After this, they began to meet regularly in their homes instead of attending the established parish church. One of these men is believed to be Henry's maternal grandfather, Isaac Winston. If he was not one of the original four, he soon joined them.¹⁶ Documentation has been found that shows Isaac Winston on October 19, 1745 was indicted in the General Court and held by the Governor and Council. His crime was permitting the dissenting minister, Rev. John Roane, to preach at his house.¹⁷ It did not take long for the group to become too large to meet in private homes, so they built a church. From these men, the Presbyterian Church in the county of Hanover began, and there were soon Presbyterian churches all over the colony of Virginia.¹⁸

¹⁵ Henry, *Patrick Henry*, 11.

¹⁶ *Ibid.*, 11-12.

¹⁷ *Ibid.*, 12.

¹⁸ *Ibid.*

Sarah and at least one of her brothers followed their father's inclination towards evangelical doctrine and worship. In 1751, Sarah's brother, Isaac, Jr. declined election to the Anglican vestry of Henrico Parish. Sarah attended the services of the New Light evangelist Samuel Davies at his Pole Green meetinghouse preferring his sermons to that of her brother-in-law's sermons at St. Paul's Anglican Church.¹⁹ Henry's mother, Sarah, was described as a devoted Christian woman "of remarkable intellectual gifts, with an unusual command of language, and as happily uniting firmness with gentleness in the management of her family, before which she set an example of fervent piety."²⁰

Her brother William Winston was also said to have a command of language. Nathaniel Pope, in a letter to William Wirt recalls his father saying of William Winston "that he was the greatest orator whom he ever heard, Patrick Henry excepted."²¹ Pope goes on to tell an account of William Winston (Henry's uncle) who was a lieutenant of a company of men during the French and Indian War. The men were not clothed well, had no tents, were exposed to the inclement weather and rigors of war, and were ready to return home rather than continue to fight. Winston stood on a stump and "addressed them with such keenness of invective, and declaimed with such force of eloquence on liberty and patriotism, that when he concluded the general cry was, 'Let us march on; lead us against the enemy!'" and they were now willing, nay, anxious, to encounter all those difficulties and dangers, which, but a few moments before, had almost produced mutiny."²² It seems Henry was not the only orator in the family.

¹⁹ Kukla, *Patrick Henry*, 11.

²⁰ Henry, *Patrick Henry*, 6.

²¹ Ibid; Nathaniel Pope in a Letter to William Wirt quoted in William Wirt, *Sketches of the Life and Character of Patrick Henry*, 15th ed. (New York: Derby & Jackson, 1860), 21.

²² Henry, *Patrick Henry*, 6-7; Wirt, *Sketches of the Life and Character of Patrick Henry*, 21.

As to Henry's immediate family, he married Sarah Parks Shelton in 1754 when he was eighteen and she was sixteen. They had six children. He tried his hand at farming and as a shopkeeper and bartender, but was not very successful. His success came as an attorney, where he built a profitable law practice.²³ He obtained his law license in 1760. Sarah died in 1775, leaving Henry a widower with six children to care for. Two and a half years after her death, on October 9, 1777, Henry married Dorothea Spotswood Dandridge, nearly twenty years his junior. She was in her early twenties and he was forty-one.²⁴ They had eleven children. In total Henry had seventeen children and seventy-eight grandchildren.

Henry's Youth and Education

Patrick Henry was born at Studley, in Hanover County, on May 29, 1736 and named after his father's brother the Rev. Patrick Henry. His older brother, William, was named after his mother's brother. They also had seven sisters who were all said to be gifted. When Henry was still an infant, the family moved to another home still in Hanover County.²⁵

Unlike some accounts, Henry's youth was not thrown away in total idleness. His brother-in-law, Colonel Samuel Meredith left an account of Henry. In part, he said the following:

[Henry] was sent to a common English school until about the age of ten years, where he learned to read and write, and acquired some little knowledge of arithmetic. He never went to any other school, public or private, but remained with his father, who was his only tutor. With him he acquired a knowledge of the Latin language, and a smattering of the Greek. He became well acquainted with mathematics, of which he was very fond. At the age of fifteen he was well versed in both ancient and modern history...His disposition was very mild, benevolent, and humane. He was quiet, and inclined to be thoughtful, but fond of society. From his earliest days he was an attentive observer of everything of consequence that passed before him. Nothing escaped his attention. He was fond of

²³ Kukla, *Patrick Henry*, 37.

²⁴ Thomas S. Kidd, *Patrick Henry: First among Patriots* (New York: Basic Books, 2011), 138.

²⁵ Henry, *Patrick Henry*, 7-8.

reading, but indulged much in innocent amusements...He interested himself much in the happiness of others, particularly his sisters...He had a nice ear for music.”²⁶

Henry’s uncle assisted in Patrick’s education. Henry told his oldest grandson, Colonel Patrick Henry Fontaine that his uncle, the Rev. Patrick Henry, instructed him “not only in the catechism, but in the Greek and Latin classics,” and that he also taught him maxims of conduct: “To be true and just in all my dealings. To bear no malice nor hatred in my heart. To keep my hands from picking and stealing. Not to covet other men’s goods; but to learn and labor truly to get my own living, and to do my duty in that state of life unto which it shall please God to call me.”²⁷

An early companion of Henry’s said he enjoyed reading the *Life and Opinions of Tristram Shandy*. At fifteen he had read Virgil and Livy in the original. He made it a habit to read a translation of Livy every year.²⁸

From comments made by his early companions it is obvious that Henry also received “careful religious training...from his pious parents.”²⁹ Henry’s grandson said that “in addition to this it was his good fortune in his youth to come under the influence of a man of the highest order of genius and of the deepest piety.”³⁰ It was in the year 1747, when Henry was twelve years old, that the young Presbyterian minister by the name of Samuel Davies, a follower of John Knox, came to the county of Hanover to preach. He first obtained “from the Governor and Council the benefit of the toleration act, by which he was permitted to exercise his ministry

²⁶ Henry, *Patrick Henry*, 7-8.

²⁷ Moses Coit Tyler, *Patrick Henry* (1898; repr., New York: Chelsea House, 1980), 15.

²⁸ Henry, *Patrick Henry*, 10.

²⁹ *Ibid.*

³⁰ *Ibid.*, 10-11.

unmolested” in four Virginia counties, one of which was Hanover County where the Henry’s lived.³¹ The place where Davies preached in Hanover County was known as the Fork Church. Henry’s mother became a member of Davies’ church and attended regularly, bringing the young Henry with her. On their return ride home, Mrs. Henry would “make him give the text and a recapitulation of the discourse.”³² Henry’s grandson said, “She could have done her son no greater service.”³³ Even at this young age Henry is said to have “from the first showed a high appreciation of this preacher...”³⁴ Davies’ sermon titled “The Curse of Cowardice” that Henry heard when he was twelve years old was said to have influenced Henry for the rest of his life.³⁵ Henry sat under Davies’ ministry from the time he was twelve years old to twenty-three. Davies preached in the county of Hanover for eleven years, until he was called to the presidency of Princeton in 1759. He influenced Henry’s oratory delivery, patriotism, religious beliefs, and passion for religious liberty.

Davies’ contemporaries declared he was “‘the prince of American preachers,’ and second only as a pulpit orator to the great Whitefield.”³⁶ In William Wirt Henry’s book regarding Davies he said, “His manner of delivery as to pronunciation, gesture, and modulation of voice was a perfect model of the most moving and striking oratory...he seized the attention and commanded all the various passions of his audience, and imparted to the discourse a solemnity which could

³¹ Henry, *Patrick Henry*, 12-13.

³² *Ibid.*, 15.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ Eidsmoe, *Christianity and the Constitution*, 309.

³⁶ Henry, *Patrick Henry*, 13.

never be forgotten.”³⁷ Historian, Jon Kukla, said that when Henry “employed the impassioned oratorical style of Samuel Davies in defense of English liberties and Virginia traditions, the result was revolutionary.”³⁸

Davies was also a model of a true patriot. On July 20, 1755, Davies used his oratory gifts in a patriotic sermon he preached to his congregation that encouraged and cheered them up after the defeat at Braddock in 1755. His sermon so affected his congregants that after his discourse they formed the first volunteer company raised in Virginia.³⁹

Besides Davies’ excellent example of oratory and patriotism, Henry also “learned from him that robust system of theology which is known as Calvinism, and which has furnished to the world so many of her greatest characters—a system of which Froude writes: “It has been able to inspire and sustain the bravest efforts ever made by man to break the yoke of unjust authority...”⁴⁰

Jay’s Family Background

It was not until his retirement, and at the request of his children, that Jay finally had some leisure time to sit down and write what he knew of his ancestors. Jay thought it was important to know about one’s ancestors, but that in the end, once one gets to heaven, who one’s ancestors were was not what was important. Regarding one’s ancestors, he said the following:

When and where we were born, and who were our progenitors, are questions to which certain philosophers ascribe too little importance. It becomes us to be mindful that the great Creator has been pleased to make men social beings; that he established between them various relations, and among others, those which arise from consanguinity; and that to all these relations he has attached particular and corresponding duties. These relations

³⁷ Henry, *Patrick Henry*, 13-14.

³⁸ Kukla, *Patrick Henry*, 23.

³⁹ Henry, *Patrick Henry*, 14.

⁴⁰ Froude’s Address to the Students at St. Andrews, March 17, 1871, quoted in Henry, *Patrick Henry*, 15.

and duties promote the happiness of individuals and families; they pervade and harmonize society, and are subservient both to public and personal welfare.

The time, however, will most certainly come when the world and all that therein is will be purified in a refiner's fire. It will then be of little importance to us whether our ancestors were splendid or obscure, and whether events and characters have been truly or partially represented, or not represented at all.⁴¹

Jay's son, William, records for us what Jay wrote about his family. His paternal relatives were French Huguenots (Calvinist Protestants) who fled religious persecution. In 1685, Louis XIV, the Catholic king of France, signed the Revocation of the Edict of Nantes, which had given Huguenots some religious protection. John Jay's great-grandparents, Pierre and Judith Jay, and their son and daughter were able to safely escape to England. But their second son, Augustus, John Jay's grandfather, who was in Africa at the time on business, later came back to France not knowing his family had fled. The persecution had increased, but he remained true to his Protestant beliefs, as his family had. With the help of friends, he escaped to America, and eventually settled in New York.⁴²

Jay's grandfather, Augustus Jay, married Anna Maria Bayard, the daughter of Balthazar Bayard, in 1697. One of Anna Maria's ancestor's, a Protestant professor of theology in Paris during the reign of Lewis the 13th, "had been compelled by the persecuting spirit of popery to quit his country, and go with his wife and children to Holland."⁴³ Three of this man's grandsons, including Jay's grandfather, Balthazar Bayard, moved from Holland to America.⁴⁴ They were Dutch Reformed (Calvinists). Thus Jay descended from Calvinists on both sides of the family.

⁴¹ William Jay, *The Life of John Jay: With Selections From His Correspondence and Miscellaneous Papers*, Vol. 1 (1833; repr., Virginia: American Foundation Publications, 2000), 2.

⁴² *Ibid.*, 6.

⁴³ *Ibid.*, 7.

⁴⁴ *Ibid.*, 8.

Jay's maternal grandfather was Jacobus Van Cortlandt from New York. He married Eva, the daughter of Frederick Philipse.⁴⁵ Frederick Philipse's family originally came over from Bohemia, where they "had been compelled by popish persecution to take refuge in Holland, from whence he had emigrated to New-York."⁴⁶ Thus Jay had "the honour to be descended in three instances from ancestors who chose to abandon their country rather than their religion."⁴⁷

Jacobus and Eva (or Mary) Van Cortlandt's daughter, Mary, married Peter (Pierre) Jay the son of Augustus and Anna Maria Jay.⁴⁸ Jay's maternal grandmother was said to be "so pious that, according to family tradition, "she died on her knees while in prayer."⁴⁹ Jay's mother, Mary, and his paternal grandmother, Anna Maria Bayard, were both pious women with a strong Dutch Reformed background.⁵⁰ Jay was given strong Christian roots on both sides of the family through his Huguenot and Dutch Reformed background.

As to the character of Jay's parents, William Jay said of his grandparents that, "seldom have parents been so loved and revered as they were by him [Jay]."⁵¹ Jay's parents were a good example to him in his own marriage. They were warm-hearted, cheerful people who were a pious couple, and even under difficult situations remained calm. They got along so well that Jay

⁴⁵ Walter Stahr, *John Jay: Founding Father* (NY: Diversion Books, 2012), 3.

⁴⁶ Jay, *The Life of John Jay*, 10.

⁴⁷ *Ibid.*

⁴⁸ Stahr, *John Jay*, 3.

⁴⁹ *Ibid.*, 6.

⁵⁰ Patricia U. Bonomi, "John Jay, Religion, and the State," *New York History* 81, no. 1 (2000): 11.

⁵¹ Jay, *The Life of John Jay*, 11.

said of his parents “that he had never, in a single instance, heard either of his parents use towards the other an angry or unkind word.”⁵²

Jay’s Youth and Education

John Jay was born on December 12, 1745 in New York City, the eighth of ten children born to Peter and Mary Jay. Jay’s father had followed in the footsteps of his father and grandfather before him and became a merchant. Peter did not become involved in the political disputes of the colony. By just a bit over forty years of age, Peter Jay had made a fortune, in addition to property he had acquired through inheritance and marriage. He decided to move his family to a four-hundred-acre farm he had purchased in Rye, New York. One of the main reasons for his decision was the care of two of his small children. The year Jay was born there was a smallpox epidemic that ravaged New York. Two of his siblings, a boy and a girl, both contracted smallpox and became blind as a result. Jay’s father thought the country would be safer and more advantageous for the two children to be raised than in the city. When the family moved to the country, Jay was still an infant.⁵³

The Anglican Church was the established church in the lower counties of New York where the Jay’s lived, so it became the church with which they gradually affiliated. Even though they joined the Anglican Church, the Jay children were baptized in the Dutch Reformed Church, the ancestral church of their mother.⁵⁴ The Jay family’s background of Dutch Reform and Huguenot made them “Calvinist in background and pious on both sides, the Jay family carried their inherited Calvinism with them into the Church of England.”⁵⁵

⁵² Jay, *The Life of John Jay*, 10-11.

⁵³ *Ibid.*, 10.

⁵⁴ David L. Holmes, *The Faiths of the Founding Father* (Oxford: Oxford University Press, 2006), 155.

⁵⁵ *Ibid.*

Jay's education was also from Anglican teachers who helped to shape his beliefs. At home, his mother taught him the fundamentals of English, and Latin grammar. When he was eight years old he was sent away to grammar school in the Huguenot settlement of New Rochelle, New York. The school was run by the Rev. Mr. Stoope, an Anglican priest of French descent, who also pastored the French church at New Rochelle.⁵⁶ At the school, Jay's Huguenot heritage was vigorously reinforced.⁵⁷ Jay attended this school for three years and then came home, where he had a private tutor who prepared him for college.⁵⁸

In 1760, at fourteen years old, Jay was sent to King's College, later Columbia University. Samuel Johnson, an Anglican minister and noted philosopher, was the head of the school. Johnson aimed to have every one of his students leave there as devout and virtuous young men.⁵⁹ Johnson made sure deistic works were kept out of the curriculum. In Jay's third year, Johnson left and was replaced by Myles Cooper, also an Anglican priest. Johnson and Cooper greatly influenced Jay, a studious and focused student, while at King's College.⁶⁰

Just two weeks after he graduated in 1764, he became a law clerk for the well-known lawyer, Benjamin Kissam, Esq., in New York City. Jay passed the bar and received his law license on October 26, 1768. Jay said that Mr. Kissam was "one of the best men he ever knew, and one of the best friends he ever had."⁶¹ Jay entered into a partnership with his friend Robert

⁵⁶ Holmes, *The Faiths of the Founding Fathers*, 11.

⁵⁷ Bonomi, "John Jay, Religion, and the State," 12.

⁵⁸ Jay, *Life of John Jay*, 12.

⁵⁹ *Ibid.*, 10.

⁶⁰ Holmes, *The Faiths of the Founding Fathers*, 156.

⁶¹ Jay, *Life of John Jay*, 16.

R. Livingston, who had also attended King's College. They practiced law together for a short time then each set up their own law offices. With Jay's strong work ethic, he quickly rose in New York's legal ranks.⁶²

Henry and Religious Liberty

Henry and Jay championed religious liberty. As early as December 1, 1763, when Henry was still a young man, he represented the collectors of tax for Louisa County against the plaintiff, Anglican minister the Reverend James Maury, in what came to be called the Parson's Cause case. Henry's religious beliefs were misrepresented in this case when he was portrayed by some as being an enemy of the church – when he was just the opposite. Henry took the Parson's Cause case to oppose the worldliness and corruption of the clergy and to be in support of the Dissenters and their rights, not in opposition to the church or Christianity.⁶³

Henry's religious beliefs, along with his early experience with Dissenters when he attended church with his mother to hear the dissenting preacher Davies, made him a strong advocate for religious liberty. At one time, everyone in the colony of Virginia was required to pay taxes to the established church (Anglican Church) and in some areas attendance was compulsory. Dissenters had to register their meeting houses, and only a limited number of dissenting churches were allowed. The dissenting preachers had to be licensed, and sometimes they were required to accept Anglican ordination in order to be allowed to preach or marry couples.⁶⁴

⁶² Holmes, *The Faiths of the Founding Fathers*, 156.

⁶³ Eidsmoe, *Christianity and the Constitution*, 307.

⁶⁴ *Ibid.*, 309-10.

From courthouse to courthouse Henry defended persecuted Dissenters and fought for their freedom to worship God as they chose. He defended the Baptists against persecution and the preachers for the crime of creating a disturbance by preaching. The Baptist minister, Rev. John Weatherford, had been jailed for five months in Chesterfield County. Despite Henry obtaining an order for the minister's release, they still refused to release him because they said he had to pay the costs of his previous imprisonment. An anonymous donor paid the fees for him so he could be released. Weatherford learned twenty years later that it was Henry who had represented him in court and on top of that had paid his jail fees.⁶⁵

When Henry served as a member of the House of Burgesses, he wrote laws to protect pacifist Quakers and Mennonites from being forced to serve in the militia. In 1769, he served on a committee that drafted a bill titled Exempting his Majesty's Protestant Dissenters from the Penalties of Certain Laws, but the bill failed. Both Henry and General Washington supported allowing the ministers of varying Protestant denominations to serve as chaplains during the American Revolution. In 1775, Virginia Baptists petitioned to allow their preachers to minister to the Baptist soldiers. When the convention again met, Henry drafted a resolution that allowed Baptist ministers to preach to Baptist soldiers during the American Revolution, and it passed.⁶⁶

Henry was on the committee to draft a declaration of rights and a constitution for the new state of Virginia. George Mason was the main author, but Henry played a crucial role, especially in the drafting of the fifteenth and sixteenth articles. The fifteenth article supported the Christian republicanism that Henry professed. It said:

⁶⁵ Eidsmoe, *Christianity and the Constitution*, 310.

⁶⁶ Mark David Hall & Emily-Lynn Warren, "The Fiery Patrick Henry," Law and Liberty, Part of the Liberty Fund Network, August 23, 2017, <https://www.lawliberty.org>.

That no free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue and by frequent recurrence to fundamental principles.⁶⁷

Without virtue, liberty would diminish “because true freedom served noble purposes.”⁶⁸

The sixteenth article had to do with religious liberty. In 1776, when Americans declared their independence from Britain, many thought it was also time to end state support for the Anglican Church. Henry believed a country that allowed religious dissent led to a prosperous and virtuous society. No denomination had an exclusive right to Christian morality, and that by allowing all to freely practice their faith, virtue, and thus liberty, would be allowed to flourish within the nation.⁶⁹

Some accused Henry, who was well known for his sympathy towards religious dissenters, of wanting to end state support for the Anglican Church, but Henry denied this. The first draft did not pass. It was reworked, removing the sections that seemed to threaten the Anglican Church, and it passed.⁷⁰ The amendment said:

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 practise Christian forbearance, love, and charity toward each other.⁷¹

All were to be able to worship according to their conscience without being persecuted or forced to join a certain church.

⁶⁷ Kidd, *Patrick Henry*, 124.

⁶⁸ Ibid.

⁶⁹ Kidd, *Patrick Henry*, 124-7.

⁷⁰ Kukla, *Patrick Henry*, 213.

⁷¹ Virginia Declaration of Rights, June 12, 1776, <https://www.archives.gov>.

Henry, throughout his life, exhibited his support for religious liberty, but historians, political scientists, and journalists have mistakenly accused Henry of being an opponent of religious liberty – when in actuality he was an ardent defender of it, as well as one of its most effective advocates. The misunderstanding can be traced back to his proposal for a general assessment bill in 1784 named the Bill Establishing a Provision for Teachers of the Christian Religion. Some took Henry’s bill as restricting religious freedom, when in reality he was trying to do the opposite. Henry did not see this bill as taking away religious freedom nor was that his intent. He considered Christianity to be essential to maintaining a healthy republic, as it was needed to produce a virtuous people and maintain liberty, therefore true religion merited public support.⁷² He thought the state should actively promote Christian values, as Christian morality made people better citizens. This bill was Henry’s attempt at supporting Christian ministers in order to encourage virtue in America. It proposed to pay teachers (ministers) of the Christian religion because:

the general diffusion of Christian knowledge hath a general tendency to correct the morals of men, restrain their vices, and preserve the peace of society, which cannot be effected without a competent provision for learned teachers, who may be thereby enabled to devote their time and attention to the duty of instructing such citizens...⁷³

This bill would produce educated ministers who would be allowed to focus on their ministry by having the money to attend college and to be able to support themselves on their minister’s salary rather than being overworked and distracted with a second job.

Everyone used to be taxed to support the Established Church in Virginia, but since 1775, Virginia had not attempted to tax anyone to support the church. Henry’s proposed bill attempted

⁷² Hall & Warren, “The Fiery Patrick Henry,” <https://www.lawliberty.org>.

⁷³ Patrick Henry, A Bill Establishing a Provision for Teachers of the Christian Religion, 1784, <https://www.classroom.monticello.org>.

to revive all of the churches, not just the Anglican Church. His bill permitted taxpayers to specify which denomination, including dissenting churches, that they wanted to receive the taxes they paid. These taxes would be used to support a teacher (minister) of the Gospel. In this way there would be educated and qualified teachers in the churches. Quakers and Mennonites could allocate the tax to their churches' general fund. Atheists and non-Christians (if anyone would admit to being either at this time) were protected from being compelled to support a faith in which they did not believe by having the option to not choose a religious organization. Their money would then be distributed by the General Assembly to schools.⁷⁴

Not all agreed with Henry. James Madison wrote the Memorial and Remonstrance against Religious Assessments in opposition to Henry's proposal. Henry, unlike Madison, did not see an inconsistency between state support for religion and religious liberty.⁷⁵ Madison's bill said in part that:

Because we hold it for a fundamental and undeniable truth, "that Religion or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and conviction, not by force or violence." [quote from Article 16, Virginia Declaration of Rights] The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right...⁷⁶

The bill had to pass the legislature three times in order to become law. Henry narrowly defeated Madison twice, but Madison delayed the third reading until 1785. In the meantime, Henry was elected governor, and Madison was able to defeat the bill on its third reading with Henry out of the legislature.⁷⁷ Instead, Jefferson's Virginia Statute for Religious Freedom bill was passed.

⁷⁴ Hall & Warren, "The Fiery Patrick Henry," <https://www.lawliberty.org>.

⁷⁵ Kidd, *Patrick Henry*, 126.

⁷⁶ Henry, A Bill Establishing a Provision for Teachers of the Christian Religion, <https://www.classroom.monticello.org>.

⁷⁷ Eidsmoe, *Christianity and the Constitution*, 310-11.

Henry's bill would have transitioned Virginia from having one state church to having several options. It promoted religious diversity, not a strict separation of church and state.⁷⁸

Whereas, Jefferson's bill also promoted religious diversity and disestablishment of the Anglican Church; but it favored a stronger separation of church and state. Jefferson said in his bill:

that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.⁷⁹

This bill led to the First Amendment's religion clauses and also to the church-state system that most Americans today favor, though this would not have been Jefferson or Madison's intention. The idea today that the government should be totally disengaged from religion did not even occur to people of that time, including Jefferson and Madison. Churches were viewed as the moral protector of the republic. Jefferson, when he was president, approved federal funding for a missionary and church in Illinois. The main argument against Henry's bill questioned whether, as a matter of conscience, the government should be able to require anyone to support a church. They believed the churches and Christianity would survive on its own without the help of the state.⁸⁰

The Baptists thought that the state taxing people to support the churches would be destructive to religious liberty. People are to be responsible to God, not the state, for giving to the church. God desires the giving of money to the church to be freely given, not forced. All

⁷⁸ Kidd, *Patrick Henry*, 168.

⁷⁹ Thomas Jefferson, A Bill for Establishing Religious Freedom, June 18, 1779, <https://wwwFOUNDERS.archives.gov>.

⁸⁰ Kidd, *Patrick Henry*, 169, 174.

throughout history God had provided for His church.⁸¹ Presbyterians agreed religion was beneficial to society, but they thought providing for the church should be left up to the providence of God, thus they also opposed an assessment.⁸² Many thought an assessment would lead to the states saying who could preach, what they could preach, when they could preach, and where they could preach. Those opposed to a religious assessment, including Jefferson and Madison, argued that both church and state would be corrupted by government aid to religion and was beyond legislative authority.⁸³

Though his assessment bill failed, Henry still devoted his time as governor to the public support of religion. John Jay's brother, Sir James Jay, presented Henry an outline of Selina Hastings', an English woman's, plan for "Christianizing Native Americans." Henry excitedly took on the plan as a remedy to the fighting on the frontier. Christian settlers would set up towns with schools and churches to attract Indians and educate and evangelize them. Henry saw this as one more way to encourage public virtue in the nation. He also encouraged whites and Indians to intermarry as a way to bring peace. The legislature would not back the plan, in part in fear that the English settlers would have British sympathies.⁸⁴

Henry favored religious liberty from the time he was a child attending a dissenting church with his mother and sisters until the day he died. He was a champion in the struggle against religious persecution and the right to worship according to one's own conscience.

⁸¹ John Ragosta, "The Virginia Statute for Establishing Religious Freedom," in *Religious Freedom: Jefferson's Legacy, America's Creed* (Charlottesville, VA: University of Virginia Press, 2013), 85-6.

⁸² *Ibid.*, 87.

⁸³ *Ibid.*, 96.

⁸⁴ Kidd, *Patrick Henry*, 173-4.

Jay and Religious Liberty

Jay, like Henry, advocated for religious liberty. The story of Jay's ancestors' escape from religious persecution by Catholics affected his views regarding religious liberty. Jay eventually became more inclusive as time went on, mainly because he realized God would take care of His church. Also significant in shaping Jay's views of religious liberty were his experiences growing up in Rye, New York, where the family was surrounded by Quakers, English Presbyterians, and Calvinists. When Jay moved to New York City, he was again surrounded by differing denominations. At King's College, his professor, Samuel Johnson, gave Jay "philosophical justifications for religious liberty." His father-in-law, William Livingston, also influenced his thinking with his support for freedom of expression and religion. These experiences formed Jay's opinions regarding the need for religious liberty and equality between denominations.⁸⁵

At times, Jay's religious views were misunderstood. For instance, at the First Continental Congress he disagreed with other delegates who thought their sessions should open with prayer. It was not because he opposed prayer that he did not want to open with prayer, but because the delegates represented so many different religious sentiments from many different denominations. He thought it could be uncomfortable, so he did not think they should begin with prayer. Jay lost and the sessions opened with prayer.⁸⁶

At first, Jay only envisioned religious liberty for Protestants. During the New York Provincial Congress he wanted to exclude Roman Catholics from the political process and from becoming citizens. Jay proposed that members of the Catholic Church not be allowed to become citizens unless they would renounce the authority of the pope, priest, or foreign authority, and the

⁸⁵ Jonathan Den Hartog, "John Jay and Religious Liberty," *Faulkner Law Review* 7, no. 1 (Fall 2015): 67.

⁸⁶ Jonathan Den Hartog, "John Jay and the 'Great Plan of Providence,'" in *Forgotten Founders on Religion and Public Life*, eds. Daniel L. Dreisbach, Mark D. Hall, and Jeffrey H. Morrison (Notre Dame: University of Notre Dame Press, 2009), 155.

doctrine that the pope, a priest, or any other earthly authority had the power to absolve men of their sins.⁸⁷ They were not to put their allegiance to the pope over God, the state of New York or the United States. If their number one allegiance was to the pope they would not make good citizens. The Congress rejected this proposal, but they did pass a requirement that immigrants had to “renounce all subjection to all and every foreign king, prince, potentate, and state, in all matters, ecclesiastical as well as civil.”⁸⁸ Jay still remembered the stories of his family’s persecution by Catholics, which likely influenced his beliefs to an extent. In his biographical writings about his relatives, he highlighted the dangers his family experienced from “the persecuting spirit of popery.”⁸⁹

In Jay’s capacity as the first Chief Justice of the New York Supreme Court, he showed he had changed his thinking regarding religious liberty. On September 9, 1777, in his formal charge to the Grand Jury, which he gave before the first case heard under the new state constitution, he said that:

Adequate security is also given to the rights of conscience and private judgment. They are by nature subject to no control but that of the Deity, and in that free situation they are now left. Every man is permitted to consider, to adore, and to worship his Creator in the manner most agreeable to his conscience. No opinions are dictated, no rules of faith prescribed, no preference given to one sect to the prejudice of others.⁹⁰

⁸⁷ Patricia U. Bonomi, "John Jay, Religion, and the State," 15; Den Hartog, "John Jay and Religious Liberty," 67-8.

⁸⁸ Den Hartog, "John Jay and Religious Liberty," 68; Monaghan, *John Jay*, 95.

⁸⁹ Den Hartog, "John Jay and Religious Liberty," 66-7; Jay, *The Life of John Jay*, 7.

⁹⁰ John Jay, Charge to the Grand Jury of Ulster County, September 9, 1777, in *The Correspondence and Public Papers of John Jay*, Vol. 1 (1763-1781), ed. Henry P. Johnston, A.M. (New York: G.P. Putnam’s Sons, 1890-93), 158-165.

The New York Constitution had eliminated preferences for one church or denomination over another, and Jay now endorsed this thinking.⁹¹

Jay encouraged religious liberty as a way to promote the involvement of Christianity in the civil government. Christianity in the government promoted virtue in the citizens, which would lead to a healthy republic and individual liberty. The Christian religion should be intermingled with government, as in this way the people flourish as a community. Jay demonstrated this belief in 1776, during the American Revolution, in his speech “An Address of the Convention of the State of New York to Their Constituents.” Jay encouraged his constituents to have faithful Christian engagement in the public sphere, intertwining religious concerns with politics.⁹²

Jay also encouraged religious liberty through his work in volunteer organizations such as the American Bible Society founded in 1816. Different Christian denominations came together for a shared goal—that of spreading the Gospel. But they also worked to shape civil society and thus indirectly shape politics.⁹³

In conclusion, Henry and Jay were both raised in families with Calvinistic backgrounds that helped to shape their political views, as well as their support of religious liberty. They contributed to the development of religious liberty as an important component of the American system. The spirit of religion was closely connected with the spirit of liberty; the two supported each other. They encouraged people of faith to participate in the political process in America.⁹⁴

⁹¹ Den Hartog, “John Jay and Religious Liberty,” 69.

⁹² *Ibid.*, 77.

⁹³ *Ibid.*, 73.

⁹⁴ *Ibid.*, 77-8.

Chapter Three

The Continental Congresses

First Continental Congress, September 5, 1774 – October 26, 1774

The American colonists had begun to resist the British taxes implemented after the French and Indian War. Their resistance led to violence during the Boston Massacre (1770). After the Boston Tea Party (1773), Parliament passed the Intolerable Acts as punishment and to assert their authority. The British had expected the other colonists to abandon Boston to her fate and for Boston to come begging before the Parliament and the King for forgiveness. Instead, the other colonies supported Boston, who defiantly stood up to the British army. Colonial leaders recognized the need for unity between the colonies, and as such, a need for a central power uniting the colonies. The First Continental Congress was called to address these issues.¹

Henry prior to the Congress

Both Henry and Jay's respective states elected them as delegates. Henry had been in politics for some time. His public fight for American liberty began in 1763 with his Parson's Cause courtroom speech, where he took the opportunity to Americanize the local issue.² The court case provided an opportunity to challenge Parliament's power to control American colonial affairs. Henry argued that "by disallowing good laws, a king forfeited his right to the obedience of his subjects. Instead of being a father to his people, he degenerates into a Tyrant."³

¹ William Wirt Henry, *Patrick Henry: Life, Correspondence, and Speeches, Vol. 1* (Harrisburg: Sprinkle Publications, 1993): 195.

² J. R. Pole, "Contract and Consent," In *Representation and the Jury in Anglo-American Legal History* (Charlottesville: University of Virginia, 2010): 106.

³ Teddi DiCanio, "The Parsons' Cause Trial: 1763," *Great American Trials*, (November 24, 2021), <https://www.encyclopedia.com>.

Two years after his Parson's Cause argument (1765), Henry again defied Parliament, this time by attacking Parliament's Stamp Act. With his Resolutions against the Stamp Act, he defended American independence and the rights of colonial Americans. Within a few weeks, versions of all seven of his Resolutions were published in other colonies. "Henry's resolves articulated the principles of American rejection of Parliamentary authority,"⁴ which as Henry said, "brought on the war."⁵ As a result of his Resolutions, Henry's contemporaries recognized him as "the man who gave the first impulse to the ball of revolution."⁶

The Virginia House of Burgesses met in May of 1774 for the First Virginia Convention. Henry led the House in proposing measures to support Boston and for the colonies to send representatives to a united congress. George Mason said Henry was the principal member taking the lead in the measures "intended for the preservation of our rights and liberties."⁷ Henry and the other Virginia delegates elected to the First Continental Congress were instructed, in part, to:

Let it, therefore, be your great object to attain a speedy repeal of those acts; and for this purpose, we recommend the adoption of such measures as may produce the hearty union of all our country-men and sister colonies, UNITED WE STAND, DIVIDED WE FALL.⁸

Jay prior to the Congress

Jay, being almost ten years younger than Henry, did not have the political background Henry did. Representing New York at the First Continental Congress was his first experience in

⁴ Patrick Henry's Resolutions against the Stamp Act, May 29, 1765 to May 30, 1765, <https://www.redhill.org>.

⁵ Patrick Henry, Stamp Act Speech delivered before Virginia House of Burgess, May, 1775, in *Patrick Henry: Life, Correspondence, and Speeches, Vol. 1*, ed. William Wirt Henry (1891; repr., Harrisburg: Sprinkle Publications, 1993), 81.

⁶ "Henry's Resolutions," <https://www.redhill.org>.

⁷ George Mason, Letter from George Mason to Martin Cockburn, May 26, 1774, in *Patrick Henry: Life, Correspondence, and Speeches, Vol. 1*, ed. William Wirt Henry, (Harrisburg: Sprinkle Publications, 1993): 183.

⁸ *Ibid.*, 193.

politics. Jay had become one of New York City's leading lawyers, but he was not a political person in April of 1774, nor did he necessarily have aspirations to be a politician. Jay had disapproved of violent protests such as the Boston Tea Party and "the Mohawks" in New York, who also dumped a cargo of tea into their harbor, but in 1774, Jay was more concerned about his impending wedding than politics.⁹

On April 28, 1774, Jay, twenty-eight, married Sally Livingston, seventeen. The Livingstons were one of the most influential families in New York and New Jersey. At the time of their marriage, William Livingston, Sally's father, was well-known for his writing and later joined Jay as a member of the Continental Congress. He also became the first governor of New Jersey.¹⁰ Jay looked forward to a happy family life, his promising legal career, and to a judgeship in the inferior Court of Common Pleas. Yet, within a month, circumstances launched him into politics and diplomatic negotiations, and the quiet family life he had planned for himself was not to be.¹¹

The newlyweds spent a month traveling in rural New York. While they were on their honeymoon, Parliament closed Boston Harbor and suspended civil government in Massachusetts in retaliation for the Boston Tea Party. When they returned to New York City at the end of May, Jay found he had been appointed to a committee of fifty-one men to consider what to do regarding the measures Parliament took against Boston. At the committee's first meeting, they chose a subcommittee of four, which included Jay. The committee, by eight that evening, was to compose a response to a letter from Boston. The radical side wanted to support Boston by

⁹ Walter Stahr, *John Jay: Founding Father*, (New York, NY: The Continuum International Publishing Group Ltd., 2005), 32.

¹⁰ David L. Holmes, *The Faiths of the Founding Fathers* (Oxford: Oxford University Press, 2006), 156.

¹¹ Frank Monaghan, *John Jay: Defender of Liberty* (1935; repr., New York: AMS Press, Inc., 1972), 50.

immediately stopping the import of British goods into the New York port, but the New York City merchants were unwilling to agree to a boycott, at least until the rest of the colonies agreed to a similar boycott. The subcommittee decided to call for a general continental congress. The letter was drafted by James Duane, using Jay's notes, calling for delegates from the thirteen colonies to consider what should be done about the dire circumstances taking place in Boston and the best way to protect the common rights of all the colonies.¹²

Jay was chosen to represent New York at this first continental congress. He was a somewhat unlikely choice, as at twenty-eight, he was by far the youngest of the New York delegates. He did not have political experience, nor was he an experienced merchant. He may have been chosen because of his lack of political experience and that he was neither a radical nor a conservative. His acceptance to the First Continental Congress put him on the path to becoming a Patriot rather than a Loyalist. At the time, though, most – including Jay – thought this would be just a one-time meeting to bring Britain to its senses.¹³

The Congress

Most of the delegates did not yet know each other and were not known beyond their own colonies; for some, this was their first time ever being outside of their respective colony. On the whole, the sentiment of the delegates included a colony-wide boycott against British trade until the Intolerable Acts were repealed, and some may have looked for this Congress to call upon the colonies to arm themselves for a war in the event Parliament refused to back down. Most of the delegates hoped economic coercion through the boycott would work, as almost none of the delegates wished to see war break out. For most, their reluctance to go to war with Britain was

¹² Stahr, *John Jay*, 33-4.

¹³ *Ibid.*, 35.

not so much that they wanted to remain a part of the British Empire, but more from the fear of losing the war that could lead to tyranny.¹⁴ Jay sided with the majority of the colonists who hoped for reconciliation. Besides Britain being the strongest army in the world, part of Jay's reluctance to go to war stemmed from family members and friends who still supported Britain, and he also never forgot that it was the British who gave his family refuge when they fled from religious persecution in France.

As far as Henry's sentiments, it was clear that before the Congress even met, Henry was convinced that there would be "a desperate and bloody" war with their "un-natural mother" and that Britain's enemies, Spain, France, and Holland, would join as allies with the Americans to defeat Great Britain.¹⁵ It was reported that Henry said, "Our independence will be established, and we shall take our stand among the nations of the earth!"¹⁶ Colonel John Overton, who was there, described how "at the word *independence*, the company appeared to be startled; for they had never heard before anything of the kind even suggested."¹⁷ Most of America was not yet even considering independence.

At this time, before the American Revolution began, there was not a clear division between Loyalists and Revolutionaries. Most Americans, though they had different opinions about the way to handle the situation in Boston, agreed a congress was necessary to persuade Parliament to rescind their sanctions against Massachusetts through the drafting of petitions and

¹⁴ Robert Middlekauff, *The Glorious Cause: The American Revolution, 1763—1789*. 8th ed. (New York: Oxford University Press, 2005), 248.

¹⁵ William Wirt, *Sketches of the Life and Character of Patrick Henry* (Philadelphia: James Webster, 1818), 93. Quoted in William Wirt Henry, *Patrick Henry: Life, Correspondence, and Speeches, Vol. 1* (Harrisburg: Sprinkle Publications, 1993): 207-8.

¹⁶ Wirt, *Sketches of the Life and Character of Patrick Henry*, 93; Henry, *Patrick Henry*, 208.

¹⁷ Henry, *Patrick Henry*, 208.

the organizing of a trade boycott.¹⁸ Jay wanted to help resolve the colonies' differences with their mother country and bring reconciliation. Unlike Henry, Jay was convinced that proper petitions and a boycott would be successful in getting the British to change their policies.¹⁹ He did not support the war until the Declaration of Independence was approved. This made him one of the last American leaders to support the Revolution.

The first major issue in the First Continental Congress addressed how votes should be decided. Should each colony have one vote, should votes be determined by the populations of each colony, or by the interests of each colony? If each colony received one vote, the small colonies would weigh equally with the large ones, "and great injustice would be done"; if by population, "the unequal delegations would also work injustice"; and "if by interests, the body had not data with which to estimate the weight of each colony. The difficulty of the question impressed the body, and a deep silence ensued."²⁰ On the second day of Congress, Charles Thomson, the secretary, recorded that "None seemed willing to break the eventful silence, until a grave looking member, in a plain dark suit of minister's gray, and unpowdered wig, arose. All became fixed in attention on him."²¹ This, of course, was Henry. As previously, during the Stamp Act meeting, no one else but Henry was willing to stand and speak. After he spoke, Thomson records that "Then the excited inquiry passed from man to man, Who is it? Who is it? The answer from the few who knew him was, It is Patrick Henry!"²² It would not be long before the delegates, and all of America, would know who Patrick Henry was.

¹⁸ Henry, *Patrick Henry*, 208.

¹⁹ *Ibid.*, 24-5.

²⁰ *Ibid.*, 219.

²¹ *Ibid.*

²² Henry, *Patrick Henry*, 219.

Henry was the first to declare independence, making it clear in his speech that he thought the government was already dissolved and a new one must be implemented. He felt that the actions by Great Britain upon America were “so subversive of the charter rights of America, [they] had virtually destroyed constitutional government in the colonies, and America must now provide for her own proper government.”²³ The colonies should no longer be “regarded as disconnected, but as forming a united people.”²⁴ He said, “The distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders, are no more. I am not a Virginian, but an American.”²⁵ On one hand, Henry believed that the colonists had common interests in protecting tyrannical encroachments of Britain and needed to unite. Yet, he struggled to accept the notion that the united colonies as an emerging political entity “should command a higher allegiance than his home colony.”²⁶

Virginia was the most populous colony, and Henry was in favor of voting by population. Jay, not for the last time, opposed Henry. He favored one vote for each colony. Though they were divided, most delegates wanted to find compromises and consensus.²⁷ This can be seen in the dialogue between Jay and Henry. Jay, though he did not agree with Henry, politely disagreed. William Wirt Henry records that while opposing Henry’s views, Jay still “paid a handsome tribute to Virginia,” saying, “To the virtue, spirit, and abilities of Virginia we owe much. I

²³ Henry, *Patrick Henry*, 222.

²⁴ *Ibid.*, 222-3.

²⁵ Patrick Henry, Speech at First Continental Congress, September 1774, in *Patrick Henry: Life, Correspondence, and Speeches*, Vol. 1, ed. William Wirt Henry (Harrisburg: Sprinkle Publications, 1993): 221.

²⁶ Thomas S. Kidd, *Patrick Henry: First among Patriots* (New York: Basic Books, 2011), 93.

²⁷ Stahr, *Patrick Henry*, 36-37.

should always, therefore, from inclination as well as justice, be for giving Virginia its full weight.”²⁸ The Congress, in the end, agreed to give each colony one vote.

The two men continued to disagree throughout the Congress. Henry thought the current “government is at an end” and “all America thrown into one mass.”²⁹ Jay disagreed. He said they were not there “to frame an American constitution...The measure of arbitrary power is not full, and I think it must run over, before we undertake to frame a new constitution.”³⁰ Most of the delegates, including Jay, still wanted to work with Parliament to restore their relationship with Britain. This sentiment was displayed in the September 28 proposal of Joseph Galloway’s Plan of a Proposed Union between Great Britain and the Colonies that lost by only one vote. It put forward a plan for a permanent reconciliation with Britain, seeking “to create a new American government, with a president-general appointed by the king and a grand council, as an inferior and distinct branch.”³¹ If it had passed, the thirteen colonies would have remained British colonies. The plan was supported by Jay, James Duane, and John Dickinson. The more “radical” delegates, especially those from Massachusetts and Virginia, distrusted and resisted the plan. Henry spoke out against the proposal the day it was introduced.³²

The Suffolk Resolves that had been proposed on September 17 were supported by Henry and endorsed by Congress, rather than the Galloway Plan. The Resolves declared the Intolerable Acts, also called the Coercive Acts, unconstitutional and urged the people of Massachusetts to

²⁸ Henry, *Patrick Henry*, 223.

²⁹ Stahr, *Patrick Henry*, 36.

³⁰ *Ibid.*

³¹ Harlow Giles Unger, *Lion of Liberty: Patrick Henry and the Call to a New Nation* (Cambridge: Da Capo Press, 2010), 89.

³² Moses Coit Tyler, *Patrick Henry* (1898, Repr., New York: Chelsea House, 1980), 115-16.

withhold payment of all taxes until Britain repealed the Acts. The Bostonians, in order to end their need for the British military's protection against Indians, were encouraged to boycott British goods and form their own armed militia.³³

Congress, in late September, started debating when and how the American colonies should cease to export and import goods to and from Britain. Some have said that Jay opposed a trade boycott, but notes taken by John Adams prove the opposite. Jay argued that there were only three options: negotiation, suspension of commerce, and war. He declared he supported the first two, and war, by general consent, should be relinquished for now. A boycott for the end of exports was set to begin September 1775.³⁴

Henry and others, in addition to a boycott, favored more warlike measures. In early October, Richard Henry Lee of Virginia moved for Congress to recommend the colonies to arm and equip militias. Henry backed the motion, arguing that "arms are a resource to which we shall be forced."³⁵ Jay agreed with the majority in Congress who rejected the motion, feeling it promoted war rather than reconciliation.

Besides debating the trade boycott and rejecting military measures, the Congress was also drafting petitions and statements. This was where Jay was able to make his major contribution to the Congress with his draft addressing the British people. As an attorney, his address focused on legal and procedural issues, emphasizing a voice in legislation and the right to a trial by jury. Essentially, Jay admitted the tea should not have been destroyed, but that the proper response would have been a civil lawsuit against those responsible.³⁶ Instead, said Jay, they were "being

³³ Unger, *Lion of Liberty*, 89.

³⁴ Stahr, *Patrick Henry*, 39.

³⁵ *Ibid.*, 40.

³⁶ Stahr, *Patrick Henry*, 40-2.

judged by a single man, a creature of the crown...”³⁷ Jay went on to say that these were not the only grievances. The royal governors over them were “dissolute, weak, and wicked.”

Legislatures had been suspended “for asserting the rights of British subjects.” He spoke “of needy and ignorant dependants on great men advanced to the seats of justice, and to other places of trust and importance; of hard restrictions on commerce, and a great variety of lesser evils.” He said that the British planned to enslave the colonists; they were “well aware that such hardy attempts to take our property from us, to deprive us of the valuable right of trial by jury, to seize our persons and carry us for trial to Great Britain, to blockade our ports, to destroy our charters, and change our forms of government.”³⁸

Despite Jay’s address listing the many grievances against the colonists, by the end of the Congress, most all of the delegates still believed Great Britain would address these wrongs carried out against them. Henry did not, but he was willing to attempt the proposed remedies with Britain, though he prepared for the worst. Conversely, Jay, as seen in a letter he wrote to his friend, John Vardill, in England, was still very much hoping for a reconciliation with Britain. In the letter Jay said that the “indignation of all ranks of people is very much roused by the Boston and Canada bills. God knows how the contest will end. I sincerely wish it may terminate in a lasting union with Great Britain.”³⁹

John Adams met with Henry before they left and told him that he was convicted that all their “resolves, declarations of rights, enumeration of wrongs, petitions, remonstrances, and addresses, associations, and non-importation agreements, however they might be expected by the

³⁷ John Jay, Address to the People of Great Britain (1774), <https://www.fija.org>.

³⁸ Ibid.

³⁹ Stahr, *John Jay*, 39.

people in America, and however necessary to cement the union of the colonies, would be but waste paper in England.”⁴⁰ Henry, of course, agreed with him. Adams read a letter to Henry that he had received from Major Joseph Hawley, of Northampton, of what he thought should be done. The letter concluded with the words ‘*After all we must fight.*’ Adams describes how Henry, after hearing those last words, “raised his head, and with an energy and vehemence, that I can never forget, broke out with, ‘By G – D, I AM OF THAT MAN’S MIND.’ Adams said that he “considered this as a sacred oath, upon a very great occasion, and could have sworn it as religiously as he did.”⁴¹ Adams relates that the other delegates of Virginia, though, “returned to their state, in full confidence that all our grievances would be addressed.”⁴² Richard Henry Lee said to Adams before he left that, “We shall infallibly carry all our points, you will be completely relieved; all the offensive acts will be repealed; the army and fleet will be recalled, and Britain will give up her foolish project.”⁴³ How wrong they were! In the end Henry had been “exactly in the right.”⁴⁴

Henry left the First Continental Congress very impressed with the talents and patriotism of Samuel and John Adams, who later corresponded with Henry, sending him a copy of his “Thoughts on Government” (1776), in which Henry concurred. So many of the delegates, including his new friend John Adams, had quoted from Montesquieu’s *The Spirit of the Laws*

⁴⁰ John Adams to William Wirt, January 23, 1818, quoted in *Patrick Henry: Life, Correspondence, and Speeches*, Vol. 1, ed. William Wirt Henry (Harrisburg: Sprinkle Publications, 1993), 239.

⁴¹ *Ibid.*, 239.

⁴² *Ibid.*, 239-40.

⁴³ *Ibid.*, 240.

⁴⁴ *Ibid.*

that Henry acquired a copy of the book to study in preparation for when he next met with the other delegates.⁴⁵

Delegates who left personal accounts of Congress virtually all agreed that the ability and character of all the delegates was admirable, although it was the Virginians who in particular impressed their colleagues, especially Henry and Richard Henry Lee. Both Silas Deane of Connecticut and John Adams of Massachusetts called them the Cicero and the Demosthenes of the Age.⁴⁶ As for Jay, only a few weeks earlier, he had been an unknown commercial lawyer, but by the end of this Congress he proved he could “hold his own with the best debaters and writers of the colonies.”⁴⁷ Jay’s biographer, Frank Monaghan, said, “He had become an eloquent champion of the conservative group...” but he had also “won the enmity of Patrick Henry...”⁴⁸

Between the First and Second Continental Congresses (1775)

Approximately five months after the Virginian delegates returned home, there was a Second Virginia Convention held, in which Henry was very involved. They had not yet heard of the negative response of the king and Parliament in answer to America’s request to end the Intolerable Acts. Henry thought it was dangerous to give the colony hope when he was certain there would not be any policy change from the British and war was inevitable. Instead of hoping to reconcile, Virginia and the other colonies needed to be preparing for the approaching war. Henry took the lead and wrote several resolutions to organize militias and make war preparations. In these resolutions he wanted the Convention to accept that they were already at

⁴⁵ Unger, *Lion of Liberty*, 89.

⁴⁶ Middlekauff, *The Glorious Cause*, 247.

⁴⁷ Stahr, *Patrick Henry*, 42.

⁴⁸ Monaghan, *Patrick Henry*, 64.

war with Britain and needed to “give up all hope of a peaceful settlement.”⁴⁹ He saw this moment as critical. To him, it was a question of liberty or of slavery, and he would rather die than to lose his liberty.

Henry moved to pass his resolutions and proceeded to give his famous liberty or death speech in this convention on March 23, 1775. Edmund Randolph said of Henry that “Demosthenes invigorated the timid, and Cicero charmed the backward... [but that Henry spoke] as man was never known to speak before.”⁵⁰

Henry asked them to judge the future by looking at the past and that when looking back at the conduct of the British for the past ten years “he wished to know what there had been in the conduct of the British ministry...to justify those hopes with which gentlemen had been pleased to solace themselves and the house?” He asked them to look around at the British fleets and armies and not be deceived. These were “the implements of war and subjugation” not “of love and reconciliation.” “Can gentlemen assign any other possible motive for it?” They had done everything they could and now he said “we must fight!—I repeat it, sir, we must fight!”⁵¹

At this point, those present said Henry became even more intense. His “manner deepened into an intensity of passion and dramatic power which were overwhelming.”⁵² He continued, ending with his now famous words, “Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take;

⁴⁹ Henry, *Patrick Henry*, 258.

⁵⁰ Edmund Randolph, Edmund Randolph’s *History of Virginia*, quoted in *Patrick Henry: Life, Correspondence, and Speeches*, Vol. 1, ed. William Wirt Henry, (Harrisburg: Sprinkle Publications, 1993): 259.

⁵¹ Patrick Henry, Speech at Second Virginia Convention, March 23, 1775, quoted in *Patrick Henry: Life, Correspondence, and Speeches*, Vol. 1, ed. William Wirt Henry (Harrisburg: Sprinkle Publications, 1993), 262-4.

⁵² *Ibid.*, 265.

but as for me, '... 'give me liberty, or give me death!'"⁵³ When he finished, it was silent, and it took a few minutes before Richard Henry Lee seconded the motion, and the resolutions passed. Henry was soon proven correct in all that he had said. The king and Parliament did not change their policy in America, and as he had predicted to John Adams, the British people themselves admired the Americans. Lord Dunmore, the royal governor of Virginia, considered Henry to especially be a threat, as he had many Virginians behind him, and issued a proclamation that charged all persons "not to aid, abet, or give countenance to the said *Patrick Henry*..."⁵⁴

In Virginia, the same seven men were elected to return to the Second Continental Congress as had attended the first, with Jefferson as an alternate. Three days after the Congress had elected Henry and the others to attend the Convention, Lord Dunmore, on March 28, 1775, issued a proclamation "forbidding, by order of the king, the election of delegates to the Continental Congress." That did not stop Henry or any of the other delegates that were now seen as rebels and terrorists in the eyes of the British. Many colonists believed "that God had raised up Henry and other patriot leaders to face this crisis, and would protect them accordingly."⁵⁵ Henry went to Congress convinced a confederation of the colonies needed to be formed against Great Britain, and that if the American forces were not enough, foreign powers would step in to aid the colonies in their fight for independence.⁵⁶

Between the First and Second Continental Congresses, Jay returned to New York, and between late 1774 and early 1775 still was not very involved in New York politics. He was on

⁵³ Henry, Speech at Second Virginia Convention, 266.

⁵⁴ *Ibid.*, 286.

⁵⁵ Kidd, *Patrick Henry*, 102-6.

⁵⁶ Henry, *Patrick Henry*, 291.

New York's committee of sixty, though not a very active member. They had been elected to enforce Congress's trade restrictions in New York.

New York City was much divided between Loyalists and Patriots. Anglicans were some of the most vocal Loyalists. Jay's professor at King's College, Myles Cooper, was a Loyalist, as well as many of his friends.⁵⁷ His friend, William Laight, wrote to another mutual friend, John Vardill, that he did not know how to account for the change in Jay. He regretted that Jay, "who used to be sound and loyal, had now become a "Blue Skin" or "Revolutionary."⁵⁸ Some thought Jay was a Loyalist, but he was not. He was a friend of Britain, as were many colonists, in that they hoped for some sort of compromise and reconciliation, but he did not agree with the current Acts of Parliament in the colonies.⁵⁹ In late April 1775, a provincial convention was held in New York that selected delegates for the next Congress. The convention selected twelve delegates, including Jay, to attend the Second Continental Congress.

Second Continental Congress, May 10, 1775 – March 1, 1781

On May 10, 1775, just short of one month after the American Revolutionary War began at Lexington and Concord, delegates met inside Independence Hall in Pennsylvania for the Second Continental Congress. The morning Congress opened, American troops captured Fort Ticonderoga, and six weeks later they received the news of the American defeat at Bunker Hill. This Congress had much to deal with now that the American colonies were at war with Britain.⁶⁰ On May 19, the Congress began to prepare the colonies for war.⁶¹ Washington was chosen

⁵⁷ Stahr, *Patrick Henry*, 42-3.

⁵⁸ *Ibid.*, 43.

⁵⁹ *Ibid.*, 44.

⁶⁰ Tyler, *Patrick Henry*, 170.

⁶¹ Henry, *Patrick Henry*, 298.

unanimously as Commander in Chief of the army on June 15, but even though fighting had begun, Jay still hoped for reconciliation with Britain. He and other moderates, like John Dickinson, pushed their Olive Branch Petition through Congress, still affirming America's loyalty to the king.⁶² King George III refused to even look at the document.

Congress, before they knew of the king's response, continued with their preparations for war and the establishment of a new government. On July 18, Congress recommended that each colony organize and train their militias and form a Committee of Safety "to superintend and direct all matters necessary for the security and defence of their colonies..."⁶³ The Second Continental Congress adjourned for a break on August 1, until September 5, 1775.

The delegates had conducted the proceedings of the Second Continental Congress in secret, only letting out to the public what they chose. Diaries of the delegates do not tell much more about the proceedings, and none of the delegates mention what was said by any of the members, thus our knowledge of who said what and specifics as to what went on in the Second Continental Congress is limited.⁶⁴

Henry and Jay each worked in their respective states to prepare them for independence and for war. Both played important roles in the framing of their state constitutions. Henry's county elected him to the next Virginia convention, which opened May 6, 1776. On May 15, Henry voted, along with the rest of the Virginia members present, for the "United Colonies to be free and independent States, absolved from all allegiance to, or dependence upon, the crown or

⁶² Kidd, *Patrick Henry*, 107.

⁶³ Henry, *Patrick Henry*, 300.

⁶⁴ Tyler, *Patrick Henry*, 172.

Parliament of the Great Britain...”⁶⁵ On June 29, the Virginia delegates elected Henry as the first governor of the new state of Virginia, the same day they unanimously adopted the new state constitution.⁶⁶ When Congress resumed in September of 1775, as Henry was now governor, he did not return to Congress.

Jay did return when Congress resumed. He still hoped and worked towards reconciliation, but realized this looked less and less likely. Jay was absent from Congress beginning in early January and returned in March 1776, during which time his first child was born. By April 1776, it looked like war was inevitable, and Jay focused more and more on military matters, though he never gave up hope of reconciliation until the signing of the Declaration of Independence. He again left Congress in early May, as his wife and father were both ill. Instead of going back to Congress, he went to New York City to attend the sessions of the Provincial Congress where he felt they needed him more, plus there was the added benefit of being closer to his family.

On May 15, 1776, the Continental Congress published a resolution for the colonies to form new governments.⁶⁷ Jay continued to stay in New York rather than returning to Philadelphia, as he thought he would be more useful helping New York to form a new government than debating the wording of the Declaration of Independence. Thus, he, as Henry, was not there to sign the Declaration of Independence. When New York received a copy of the Declaration, Jay drafted four resolutions, all unanimously adopted to accept the Declaration “at the risk of our lives and fortunes.”⁶⁸ Jay felt Britain had given the Americans no choice, and it was only by necessity that America went to war against Britain. Jay, in the end, chose to fight for

⁶⁵ Tyler, *Patrick Henry*, 197.

⁶⁶ Kidd, *Patrick Henry*, 123, 127.

⁶⁷ *Ibid.*, 60.

⁶⁸ Monaghan, *Patrick Henry*, 85.

freedom rather than loyalty to Britain and the king, though, many of his family and friends chose loyalty to Britain rather than to fight for American liberty.⁶⁹

Jay participated in virtually all deliberations at this time. He corresponded with New York patriots and also delegates at the Continental Congress. Late 1776 and into early 1777, Jay worked on the first New York state constitution with others on the committee. He played a large part in the drafting of the constitution, as he was involved in all the committee work for the drafts that led up to the final draft and then in the convention debates to refine the draft. In late February and early March 1777, Jay had left the convention to prepare a clean draft of the constitution. When he returned, it was presented to the convention. As they debated the constitution, Jay left for three weeks upon the death of his mother. When he was gone, the constitution was approved. There were several changes to which Jay was very displeased, but it had already been approved and there was nothing he could do about it at this point. On his return, he learned the convention had elected him the first Chief Justice of New York, and he was also on the Council of Safety.⁷⁰ When the first session of court opened in early September 1777, he was only there about a month before he had to flee due to the occupation of the British and German troops. In April and August 1778, Jay presided over only two sessions of court.

In late November and into early December 1778, Jay traveled back to the Continental Congress where he was elected its President, serving for ten months. While he was President, Congress was mainly involved in personal disputes and foreign policy questions.⁷¹ As President of the Congress Jay worked closely with General Washington during the War. Henry, as

⁶⁹ Monaghan, *Patrick Henry*, 63.

⁷⁰ *Ibid.*, 80.

⁷¹ *Ibid.*, 97.

governor of the largest and richest state, also worked closely with Washington. In Jay's years as President of the Congress, it was known as a divisive time with personal quarrels as well as policy differences. In late September, Congress named Jay as Minister of Spain. His time in Congress helped to prepare him for negotiations with Spain and then in Paris with the British, as he knew what would be acceptable to Congress. It also helped him to form in his mind how to strengthen the national government and the role of a president for the United States.⁷²

Conclusion

During the First Continental Congress, Henry made an impact with his oratory skills and his passion for liberty. Jay stood out for his writing of "An Address to the People of Great Britain". Not for the last time, the two opposed each other on every issue during the first congress. By the beginning of the Second Continental Congress the Revolutionary War had begun. The Congress made war preparations and declared America's independence from Britain with the Declaration of Independence. Henry and Jay continued to contribute a great deal to their states and to the nation. Both played a part in the drafting of their respective state constitutions, and helped to prepare their states for independence and war. They were well on their way to becoming two of the most influential Founding Fathers.

⁷² Stahr, *Patrick Henry*, 118-19.

Chapter 4

After the War

The Jay-Gardoqui Negotiations

When the war with Britain ended in 1783, Henry and Jay continued to be on opposing sides. Border disputes after the war accelerated and would play a part in their views of the Confederation government. The negotiations over the Jay-Gardoqui Treaty were a turning point for both men. A year after the end of the Revolutionary War, the United States entered into a border dispute with Spain, who still controlled the territories of Louisiana and Florida. In June 1784, Spain said they would not allow U.S. ships to sail along the disputed Spanish controlled areas of the Mississippi until the border issue was resolved.¹

Congress ordered Jay, who was now the U.S. Secretary of Foreign Affairs, to settle the dispute and negotiate a treaty with Spain's representative, Don Diego Maria de Gardoqui. In the summer of 1785, Gardoqui had been sent to America to convince Congress to ratify the closing of the Mississippi, among other issues.² A commercial treaty was drafted after months of discussions between Jay and Gardoqui that Jay felt was favorable to the U.S. But, they still could not come to an agreement on the navigation of the Mississippi, since, as per each representative's instructions, neither was allowed to yield on this issue. Jay's report to Congress began a month long debate. He resumed negotiations with new instructions from Congress, but the negotiations were going nowhere. Jay thought there needed to be some action taken regarding Spain's control of the Mississippi and the increased arrests of American citizens in the disputed territories.³

¹ Brian DiPaolo, "Articles of Confederation," *Articles of Confederation*, 2006, <https://www.ich.infobase.com>.

² Robert Middlekauff. *The Glorious Cause: The American Revolution, 1763—1789*. 8th ed. (New York: Oxford University Press, 2005), 607.

³ Frank Monaghan, *John Jay: Defender of Liberty* (1832; repr., New York: AMS Press, Inc., 1972), 257-8, 260.

When Jay asked for a new commission that would allow him to agree to a treaty that would give up American navigation rights to the Mississippi River for a minimum of twenty-five years, heated debates ensued. Under the Articles, the approval of nine states was required; as they were not able to get the nine states' approval, the treaty was never ratified.⁴

James Monroe of Virginia vehemently attacked the proposed treaty and launched a vicious and personal attack against Jay accusing him of dishonesty. In a letter to Henry, Monroe criticized Jay and the treaty, helping to rile up Henry against Jay. Monroe contended that Jay wanted to keep the majority of the population in the East, but Jay thought it would be wiser to gradually settle the West as the population grew, in order to stop the border warfare with the Indians.⁵

Jay was just as frustrated with the negotiations as were Monroe and Henry. He had long been apprehensive about the inefficiency of the Confederation government and wished to substitute it with a government that had the power and possessed “the energy requisite to preserve the honour and vindicate the rights of the nation.”⁶ In his speech before Congress on the Spanish negotiations he noted that if Congress insisted on the navigation of the Mississippi, the Spanish would come against us and that at the present we were a nation “unblessed with an efficient government, destitute of funds, and without public credit at home or abroad.” Before America “plunge[d] into an unpopular and dangerous war, with very little prospect of

⁴ Middlekauff, *The Glorious Cause*, 608-609.

⁵ Monaghan, *John Jay*, 260.

⁶ William Jay, *The Life of John Jay: With Selections From His Correspondence and Miscellaneous Papers*, Vol. 1 (1833; repr., Virginia: American Foundation Publications, 2000), 241.

terminating it by a peace either advantageous or glorious” they needed to wait patiently for better days.⁷

Jay has been criticized for his willingness to yield the navigation rights of the Mississippi River, but he acted in part on the wishes of Monroe and others who feared that the Mississippi would tend to divide the East from the West. Giving away the use of the river in a limited way for a limited time, in a way which would confirm the ultimate American right to the river, as well as achieve other goals seemed the best option to Jay, especially at a time when America was not ready for another war.⁸

Henry was furious about Jay’s attempt to give away America’s rights to use the Mississippi River in exchange for preferential trade status, believing it would have been a disaster for Virginia and the Southern economy.⁹ He reasoned that if Congress, under the Articles, could have sacrificed America’s access to the Mississippi River, depriving Virginia’s western farmers of their natural rights to ship their goods to market, that the Confederation government was all but powerless. At this point, he questioned if whether than strengthening the Confederation the states should instead dissolve.¹⁰ He would have rather seen the end of the Confederation than surrender America’s right to the Mississippi.¹¹

⁷ Jay, *The Life of John Jay*, 241-2.

⁸ Walter Stahr, *John Jay: Founding Father* (New York, NY: Diversion Books, 2012), 217.

⁹ Thomas Kidd, “Why did Patrick Henry Oppose the Constitution?” *The Imaginative Conservative* (March 19, 2017) <https://www.theimaginativeconservative.org>.

¹⁰ Harlow Giles Unger, *Lion of Liberty: Patrick Henry and the Call to a New Nation* (Cambridge: Da Capo Press, 2010), 186.

¹¹ Thomas S. Kidd, *Patrick Henry: First among Patriots* (New York: Basic Books, 2011), 184.

Virginia was the largest, richest, and most populated American state. Thus, reasoned Henry, there was no benefit in Virginia giving up her sovereignty and uniting with other states into a huge, unwieldy federal system. Instead, if needed, she could join with other states against attack by foreign powers or, when advantageous, participate in joint ventures with other states.¹²

Madison knew that even though the treaty was not adopted, the damage had been done. Henry turned totally against increasing the power of the national government, whether in the Confederation or a new Constitution.¹³ He reported to Washington that “Mr. Henry’s disgust exceeds all measure.”¹⁴ In a letter to Washington he wrote of his concern that they were going to lose the support of Henry and others saying that, “Many of our most federal leading men are extremely soured with what has already passed. Mr. Henry, who has been hitherto the champion of the federal cause, has become a cold advocate...”¹⁵ They all seemed to agree that Patrick Henry was “their most dangerous opponent.”¹⁶

As the talk of a Constitutional Convention increased, Henry thought the delegates planned to dominate the economy of the entire continent at the expense of Virginia and other western farmers.¹⁷ During the Virginia Ratifying Convention, he again brought up Jay almost giving away the rights to navigate the Mississippi and thought with the new Constitution

¹² Unger, *Lion of Liberty*, 186.

¹³ Kidd, “Why did Patrick Henry Oppose the Constitution?” <https://www.theimaginativeconservative.org>.

¹⁴ *Ibid.*

¹⁵ Unger, *Lion of Liberty*, 186.

¹⁶ Michael J. Faber, *An Anti-Federalist Constitution: The Development of Dissent in the Ratification Debates* (Lawrence: University Press of Kansas, 2019), 120.

¹⁷ *Ibid.*, 187.

America would lose “the navigation of that valuable river.”¹⁸ He said regarding the Constitution that “If a bare majority of Congress can make laws, the situation of our western citizens is dreadful.” Relinquishing the inestimable navigation rights to the Mississippi would “place formidable enemies on our backs.”¹⁹

Henry suspected that some delegates to the Convention intended to consolidate the power of the national government, putting the principles of the Revolution and the liberty of Americans at risk if the states had to give up their sovereignty to a new and powerful national government that would undermine the states.²⁰ He correctly foresaw that with the new Constitution, the main weight of political power would shift from the states to the national government, making the national government primary rather than the states.²¹ The states, he believed, needed to be preserved, as there was an inherent connection between the states and the preservation of individual liberty, which is the end goal of government. The governments instituted to secure the individual liberty and rights, as spoken of in the Declaration of Independence, were state governments.²² The national government was to give strength to the states that they could not achieve separately, yet be subordinate to the state governments. Convinced the Constitutional

¹⁸ Patrick Henry’s Speech at the Virginia Convention Debate of the Ratification of the Constitution, June 7, 1788, <https://teachingamericanhistory.org>.

¹⁹ Patrick Henry, Speech at the Virginia Convention Debate of the Ratification of the Constitution, June 9, 1788, <https://www.libertyfund.org>.

²⁰ Mark David Hall & Emily-Lynn Warren, “The Fiery Patrick Henry,” Law & Liberty, Part of the Liberty Fund Network, August 23, 2017, <https://www.lawliberty.org>.

²¹ Herbert J. Storing, *What the Anti-Federalists Were For* (Chicago: The University of Chicago Press, 1981), 9-10.

²² *Ibid.* 15.

Convention was a fraud with intent to weaken the states, Henry would have rather seen the Articles of Confederation reformed.²³

Later, during the ratifying debates, Henry commented regarding the Confederation government that it “merits, in my opinion, the highest encomium: it carried us through a long and dangerous war; it rendered us victorious in that bloody conflict with a powerful nation; it has secured us a territory greater than any European monarch possesses; and shall a government which has been thus strong and vigorous, be accused of imbecility, and abandoned for want of energy?”²⁴ The intention of the Articles was not to create a large, powerful national government but rather a government that would handle the tasks, which only a national government could do.²⁵

Jay disagreed with Henry’s assessment. He thought it was too weak. Regarding the Confederation government, he said that he had “long thought, and become daily more convinced, that the construction of our federal government is fundamentally wrong.”²⁶ He favored three separate branches of government—a legislative, judicial, and executive, rather than like the Confederation government, which put these three powers into “one and the same body of men, and that, too, in a body daily changing its members, can never be wise.”²⁷ He felt that these “three great departments of sovereignty should be for ever separated, and so distributed as to

²³ Unger, *Lion of Liberty*, 187.

²⁴ Patrick Henry, Speech at the Virginia Convention Debate of the Ratification of the Constitution, June 5, 1788, Teaching American History. <https://www.teachingamericanhistory.org>.

²⁵ Thomas Kidd, “Why did Patrick Henry Oppose the Constitution?” *The Imaginative Conservative* (March 20, 2017) <https://www.theimaginativeconservative.org>.

²⁶ John Jay Letter to Jefferson: quoted in Jay, *Life of John Jay*, 250.

²⁷ *Ibid.*

serve as checks on each other.”²⁸ As for the treasury under the Confederation, Jay said it was ill supplied. Some states paid nothing, while the other states paid very little, and there was no established tax. “The people,” he said, “generally uneasy in a certain degree, but without seeming to discern the true cause, viz. *want of energy both in state and federal governments.*”²⁹

Jay’s son said, “The inefficiency of the national government had long excited in Mr. Jay’s breast deep and constant apprehension for the honour and welfare of his country...His private letters and his reports to Congress bear ample testimony to his conviction of the unfitness of the existing system...”³⁰ In a letter to Washington, dated March 16, 1786, Jay said, “Experience has pointed out errors in our national government which call for correction, and which threaten to blast the fruit we expected from our tree of liberty.”³¹ To Jefferson, he wrote in a letter, dated August 18, 1786, about his frustration over the “unseasonable delays and successive obstacles in obtaining the decision and sentiments of Congress...”³² Both sides knew something needed to be done, but they did not agree as to how and what changes should be made.

The Issue of Sovereignty

The main issue of sovereignty in the debates over the Articles of Confederation later became one of the principal disputes in the ratification debates between the Anti-Federalists and Federalists. How were the powers to be divided between the states and the federal government?

²⁸ Jay Letter to Jefferson, Jay, *Life of John Jay*, 250.

²⁹ *Ibid.*, 250-1.

³⁰ Jay, *Life of John Jay*, 241.

³¹ John Jay Letter to George Washington, March 16, 1786: quoted in Jay, *Life of John Jay*, 242-3.

³² John Jay Letter to Thomas Jefferson, Paris, August 18, 1786: quoted in Jay, *Life of John Jay*, 250.

Henry supported state sovereignty and the Confederation government, which promoted states' rights over federal powers. Local governments better knew the needs of their constituents than a centralized, far away, federal government did. The citizens knew their representatives and vice versa, thus they better knew who they were electing and also the representatives could more easily be held accountable in a state government. A distant and strong federal government was not as easy to hold accountable and would become as tyrannical as the British government from which they had just declared their independence.³³

The debate over sovereignty in the Constitution debates went all the way back to the Revolutionary War, where a group of early Nationalists fought against the idea of state sovereignty throughout the entire war and after. They wanted a national sovereign government with sovereignty in the Confederation Congress rather than the states. Essentially, the Nationalists looked to give government supremacy in the same areas Parliament had denied to Americans before, and that Americans had fought in the Revolutionary War to deny Britain these encroachments.³⁴ Henry, later during the Constitution debates, similarly argued that the Constitution was only replacing the British government we had just fought a war to get rid of.

During the long and heated debates on the Articles (1777-81), Thomas Burke from North Carolina worked against the Nationalists, such as James Wilson and Benjamin Rush, who wanted to weaken the authority of the states. Burke voiced many of the same concerns the Anti-Federalists would years later in 1788 at the ratifying conventions. He feared centralized power and wanted the states to remain as sovereign entities. Those who gained power in the

³³ Brian DiPaolo, "Articles of Confederation," *Articles of Confederation*, Infobase, 2006, <https://www.ich.infobase.com>.

³⁴ Aaron N. Coleman, *The American Revolution, State Sovereignty, and the American Constitutional Settlement, 1765-1800* (Lanham, MD: Lexington Books, 2016), 39.

Confederation Congress would want more power and become tyrannical. He worked to make sure this did not happen and was concerned over protecting the liberties of the people.³⁵ It was important the states be sovereign to protect the principle of self-government upon which the American Revolution was founded.³⁶ He was convinced that within the Articles there needed to be a statement confirming the individual sovereignty of each state in order to protect against violations of states' sovereignty and, in turn, protect individual liberty.³⁷ Burke proposed the following amendment:

Each State retains its Sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this **confederation** expressly delegated to the United States in Congress assembled.³⁸

The Burke Amendment was approved by Congress as Article II of the Articles of Confederation.

With the passage of the Burke Amendment, the Nationalists' attempt at creating a national sovereign government was defeated for now.³⁹ Article II, made state sovereignty a fundamental aspect of the American constitutional order by codifying that one of the purposes of the American Revolution was the protection of state sovereignty.⁴⁰

The issue of sovereignty continued as Madison and Hamilton led the way to move the country away from the majority of Americans' and the Founders' original suspicion of big government. The debate over sovereignty resumed in Philadelphia at the Constitutional

³⁵ Coleman, *The American Revolution, State Sovereignty, and the American Constitutional Settlement*, 39.

³⁶ John S. Watterson, "Revolutionary Nonconformist: Thomas Burke of North Carolina," South Dakota State Historical Society, 1976, <https://www.sdhspress.com>.

³⁷ Ibid.

³⁸ Nathan Coleman, "The Articles of Confederation and State Sovereignty," *The Imaginative Conservative* (March 31, 2019), <https://theimaginativeconservative.org>.

³⁹ Watterson, "Revolutionary Nonconformist," <https://www.sdhspress.com>.

⁴⁰ Coleman, "The Articles of Confederation," <https://theimaginativeconservative.org>.

Convention (1787), which was called to make changes to the current constitution, the Articles of Confederation, but the delegates instead formed an entirely new document—the Constitution of the United States of America. The Anti-Federalists felt that some changes needed to be made to the Articles of Confederation, but an entirely new document was not needed. Henry supported the Articles and opposed ratification of the new Constitution, but this does not mean that he was as radically supportive of the Articles as some would contend or commonly assume. Yes, he had always been supportive of states' rights and their sovereignty, seeing this as essential to liberty, but that did not mean he was opposed to the union of the states or did not see the necessity of strengthening the authority of the federal government. He was not blind to the problems with the Articles and had actively worked along with political allies to solve the deficiencies.⁴¹

The Federalists thought the Articles of Confederation promoted states' rights at the cost of federal authority and supported the proposed new Constitution.⁴² Henry correctly foresaw that more than revising the Articles was intended. Some of the Federalist delegates sought not to change the Articles but to abandon them altogether.⁴³ Madison came to the Convention with a plan for a new government. In his "Virginia Plan" he wanted the federal government to have power over the states, to form a bicameral legislature, and three branches of government.⁴⁴ This time the Nationalists, now called the Federalists, would win and a new constitution was written and then ratified for the United States of America, creating a large, strong national government

⁴¹ Moses Coit Tyler, "Shall the Confederation be made Stronger?" In *Patrick Henry*, (Cambridge, MA: The Riverside Press, 1887), 344.

⁴² DiPaolo, "Articles of Confederation," <https://www.ich.infobase.com>.

⁴³ Thomas S. Kidd, *Patrick Henry: First among Patriots* (New York: Basic Books, 2011), 184.

⁴⁴ John Jay Homestead, accessed September 24, 2021, <https://www.johnjayhomestead.org>.

taking away states' sovereignty. Most of the power would now reside within the Federal government.

Constitution Debates

Henry and Jay played major roles during the state ratifying debates, though neither attended the Constitutional Convention in Philadelphia (May 25, 1787 – September 17, 1787). Henry had been so incensed over the Jay-Gardoqui negotiations that he refused to attend. Most assumed he would attend. Even before he received the request to serve as a delegate, major newspapers had published the news that Henry had been chosen as a delegate. When he did receive the invitation; he declined. Mail delivery at that time could be slow, and Henry did not receive the invitation to serve at the Constitutional Convention until two months after it was mailed. By then he was sure he wanted nothing to do with Madison and his scheme to change the nation's government.⁴⁵ Henry awaited the ratifying convention where he would have his say.

Jay's name was proposed as a delegate and passed the Assembly, but was defeated in the Senate, where there were a lot of Anti-Federalists opposed to Jay's Federalist views.⁴⁶ Even though Jay was not a delegate, he exercised a tremendous amount of influence in the Convention and on the proposed Constitution. His New York Constitution (1777), used in part as a model, had established the concept of self-governing, no governmental sponsored religion, a state court system, and executive, legislative, and judicial branches of government.⁴⁷ It was one of the first constitutions to have three branches of government. During the Convention, he corresponded with Federalist delegates, such as Washington, giving his opinion and recommendations. Jay,

⁴⁵ Kidd, *Patrick Henry*, 182-3.

⁴⁶ Monaghan, *John Jay*, 283.

⁴⁷ John Jay Homestead, <https://www.johnjayhomestead.org>.

like Henry, attended his state ratifying convention where he led the Federalist attack in New York, as Henry led the Anti-Federalist attack in Virginia.

For a state to ratify, there had to be a special election called to select delegates to a state ratifying convention that then had to vote for or against ratification of the proposed new Constitution. The Convention required each state to have a ratification convention within six months.⁴⁸ Jay and the other Federalists worked to make sure each state legislature organized elections in their respective states. They campaigned to get as many Federalists elected as delegates to these state ratifying conventions as they could. Then, they worked to persuade delegates to vote in favor of the Constitution. Lastly, they worked to persuade the American people to support the new Constitution.⁴⁹ In an effort to influence the delegates and win over their state of New York, Madison, Hamilton, and Jay wrote a total of eighty-five essays that explained and defended the Constitution and had them printed in newspapers, writing under the pen name Publius.⁵⁰ These eighty-five essays were later published as *The Federalist Papers*. Jay also wrote *An Address to the People of the State of New-York on the Subject of the Constitution* to further try to persuade the public to support the new Constitution. Henry's views on the Constitution were made plain as he took a lead in the Virginia Ratifying Convention opposing the Constitution, where his words were recorded. So, there is a clear picture of the views of both men regarding the Constitution. Following are some of the key issues debated in 1788 on both sides from the sentiment of Henry and Jay.

⁴⁸ John Jay Homestead, <https://www.johnjayhomestead.org>.

⁴⁹ Stahr, *John Jay*, 247-8.

⁵⁰ Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers* (New York: The New American Library of World Literature, Inc., 1961), front page.

The very first words in the preamble to the Constitution upset Henry. Why, he asked, did the document begin with “We the People” instead of “We the States?” The sovereign body of thirteen states became euphemistically known as “the people.”⁵¹ The semantics of who “the people” were and the concept of state sovereignty caused much contradiction and confusion dating back to the debates over the Articles of Confederation.⁵² Were “the people” to mean the people of each individual state or the state collectively? As understood in the Declaration, “the people” were collectively the populations of all the states. In the Articles “each individual state claimed to be the heir to the sovereignty formerly exercised by the crown...legitimacy was held to be inherent in the succession.”⁵³

Henry brought up this issue in his opening speech before the Virginia Ratifying Convention on June 4, 1788. He asked, “What right had they [delegates of the Constitutional Convention] to say, We, the people?”⁵⁴ “Who authorized them to speak the language of, We, the people, instead of, We, the states? States are the characteristics and the soul of a confederation. If the states be not the agents of this compact, it must be one great, consolidated, national government, of the people of all the states...”⁵⁵ Henry brings the topic up again the next day in Convention. He favored the language We, the states, as it implied a compact between states forming a confederation that allowed for the states to maintain their sovereignty and thus their

⁵¹ J. R. Pole, “Contract and Consent,” in *Representation and the Jury in Anglo-American Legal History* (Charlottesville: University of Virginia, 2010), 109-110.

⁵² *Ibid.*, 110-111.

⁵³ Pole, “Contract and Consent,” 110.

⁵⁴ Patrick Henry, Speech Delivered at the Virginia Convention Debate of the Ratification of the Constitution, June 4, 1788, Patrick Henry Red Hill Memorial Foundation, <https://www.redhill.org>.

⁵⁵ *Ibid.*

independence and liberty. It also allowed for dissimilar governments, such as the states with concerns particular to their state, to work together as a confederation. In this way, the states would be able to have the freedom to do what was best for their state, while still working together on those issues such as foreign policy that a central government could better handle for the nation as a whole.

We, the people, on the other hand, would indicate a consolidated government, which Henry saw as being dangerous to the liberty of the states. Without state sovereignty, Henry said, “our rights and privileges are endangered, and the sovereignty of the states will be relinquished...The rights of conscience, trial by jury, liberty of the press all your immunities and franchises, all pretensions to human rights and privileges, are rendered insecure, if not lost...”⁵⁶ Americans “connected state sovereignty to a defense of liberty.”⁵⁷ Without the sovereignty of the states, it was obvious to Henry that the liberty of the people would be taken from them.⁵⁸ And to Henry, liberty was “the greatest of all earthly blessing—give us that precious jewel, and you may take every thing else!”⁵⁹ We are to “Guard with jealous attention the public liberty. Suspect every one who approaches that jewel.”⁶⁰ Under the Confederation the “states would voluntarily surrender elements of their sovereignty, especially powers associated with the former monarchial

⁵⁶ Patrick Henry, Speech Delivered at the Virginia Convention Debate of the Ratification of the Constitution, June 5, 1788, <https://www.teachingamericanhistory.org>.

⁵⁷ Coleman, *The American Revolution*, 95.

⁵⁸ Ibid.

⁵⁹ Henry, Speech on June 5, 1788, <https://www.teachingamericanhistory.org>.

⁶⁰ Ibid.

authority to wage war, conduct diplomacy, and settle disputes between sister states.”⁶¹ This was the primary reason for a union among the states.⁶²

Changing from a confederation into a consolidated government, said Henry, was “so abhorrent to my mind.”⁶³ One of Henry’s greatest fears with the new Constitution was the loss of Americans’ individual liberty then and in the future. He “conceived the republic to be in extreme danger.”⁶⁴ Instead of securing Americans’ rights, with this Constitution, liberty would be lost and tyranny would arise. America was at risk of losing her rights forever. The delegates that were sent to Philadelphia, he argued, did not have the power to propose a consolidated government. Anti-Federalists claimed that the delegates were sent to Philadelphia for the “express purpose of revising the Articles of Confederation.” They “had no right to propose any radical change in the government of the Union.”⁶⁵ The Philadelphia Convention bypassed the Congress and the state legislatures and instead proposed special ratifying conventions be formed in each state, where after nine states ratified, the new Constitution would become the law of the land. There was no legal basis for this proposal. The Anti-Federalists warned that the same disregard the Federalists had for the law—the Articles of Confederation—and the same reasons they were using to destroy the present government, may someday be “urged for *abolishing the system* which you now propose to adopt...”⁶⁶ The Anti-Federalists had a powerful argument, but as the ratifying

⁶¹ Coleman, “The Articles of Confederation,” <https://theimaginativeconservative.org>.

⁶² Ibid.

⁶³ Henry, Speech on June 5, 1788, <https://www.teachingamericanhistory.org>.

⁶⁴ Henry, Speech on June 4, 1788, <https://www.redhill.org>.

⁶⁵ Storing, *What the Anti-Federalists Were For*, 7.

⁶⁶ Ibid., 7-8.

conventions continued, and the new Constitution was “before the people and its merits under discussion” the argument became less relevant.⁶⁷

Conversely, Jay believed liberty would be preserved through the Constitution. There needed to be a strong federal government, rather than giving sovereignty to the states, for America to survive. Getting support for the new Constitution, he knew, would not be easy, but he contended it was essential for the welfare of the new country. He maintained that the Confederation government was too defective and that security for the union, as well as liberty, “could only be found in a national government more wisely framed.”⁶⁸ Jay, in his Federalist No. 2 essay, stressed that America should “be one nation, under one federal government, than that they should divide themselves into separate confederacies and give to the head of each the same kind of powers which they are advised to place in one national government.”⁶⁹

Jay said that before the Constitution was written there had been “a received and uncontradicted opinion that the prosperity of the people of America depended on their continuing firmly united... But politicians now appear who insist that this opinion is erroneous, and that instead of looking for safety and happiness in union, we ought to seek it in a division of the States into distinct confederacies or sovereignties.”⁷⁰ Actually, though, state sovereignty was the majority view throughout the Revolutionary War and after. Americans were wary of big government, and it was not until Federalists like Jay, Hamilton, and Madison tried to persuade the American people otherwise that opinions waivered. Henry asserted it was not fact that most

⁶⁷ Storing, *What the Anti-Federalists Were For*, 7.

⁶⁸ Jay, *The Federalist Papers*, 39.

⁶⁹ *Ibid.*, 37.

⁷⁰ Hamilton, Madison, and Jay, *The Federalist Papers*, Front Page.

Americans were dissatisfied with the Articles, as the “middle and lower ranks of people have not those illuminated ideas which the well-born are so happily possessed of...”⁷¹ He said he was “persuaded that four fifths of the people of Virginia must have amendments to the new plan, to reconcile them to a change of their government,” and that “no government can flourish unless it be founded on the affection of the people.”⁷²

Jay stressed in Federalist No. 2 that it was Providence (God) that gave us this land “not composed of detached and distant territories, but that one connected, fertile, wide-spreading country was the portion of our western sons of liberty...” Providence gave this “one connected country to one united people—a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs... and who, by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established their general liberty and independence.”⁷³ He stressed the connectedness of a united people, their similarities rather than the differences of each area of the country. Jay believed God had given them this land, and that there was a preexisting, divinely ordained unity in America, thus Americans had a duty to now unite to protect and enjoy this land God gave them. The way to do that was through the new Constitution. The sacrifices made in the American Revolution would be secured through

⁷¹ Patrick Henry, *Speech Delivered at the Virginia Convention Debate of the Ratification of the Constitution*, June 7, 1788. Teaching American History <https://teachingamericanhistory.org> .

⁷² Patrick Henry, *Speech Delivered at the Virginia Convention Debate of the Ratification of the Constitution*, June 9, 1788, Online Library of Liberty: The Debates in the Several State Conventions of the Adoption of the Federal Constitution vol. 3 <https://www.libertyfund.org>.

⁷³ Jay, *The Federalist Papers*, 38.

the Constitution.⁷⁴ Jay's goal was not necessarily accuracy, but by using religious and revolutionary images attempted to persuade voters to accept the new Constitution. He knew Americans did not all come from the same ancestors, all speak the same language, or all have the same religious beliefs.⁷⁵

Jay continued, saying that this country and people seemed to have been made for each other, as if it was the design of Providence "that an inheritance so proper and convenient for a band of brethren, united to each other by the strongest ties, should never be split into a number of unsocial, jealous, and alien sovereignties."⁷⁶ To Jay, Providence itself argued for a strengthened Union by adopting the Constitution.⁷⁷

In Federalist No. 2 he talked about the inadequacy of the Confederation government that was formed hastily during a war. "It is not to be wondered at that a government instituted in times so inauspicious should on experiment be found greatly deficient and inadequate to the purpose it was intended to answer."⁷⁸ He had become frustrated with the Confederation government that had no power to tax, and its financial troubles in raising revenues during and now after the Revolutionary War. Thus, he favored fiscal power in the hands of a national government rather than the states.

⁷⁴ Jonathan Den Hartog, "John Jay and the 'Great Plan of Providence,'" in *Forgotten Founders on Religion and Public Life*, eds. Daniel L. Dreisbach, Mark D. Hall, and Jeffrey H. Morrison, (Notre Dame: University of Notre Dame Press, 2009), 158-9.

⁷⁵ Stahr, *John Jay*, 249-50.

⁷⁶ Jay, *The Federalist Papers*, 38.

⁷⁷ Den Hartog, "John Jay and the 'Great Plan of Providence,'" 159.

⁷⁸ Jay, *The Federalist Papers*, 39.

He envisioned a national government who also had the power to control the baser instincts of men in order to maintain an orderly society.⁷⁹ In a letter to Washington dated June 27, 1786, he said that “The Mass of Men are neither wise nor good—and Virtue like the other Resources of a country can only be drawn to a point by strong Circumstances ably managed, or strong government ably administered.”⁸⁰ In April-May 1791, Jay in his charge to the Grand Juries said that “nothing but a strong government of laws irresistibly bearing down arbitrary power and licentiousness can defend it against those two formidable enemies.”⁸¹ Jay felt the government was too weak “to afford security, inspire confidence, and overawe the ambitious and licentious, the best citizens naturally grow uneasy and look to other systems.”⁸² In the letter to Washington he continued, “Besides, in times of Commotion some Men will gain confidence & Importance who merit neither...”⁸³ The best citizens would start to look for a secure government, even at the expense of a loss of freedom, and the ambitious and licentious would rise up and lead people away from their virtue and liberty.⁸⁴ Jay was persuaded that both security and liberty for the country could be found in a national government through the new Constitution.

⁷⁹ Unger, *Lion of Liberty*, 163.

⁸⁰ John Jay Letter to George Washington, June 27, 1786, *Founders Online*, National Archives, <https://founders.archives.gov>. [Original source: *The Papers of George Washington*, Confederation Series, vol. 4, 2 (April 1786-31 January 1787) ed. W. W. Abbot (Charlottesville: University Press of Virginia, 1995), 130-32.

⁸¹ John Jay, “The charges of Chief Justice Jay to the Grand Juries on the Eastern circuit as the circuit Courts held in the Districts of New York on the 4th, of Connecticut on the 22^d days of April, of Massachusetts on the 4th, and of New Hampshire on the 20th days of May, 1790.” *The Correspondence and Public Papers of John Jay*, ed. Henry P. Johnston, A.M. (New York: G.P. Putnam’s Sons, 1890-93). Vol. 3 (1782-1793).

⁸² John Jay quoted in Den Hartog, “John Jay and the ‘Great Plan of Providence,’” 158.

⁸³ John Jay Letter to George Washington, June 27, 1786, <https://founders.archives.gov>.

⁸⁴ Den Hartog, “John Jay and the ‘Great Plan of Providence,’” 158.

Henry though said there were already “sufficient guards placed against sedition and licentiousness;” in the Confederation government and that “when power is given to this government to suppress these, or for any other purpose, the language it assumes is clear, express, and unequivocal...”⁸⁵ He agreed that the new Constitution government may effectually prevent licentiousness, faction, and turbulence, “yet there is another thing it will as effectually do—it will oppress and ruin the people.”⁸⁶ This new government may control sedition and licentiousness, but it would be at the loss of their liberty.

Jay kept implying that the Anti-Federalists wanted “thirteen separate States or three or four distinct confederacies,”⁸⁷ but the Anti-Federalists did not want the United States to be divided into three or four distinct confederacies. This was a key argument Jay and other Federalists used to try to persuade the undecided by making it look like the Anti-Federalists wanted to split up the country rather than to have unity. Jay wanted Americans to believe that if the Constitution was not ratified it would inevitably lead to division in the country.⁸⁸ “The prosperity of America depended on its Union,” Jay said, and that dividing into sovereign states would “put the continuance of the Union in the utmost jeopardy” causing “the dissolution of the Union.” Jay closes with a warning at the end of Federalist No. 2 that if this Constitution is rejected, “...that whenever the dissolution of the Union arrives, America will have reason to

⁸⁵ Patrick Henry, *Speech before Virginia Ratifying Convention*, (June 5, 1788), Teaching American History. <https://teachingamericanhistory.org>.

⁸⁶ Ibid.

⁸⁷ Jay, *The Federalist Papers*, 43.

⁸⁸ Stahr, *John Jay*, 249.

exclaim in the words of the Poet, ‘FAREWELL, A LONG FAREWELL, TO ALL MY GREATNESS.’”⁸⁹

But, Henry said in Convention on June 5, 1788 that he was “a lover of the American Union... [and that] the dissolution of the Union is most abhorrent to my mind. The first thing I have at heart is American liberty: the second thing is American union...”⁹⁰ The Anti-Federalists were not against union, as the Federalists insinuated, but as Henry argued, what if Virginia “should wish to alter their government; can a majority of them do it? No; because they are connected with other men, or, in other words, consolidated with other states. When the people of Virginia, at a future day, shall wish to alter their government, though they should be unanimous in this desire, yet they may be prevented therefrom by a despicable minority at the extremity of the United States.”⁹¹ Each state would not be able to tend to the needs of their particular state.

The Federalists argued that without a strong national government the security of the nation would be at risk. First, separate sovereign states would cause conflict between the states, and secondly, they would be ripe for war from foreign nations. In Federalist No. 5, Jay stated his apprehension over the states dividing, thus his appeal for a Union with a strong Federal government. He thought this would better keep the nation together, versus each state having too much power through state sovereignty, believing separate sovereign states would cause conflict between the states. Instead of being united in common interests, the states would have “envy and jealousy [that] would soon extinguish confidence and affection, and the partial interests of each confederacy, instead of the general interests of all America...” would become the concern of

⁸⁹ Jay, *The Federalist Papers*, 41.

⁹⁰ Henry, Speech before Virginia Ratifying Convention, June 5, 1788, <https://www.teachingamericanhistory.org>.

⁹¹ *Ibid.*

each state.⁹² Jay thought it inevitable that one state would rise above another in political importance and then the other states would “behold her with envy and with fear. Both those passions would lead them to countenance, if not to promote, whatever might promise to diminish her importance; and would also retain them from measures calculated to advance or even to secure her prosperity.”⁹³ When this happened, the stronger state would sense the “unfriendly dispositions” of the others and “lose confidence in her neighbors, but also to feel a disposition equally unfavorable to them. Distrust naturally creates distrust, and by nothing is good will and kind conduct more speedily changed than by invidious jealousies and uncandid imputations, whether expressed or implied.”⁹⁴ Jay argued that just like bordering nations, bordering states would constantly “be either involved in disputes and war, or live in the constant apprehension of them... it cannot be presumed that the same degree of sound policy, prudence, and foresight would uniformly be observed by each of these confederacies for a long succession of years.”⁹⁵

Jay especially feared that differences between the North and the South would bring conflict rather than cooperation between the states. He abhorred the thought of a possible division of the Union, and he lived long enough to hear the South begin to threaten to secede.⁹⁶ Jay was correct that there would be divisions and disputes due to their differences, such as commerce, but a strong Federal government did not avoid a future civil war.

⁹² Jay, *The Federalist Papers*, 51-2.

⁹³ *Ibid.*

⁹⁴ *Ibid.*, 52.

⁹⁵ *Ibid.*, 51-2.

⁹⁶ Walter Stahr, *John Jay: Founding Father* (NY: Diversion Books, 2012), 251.

Besides seeing conflict between the states, Jay also feared America would be ripe for war from foreign nations if sovereignty remained in the states. He contended that “weakness and divisions at home would invite dangers from abroad; and that nothing would tend more to secure us from them than union, strength, and good government within ourselves.”⁹⁷ He contended, “...a cordial Union, under an efficient national government, affords them the best security that can be devised against *hostilities* from abroad.”⁹⁸ One national government would better keep peace in America than “thirteen separate States or three or four distinct confederacies.”⁹⁹ One reason for this is that when there is an efficient national government the best men in the country rise up to serve, and they will also be appointed to manage it. The result will be “that the administration, the political counsels, and the judicial decisions of the national government will be more wise, systematical, and judicious than those of individual States, and consequently more satisfactory with respect to other nations, as well as more *safe* with respect to us.”¹⁰⁰

Henry thought the Federalists were trying to scare Americans with their talk of war and disputes when he knew of no danger lurking. He said, “...it is the fortune of a free people not to be intimidated by imaginary dangers.”¹⁰¹ Henry saw no cause to fear from neighboring states—what would be their advantage? The Confederation secured the territory rights of each state. As for foreign treaties, no treaty could be ratified by just one state, nine states were needed under the Confederation to ratify a treaty. But, Jay thought it wise to stay in constant readiness for defense,

⁹⁷ Jay, *The Federalist Papers*, 50.

⁹⁸ *Ibid.*, 42.

⁹⁹ *Ibid.*, 43.

¹⁰⁰ *Ibid.*

¹⁰¹ Henry, Speech June 7, 1788, <https://teachingamericanhistory.org>.

and that a strong union could better raise and pay for armies and fleets.¹⁰² He questioned, if attacked, would the other states “fly to its succor and spend their blood and money in its defense?”¹⁰³ If they did unite in war against a foreign power, he asked, “Who shall command the allied armies, and from which of them shall he receive orders? Who shall settle the terms of peace, and in case of disputes what umpire shall decide between them and compel acquiescence?”¹⁰⁴ In Federalist No. 4, Jay said that in forming treaties the interests of the whole nation will be included, “and the particular interests of the parts as connected with that of the whole.” A sovereign national government will have “the resources and power of the whole to the defense of any particular part, and that more easily and expeditiously than State governments or separate confederacies can possibly do, for want of concert and unity of system.” The military would be “under one plan of discipline, and, by putting their officers in a proper line of subordination to the Chief Magistrate, will, in a manner, consolidate them into one corps.”¹⁰⁵

Anti-Federalists thought there was no need to keep a standing army and that as needs arose, then a national credit and a national treasury would be provided, such as in a time of war. Henry believed when required “republics always put forth their utmost resources.”¹⁰⁶ With the Constitution, Congress would be given much power. “Congress, by the power of taxation, by that of raising an army, and by their control over the militia, have the sword in one hand, and the purse in the other. Shall we be safe without either? Congress have an unlimited power over both:

¹⁰² Stahr, *John Jay*, 353.

¹⁰³ Jay, *The Federalist Papers*, 48.

¹⁰⁴ *Ibid.*, 49.

¹⁰⁵ *Ibid.*, 48.

¹⁰⁶ Storing, *What the Anti-Federalists Were For*, 30.

they are entirely given up by us... no nation ever retained its liberty after the loss of the sword and purse.”¹⁰⁷ The Constitution gave Congress “a power of direct taxation, unbounded and unlimited.” This American government under the Constitution could take away “the whole of our property...by laying what taxes they please, giving themselves what salaries they please, and suspending our laws at their pleasure.” A standing army would “execute the execrable commands of tyranny.”¹⁰⁸ The people become defenseless with Congress’ power to control the military. What defense would the states have? There would be no way to stop a government that became tyrannical who controls the money and the military.

The Federalist emphasis on national defense, a robust commercial policy, and prestige in the eyes of other nations to the Anti-Federalists seemed to disguise a radical shift in direction from the protection of individual liberty to the pursuit of national riches and glory. Henry said it was not prestige abroad and wealth at home that we were after, but liberty was to be the foundation and direct end of our government and that is why America became “a great, mighty, and splendid nation.”¹⁰⁹

Jay considered that for America to survive on the international stage they must “appear as one unified entity, not as a league of states.”¹¹⁰ America must be “firmly united under one federal government, vested with sufficient powers for all general and national purposes.”¹¹¹

¹⁰⁷ Henry, Speech June 9, 1788, <https://www.libertyfund.org>.

¹⁰⁸ Henry, Speech June 5, 1788, <https://www.teachingamericanhistory.org>.

¹⁰⁹ Ibid.

¹¹⁰ John Jay Homestead, <https://www.johnjayhomestead.org>.

¹¹¹ Jay, *The Federalist Papers*, 42.

In Federalist No. 4, Jay thought that with a large national government “one government can collect and avail itself of the talents and experience of the ablest men, in whatever part of the Union they may be found.”¹¹² There would also be uniform principles of policy. A strong national government would be able to “harmonize, assimilate, and protect the several parts and members, and extend the benefit of its foresight and precautions to each.”¹¹³ A sovereign national government could better keep the nation safe, run the country smoothly, and do what was best for the nation as a whole.

In opposition, Henry said you could not rely on the best men serving in the government. He felt there were not enough checks and balances, and that “this government is of such an intricate and complicated nature, that no man on this earth can know its real operation.”¹¹⁴ The Constitution leaned towards monarchy, where if an ambitious and able man became President he could easily become an absolute monarch/tyrant. Those in the government would not be prevented from taking away our liberties. He avowed the Constitution was a “defective and imperfect construction [that] puts it in their power to perpetrate the worst of mischiefs, should they be bad men...” It was “folly in resting our rights upon the contingency of our rulers being good or bad?”¹¹⁵ It will not be because of the Constitution that Congressmen are not corrupted, but because they are good men, as the only semblance of a check is the power not to reelect

¹¹² Jay, *The Federalist Papers*, 47-8.

¹¹³ Ibid.

¹¹⁴ Henry, Speech June 5, 1788, <https://www.teachingamericanhistory.org>.

¹¹⁵ Ibid.

them, “and the most abandoned and profligate acts may with impunity be committed by them.”¹¹⁶

Henry said that the Constitution reflected “in the most degrading and mortifying manner on the virtue, integrity, and wisdom of the state legislatures; it presupposes that the chosen few who go to Congress will have more upright hearts, and more enlightened minds, than those who are members of the individual legislatures.”¹¹⁷ Henry asked them to “Show me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men, without a consequent loss of liberty! I say that the loss of that dearest privilege has ever followed, with absolute certainty, every such mad attempt.”¹¹⁸

Both men fought for what they regarded as the best government for their country. They both wanted liberty, yet security, too, in order to maintain liberty. Henry believed liberty was best preserved through the sovereignty of the states where the people knew and had confidence in their leaders who would be local men well acquainted with the needs of their communities. The national government was to be under the state governments and to accomplish the tasks that a state government could not. In contrast, Jay saw liberty guarded in a sovereign national government over all the states. A powerful national government could better work for the benefit of the nation as a whole, providing the most security for the nation and using the ablest people from each state. Each man championed and worked towards what they truly believed was the best government to preserve American’s liberties.

¹¹⁶ Henry, Speech June 7, 1788, <https://teachingamericanhistory.org>; Henry, Speech June 9, 1788, <https://www.libertyfund.org>.

¹¹⁷ Henry, Speech June 9, 1788, <https://www.libertyfund.org>.

¹¹⁸ Ibid.

Chapter 5

After Ratification of the Constitution

Henry and Jay after Ratification

New Hampshire voted to ratify the Constitution of the United States of America on June 21, 1788, giving the ninth out of thirteen votes needed to approve the Constitution, making it the new government and law of the land. America's first president, George Washington, began to fill positions in his administration. Henry and Washington's relationship was not what it had been before being on opposing sides of the Constitution debates, but they still respected each other and remained friends. Washington offered Henry several key positions in his administration, all of which Henry declined (until the last one where Washington asked him to run for the state legislature, which he won, but died before he could take office).¹ He wanted to spend time with his family and become financially stable.

From the time after the ratification of the Constitution, to his death eleven years later, Henry worked to rebuild his finances. He faced financial troubles and could barely support his family. For much of his life he struggled to stay out of debt, even though he lived a frugal life for the most part. Also, in the economic downturn after the War, his tobacco crops were not bringing in enough to support his family, so he needed to return to practicing law. He planned to be out of debt within a couple of years, and achieved his goal by 1794.² By the end of his life he was not only out of debt, but had regained financial stability, and died a rich man able to leave his family an inheritance. It had been important to him to provide for his large family of seventeen children, including sending his boys to college and providing dowries for his girls.

¹ Thomas S. Kidd, *Patrick Henry: First among Patriots* (New York: Basic Books, 2011), 226.

² *Ibid.*, 221.

Henry remained in the Virginia assembly until 1791, though he had basically retired from politics and turned his attention to law and land speculation. He loved to take on cases against British citizens and Loyalists and relive the cause of American liberty.³

Some of the land dealings after ratification proved to Henry his fears had been legitimate that the national government would over-step their bounds and trample on the rights of the states and people. Henry was disgusted when, in April 1789, North Carolina ceded to Congress the area of land known as Franklin in order to turn it into the future state of Tennessee instead of giving political control to the citizens. To Henry, it seemed as if North Carolina had given in to federal authority, fulfilling his prediction that Congress would, little by little, gain more and more power over the states.⁴

Henry, along with some other Virginians, acquired eleven million acres in a grant from Georgia, the area in what would become northern Mississippi, called the “Yazoo” Grant for the river that flowed through it. Though it was primarily a moneymaking venture for Henry and some of his colleagues, they contemplated using it as a place where they would be able to create an independent republic if the new government grew into tyranny as he predicted someday it would. Henry was furious when, in August 1790, Washington returned the Yazoo lands back to the Creek Indians, rescinding the agreement between Henry and his partners and Georgia, further solidifying Henry’s fear of encroachment from the new government.⁵

Not long after the Constitution was ratified, Madison and other Federalists who had strongly supported the new Constitution began to see that Henry was correct in his concerns over

³ Kidd, *Patrick Henry*, 222.

⁴ *Ibid.*, 219-20.

⁵ *Ibid.*

the Constitution. Some Federalists also talked about seceding from the Union in an attempt to retain their liberties.⁶ Jay had been correct in his concerns over divisions between states.

Henry had, for the most part, reconciled himself to the new Constitution by the early 1790s. It was not the government he desired, but as an American he would make the best of it. Even though he accepted the new government, he continued to worry that his worst fears were already developing, especially Hamilton's plans. In Hamilton's plan, the federal government would assume state debts from the time of the Revolution. This would significantly increase the financial burden of the national government and disproportionately benefit the northern states. Henry advocated for a strict interpretation of the Constitution as the only hope for states to maintain power, as he believed the Constitution "would not adequately restrict the actions of the national government."⁷ Hamilton's debt assumption plan created a major split between Madison and Hamilton, two of the staunchest Federalists and defenders of the Constitution, who along with Jay wrote the *Federalist Papers*. This split led to the forming of the Democratic-Republican Party formed by Madison and Jefferson who opposed Hamilton and the Federalists' financial program. Ideologically, Henry sympathized with the side of Madison and Jefferson, but he was never likely to join with them because of the animosity from Jefferson towards him for the past ten years, and he greatly respected Washington and would not go against him.⁸

There was no dispute that Washington would be the first president under the new Constitution, but they did not know who would be the first vice-president. Jay came in second to John Adams for the position. Washington allowed Jay to choose his position in the new

⁶ Jon Kukla, *Patrick Henry: Champion of Liberty* (New York: Simon and Schuster, 2017), 367.

⁷ Kidd, *Patrick Henry*, 224.

⁸ Kidd, *Patrick Henry*, 223-4; Kukla, *Patrick Henry*, 367.

administration, and Jay chose to become the first Chief Justice of the Supreme Court. One reason he was interested in the position of Chief Justice was to handle what he considered the most pressing problem facing the new federal courts; the state courts were still not ruling that American debtors had to pay their British creditors. This was a provision of the peace treaty with Britain at the end of the war and Jay was afraid that if America did not honor this provision and pay back their British debts then Britain would not honor the provision in the treaty that they would evacuate the American forts. Jay felt that not paying the British debts could lead to a second war and thus considered this a top priority.⁹ Also, after his experience with the financial troubles of the Confederation government, who had no power to tax, he was determined that the new government would not face the same difficulties. As the first Chief Justice of the Supreme Court, under the new government, he resolved not to show leniency when deciding cases for those who violated tax or revenue laws.¹⁰

Jay's Treaty (1794)

In 1793, the French Revolution had led to war between France and Britain. Americans were divided between those who supported the French and those who supported the British.¹¹ By the spring of 1794, it looked like another war with Britain was approaching. Tensions between the U. S. and Britain had been escalating ever since the end of the Revolutionary War. There were three main issues still brewing between the two nations. First of all, the British still occupied northern forts that they had agreed to vacate in the Treaty of Paris (1783) at the end of the Revolutionary War. America was also frustrated by the recurrent Native American attacks in

⁹ Kukla, *Patrick Henry*, 267, 272.

¹⁰ Walter Stahr, *John Jay: Founding Father* (NY: Diversion Books, 2012), 276.

¹¹ Accessed October 1, 2021, <https://www.history.state.gov>.

these areas. Second, British trade restrictions and tariffs blocked American exports, while British exports flooded the American markets. Third, Britain was impressing American sailors and seizing their naval and military supplies.¹² British war ships had been seizing American merchant vessels in the West Indies, forcing them into British ports, then leaving the sailors there with no way to support themselves or to return home.¹³

President Washington sent Jay, who was serving as Chief Justice of the Supreme Court, as an envoy to England to negotiate with the British government, hoping to avert war and to increase American trade to Britain and decrease their dependence on trade with Britain.¹⁴ Jay's only bargaining chip to negotiate with was "the threat that the United States would join the Danish and the Swedish governments in defending their neutral status and resisting British seizure of their goods by force of arms."¹⁵ On his own, Hamilton went behind Jay's back and informed the British that the United States had no intention of joining in this neutral armament, leaving Jay with nothing to bargain with.¹⁶

The resulting treaty, named Jay's Treaty, was extremely unpopular in the U.S., as it addressed few of the United States' interests while giving Britain additional rights. The only concessions obtained by Jay were surrender of the northwestern ports, which were already agreed to in the Treaty of Paris, and a commercial treaty with Great Britain that granted the United States "most favored nation" status, but it restricted U.S. commercial access to the British

¹² "John Jay's Treaty, 1794-95" Office of the Historian, Foreign Service Institute, United States Department of State, <https://www.history.state.gov>.

¹³ Stahr, *John Jay*, 313.

¹⁴ Kidd, *Patrick Henry*, 227.

¹⁵ "John Jay's Treaty, 1794-95," <https://www.history.state.gov>.

¹⁶ *Ibid.*

West Indies. All of the other remaining issues were to be resolved by arbitration, including the Canadian-Maine boundary, compensation for pre-revolutionary debts, and British seizures of American ships. Jay even conceded that the British could seize the goods from U.S. ships bound for France if they paid for them and could confiscate French goods on American ships without paying for them.¹⁷

On June 24, 1795, the Treaty passed in the Senate, despite its unpopularity. War was avoided for the time being and the United States had time to prepare for a possible future war.¹⁸ If the United States had gone to war with Britain in 1794 rather than in 1812, they would have done so with no navy, essentially no army, and with British forts supported by Indian allies. Many did not appreciate or did not see that Jay was trying to avoid war with Britain. Those who had sympathies with the French especially did not appreciate what Jay had accomplished, but he avoided a war America was not yet prepared to fight. Jay's Treaty also helped to cement the West to the East, by securing the evacuation of the British forts, and, through Pinckney's Treaty, by opening the Mississippi.¹⁹

Before Jay left for England to negotiate the treaty, he became the Federalist candidate for governor of New York. He had told his Federalist friends that if he was elected he would resign from his position as Chief Justice of the Supreme Court and accept the governorship position. The campaign began when he was in England and ended while he was at sea on his way back to America. He won the election and resigned as Chief Justice to become the second governor of New York.²⁰

¹⁷ "John Jay's Treaty," <https://www.history.state.gov>.

¹⁸ Ibid.

¹⁹ Stahr, *John Jay*, 338.

²⁰ Ibid., 339.

Publically, Henry kept silent as to his opinion of the Jay Treaty, but in a private letter to his daughter, Betsey, we know he thought it was a bad treaty that was harmful to the nation. He thought it hypocritical for Madison and other supporters of the Constitution to deny the President and Senate's exclusive right to make treaties. They were just reaping what they had sown.²¹

Both Washington's Federalist Party and Jefferson's Republican Party hoped to entice Henry out of retirement, as they knew he would be a huge asset to their side. Henry still had much political influence and was known as an independent-minded patriot. In 1795, Washington asked Henry to become the Secretary of State. He especially wanted Henry's help to get Americans to accept the very unpopular Jay Treaty. Also in 1795, Jefferson, through a common friend, briefly tried to reconcile with Henry in the hopes he would support the Republican Party.²²

Washington continued to offer Henry positions in his administration. When Jay vacated his post as Chief Justice of the Supreme Court to become governor, Washington offered Henry the job of Chief Justice. He also thought of him for the ambassadorship in Paris in July 1796 when Monroe was recalled back to the U. S. Even though Henry had retired from politics, he still had a huge presence and influence in Virginia and the nation. Federalists still imagined Henry plotting to stir up opposition to the new Constitution.²³

Anti-Christian Thinking

Henry and Jay had disagreed regarding most every issue from the First Continental Congress (1774) to the ratification of the Constitution (1788). Interestingly, after ratification,

²¹ Kidd, *Patrick Henry*, 228-30.

²² *Ibid.*, 227.

²³ *Ibid.*, 215.

Henry and Jay met frequently during the session of the federal court at Richmond (spring 1793) when Jay served as Chief Justice of the United States. Henry had many conversations with Jay and Judge Iredell. Iredell had never met Henry before but disliked him because of his deep opposition to the Constitution. When they met, Iredell was pleasantly surprised, after he and Jay spent much time in Henry's company, he said he found Henry's manners to be "very pleasing, and his mind, I am persuaded, highly liberal."²⁴

The one issue Henry and Jay did agree upon was Christianity and the need for a virtuous society in order to keep the American republic. Both voiced concern about the decline in Christian values after the War. Some of the French in America during the Revolutionary War and after introduced Americans to French authors who denigrated Christianity. Henry grieved and was alarmed over many of the younger and brighter of the country who began to castoff, "as parts of an outworn and pitiful superstition, the religious ideas of their childhood, and even the morality which had found its strongest sanctions in those ideas."²⁵ Henry thought that since French skepticism had their diligent missionaries among the Virginia lawyers and politicians, that he too would become just as zealous a missionary to confront this heresy. While he was still a Virginia lawyer and politician he became "a missionary on behalf of rational and enlightened Christian faith."²⁶ It was during his second term as governor that he had printed, on his own, an edition of Soame Jenyns's *View of the Internal Evidence of Christianity* and an edition of Bishop Butler's *Analogy*. He especially targeted the young men of Virginia who were susceptible to the

²⁴ Moses Coit Tyler, *Patrick Henry* (1898; repr., New York: Chelsea House, 1980), 398.

²⁵ *Ibid.*, 393.

²⁶ *Ibid.*, 394.

barrage of fashionable skepticism of the day. Whenever he had a chance, Henry took the opportunity to defend Christianity and would offer one of these books to people.²⁷

Henry did not think the British or the French were acceptable allies. The British he thought would attack America again if the opportunity arose. As for the French, during the French Revolution he worried about their increasingly anti-Christian thinking, and the deistic attacks on Christianity from those that supported the Revolution.²⁸

At first, many Christians in America supported the French Revolution as relating it to what they had just experienced in the America Revolution, but in 1792, the French Revolution took an anti-Christian turn, massacring hundreds of priests and converting churches into Temples of Reason.²⁹ Many began to see the anti-Christian sentiment of the French Revolution as coinciding with the rise of a militant new Deism in America, which was spurred on by Thomas Paine's *The Age of Reason* (1794). His pamphlet attacked orthodox Christianity, using it as a tool of political oppression.³⁰ In Paine's deistic creed, he said that his own mind was his own church. Paine, previously a hero of the American Revolution, went to France to support the Revolution. Henry was so disturbed by Paine's pamphlet that he wrote an elaborate treatise in defense of Christianity, which he planned to have published. Shortly before his death, he finished it. Those who read it said it was "the most eloquent work and unanswerable argument in the defense of the

²⁷ Tyler, *Patrick Henry*, 393.

²⁸ Kidd, *Patrick Henry*, 231.

²⁹ *Ibid.*

³⁰ *Ibid.*, 232.

Bible which was ever written.”³¹ Unfortunately, Henry told his wife to destroy it, and she did. He had thought other replies to Paine were well done.³²

Besides Henry’s differences with Jefferson and political battles with Madison, the anti-Christian spirit of the French Revolution, along with the threat of Deism, confirmed in his mind that he could not support the pro-French Jeffersonian Republican Party. He felt he needed to keep his distance from Jefferson’s party, but not necessarily side with the Federalists either. Henry became more and more concerned with Americans’ lack of faith and anti-Christian thinking. For America to survive, it needed a strong republic with robust religion to preserve it from corruption, turmoil, and violence.³³

In a 1796 letter to his daughter Betsey, Henry reflected on his concern over “the general prevalence of Deism which with me is but another name for vice and depravity.”³⁴ Though he was consoled by the fact that “the religion of Christ has from its first appearance in the world, been attacked in vain by all the wits, philosophers, and wise ones, aided by every power of man and its triumph has been complete.”³⁵ The “puny efforts of Paine are thrown in to prop their tottering fabric, whose foundations cannot stand the test of time.”³⁶ For Henry, the publication of Paine’s *Age of Reason* was troubling because it essentially encouraged public sinfulness. Though he knew in the end Christ triumphs, he believed if people are freed from the restraints of the

³¹ Tyler, *Patrick Henry*, 395.

³² *Ibid.*, 394-5.

³³ *Ibid.*

³⁴ Patrick Henry to Elizabeth Aylett, his daughter, August 20, 1796, quoted in Kidd, *Patrick Henry*, 233.

³⁵ *Ibid.*

³⁶ *Ibid.*

Bible and morality, Americans would become skeptical, and then they would naturally pursue selfishness and immorality.³⁷

In the same letter, it was clear that politics was not the most important aspect of Henry's life. He writes of his anguish over being called a Deist rather than a Christian. More than ever, Henry became more serious about his Christian faith as he grew older, and it grieved him to think that people did not know he was a Christian. He wrote:

Amongst other strange things said of me, I hear it is said by the deists that I am one of their number; and indeed, that some good people think I am no Christian. This thought gives me much more pain than the appellation of Tory; because I think religion of infinitely higher importance than politics; and I find much cause to reproach myself that I have lived so long, and have given no decided and public proofs of my being a Christian. But, indeed, my dear child, this is a character which I prize far above all this world has, or can boast.³⁸

To Henry, the religion of Christ was much more important than politics or anything else in this world.

Henry was alarmed that with Paine's deistic writings and Jefferson's well-known skepticism the spiritual foundations of America would be challenged. The religious heritage of America could no longer be taken for granted. He feared the United States would become like the French during the atheistic French Revolution without loyalty to America's long-established religious precepts.³⁹

In 1796, some tried to convince him to run for president. Henry was viewed by many Americans as a type of Cincinnatus when he refused to accept any national government positions. He left home and led his country when in a time of need and then willingly gave up his power and went back home. People never gave up trying to coax Henry back into politics. The

³⁷ Henry to Aylett, Kidd, *Patrick Henry*, 233.

³⁸ *Ibid.*, 233-4.

³⁹ *Ibid.* 234.

Virginia legislature wanted Henry for a sixth term as governor, again he declined. Henry thought it did not really matter who was in office; it was the hearts of the people that mattered.

Government could prevent crime and encourage morality, but it could not change the hearts of the people. America needed to have virtue as its ally in order to survive. Henry wrote to Wilson Cary Nicholas, his colleague, in a letter dated November 29, 1796 that “The enemy we have to fear is the degeneracy, luxury, and vices of the present times. Let us be allied against these and we secure the happiness and liberty of our country.”⁴⁰ With Henry’s refusals to accept a national office in the 1790s he became even more popular with the American people who looked to him as an example of a man exhibiting Christian virtue.

Jay echoed Henry’s alarm for the country’s decline in morals and straying from the sound doctrine of Christianity, and he worked towards “a more robust place for Christianity in the public sphere.”⁴¹ Political conflict in the 1790s over the interpretation of the Constitution and the proper response to the French Revolution divided the country.⁴² He, like Henry, during the turmoil in Europe, believed these European conflicts were linked to the problems in America. There was a spirit of delusion that came with the French Revolution.⁴³ Jay saw the Republic that God had given them as being undermined by wrong doctrine (“infidelity”) and immorality.⁴⁴

⁴⁰ Kidd, *Patrick Henry*, 236.

⁴¹ Jonathan Den Hartog, “John Jay and the ‘Great Plan of Providence,’” in *Forgotten Founders on Religion and Public Life*, Edited by Daniel L. Dreisbach, Mark D. Hall, and Jeffrey H. Morrison (Notre Dame: University of Notre Dame Press, 2009), 146.

⁴² *Ibid.*, 159-60.

⁴³ Stahr, *John Jay*, 375.

⁴⁴ Den Hartog, “John Jay and the ‘Great Plan of Providence,’” 146.

Jay, like Henry, rejected the Deism of Paine's *Age of Reason* pamphlet. In a response to a refutation of the pamphlet sent to him by a minister, Jay acknowledged that he had "long been of opinion, that the evidence of the truth of Christianity, requires only to be carefully examined to produce conviction in candid minds." Those that studied the Bible would be convinced of the truth in the Scriptures. Jay, as did Henry, believed the lack of morality in the nation went a long way to explaining the problems of the decade.⁴⁵ He saw a close tie between orthodox Christianity and the new nation, as he believed, "God had willed both its existence and its character as a Christian nation."⁴⁶ The problems in the nation during the 1790s, he saw as a consequence of immorality and unorthodox religious beliefs, and orthodox Christianity as the remedy.⁴⁷

Jay agreed with Henry in associating the Jefferson Republicans with the French, especially the utopian revolutionaries who brought on the Reign of Terror during the French Revolution. He feared that these factions within the country would use political differences to increase their own power, while disregarding the good of the public. Foreign influence by those with the ideals of the French Revolution would harm America and America would end up like France. Jay feared that these idealists would take advantage of and use discontents in America for their own gain.⁴⁸

Jay used every opportunity to bring Christianity into the public sphere. In late July 1795 there was a yellow fever epidemic in New York. Jay closed the port of New York to ships from the West Indies and Mediterranean. He was not sure, if as governor, he could require a day of

⁴⁵ Den Hartog, "John Jay and the 'Great Plan of Providence,'" 162.

⁴⁶ *Ibid.*, 145.

⁴⁷ *Ibid.*, 160.

⁴⁸ *Ibid.*, 145.

thanksgiving because such days had never been appointed by civil authorities in New York, though they were customary and recognized by laws in New England. When the epidemic slowed down, he issued a thanksgiving proclamation, asking the clergy and the citizens of New York to set aside Thursday, November 26, 1795 as a day of prayer and thanksgiving.⁴⁹ In the preamble to the proclamation he said that he was not sure, as governor, if he could appoint a day of thanksgiving, but as their chief magistrate, he was going to appoint a day for thanksgiving because he was “perfectly convinced that national prosperity depends, and ought to depend, on national gratitude and obedience to the Supreme Ruler of all nations...” Therefore, he thought it proper, and said, “I therefore do earnestly *recommend* to the clergy and others of my fellow-citizens throughout this State to set apart Thursday, the 26th November, instant, for the purposes aforesaid, and to observe it accordingly.”⁵⁰

Both Henry and Jay believed for the republic to succeed it must be virtuous, and that the virtue of a people and their country was rooted in orthodox Christianity. They worked diligently to do what they could to bring America back to God.

Liberty and Virtue

Before, during, and after the American Revolution the cry all throughout the land was “Liberty!” The way to maintain liberty in a republic was through a virtuous people. A virtuous people meant a virtuous nation. And the way to maintain virtue in a people, believed Henry and Jay, was through the Christian religion. They had both noticed a decline in virtue after the

⁴⁹ Stahr, *John Jay*, 343-4.

⁵⁰ William Jay and John Jay, *The Life of John Jay: With Selections From His Correspondence and Miscellaneous Papers*, Vol. 1 & 2 (1833; repr., Bridgewater, VA: American Foundation Publications, 2000), 386.

Revolutionary War, and it deeply concerned them. They were not the only ones who noticed, as it was the topic of many preachers' sermons and newspaper articles.

As is common, once the fighting stopped after the Revolutionary War, the remembrance of God, and along with that the morals of the people, declined in the new nation.⁵¹ Time and again this is evidenced in history, all the way back to the Hebrews, who turned to God in times of trouble, but after God rescued them and things began to go well again, they turned away from God once more.

The Founders, both Anti-Federalist and Federalist, were in complete harmony when it came to believing there was a vital need for virtue in order to establish and maintain a republic, though not all of them believed as Henry and Jay that it could not be achieved without religion.⁵² The Founders and Americans understood they needed a government that supported both liberty and virtue, otherwise the tendency would be to fall back into a monarchy.⁵³

Most everyone champions liberty, but people's meaning of liberty often differs. During the Founding Era most regarded liberty as the protection of natural rights and the self-governance of a local community or group.⁵⁴ Liberty did not mean the freedom to do as one pleased. Apologist Ravi Zacharias said, "...no freedom is absolute. If freedom is absolute it's a

⁵¹ Marvin Olasky, *Fighting for Liberty and Virtue: Political and Cultural Wars in Eighteenth-Century America* (1995; repr., Washington, D. C.: Regnery Publishing, 1996), 174-5.

⁵² J. David Gowdy, "Without Virtue There Can Be No Liberty," Mount Liberty College, July 21, 2018, originally published at the Washington Jefferson Madison Institute, <https://mountlibertycollege.org>.

⁵³ Olasky, *Fighting for Liberty and Virtue*, 175.

⁵⁴ Carl Eric Scott, "The Five Conceptions of American Liberty," *National Affairs*, no. 49 (Fall 2021): <https://www.nationalaffairs.com>.

different word for anarchy. Freedom has its boundaries and so the task of America was to reconcile liberty with law.”⁵⁵

Liberty and order are interrelated. Without order, liberty is actually chaos “in which every person is vulnerable to being violated and controlled by others.” Also, order without liberty is not really order, but “a terrifying void in which the will of the ruler becomes the ultimate reality, and the citizen must stand constantly on guard for shifts in the ruler’s mood.”⁵⁶ The entire political system is thrown out of balance when the relationship between liberty and order is perverted resulting in abuses of power, which will undermine the legitimacy of government itself.⁵⁷

The fundamental idea of liberty is for our rights to be protected so we may enjoy our own rights, but only up to the point where we do not infringe upon the rights of others. Natural liberty is to be restrained only to the point where it is necessary for the public good. Every law that deprives someone of personal freedom, without having a corresponding general advantage, is an infringement of civil liberty. Freedom does have restraints so all may enjoy freedom.⁵⁸

Among American colonists, it was widely accepted that religious and civil liberty always go together; if the foundation of one falls the other will also fall. Between the two, religious liberty was more fundamental than civil liberty as it dealt with a person’s eternity, whereas civil liberty dealt with temporal matters. It was also widely believed that the loss of civil liberty

⁵⁵ Ravi Zacharias, RZIM: Just Thinking Online Broadcasts, Q & A Session at Kansas State University, accessed October 30, 2020.

⁵⁶ Timothy Sandefur, *The Conscience of the Constitution: The Declaration of Independence and the Right to Liberty* (Washington, D.C.: The Cato Institute, 2014), 1.

⁵⁷ Ibid.

⁵⁸ Reverend E. C. Wines, *The Roots of the American Republic* (1853; repr., Marlborough, NH: The Plymouth Rock Foundation, 1997), 9-10.

preceded the loss of religious freedom. Most colonists believed that the Intolerable Acts (1774) began to take away their civil liberties and that once those were gone the loss of their religious liberties would follow. During the Founding Era, colonists did not see a sharp distinction between civil and religious liberty because religious liberty required civil protections assuming religious liberty to be humanity's most basic freedom.⁵⁹

Two core principles of liberty are the protection of natural rights and that of self-governance. These two understandings of liberty complemented each other regarding separating from Britain but opposed each other when it came to the Constitution and the views of the Anti-Federalists and Federalists. These two understandings of liberty played a major role in the spirit of American independence during the Founding Era.⁶⁰

God-given liberty was the criterion of Patrick Henry's philosophy. Eidsmoe in his book said, "Liberty was the condition in which God created man; liberty is the condition to which God has called man; liberty is the condition to which the God-given rights of man entitle him; liberty is the condition in which man is best able to respond to God and serve him." The enemy of liberty is tyranny, which has its roots in human sin and evil. Calvinists all throughout history "have been champions of human liberty; believing in the sovereignty of God, they reject the tyranny of man. Henry's Calvinist beliefs guided his political career."⁶¹ The same could be said of Jay. Their Calvinist beliefs guided their lives, as well as their political careers. Henry and Jay

⁵⁹ Thomas S. Kidd, "The American Founding: Understanding the Connection between Religious and Civil Liberties," *Cornerstone Forum*, no. 23 (June 14, 2016), Religious Freedom Institute, <https://www.religiousfreedominstitute.org>.

⁶⁰ Scott, "The Five Conceptions of American Liberty," <https://www.nationalaffairs.com>.

⁶¹ John Eidsmoe, *Christianity and the Constitution: Faith of our Founding Fathers*, (1987; repr., Grand Rapids, MI: Baker Books, 2001), 312.

were two very different men with very different visions for America and her government, but both were guided by their orthodox Christian beliefs.

Retirement

Henry retired as the most influential leader in Virginia. Even though he had retired from politics he still had a huge presence and influence in Virginia and the nation.⁶² In 1794, Henry moved his family to their final home together at Red Hill, in south-central Virginia. Of Henry's seventeen children, five boys and three girls ages sixteen and younger still lived at home. In 1791-94, three of his children had passed away—two from his first marriage and one from his second.⁶³ Henry was a doting, concerned father who in retirement, now had more time to spend with his family and to help in the education of his younger children. He also continued to devote much of his time in an effort to establish true Christianity in America. More than ever he was able to spend time in the Scriptures and read sermons, especially those of Tillotson, Butler, and Sherlock. He spent an hour each day in prayer and reading the Bible. Every Sunday evening he read to his family from the Bible, then they would sing sacred music while he accompanied them on his violin. He was not ostentatious regarding his religious faith, but he “was always ready to avow it, and to defend it.”⁶⁴

In Henry's last years, he dealt with repeated illnesses and fevers.⁶⁵ How Henry handled his approaching death was a witness to his family and doctor. In his last hours he comforted his family and prayed for himself, his family, and his country, telling his family he was “thankful for

⁶² Kidd, *Patrick Henry*, 215.

⁶³ *Ibid.*, 213.

⁶⁴ Moses Coit Tyler, *Patrick Henry* (New York: Chelsea House, 1980), 391-3.

⁶⁵ Kidd, *Patrick Henry*, 214.

that goodness of God, which, having blessed him through all his life, was then permitting him to die without any pain.”⁶⁶ Henry and his doctor had become friends and had previously had many conversations about faith. In his last words, Henry said to his doctor, “Doctor, I have used many arguments to prove to you the truth of the Christian Religion. I will now give you my last argument by showing you how a Christian can die.”⁶⁷ A few moments later, he died leaving this earthly world to enter eternity with his Savior on June 6, 1799, at sixty-three years of age.

Henry wrote in his last will and testament that “This is all the inheritance I can give to my dear family. The religion of Christ can give them one which will make them rich indeed.”⁶⁸ Eidsmoe said of Henry that he “acquired his father’s love of the church, his mother’s zeal and Calvinist doctrine, and the piety and character of both.”⁶⁹ Fellow Virginian and Founding Father George Mason thought Henry was the most powerful speaker he had ever heard. He said, “...your passions are no longer your own when he addresses them” but that “his eloquence is the smallest part of his merit. He is in my opinion the first man upon this continent, as well in abilities as public virtues...”⁷⁰ John Randolph said of Henry, “Patrick Henry was not less admirable as a man than as an orator; for his religious convictions were even profounder than his political, and he was irreproachable faithful, besides, to every obligation of civic, social, and domestic life.”⁷¹

⁶⁶ Tyler, *Patrick Henry*, 422.

⁶⁷ Patrick Henry, “The Death of Patrick Henry—6/6/1799,” quoted in Patrick Henry Jolly, <https://www.patrickhenryjolly.wordpress.com>.

⁶⁸ Patrick Henry, Last Will and Testament, February 12, 1799, <https://www.redhill.org>.

⁶⁹ Eidsmoe, *Christianity and the Constitution*, 308.

⁷⁰ George Mason to Martin Cockburn, May 26, 1774, quoted in *Patrick Henry: Life, Correspondence, and Speeches, Vol. 1*, ed. William Wirt Henry, (1891; repr., Harrisburg: Sprinkle Publications, 1993), 183-4.

⁷¹ Eidsmoe, *Christianity and the Constitution*, 307.

In 1801, Jay declined President John Adams offer to again appoint him as Chief Justice to the Supreme Court. Jay throughout his career did not take positions for “honours or to share her power” he served his country out of “what he believed to be the will of his Maker.” After much deliberation over Adam’s offer, Jay concluded “that his duty did not require him to accept it.”⁷² At fifty-six years old, Jay looked forward to retirement with his wife at their family estate at Bedford. The estate was in disrepair and needed renovation. Jay moved there as the construction went on, but his wife waited until the repairs were completed due to her fragile health. Less than a year later she passed away. When asked how he occupied his mind he replied, “I have a long life to look back upon, and an eternity to look forward to.”⁷³

Jay, as Henry, now had more time to devote to the Scriptures. He made a habit to gather everyone immediately after breakfast, including the servants, and have prayer. This was done again at nine at night, when he would read a chapter from the Bible, and conclude with prayer.⁷⁴

John Adams satirically commented in a letter to Thomas Jefferson that Jay had retired “to study prophecies to the end of his life.”⁷⁵ Jay proved to be a bit too religious for Adams’ taste, showing both his orthodoxy and piety, which differed from some of the other Founding Fathers.⁷⁶

⁷² William Jay, *The Life of John Jay: With Selections from his Correspondence and Miscellaneous Papers*, Vol. 1 (New York: J. & J. Harper, 1833), 429.

⁷³ William Whitelock, *The Life and Times of John Jay: Secretary of Foreign Affairs under the Confederation and First Chief Justice of the United States: With a Sketch of Public Events from the Opening of the Revolution to the Election of Jefferson* (New York: Dodd, Mead, 1887), 325-8.

⁷⁴ Jay, *The Life of John Jay*, 443.

⁷⁵ David L. Holmes, *The Faiths of the Founding Fathers* (Oxford: Oxford University Press, 2006), 154.

⁷⁶ *Ibid.*, 155.

As evidenced in many of his personal letters, he remained concerned about what would happen to America as her morals declined. After the Federalists lost the election of 1800, their views were more and more becoming the minority view. So, rather than attempt to preserve the ideals of the Revolution and build the nation back up through the political realm, they instead worked through voluntary societies in the cultural and religious realm.⁷⁷ During his retirement, Jay actively supported moral and religious societies.⁷⁸ Most of Jay's attention included the American Bible Society, the Episcopal Church, various interdenominational Bible and Sunday school societies, and societies working toward the manumission of slaves.⁷⁹

One of his main focuses was The American Bible Society, whose purpose was to distribute free Bibles to Americans. In addition, the Society helped already existing Bible societies, and also distributed Bibles abroad in the peoples' native language.⁸⁰ Jay's friend and fellow Founding Father, Elias Boudinot, became the first president of the American Bible Society and Jay its vice president at its founding in 1822. At the death of Boudinot, Jay took over as President. David L. Holmes wrote that "Only Elias Boudinot became as active in moral and religious matters"⁸¹ as did Jay. The hope was that through voluntarism they could indirectly shape politics and it would also be beneficial for the growth of Christianity in America and the world. Jay reaffirmed his belief in an active Providence and a tie between the nation's spiritual

⁷⁷ Jonathan Den Hartog, "Religion, the Federalists, and American Nationalism," *Religions* 8, No. 1 (January 5, 2017): 8.

⁷⁸ *Ibid.*, 155.

⁷⁹ Holmes, *The Faiths of the Founding Fathers*, 157.

⁸⁰ *Ibid.*

⁸¹ Den Hartog, "John Jay and the "Great Plan of Providence," 154.

and political health in his yearly presidential addresses to the American Bible Society.⁸² For example, in his May, 8, 1823 address he said, “That all men, throughout all ages, have violated their allegiance to their great Sovereign...” And, the Almighty Sovereign of the universe will not “permit any province of His empire to remain for ever in a state of revolt. On the contrary, the sacred Scriptures assure us, that it shall not only be reduced to obedience, but also be so purified and improved, as that righteousness and felicity shall dwell and abide in it.”⁸³ In this address Jay spoke of his belief that God will punish disobedient nations, and purify and improve those nations that turn back and obey God.

In Jay’s last public statement that was read for the fiftieth Independence Day celebration in New York, he spoke of the necessity of religion in public life. He affirmed his belief that “religion was at the heart of the American experiment” and that human action was powerless without Divine aid. He ended with a call for greater involvement of religion in the American Republic.⁸⁴

Throughout his life, Jay demonstrated his unwavering belief in a life after death. When his wife, Sarah, died, his son, William, records that “immediately on perceiving that the spirit had taken its flight, he led his children, who were with him, into an adjoining room, and with a firm voice but glistening eye, read to them the fifteenth chapter of First Corinthians: thus leading their thoughts to that day when the lifeless but beloved form they had just left would rise to glory and immortality.”⁸⁵ First Corinthians fifteen affirms that believers will be resurrected as Christ

⁸² Den Hartog, “Religion, the Federalists, and American Nationalism,” 8.

⁸³ John Jay, Address to the American Bible Society at the Annual Meeting, May 8, 1823, in Jay, *The Life of John Jay*, 502.

⁸⁴ Den Hartog, “John Jay and the “Great Plan of Providence,” 166.

⁸⁵ *Ibid.*, 430-31.

was resurrected. When his daughter, Susan, died after surviving only a few weeks, he wrote to his friend Livingston “that he fully expected to see her again in heaven.”⁸⁶ When his sister died, he again showed his belief in the resurrection when he said that “she will have reason to rejoice in the change.”⁸⁷

In 1827, after Jay’s physicians said he had no hope of recovery, a family member urged him to “tell his children on what foundation he now rested his hopes, and from what source he drew his consolations.”⁸⁸ His son wrote that “his concise, but expressive reply”⁸⁹ was “They have the BOOK.”⁹⁰ Jay died on Sunday, May 17, 1829 at the age of eighty-four with his children gathered around him. Some of his last words were “the Lord is good” and “the Lord is better than we deserve.”⁹¹ Both Henry and Jay, in their last words on this earth, spoke of the goodness of God.

Jay wrote in his will, “While my children lament my departure, let them recollect that in doing them good I was only the agent of their Heavenly Father, and that he never withdraws his care and consolations from those who diligently seek him.” When Jay died, he was the last surviving member of the First Continental Congress. “He proved to be a paragon not only of political excellence but also of Christian orthodoxy.”⁹²

⁸⁶ Holmes, *The Faiths of the Founding Fathers*, 159.

⁸⁷ *Ibid.*, 159-60.

⁸⁸ *Ibid.*, 458.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

⁹¹ *Ibid.*, 159.

⁹² *Ibid.*, 160.

William Jay, said that his father's "patriotism, prompted and guided by the precepts of Christianity, ever refused to make the smallest sacrifice of truth or justice to the cause of his country... [His] religion was fervent, but mild and unostentatious... On the whole, his life exhibits a rare but interesting picture of the Christian patriot and statesman, and justifies the universal reverence for his character..."⁹³ Jay was a true patriot to his country, but more important than that, as the epitaph on his tombstone says, "He was in his life and death an example of the virtues, the faith and the hopes of a Christian."⁹⁴

Conclusion

This thesis covered only a portion of Henry and Jay's influence as two of the key men in the Founding of the United States of America. They were also two of the most public orthodox Christians of all the Founding Fathers, whose Christian beliefs influenced every area of their lives, including politics. Their dedication to their fight for civic and religious liberty as a means to maintaining freedom was well-known. Despite these similarities, they opposed each other on most every major issue during the Founding Era. Each man worked towards the formation of a government that they truly believed would give America the most civil and religious liberty possible, though their visions for a government that allowed America to keep her republic were different. Henry, as a leader of the Anti-Federalists, favored keeping sovereignty in the states, whereas Jay, as a leader of the Federalists, thought a strong national government over the states was the best way to preserve safety and liberty.

After years of opposition, in the end, both agreed the virtue of America had declined after the Revolutionary War. They worked for the rest of their lives to bring their beloved country

⁹³ Jay, *The Life of John Jay*, 463.

⁹⁴ Holmes, *The Faiths of the Founding Fathers*, 160.

back to God in order to maintain the civil and religious liberty obtained in America and to keep her republic. America owes a lot to these two great men who were true patriots to the United States of America.

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