

"THE DICTATES OF CONSCIENCE:" THE DEBATE OVER RELIGIOUS LIBERTY IN REVOLUTIONARY VIRGINIA

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CHAPTER ONE

Introduction: The Struggle to Establish Religious Liberty in Virginia

One of the most controversial issues that has reached the Supreme Court over the past several decades is the issue of the separation between church and state in America. At the heart of this issue are the Founders' views of religious liberty. In order to get a better understanding of this, courts and commentators have frequently referred to the Virginia disestablishment battle of 1776-1786. In *Everson v. Board of Education* (1947), Justice Rutledge said, "The great instruments of the Virginia struggle...became warp and woof of our constitutional tradition."¹ To what extent the Virginia debate should be used to interpret the First Amendment is an issue of great controversy,² but it has certainly been

used extensively to interpret both the Free Exercise Clause and the Establishment Clause.³ From this decade-long controversy emerged the two most celebrated documents concerning religious liberty in America: Thomas Jefferson's Statute for Religious Freedom and James Madison's "Memorial and Remonstrance." Madison and Jefferson were the leaders of the battle for disestablishment of the Anglican Church in Virginia, and they are cited more than any other American Founders for their views on religious liberty. Along with the Statute and "Memorial," the Virginia Declaration of Rights, which espoused the idea of freedom of conscience, was also a greatly influential document:

[B]y the time the last cannonade of the Revolution sounded, every state either had fashioned a separate bill of rights or had passed statutes with similar provisions. In a good many cases the work was done with

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¹ *Everson v. Board of Education of Ewing Township* 330 U.S. 1,39 (1947)

² See: A. E. Dick Howard, "The Supreme Court and the Serpentine Will" in *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History* (Cambridge: Cambridge University Press, 1988), 315; Daniel L.

Dreisbach, "Religious and Legal Reforms in Revolutionary Virginia: A Reexamination of Jefferson's Views on Religious Freedom and Church-State Separation" in *Religion and Political Culture in Jefferson's Virginia* (Lanham, MD: Rowman & Littlefield, 2000), 192.

³ Thomas E. Buckley, *Church and State in Revolutionary Virginia, 1786-1787*. (Charlottesville: University Press of Virginia, 1977), ix. The Court has referenced the Virginia struggle in both Establishment Clause and Free Exercise Clause cases. Such cases are: *Reynolds v. United States*, 98 U.S. 145 (1878), *McCullum v. Board of Education*, 333 U.S. 203 (1948), and *Engel v. Vitale*, 370 U.S. 421 (1962).

scissors, pastepot, and a copy of the Virginia Declaration.⁴

The other colonies looked to the Virginia struggle to see the varying alternatives for church-state relationships. John Adams wrote to Patrick Henry on June 3, 1776, "We all look up to Virginia for examples."⁵ This is partly because Virginia was the home of some of the most noteworthy intellectuals and politicians of the time, such as George Washington, Patrick Henry, Thomas Jefferson, and the young James Madison. There was also a diverse body of dissenting sects that held a variety of views concerning the degree to which the church should be intermingled with the state. With this combination of intellectuals and evangelicals, Virginia provided a source for every type of argument regarding church-state relations. There were the rationalists such as Jefferson and Madison who argued that religion is a matter of opinion only, which is not under the state's jurisdiction. There were the traditional religionists who favored the establishment on the grounds that religion was necessary for virtue in society. Lastly, there were the evangelists, such as the Baptists, who argued that the government should not interfere with religion because religious belief is a matter of the Holy Spirit, not compulsion. Clearly, the Virginia struggle has been the prime example, in its own time and even today, of the most important arguments regarding religious liberty and church-state relations.

Though Madison and Jefferson gave political arguments against establishments, particular attention should be given to their

theological and religious arguments. They spoke of natural rights and freedom of conscience under social compact theory, but they also spoke of God as the "Governour of the Universe" who gave human beings such rights and created the mind to be free. Since God is the source of our natural rights, including the right to a free conscience, the theological arguments serve as a foundation for the political arguments regarding religious liberty. It was vitally important that Jefferson be able to convince his fellow legislatures of the truth of these arguments; for religious establishments were the norm at the time of the Founding,⁶ and the concept of religious liberty was relatively new.⁷ So, Jefferson had to persuade the legislators and the people, the majority of which were Christians, that God actually *authored* religious liberty. "Although the majority of our citizens were dissenters...a majority of the legislature were churchmen."⁸ The churchmen to which he refers were men who belonged to the established Anglican Church in particular; the dissenters were mostly Baptists, Presbyterians, Quakers, Lutherans, etc. The battle over the establishment in Virginia, therefore, was grounded in arguments concerning theology, human nature, and the Biblical understanding of church and state.

⁴ Daniel L. Dreisbach, "Church-State Debate in the Virginia Legislature: From the Declaration of Rights to the Statute for Establishing Religious Freedom" in *Religion and Political Culture in Jefferson's Virginia*, 137.

⁵ Letter to Patrick Henry, June 3, 1776, quoted in Buckley, *Church and State*, 6.

⁶ Eleven of the thirteen colonies had established churches (Mark Douglas McGarvie, *One Nation Under Law: America's Early National Struggles to Separate Church and State*. DeKalb, IL: Northern Illinois University Press, 2004, 4).

⁷ Prior to the Revolution, the petitions that reached the Assembly merely asked for toleration rather than religious liberty. It will be shown that the principles inherent in the Revolution were what eventually led individuals to understand that they had natural rights which demanded more than mere toleration.

⁸ Thomas Jefferson's "Autobiography" in *Thomas Jefferson: Writings*. Merrill D. Peterson, ed (New York: Literary Classics of the United States, 1984), 35.

As it would turn out, disestablishment of the Anglican Church in Virginia would come from two main sources: the Revolutionary spirit that brought forth principles of freedom and equality and the evangelical revivals of the dissenting sects.⁹ The Anglican Church had been the established church of Virginia since its early colonial days.¹⁰ The earliest group of dissenters from the establishment was the Quakers, who first entered Virginia in 1657.¹¹ During the second half of the seventeenth century, they suffered intermittent and occasionally severe persecution as they formed communities in the colony. The Presbyterians were the first group of dissenters to begin requesting toleration in Virginia. Up until 1699, the Anglican Church was the only Christian denomination in the Commonwealth that was recognized by law. In that year, a Presbyterian minister obtained a license to preach on his own property, and this marked the beginning of Virginia's recognition of the British Toleration Act of 1689.¹² The Presbyterians would soon become one of the most influential religious groups in Virginia, second only to the Anglicans.¹³ They were out-

stripped in numbers, though, by the Baptists, who were the fastest growing group of dissenters in the colony on the eve of the Revolution.¹⁴ The Baptists' efforts on behalf of religious toleration were mostly felt in Tidewater and Piedmont Virginia, whereas the Presbyterians focused on the Shenandoah Valley.¹⁵ The conservative Anglicans began to feel the threat of these two dissenting groups, so they decided the solution was a strict enforcement of the law against unlicensed preachers. Between 1768 and the outbreak of the Revolution, about thirty-four Baptist ministers were thrown in jail.¹⁶ Even this would not stop them, however; many preached at passersby through the bars of the jails. In 1772, some groups of Baptists began to petition for their rights as dissenters under the English Act of Toleration, but their efforts only resulted in the introduction of a new bill known as the Toleration Bill, which was even more burdensome than the English Act.¹⁷ Both Baptists and Presbyterians petitioned the Assembly against this bill, but, due to the outbreak of the Revolution, the matter was postponed. It must be noted that none of

⁹ H. J. Eckenrode, *Separation of Church and State in Virginia: A Study in the Development of the Revolution* (New York: Da Capo Press, 1971), 31.

¹⁰ In Virginia, a considerable amount of power over church affairs was directed by the state. The governor was in charge of such functions as the issuance of marriage licenses, probate of wills, and appointments of ministers to parishes. Even in England, these things were left to the jurisdiction of the bishops or ecclesiastical courts (Thomas J. Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment*. New York: Oxford University Press, 1987, 30).

¹¹ Curry, *The First Freedoms*, 42.

¹² This period of toleration lasted until 1768 when legal persecution of the Baptists began (Charles F. James, *Documentary History of the Struggle for Religious Liberty in Virginia*. New York: Da Capo Press, 1971, 179).

¹³ Eckenrode, *Separation of Church and State in Virginia*, 31.

¹⁴ Buckley, *Church and State*, 13. The Baptists were divided into two distinct groups: the Regular Baptists and the Separate Baptists. The Baptist preachers who were subject to fines, whippings, and imprisonment during the years immediately before the Revolution were members of the Separate Baptist churches. These were the preachers who in part inspired James Madison's passion for religious liberty. They were persecuted in such a way because they refused to apply for permits for meetinghouses and licenses to preach that were required by the toleration laws that were in force in the colony. They did not recognize the right of any civil power to regulate preaching because they believed that, in matters of religion, they owed their obedience only to God (James, *Documentary History*, 26).

¹⁵ Virginius Dabney, *Virginia: The New Dominion* (Charlottesville: University Press of Virginia, 1971), 161.

¹⁶ *Ibid.*

¹⁷ James, *Documentary History*, 180.

these petitions prior to the Revolution ever made reference to the rights of conscience or even religious liberty. Though the Baptists would later become one of the leading sects to defend the concept of religious liberty, at this time, they were merely asking for toleration. The Toleration Bill failed after the Baptists finally made an organized attempt to secure religious liberty within the colony. They were the first to petition the Assembly to disestablish the Anglican Church, to let religion stand on its own, and to put all denominations on an equal legal footing.¹⁸

Another petition from the Baptists was presented at the Virginia Convention in Williamsburg on May 6, 1776, which triggered the decade-long legislative battle for religious freedom in Virginia. The Convention was held to modify the political structure of Virginia in accordance with the Revolutionary situation.¹⁹ Within a two month span, the convention issued a call to the Continental Congress for a declaration of independence, drafted their own Virginia Constitution and statement of liberties, and passed a number of bills addressing problems within the state, such as military defense. One pressing issue that was only vaguely dealt with, however, was the issue of church-state relations in Virginia. The Anglican Church was in a state of disarray by the eve of the Revolution. Its adherents numbered just barely a majority of the white population.²⁰ The Church was in an increasing state of lethargy, with clergy who were unfit for their positions and laity who from "loose principles and immoral practices, were often a scandal to their country and religion."²¹ Part of the reason for this disarray was the Church's opposition to the Great Awakening, a collection of religious

revivals which had swept through the American colonies in the middle of the eighteenth century.²² These revivalist groups preached Calvinist doctrines, along with stressing the role of feelings and imagination over reason, doctrine, and tradition. The Anglicans believed that these tenets were contrary to the order and use of reason that was essential to episcopal religious traditions, and they in fact tried to controvert the revivals. As the only principal denomination adamantly opposed to these revivals, the Anglican Church lost many of their members, who left to join the revivalist religious groups. Their opposition to these revivals was the chief cause of the condemnation of their clergy and "one of the leading causes of the overthrow of the establishment."²³

During the Virginia Convention of 1776, a committee was assembled which would draft a Virginia Declaration of Rights and plan of civil government. Members of the committee included George Mason and James Madison. Mason was the chief architect of the Declaration of Rights, drafts of which were copied and circulated all throughout the colonies in late May and June. The Declaration contained an article on religion, Article XVI, which was presented to the Convention on May 27th. This was one of the most controversial articles discussed at the Convention. The original draft read:

That religion, and the duty which we owe to our CREATOR²⁴, and the manner of discharging it, can be

¹⁸ Ibid, 183.

¹⁹ Buckley, *Church and State*, 8.

²⁰ Buckley, *Church and State*, 9.

²¹ Dabney, *Virginia*, 169.

²² Buckley, *Church and State*, 9.

²³ Eckenrode, *Separation of Church and State in Virginia*, 35.

²⁴ This definition of religion being a "duty" to the "Creator" was commonly accepted at the time, and it included deists but excluded atheists (Dreisbach, "Church-State Debate in the Virginia Legislature," 139).

directed only by reason and conviction, not by force or violence; and therefore, that all men should enjoy the fullest toleration in the exercise of religion, according to the dictates of conscience, unpunished and unrestrained by the magistrate, unless, under colour of religion, any man disturb the peace, the happiness, or safety of society. And that it is the mutual duty of all to practice Christian forbearance, love and charity, towards each other.²⁵

Madison objected to the word “toleration” because it may imply that religious exercise is a government-granted privilege rather than a natural right. He believed that this understanding of religious liberty was inconsistent with the freedom of conscience that was implicit within the first line of the draft. He replaced Mason’s “all Men should enjoy the fullest toleration in the Exercise of Religion” with the statement “all men are equally entitled to the full and free exercise of [religion] according to the dictates of Conscience.”²⁶ He also proposed a clause which stated that no men or class of men should be invested with “peculiar emoluments or privileges” on account of religion.²⁷ This clause was unacceptable to most of the delegates, as it would have dissolved legal and financial support of the Anglican Church. Madison also changed Mason’s statement “unless, under Colour of Religion, any man disturb the Peace, the Happiness, or Safety of Society, or of Individuals” to the statement “Unless the preservation of equal liberty and the existence of the State are manifestly endangered.” By doing this, he narrowed Mason’s clause “on disturbance of the peace

down to the Lockean principle of no interference with religion except to preserve civil society.”²⁸ Once again, the Convention refused his amendments, fearing that they might diminish the link between Virginia and the Anglican Church.²⁹ The final draft, however, did contain Madison’s “equal entitlement” clause. The final version of Article XVI read:

That Religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity, towards each other.³⁰

Virginia historian Hamilton James Eckenrode reported the effect that this article had in the Commonwealth of Virginia: “[P]rosecution for religious causes ceased. Disabilities on account of religion were removed...Anglicans, Roman Catholics, Evangelicals, Jews, and unbelievers were placed on the same civil footing.”³¹ Unbelievers were expected to practice “Christian forbearance, love, and charity,” but they were not persecuted for not adhering to the doctrines of the Christian religion. Though the article was carefully worded so as to avoid disestablishment, religious dissenters began to petition for the full recognition of the rights articulated in the Article, which they believed entailed disestablishment and an end to the privileges that were being given to the Anglican

²⁵ Ibid, 138.

²⁶ Eckenrode, *Separation of Church and State in Virginia*, 44.

²⁷ Buckley, *Church and State*, 19.

²⁸ Dreisbach, “Church-State Debate in the Virginia Legislature,” 140.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

Church. They focused on changing specific policies such as licensure of the clergy, regulation of meetinghouses and assemblies, and the right of dissenters to have their own ministers perform their marriage ceremonies.³² Petitions concerning these matters filled the first Virginia republican legislature, which was held in Williamsburg in October 1776.³³ Most of these petitions made direct appeals to the free exercise language of Article XVI.

On October 11, 1776, Edmund Pendleton, the Speaker of the House, assigned members to a Committee on Religion, including Thomas Jefferson and Robert Carter Nicholas.³⁴ Pendleton and Nicholas were Jefferson's rivals in the religion debates; he referred to them as "honest men, but zealot churchmen."³⁵ This committee would have the task of dealing with at least ten major petitions from dissenters. Jefferson later wrote that these petitions "brought on the severest contests in which I have ever engaged."³⁶ In addition to these petitions, dissenters voiced their views in both Williamsburg *Virginia Gazettes*.³⁷ This triggered a press war in these newspapers which would last throughout the session. After two weeks of vigorous discussion, they found themselves in a deadlock. Accordingly, the issue was transferred to the House sitting as a Committee of the Whole, who then proceeded to debate the demands of the dissenters. During these debates, Jefferson drafted a set of resolutions as a basis for legislation.³⁸ This was his first extensive treatment of religious liberty. His resolves urged that all laws

passed either in Britain or Virginia during the colonial period which restricted freedom of religious worship or belief be repealed. Secondly, he argued that all laws which established the Church in Virginia, granted its members privileges, and supported it through taxation should be revoked. The debates of the Committee of the Whole concluded on November 19th with a series of resolutions to the House that were in some ways conformable to Jefferson's resolutions. They repealed acts of the British Parliament that criminalized religious opinion and worship or failure to attend church.³⁹ Some resolves exempted dissenters from forced support of the Anglican Church and said that citizens only had to support their own ministers voluntarily. The established church was allowed to keep all the goods it had at the time: glebes, churches, chapels, and anything received from public or private sources, but all religious groups from then on were to be based on voluntary participation. The resolutions differed from Jefferson's in that they allowed the established church to keep their goods permanently, whereas Jefferson only wanted the incumbent ministers to be allowed to keep their goods; once they died, their property would belong to the state.⁴⁰ These resolutions were the starting ground for Jefferson's Bill for Establishing Religious Freedom.

A committee of seventeen members, including Mason, Madison, and Jefferson was formed to draft a bill in conformity with the resolutions. However, the committee, which also included supporters of the establishment such as Robert Carter Nicholas, did not conform to the liberal goals that Jefferson and Madison had in mind. The committee was instructed to:

³² Ibid, 141.

³³ Eckenrode, *Separation of Church and State in Virginia*, 47.

³⁴ Ibid, 50.

³⁵ Thomas Jefferson's "Autobiography" in *Jefferson: Writings*, 34.

³⁶ Ibid.

³⁷ Ibid, 22.

³⁸ Ibid, 30.

³⁹ Dreisbach, "Church-State Debate in the Virginia Legislature," 142.

⁴⁰ Buckley, *Church and State*, 33.

limit itself to those measures which pertained to tax exemption for dissenters and the reservation of the church property to the use of the establishment and to add provisions for the parish poor, the collection of the lists of tithables, and clerical salaries.⁴¹

By avoiding the more pressing issue of disestablishment, this November 30th bill essentially reaffirmed the delegates' position in support of the establishment. Jefferson, who had taken a leave of absence from the legislative session, returned on December 4th to find Mason attempting to salvage some of the language used in the original November 19th resolutions.⁴² He successfully amended the bill to include Jefferson's clauses invalidating the British Parliament's statutes on religious matters. Mason's revisions to the "Bill Exempting Dissenters from Contributing to the Established Church" preserved much of the content and phraseology of the November 19th resolutions, but it did not reach Jefferson's goal of complete disestablishment. The bill passed both the House and the Senate with minor amendments on December 5th. Neither dissenters nor the laity of the established church were taxed to support the establishment or even their own religious groups. Religion in Virginia had been put on a voluntary basis, though the Assembly still maintained a measure of control over the operations of the churches. Meeting-houses and preachers of dissenting religions still needed licenses. However, "the revolutionary situation and popular sentiment for the rights of conscience precluded any consistent or widespread enforcement of these laws, and they effectually lapsed."⁴³

Though Jefferson and his liberal allies were not yet satisfied with the situation in Virginia, they had certainly made significant progress:

Jefferson's draft resolutions and legislation of late 1776 exempting dissenters from contribution to the support of the established church, refined by Mason's pen, were necessary precursors to, direct forerunners of, the subsequent Virginia 'Statute for Establishing Religious Freedom.'⁴⁴

The 1776 exemption act left unresolved the issue of a general assessment for the support of all churches. In fact, the very language of the act showed that the issue was deliberately left out: "nothing in this act contained shall be construed to affect or influence the said question of a general assessment, or voluntary contribution, in any respect whatever."⁴⁵ A general assessment would mean a taxation for all citizens in support of religion, allowing each citizen to choose which church his taxes would support. Proponents of a general assessment argued that it would be consistent with free exercise of religion because it encouraged citizens to fulfill the "duty which we owe to our Creator" and promoted the beneficent role of religion in public life without forcing citizens to support a specific religion.⁴⁶ Opponents, however, argued that it was still a form of establishment. The Separate Baptists drew up a declaration in which they expressed their disapproval of an assessment. They cited the fourth article of the Virginia Declaration of Rights, which said that no man or group of men was entitled to

⁴¹ Ibid, 34.

⁴² Dreisbach, "Church-State Debate in the Virginia Legislature," 143.

⁴³ Buckley, *Church and State*, 36.

⁴⁴ Dreisbach, "Church-State Debate in the Virginia Legislature," 143.

⁴⁵ Ibid, 144.

⁴⁶ Ibid.

“exclusive or separate Emoluments or Privileges from the Community but in consideration of public Services.”⁴⁷ An assessment would transform the ministers into public servants responsible to the government rather than just the laity. They even declared that if an assessment should become law, they would return their portion of the tax money to the people. The Hanover Presbytery also drew up a memorial in opposition to the assessment. The first group of petitions to *request* an assessment directly was presented to the House in December 1777 from Caroline County.⁴⁸ In 1778, two more petitions were submitted to the Assembly requesting financial support of the clergy. This issue would rise again in heated legislative debates in 1779 and in the mid-1780s, but at this point, there were signs that the legislature was moving in the direction toward disestablishment.⁴⁹ First, they rejected a Cumberland County petition to maintain the Church in all its legal rights and supervise its clergy. Second, without being influenced by a petition to do so, the House ordered the drafting of a bill which would remove the exclusive prerogative of performing marriages from the established clergy.

Though the 1776 legislation permanently exempted dissenters from being forced to support the Anglican Church, the suspension of salaries of the Anglican clergy was only temporary. This temporary suspension was inadvertently advantageous to Anglicans who did not want to support their own clergy. They merely had to declare themselves to be “dissenters” so that they would be exempt from supporting

them.⁵⁰ However, this being only temporary, the question of tax support of clergy remained open. This created great turmoil for the clerical ranks of the Anglican Church. Vestries⁵¹ were in a growing state of disorder and even facing the possibility of dissolution. Not only were the Anglican clergy in a state of confusion, but the dissenters were as well. Though Article XVI of the Declaration of Rights had been in place for three years, the nature of church-state relations within Virginia was still unclear. By 1779, disestablishmentarians in the legislature demanded a more precise settlement of the church-state question, which would include a permanent suspension of taxation for support of the clergy. Because of this, the spring legislative session in Virginia would prove to be vital for resolving the many church-state issues that had been in debate for the past few years.

On June 4, 1779 the House appointed a committee, which was composed of George Mason, Jerman Baker, and John Harvie, to prepare two bills: one for religious freedom and another to preserve the property which was already acquired by the established church. The committee submitted two bills from Virginia’s revised code,⁵² one being Jefferson’s bill for

⁴⁷ Buckley, *Church and State*, 39.

⁴⁸ Eckenrode, *Separation of Church and State in Virginia*, 55.

⁴⁹ Buckley, *Church and State*, 45.

⁵⁰ Dreisbach, “Church-State Debate in the Virginia Legislature,” 144.

⁵¹ A vestry was a self-perpetuating body of twelve men chosen from the economic and political elite of the county. Vestries controlled parish affairs.

⁵² After the adoption of the Declaration of Independence in 1776, the Founders wanted the individual states to revise their legal codes so as to be consistent with republican principles. In October of that year, a committee was appointed, chaired by Jefferson, to fulfill such a task. The other committee members were George Mason, Edmund Pendleton, George Wythe, and Thomas Ludwell Lee. However, the bulk of the work ended up falling into Jefferson’s hands. Mason excused himself on the grounds that he was not a lawyer and felt unqualified for the work, Lee died,

establishing religious freedom.⁵³ The House voted to defer the matter, and this gave the legislatures an opportunity to attain public support for their legislative aims. Thomas Jefferson, who was the strongest proponent for disestablishment, was not present at the committee because he was elected to succeed Patrick Henry as governor in early June. “The removal of his forceful voice from legislative deliberation frustrated the liberal campaign for church-state separation.”⁵⁴ The Committee for Religion was also ordered to prepare a bill for “farther [sic] suspending the payment of salaries heretofore given to the clergy of the Church of England.”⁵⁵ It was passed by the House on June 17th. The spring session ended, and Jefferson’s bill survived two readings before the House voted to postpone further consideration of it to August 1st, without further clarifying the issue of the relation between church and state.⁵⁶

The November 1779 legislative session was flooded with petitions for and

against Jefferson’s bill, in addition to the petitions which had already accumulated since the Revolution. Jefferson’s bill had been printed and copied, probably at private expense, and was circulated to various counties and interested people.⁵⁷ Opposition to the bill dominated the pages of the *Virginia Gazette*. “[T]he reaction in the press and the religious petitions clearly showed that the weight of public opinion favored some form of governmental intervention in religious matters, and this sentiment found support in the House of Delegates.”⁵⁸ For example, a long petition from Lancaster County argued that passage of the bill would lead to a “Licentious Freedom subversive of true piety and civil Society.”⁵⁹ Because of this, Jefferson’s bill was not even considered. On October 25th, the conservatives in the legislature introduced a general assessment bill for the “encouragement of Religion and virtue” and for the “Support of Religious Teachers and places of Worship.”⁶⁰ The bill declared that the Christian religion would be the established religion of the commonwealth; all denominations of Christianity would enjoy equal civil and religious privileges. It offered toleration to all people and religious societies who acknowledged that there is one God who ought to be publicly worshipped and who acknowledged a future state of rewards and punishments. The bill provided civic privileges, such as the fruits of the general assessment, to those religious societies which ascribed to five articles of faith, which included the belief that the Christian religion is the true religion.⁶¹ The second half of the bill was concerned with

and the other two contributed little to the work. Therefore, Jefferson had the greatest influence on the revision of the laws. When the Committee of Revisers first met on January 13, 1777, they divided the work amongst themselves, and Jefferson assumed responsibility over the laws concerning crimes and punishment, descents, education, and religion. On June 18, 1779, the House viewed for the first time the 126 bills that the committee had revised. Some of the bills were enacted immediately, but most of them stood in legislative limbo for the next half decade. The pressures of war during this period distracted the legislature. In the autumn of 1785, Jefferson was the American minister to France. James Madison acted as a sponsor to his bills, however, and successfully managed to see the entire revised code passed by 1786 (Dreisbach, “Church-State Debate in the Virginia Legislature,” 147-48).

⁵³ Eckenrode, *Separation of Church and State in Virginia*, 56.

⁵⁴ Dreisbach, “Church-State Debate in the Virginia Legislature,” 145.

⁵⁵ *Ibid.*

⁵⁶ Buckley, *Church and State*, 48.

⁵⁷ *Ibid.*, 49.

⁵⁸ *Ibid.*, 56.

⁵⁹ *Ibid.*, 50.

⁶⁰ Dreisbach, “Church-State Debate in the Virginia Legislature,” 145.

⁶¹ Eckenrode, *Separation of Church and State in Virginia*, 59.

assessment. Each person was to choose a religious society within the establishment to support through taxes in the form of money or tobacco.⁶² "This initiative was welcomed by petitioners seeking robust legislative action to encourage Christianity and restore public virtue, which were said to be in decline since the state had begun dissolving its legal and financial bonds with the church."⁶³ The bill passed its first reading on the day it was introduced to the House. Again, the press printed several articles defending the measure, including another one attacking Jefferson's bill. It was vigorously debated in the legislature and amongst the public because it was hard to reconcile with Article XVI. The delegates were well aware of this. On November 15, 1779, the bill was set aside for future consideration, but it would never be considered again. One small section of the bill was reclaimed though.⁶⁴ On November 18th, Mason presented a bill which would repeal the portion of the December 1776 exemption that had been temporality suspended, the portions which provided salaries for clergy and authorized the collection and payment of parish levies. The bill was passed on December 13th, and it finally ended all direct support of the former established church.

The pressures of war began to distract the legislature, and the church-state issues were not revived until the autumn legislative session of 1784, which was flooded with petitions requesting an assessment for the support of teachers of the Christian religion. Many of these petitions made reference to nations which had fallen because of a decline in religion, along with reporting that the morality in the Commonwealth was decreasing at an alarming rate

since the end of the Revolutionary War in 1781. They argued that financial support would encourage good candidates for the ministry, and some even argued that, since religion was a benefit to the entire society, every citizen should be required to contribute to it.⁶⁵ Once again, there were also *Virginia Gazette* articles emphasizing the need for public virtue aided by religion.⁶⁶ Consequently, on November 11th, the House went into a Committee of the Whole to debate the assessment issue. Patrick Henry⁶⁷ was the main proponent for an assessment,⁶⁸ while Madison was the leader of the assessment opponents. "[I]t is clear that most Protestants in Virginia at the time favored the encouragement of religion by the state through financial aid to the Christian churches."⁶⁹ Apart from Madison, there is little evidence that there was much opposition to a general assessment in the

⁶⁵ Dreisbach, "Church-State Debate in the Virginia Legislature," 149.

⁶⁶ Buckley, *Church and State*, 73.

⁶⁷ Patrick Henry, the leader of the Assembly, was undoubtedly the most popular politician in the state of Virginia. He had been outspoken in his opposition to Great Britain early on, and he had had three very successful years of serving as governor of Virginia from 1776-1779 (Buckley, *Church and State*, 71).

⁶⁸ Other prominent Virginians in favor of the assessment included George Washington, John Marshall, and Richard Henry Lee. Washington commented on Madison's "Memorial and Remonstrance":

"Altho' no mans Sentiments are more opposed to any kind of restraint upon religious principles than mine are; yet I must confess, that I am not amongst the number of those who are so much alarmed at the thoughts of making People pay towards the support of that which they profess, if of the denominations of Christians; or declare themselves Jews, Mahomitans or otherwise, & thereby obtain proper relief" (Dreisbach, "Church-State Debate in the Virginia Legislature," 152).

⁶⁹ Church-state scholar Anson Phelps Stokes quoted in Dreisbach, "Church-State Debate in the Virginia Legislature," 150.

⁶² Buckley, *Church and State*, 58.

⁶³ Dreisbach, "Church-State Debate in the Virginia Legislature," 145.

⁶⁴ Buckley, *Church and State*, 60.

Assembly, especially since Jefferson was in Europe as an ambassador to France. As the battle over assessment began, Henry was clearly taking a winning lead.⁷⁰ He persuaded his colleagues to adopt a resolution by a vote of 47 to 32 that stated that the people of the Commonwealth ought to pay an annual tax or contribution for the support of the Christian religion or some Christian church, group, denomination, or form of worship.⁷¹ Henry was appointed to chair a committee which would draft a bill for a general assessment. The anti-assessment side of the legislature received another blow the following day when their supposed allies, the Presbyterians, submitted a remonstrance in which they requested an assessment.⁷² Their remonstrance argued that although religion does not need the support of government, government needs the support of religion in order to preserve the social fabric and maintain justice.⁷³ The Presbyterians would eventually return to the side of Jefferson and Madison, but this was

not until all hopes of a general assessment were dashed. The Presbyterians, as a body, did not endorse Jefferson's bill until August of 1785, five years after the bill was proposed.⁷⁴

It was clear that the liberal cause of Jefferson and Madison was being defeated. However, Henry's political career got in the way of his legislative aims when he was elected governor on November 17, 1784.⁷⁵ Chances are, after seeing the open governor seat as an opportunity to get Henry out of the legislature, Madison took part in gaining support for Henry's unopposed election.⁷⁶ With Henry out of the picture, Madison took the opportunity to rally citizens around his cause. By late November and into December, petitions opposing the assessment began to surface because of Madison's efforts.⁷⁷ Henry's efforts were not finished, however. His "Bill Establishing a Provision for Teachers of the Christian Religion"⁷⁸ was presented before the House on December 2nd. It provided for a moderate tax, with an unfixed rate, upon all taxable property for the support of ministers or teachers of the Christian religion. Each taxpayer would designate a

⁷⁰ Henry's reasons for wanting an assessment are not altogether known, but the sentiment which drove the advocacy of it came from conservatives after the Revolution. As in all revolutions, the war brought on license and radical opinions, especially concerning the meaning of liberty. This license led to a lack of morals, and the conservatives saw religion as a remedy to that (Eckenrode, *Separation of Church and State in Virginia*, 75).

⁷¹ Buckley, *Church and State*, 92.

⁷² The condition of the churches in the commonwealth had severely suffered since the close of the war. The few ministers that remained serving the Anglican and Presbyterian churches depended upon the voluntary contribution of their diminished congregations. The Baptist and Methodist preachers had to seek secular employment because they could not find congregations which would hire them. Churches lacked the support of social sentiment, and many feared that they would continue to collapse if they did not have some sort of government support (Eckenrode, *Separation of Church and State in Virginia*, 75).

⁷³ Buckley, *Church and State*, 95.

⁷⁴ James, *Documentary History*, 98.

⁷⁵ On the same day, it was ordered that a bill be drawn up to incorporate the clergy of the Protestant Episcopal Church. It would re-establish the independence of the clergy from the laity, securing their current church property and their ability to acquire more indefinitely (Ibid, 129).

⁷⁶ Buckley, *Church and State*, 101.

⁷⁷ Dreisbach, "Church-State Debates in the Virginia Legislature," 150.

⁷⁸ "Perhaps with the hope that an emphasis on education might win additional support for the assessment, the drafting committee revised the title of the bill. When presented as a resolution, the measure had been designed to support Christian ministers, churches, and worship. However, when the committee had completed its work, the measure was designed as a bill 'establishing a provision for teachers of the Christian religion'" (Buckley, *Church and State*, 105).

denomination of his preference, and the taxes of those who did not specify a denomination would go to support some other pious use.⁷⁹ This bill was different from the 1779 general assessment bill in two ways: it did not contain five creeds to which participating religions must subscribe, and it did not declare Christianity to be the established religion.⁸⁰

After three readings in the House, the bill was postponed at the request of opponents of an assessment.⁸¹ They further requested that the bill be copied and distributed throughout the Commonwealth so that citizens could signify their opinion on the matter. Twelve copies of the handbill were to be given to each member of the Assembly for distribution in his own county, and it was requested that the members of the county signify their opinion regarding the adoption of such a bill.⁸² At first Madison wanted to wait quietly for opposition to the bill to accumulate, but he was advised that his side may not be represented well in petition if he did not write something to the Assembly. George Nicholas wrote to Madison in April 1785 that a "majority of the counties are in favor of the measure but...a great majority of the people are against it; but if this majority should not

appear by petition the fact will be denied."⁸³ Consequently, he was persuaded to write his "Memorial and Remonstrance Against Religious Assessments"⁸⁴ and distribute it anonymously. Brothers Nicholas and George Mason paid to have the "Remonstrance" printed and circulated throughout the Commonwealth.⁸⁵ The effort proved to be successful; Madison said that it was "so extensively signed by the people of every Religious denomination, that at the ensuing session, the projected [assessment] measure was entirely frustrated."⁸⁶ In fact, the "Remonstrance" was only one of a flood of petitions opposed to Henry's proposed legislation. Out of more than 100 memorials regarding the assessment, only eleven of them supported the assessment.⁸⁷ For every one man who signed a petition in favor of the bill, twelve men signed one against it.⁸⁸ Though Madison's "Memorial" has certainly gained more attention today than any of the other petitions that were signed, it was certainly not the most popular at the time. The petitions from the evangelicals who argued that establishments are contrary to the Christian gospel were the most

⁷⁹ Eckenrode, *Separation of Church and State in Virginia*, 100.

⁸⁰ Buckley, *Church and State*, 108.

⁸¹ While the Assembly took a break from discussing the assessment bill, they finalized another religious matter which had been a complaint of the dissenters—the regulation of marriage within the state. The new marriage act, which passed swiftly in the House and Senate, declared that any ordained minister of the gospel who served a regular parish or congregation within the state could perform marriages. The discrimination in favor of the Anglican clergy was put to an end with this bill (Buckley, *Church and State*, 111).

⁸² Eckenrode, *Separation of Church and State in Virginia*, 103.

⁸³ Letter from George Nicholas to James Madison, April 22, 1785 in *The Papers of James Madison*, Volume VIII. Robert A. Rutland and William M. E. Rachal (Chicago: University of Chicago Press, 1973), 264.

⁸⁴ A "memorial" and "remonstrance" is a formal complaint or petition addressed to the legislature with an attached declaration of reasons (Dreisbach, "Church-State Debate in the Virginia Legislature," 152).

⁸⁵ *Ibid*, 151.

⁸⁶ *Ibid*, 152.

⁸⁷ Buckley, *Church and State*, 145.

⁸⁸ It should be noted that people were not objecting to the assessment bill for religious or political reasons only; several petitions noted economic reasons. At the time, Virginia citizens were being very heavily taxed. One petition from Amelia County wrote, "The people are borne down with Taxes, Have Mercy!" Historians suggest that any additional tax for any political or religious purpose would have been impossible at the time (*Ibid*, 155).

extensively signed. In fact, the petition which gained the most signatures was written by an unnamed Christian from Westmoreland County. While Madison's "Memorial" had gained two thousand signatures, this petition gained five thousand—nearly half of the total signatures opposed to the assessment.⁸⁹

After only brief consideration in the fall of 1784, Henry's bill died quietly in committee without even being brought before the House.⁹⁰ The people had spoken. The sentiment had clearly shifted to the liberal side of Jefferson and Madison. The public enthusiasm for the "Memorial" encouraged Madison to pull Jefferson's 1779 bill off the shelf on December 14, 1785 and push for its passage. After minor amendments, the House voted in favor of the bill with a sweeping majority of 74 to 20.⁹¹ The Senate proceeded to debate the House regarding amendments to the bill, but after reaching a compromise, the bill was signed by the Speaker on January 19, 1786. Jefferson's bill finally became law after waiting since June 1779. Madison wrote that Jefferson's bill "extinguished forever the ambitious hope of making laws for the human mind."⁹² Jefferson's vision of establishing religious freedom in Virginia was finally realized.⁹³ Subsequently, there

arose a religious revival in Virginia amongst the sects which had gained their equal standing in the state.⁹⁴ Thousands of Virginians were converted and baptized. Though the Baptists certainly took the lead in the revivals, every denomination other than the former established church prospered as well. The Baptists, who played a great role in the fight for religious freedom, now had the most numerous congregations of any denomination in the state.

It has been shown that several factors contributed to the eventual disestablishment of the Anglican Church. The clergy was in a state of corruption and confusion, the laity diminished as they converted to the revivalist denominations in great numbers, and the dissenters rose up and began to demand toleration after being persecuted for decades. The social, economic, and religious situation in the Commonwealth created an urgent need for a solution that could only come from a dramatic change in the relationship between the Church and the state. Yet, even while the dissenters demanded specific changes, the solution to the problem was still not clear. It would not be made clear until the theological and political arguments for religious liberty were articulated. The public sentiment towards establishment began to change as the *reasons* for disestablishment were laid forth. The public wanted the Anglican Church disestablished because they witnessed its negative effects, but they did not begin to oppose a general assessment until they understood that any form of establishment

⁸⁹ Editorial note for the "Memorial and Remonstrance" in *The Papers of James Madison*, Volume VIII, 298.

⁹⁰ Eckenrode, *Separation of Church and State in Virginia*, 113.

⁹¹ Buckley, *Church and State*, 159.

⁹² Letter to Thomas Jefferson, January 22, 1786 in *The Papers of James Madison*, Volume VIII, 474.

⁹³ Though there was no more established church, a few details were left to be sorted out after the bill was passed. The Act had left the Anglican Church in possession of its churches and glebe lands, but many dissenters objected to this, claiming that their taxes had paid for those churches and lands while the Church was still the state church. Petitions were filed with the legislature requesting that these lands be sold and the proceeds be given to the poor.

So, in 1799 the Assembly repealed the legislation of 1776 which had reserved the Church's property. The glebe lands that were not occupied were sold to the poor, and when the incumbent ministers died or resigned, their lands were eventually sold too. This proved to be devastating for the Church, but it did eventually recover (Dabney, *Virginia*, 164).

⁹⁴ James, *Documentary History*, 147-49.

was an infringement of their natural rights. This understanding would come only when petitions and memorials were circulated throughout the counties. The public was presented with the arguments from both sides until they were finally persuaded that any form of establishment would harm their rights, the churches, and the society itself. Once they understood this, they embraced the truth of the arguments laid forth in Jefferson's bill, which allowed for its quick passage.

Though the citizens of eighteenth century Virginia heard the arguments from both sides of the controversy, only one side is commonly heard today. When courts and commentaries reflect on the establishment situation in Virginia, they usually only make reference to the documents of Jefferson and Madison. It is as if there was a sudden transformation of the situation once the citizens and legislators were enlightened to the reasoning of Jefferson and Madison. However, the history clearly shows that it was not that simple; Jefferson and Madison were faced with opposition that was also founded on solid arguments and reasoning. Chapter Two will examine the theological and epistemic foundations of Jefferson's religious liberty arguments, along with his understanding of human nature, which shaped his Bill for Establishing Religious Freedom. Chapter Three will explain the political arguments regarding religious liberty that were articulated in Madison's "Memorial and Remonstrance." Finally, in Chapter Four, the arguments of their opponents will be examined in order to determine if Jefferson and Madison's victory in the battle for religious liberty was not merely political, but a result of true and unassailable principles.

CHAPTER TWO

The Theology of Religious Liberty: Thomas Jefferson's Bill for Establishing Religious Freedom

It has been shown that Thomas Jefferson played a pivotal role in the disestablishment struggle, though it took years for his Bill for Establishing Religious Freedom to finally reach passage. In order to gain victory in the battle over the establishment, Jefferson had to convince those in favor of it that it was actually inconsistent with the principles of the Christian religion. Himself proclaiming to be a Christian of a sort, he argued that God has actually showed us that religious establishments are against His will when He created the human mind free. If God Himself does not coerce the mind, then certainly He would be displeased if human institutions attempt to do so. However, those in favor of the establishment embraced the view that established churches were in fact pleasing to God because they served to spread the truth of the Christian religion. Thus, Jefferson needed to be able to convince the Virginians of a *theology* that was in favor of religious liberty.

Theology and Freedom of the Mind

Jefferson's Bill for Establishing Religious Freedom is the document which eventually secured religious liberty for the Virginians, and it is also his most extensive treatment of the subject. This chapter will discuss each of Jefferson's arguments in the order that they appear in the Bill. He begins with an epistemic view of how men come to their religious conclusions:

Well aware that the opinions and beliefs of men depend not on their

own will, but follow involuntarily from the evidence proposed to their minds,⁹⁵

Men's opinions are formed not by their own choice, but by evidence proposed to their minds—by things they witness and understand. The evidence alone determines what the opinion will be. Thus, a man does not actually *decide* whether or not to believe something. The will plays no role in forming religious opinions.⁹⁶

In the next section of the Bill, Jefferson uses God's relationship with man to establish what powers the magistrate can or cannot have.

That Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as it was in his Almighty power to do;

Jefferson is arguing that religious liberty is founded in none other than God's own will. He interprets God's will by first examining how God restrains His own power over creation. As God is Almighty, He has the power to coerce men both in their bodies and in their minds. God could have chosen to make men such that they must acknowledge His presence and even worship Him, since He has the power to coerce the mind *and body* of men. If anyone could exercise power over the mind and body, certainly it would be the Creator of both. Yet, in all His power, He still chose not to coerce either. In fact, He made the mind "altogether insusceptible of restraint," thus proving that He wills that no one attempt to hinder the freedom that He placed on it. There is an inference here that any power which God does not exercise in His own will—even though He does have that power in full—should likewise not be exercised by any created authority.

Jefferson believes that there are three necessary conditions for the mind to be free, or to come to a conclusion on its own. First, it must be enlightened to evidence. Since thoughts only arise as a result of evidence, then certainly evidence must be presented before the mind. Second, the mind must have the ability to contemplate such evidence. In a letter to his nephew Peter Carr, Jefferson instructs him to contemplate religion because, at his age, Carr's reason was "mature enough to examine this object."⁹⁷ Jefferson believes that only fully developed reason has the ability to contemplate such things. Third, a man must be able to do this without fear of being harmed. In order for a man to truly believe something, his belief in it must not be a result of some fear of what will happen to him if he believes otherwise. He should not

⁹⁵ Though changes were made to the language of the Bill before it became law, this chapter will be an examination of Jefferson's original draft, as this would best articulate his own views.

⁹⁶ Jefferson's understanding of religious liberty, including the epistemic and theological foundations on which he forms it, is extremely similar to that of John Locke. In his *Letter Concerning Toleration*, Locke argued that for a man to "believe this or that to be true, does not depend upon his own Will," (John Locke, *A Letter Concerning Toleration*. James H. Tully, ed. Indianapolis: Hackett Publishing Company, Inc., 1983, 46). This is because "it is only Light and Evidence that can work a change in Mens opinions" (Ibid, 27).

⁹⁷ Letter to Peter Carr, August 10, 1787 in *Jefferson: Writings*, 902.

be punished for beliefs over which he has not control, according to Jefferson.

Yet what exactly does Jefferson believe to be a “harm”? Most of his writings suggests that he believes only physical harm is real harm. Thus, he would reject the modern idea of “psychological coercion.”⁹⁸ This is because true belief requires the ability to withstand pressure to conform to a different belief. If the majority of the people in a society happen to agree that one religion is true, a dissenter cannot claim that their public practice of that religion harms his conscience; his religious beliefs, guided by reason alone, should not be so weak as to crumble at the slightest fear of social stigma. When Jefferson spoke of atheists in the *Notes on the State of Virginia*, he said, “If it be said, his testimony in a court of justice cannot be relied on, reject it then, and be the stigma on him.”⁹⁹ Jefferson allows this because he believes that opinions based on reason will be strong enough to withstand prejudice. He tells Peter Carr to “shake off the fears & servile prejudices under which weak minds are servilely crouched.”¹⁰⁰ A man with a strong, courageous mind will not fear social pressure, and indeed Jefferson shows here that men ought to have strong minds. Yet, in a later letter, he gives a completely contrary opinion. Three years after he was elected president for his first term, he wrote to Benjamin Rush to give his opinion on the morals of Jesus. He explained to Rush why he does not reveal such opinions to the general public:

I am moreover averse to the communication of my religious tenets to the public; because it would countenance the presumption of those who have endeavored to draw

them before that tribunal, and to seduce public opinion to erect itself into that *inquisition over the rights of conscience*, which the laws have so justly proscribed. It behoves *every man* who values liberty of conscience for himself, to resist invasions of it in the case of others; or their case may, by change of circumstances, become his own” (emphasis added).¹⁰¹

This reveals a change in Jefferson’s opinion over time. This letter was written in 1803, when Jefferson was running for re-election, whereas the *Notes* were written in 1781, and the letter to Carr was written in 1787. In the letter to Rush, Jefferson speaks of the “malignant perversions” of people who make every word from him a “text for new misinterpretations & calamities.”¹⁰² Perhaps the stigma that he faced during his presidential campaigns because of his unorthodox religious views changed his opinion on social stigma.¹⁰³ However, this does not mean that his previous writings should be altogether dismissed. Clearly he believes that for the public to harass a man about his opinions is a violation of his free conscience, but this does not mean he would claim that members of a society publicly practicing a religion embraced by the majority would harm the conscience of a dissenter. He makes no such claim in the letter to Rush. Rather, his solution to the problem of stigma is merely that individuals do not have to answer questions about their religious beliefs: “It behoves him...to give no example of concession, betraying the common right of independent opinion, by

⁹⁸ See *Lee v. Weisman* 505 U.S. 557 (1992)

⁹⁹ *Notes on the State of Virginia*, Query XVII in *Jefferson: Writings*, 285.

¹⁰⁰ Letter to Peter Carr, Ibid, 902.

¹⁰¹ Letter to Benjamin Rush, April 21, 1803, Ibid, 1123.

¹⁰² Ibid.

¹⁰³ During his first presidential campaign, he was portrayed as an infidel by the Federalists: Ibid, 1525.

answering questions of faith, which the laws have left between God & himself.”¹⁰⁴ Thus, enough courage is necessary to withstand the social pressure of witnessing the public practice of a religion that one does not embrace, but it does not require one to publicly defend his opinions or withstand physical harm for his beliefs. Certainly some people are able to withstand physical harm for the sake of their beliefs, but this is not something that can be required of all men. For most people, the threat of physical harm will only make them reluctant to contemplate religion. Thus, a man must be able to express his belief without being harmed physically and prevented from expressing it; on the other hand, he must not be forced to express it either.

Since it is in God’s plan that no created authority ought to harm the mind by coercing it in matters of religion, He created consequences for when such actions do occur: “...that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness.”¹⁰⁵ When the freedom that God placed on the mind becomes hindered by temporal restraints, either the person acts contrary to what he actually believes, or he rebels against the restraint in a way that may be harmful to society. This further reveals God’s intention that the mind is to be kept free and solidifies Jefferson’s claim that God Himself is the source of religious freedom. He did not create our nature such that we must submit to Him in this life, nor did He give this power to any earthly authority. Jefferson believes that God did not coerce the mind or body of man because God is good, and this would be contrary to such goodness. In fact, he believes that one of

the only things we can know about God is His goodness.

(Jesus) the benevolent and sublime reformer of that religion has told us only that God is good and perfect, but has not defined him. I am, therefore of the theology, believing that we have neither words nor ideas adequate to that definition. And if we could all, after this example, leave the subject as undefinable, we should all be of one sect,¹⁰⁶ doers of good, and eschewers of evil.¹⁰⁷

Jesus has taught us that God is good and perfect, but we can know no more than that. Jefferson believes that theology ought to be limited because we cannot “define” God. Yet, when he speaks of “definition,” he only means that we cannot attempt to designate very specific attributes to the Being. Certainly he believes that we can know very general characteristics of God’s nature; in this previous quote and in other writings, he says that we *can* know His goodness, intelligence, and perfection. However, we

¹⁰⁶ Though Jefferson believes that diversity of opinion is good for society, as will be explained later, he does show here that he has a hope for uniformity. He has a hope that someday everyone will in fact come to the same conclusions he has come to—he hopes that all men in the society will become Unitarians. On June 26, 1822, he wrote to Benjamin Waterhouse: “I rejoice that in this blessed country of free inquiry and belief, which has surrendered its creed and conscience to neither kings nor priests...I trust that there is not a *young man* now living in the United States who will not die an Unitarian” (*Jefferson: Writings*, 1459, emphasis original). It is clear that he does not believe the government should force this on people. Rather, he hopes that this common Unitarianism will arise from free debate within the society.

¹⁰⁷ Letter to Ezra Styles, June 25, 1819, quoted in Adrienne Koch, *The Philosophy Of Thomas Jefferson* (Gloucester, Mass: P. Smith, 1957), 38.

¹⁰⁴ Ibid, 1123.

¹⁰⁵ Jefferson, Bill for Establishing Religious Freedom

cannot know of such characteristics as His substance and form.

These theological views are best articulated in a letter to John Adams in which Jefferson refutes the doctrines of Calvinism. In this letter he wrote, "Of the nature of this Being we know nothing," yet, in the same letter, he wrote of God as "the Creator and benevolent governor of the world."¹⁰⁸ In order to see how these contradictory claims can be resolved, one must understand the purpose of the letter. He was writing to refute the claim that everything we know about God has been revealed through special revelation. "Indeed I think that every Christian sect gives a great handle to Atheism by their general dogma that, without a revelation, there would not be sufficient proof of the being of a god."¹⁰⁹ He then goes on to give a cosmological explanation of how one knows of God's existence. He explains that God is "a being whom we see not, and know not, of whose form substance and mode or place of existence, or of action no sense informs us, no power of the mind enables us to delineate or comprehend." These are some things about God which we cannot know. Yet, after contemplating the order of the Universe, Jefferson says it is "impossible" for us not to "perceive and feel a conviction of design, consummate skill, and indefinite power in every atom of it's [sic] composition."¹¹⁰ One comes to an understanding of God as a result of cause and effect reasoning. When one perceives the order of the Universe, it is only reasonable to conclude that there is an intelligent Being who is the creator and also the "preserver and regulator"¹¹¹ who holds things together in their current form. It is not until he

articulates this understanding of God as the First Cause that he claims we can know nothing of His "nature;" he begins to refute specific Christian ideas of God, such as that "God is spirit" and that there is more than one person in God's being. Jesus tells us that God is spirit, "but without defining what a spirit is."¹¹² The Bible itself does not even reveal anything about the spirit of God or the distinction of "persons" in God. In speaking of the Trinity, Jefferson refers to the first chapter of the Gospel of John, which says, "In the beginning, God existed, and the Word was with God." He argues that the Greek word for "Word," which has been interpreted to mean the Son, or second Person of the Godhead, has been mistranslated, and that it really means "reason (or mind)." This text plainly declares the "doctrine of Jesus that the world was created by the supreme, intelligent, being."¹¹³ Therefore, Jesus offers us no more knowledge of God than we already have through natural revelation—the simply cosmological view of God as intelligent, benevolent Creator. The "nature" of God which we cannot know includes those attributes, such as substance and form, which Christians and philosophers have erroneously attempted to delineate.

Jefferson's strong belief in our ability to know God's goodness in particular will be essential for his understanding of religious liberty. He was blatantly critical of any doctrine which he believed undermined God's goodness. In the same letter to Adams, Jefferson explicitly stated his aversion to the doctrines of Calvinism.

I can never join Calvin in addressing his god...If ever man worshipped a false god, he did. The being described in his 5 points is not the

¹⁰⁸ Letter to John Adams, April 11, 1823 in *Jefferson: Writings*, 1467.

¹⁰⁹ *Ibid*, 1466.

¹¹⁰ *Ibid*, 1466-67.

¹¹¹ *Ibid*, 1467.

¹¹² *Ibid*, 1468.

¹¹³ *Ibid*.

God whom you and I acknowledge and adore; the Creator and benevolent governor of the world; but a demon of malignant spirit. It would be more pardonable to believe in no god at all, than to blaspheme him by the atrocious attributes of Calvin.¹¹⁴

The five points of Calvin to which Jefferson refers are: total depravity, unconditional election, limited atonement, irresistible grace, and perseverance of the saints (TULIP).¹¹⁵ Total Depravity means that since the Fall of Adam sin has extended to every part of man's personality: his thinking, his emotions, and his will. Because of this depravity, an unsaved man is in fact blind and deaf to the message of the gospel. Such a man does not know God, and he can only receive this knowledge of God through God's Son Jesus Christ. Prior to knowing Christ, however, men are enslaved by their sin. Unconditional Election is the doctrine that God chose certain people to whom He would reveal knowledge of Himself, based on no merit of their own. He has elected some for glory and others for damnation. This doctrine, however, does not rule out man's responsibility to believe in Christ, but He is needed to lead them to belief. Limited Atonement is the doctrine that Christ died for many people, not all. "Specifically, Christ died for the invisible Church—the sum total of all those who would ever rightly bear the name 'Christian'."¹¹⁶ The fourth point of Calvinism is Irresistible Grace, which means that those who are elected by

God will certainly respond to the Holy Spirit when He brings the knowledge of God to them. God's very Spirit is what leads those He loves to repentance rather than some act of their own. The last point is Perseverance of the Saints. It states that the saints—God's elect—will remain with Him, continually being sanctified, until they are finally with him in eternal life. In other words, if one has truly been saved, he will not lose that salvation. Thus, it is clear that the Calvinists do not believe that men are free by nature, since they are enslaved in their sin until God chooses to redeem them. Jefferson believes that such a view is erroneous because it denies natural revelation of God's goodness—the revelation which allows us to know that God has indeed created us to be free.

The emphasis which Calvin puts on sin is clearly absent from Jefferson's writings. Calvin's view of human nature is that it is soaked in sin; therefore, certain ideas which we have may be a result of sin rather than God, including the idea of liberty. We need the grace of God before we can determine which ideas are a result of sin and which ones are not. This understanding of sin was present in the arguments of many of Jefferson's opponents. In fact, many of his opponents were critical of his idea of the "state of nature" in which all men have an innate right to liberty. In the Declaration of Independence, Jefferson speaks of this idea as "self-evident," but the Calvinist would argue that something which seems to be self-evident may be a result of sin. Jefferson, however, believes that liberty is a gift of God: "The God who gave us life, gave us liberty at the same time."¹¹⁷

¹¹⁴ Ibid, 1466.

¹¹⁵ The following description of the five points was found on:
Center for Reformed Theology and Apologetics:
<http://www.reformed.org/calvinism/>. Retrieved on December 9, 2005.

¹¹⁶ Ibid.

¹¹⁷ *Rights of British America, 1774 in The Jeffersonian Cyclopedic: A Comprehensive Collection of the Views of Thomas Jefferson*. John P. Foley, ed. (New York: Funk & Wagnells Co., 1990) on the University of Virginia Library online: <http://etext.lib.virginia.edu/jefferson/quotations/foley/>.

Therefore, the idea of liberty could not possibly be a result of sin.

Human Nature and the Moral Sense

In the next section of the Bill for Establishing Religious Freedom, Jefferson begins to articulate the flaws that he sees in human nature. Though he thinks the mind has the ability to come to conclusions on its own, he realizes that some men, acting out of vicious motives, try to take this ability away from others.

...that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time;

Neither priests nor laymen are to coerce others into their own religion, though they believe that religion to be true, because they too are fallible. However, when he describes them as "fallible and uninspired,"

Retrieved on March 15, 2006. While Jefferson does not explicitly define liberty, his writings reveal certain defining characteristics of it. Liberty is dependent for its survival upon reason, and true liberty produces virtue. Without reason, it will become tyranny: "Instead of that liberty which takes root and growth in the progress of reason, if recovered by mere force or accident, it becomes, with an unprepared people, a tyranny still, of the many, the few, or the one." (Letter to Marquis Lafayette, February, 1815, *Ibid*). Virtue is the result of true liberty: "Liberty is the great parent of science and of virtue; and a nation will be great in both in proportion as it is free" (Letter to Dr. Willard, 1789, *Ibid*).

he seems not to be speaking only of their reason, but also of their will. Certainly they are fallible because they may come to false conclusions in their religious beliefs. If men were not fallible, then we would all come to the same beliefs. However, in this context, he is also talking about the folly of their actions. Though the establishment of false religions is the effect of what they did, their error is that they established any religions at all. Even if they established a religion that was completely reasonable, they still erred in assuming "dominion over the faith of others." One may ask why, according to Jefferson, a man would want to establish a religion in the first place. Jefferson says that such men have "impious presumptions" and that they want to have "dominion over the faith of others." The spread of truth is not what they are aiming at, but instead they are aiming at the spread of their own power.

This raises an important question about Jefferson's view of human nature. Does he believe that this desire for power is an innate part of human nature, or does he think that just a few corrupt men have it? His opponents will argue that men have a depraved nature which makes government intervention in religious matters necessary. So, it is important to discuss Jefferson's views on the moral sense and how much corruption men do have in their nature, if any. In a letter to Thomas Law, he argues that God gave humans an innate moral sense. "It shows how necessary was the care of the Creator in making the moral principle so much a part of our constitution as that no errors of reasoning or of speculation might lead us astray from its observance in practice."¹¹⁸ Yet, if man has an innate moral sense, why are some men led by corrupt desires, such as the desire to gain power over the rights of other men?

¹¹⁸ Letter to Thomas Law, June 13, 1814 in *Jefferson: Writings*, 1335.

Jefferson argues that these desires arise as a result of self-love. In this letter, he says:

Self-love, therefore, is no part of morality. Indeed it is exactly its counterpart. It is the sole antagonist of virtue, leading us constantly by our propensities to self-gratification in violation of our moral duties to others...Take from man his selfish propensities, and he can have nothing to seduce him from the practice of virtue.¹¹⁹

Self-love has no part in morality because there are no duties to the self, and morality involves duty. "I consider our relations with others as constituting the boundaries of morality...To ourselves...we can owe no duties, obligation requiring also two parties. Self-love, therefore, is no part of morality."¹²⁰ Jefferson refutes the argument put forth by the philosopher Helvetius that men only act morally out of selfish motives, or for pleasure. He says that this pleasure is a result of moral action, but it is not the source. Rather, the source of moral action is an innate *love for others* that God has put in us.

These good acts give us pleasure, but how happens that they give us pleasure? Because nature hath implanted in our breasts a love of others, a sense of duty to them, a moral instinct, in short, which prompts us irresistibly to feel and to succor their distresses...The Creator would indeed have been a bungling artist, had he intended man for a social animal, without planting in him social dispositions.¹²¹

Though our moral actions arise from our love for others, this does not necessarily include a love for God. The source of our moral sense is clearly the Creator. However, Jefferson does not think that a *belief* in God is necessary for a man to exercise his moral sense. He argues that atheists can be moral too. "If we did a good act merely for the love of God...Whence arises the morality of the atheist?...idle to say...that no such being exists...Their virtue then must have had some other foundation than the love of God."¹²² However, the morality of the believer is different from the morality of the atheist in that he has an additional reason for being virtuous. In the letter to Peter Carr, Jefferson advised him to question his religious beliefs. "If it ends in a belief that there is no god, you will find incitements to virtue in the comfort and pleasantness you will feel in its exercise, and the host of others which it will procure you."¹²³ Yet, if the questioning ends in a belief in God, this will provide "an additional incitement"¹²⁴ to moral virtue.

In the letter to Law, Jefferson also said that we are prompted by the moral sense "irresistably."¹²⁵ Just as a man comes to his conclusions involuntarily, so too a man feels pity involuntarily at seeing the distresses of others. While it is his choice whether or not to act on this pity, he cannot prevent himself from *feeling* the love for others that God has placed within him. In fact, Jefferson believes that we know of our moral duties only because we have an impulsive feeling which tells us of them. Fifty years after reading Kames, Jefferson quoted him, saying that "a man owes no duty to which he is not urged by some

¹¹⁹ Ibid, 1336.

¹²⁰ Ibid.

¹²¹ Ibid, 1337.

¹²² Ibid, 1336.

¹²³ Letter to Peter Carr, August 10, 1787 in *Jefferson Writings*, 903.

¹²⁴ Ibid.

¹²⁵ Letter to Thomas Law, Ibid, 1337.

impulsive feeling.”¹²⁶ However, a man’s individual feeling may not be enough to justify a certain moral belief. The feeling is only correct “if referred to the general standard of feeling in the given case, and not to the feeling of a single individual.”¹²⁷ Society must place a check on the moral instinct of individuals because the moral senses of some are flawed, and some men do not even have them at all:

It is true they (moral senses) are not planted in every man, because there is no rule without exceptions; but it is false reasoning which converts exceptions into the general rule...The want or imperfection of the moral sense in some men, like the want or imperfection of the sense of sight and hearing in others, is no proof that it is a general characteristic of the species.¹²⁸

Thus, the “impious” men who act out of their love for self and power merely lack the innate love for others that leads the rest of mankind to do good. Some men are born completely without the moral sense, as some men are born completely blind. However, Jefferson’s letter to Peter Carr gives a somewhat different view. Rather than saying that some men lack it entirely, he says that all men have it, but some have it in a lesser degree than most men:¹²⁹ “The

moral sense, or conscience, is as part of man as his leg or arm. It is given to *all human beings* in a stronger or weaker degree, as force of members is given them in a greater or less degree. It may be strengthened by exercise, as any particular limb in the body.” (emphasis added)¹³⁰ Here, he is saying that while some men have a deficiency in the moral sense, they are not excused because there are ways by which a man can strengthen his moral sense. If a man lacks it completely, as a man may completely lack eye sight, he can be taught to “see” using other faculties, and he must strengthen these faculties with exercise.

Some of this exercise must be enforced by society, since, according to Jefferson, God formed the principles of morality such that society is their proper end. “Man was destined for society. His morality therefore was to be formed to this object. He was endowed with a sense of right & wrong merely relative to this.”¹³¹ Jefferson believed that God “has formed us moral agents...that we may promote the happiness of those with whom He has placed us within society.”¹³² God did make some men with a moral sense that is weaker than other men’s. However, in His goodness, He made all men for society, and He gave society certain measures by which it

¹²⁶ Ibid, 1338.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ There is a possibility that the contradictions in Jefferson’s letters may reflect a change in his opinion over time. The letter to Carr was written in 1787, whereas the letter to Law was written in 1814. Or perhaps these letters are contradictory because of the differing age and character of the recipients. Jefferson may not want to tell his young nephew, Peter Carr, that some men completely lack the moral sense because Carr may interpret this to mean that licentiousness is

excusable because some people simply lack the impulse to do good. Or he may simply find it inappropriate to tell his nephew about the complete lack of morality in some men when his purpose of writing about morality in this letter is to encourage Carr to be moral. The nature of his letter to Law, on the other hand, was an exchange of philosophical opinions about human nature, not instruction or encouragement.

¹³⁰ Ibid, 901.

¹³¹ Ibid.

¹³² Letter to Miles King, September 26, 1814, quoted in Charles B. Sanford, “The Religious Beliefs of Thomas Jefferson” in *Religion and Political Culture in Jefferson’s Virginia*, 76.

can correct the weaker men.¹³³ For Jefferson, society is the end of morality, not the source of it.¹³⁴ Society does not prescribe moral principles, but it does have God-given tools to strengthen those moral principles in men that have a weaker

¹³³ This does not mean that society is ultimately responsible for correcting immoral men—the men themselves must better themselves on their own as well. They are capable of doing this because, as Jefferson says, most do have *some* moral sense, just in a lesser degree than others. They must practice the virtues which they do know to be moral. Jefferson argues that men can increase their morality through habit. He encourages Carr to be humane, just, courageous, etc. “Consider every act of this kind as a moral exercise which will strengthen your faculties, & increase your worth” (*Jefferson: Writings*, 902). A man can exercise his moral sense just as he can exercise the muscles of his own body. With more exercise, it will grow in strength. Thus, every man is responsible for his own morality and cannot merely depend on society.

¹³⁴ Though society is not the source of morality, it does have an effect on how the moral sense operates, according to Jefferson. In the letter to Law, he wrote, “Men living in different countries, under different circumstances, different habits and regimens, may have different utilities; the same act, therefore, may be useful, and consequently virtuous in one country which is injurious and vicious in another differently circumstanced” (*Jefferson: Writings*, 1338). Utility plays a crucial role in Jefferson’s idea of the moral sense. Actions may be vicious in one country and virtuous in another because different societies have different aims for which the moral sense must reach. However, Jefferson’s idea of what is useful and virtuous is not entirely relative. All societies aim for their own happiness, and Jefferson believes that happiness consists in the ability to exercise one’s natural rights. Therefore, while different societies declare different acts to be virtuous and vicious, no society can claim that acts which harm the rights of others are virtuous. “The moral sense, it turns out, is substantially if not entirely dependent for its specific standards and specific content on something outside itself, discoverable only by reason or calculation” (Thomas Pangle, *The Spirit of Modern Republicanism: the Moral Vision of the American Founders and the Philosophy of Locke*. Chicago: University of Chicago Press, 1990, 120).

knowledge of them. Jefferson describes how society can give these people different motives for acting moral, though they lack natural love for others. We can use reason, calculation, and education to sway how they act:

...by presenting to the being so unhappily conformed, other motives to do good and to eschew evil, such as the love, or the hatred, or rejection of those among who he lives... demonstrations by sound calculation that honesty promotes interest in the long run; the rewards and penalties established by the laws; and ultimately the prospects of a future state of retribution for the evil as well as the good done while here.¹³⁵

He suggests that we appeal to their self-love by encouraging them to have selfish motives for choosing goodness, since they entirely lack or are deficient in the moral sense which is motivated by natural love for others. The last sentence even suggests that we make an appeal to their eternal fate in heaven or hell, or at least to the justice of God. In this way, he is saying that self-love is not necessarily evil. Though it causes some men to be immoral, it can still be *used* for good by inspiring these men to do good. Jefferson also says that society can use education to encourage the morality of others: “When it is wanting, we endeavor to supply the defect by education, by appeals to reason and calculation...”¹³⁶ Society can educate the immoral men about reasons for why it is important to be moral to their fellow citizens. They teach them to see themselves as united with the other members of society. This is made evident by the emphasis which Jefferson places on unity and citizenship. As was mentioned earlier,

¹³⁵ Letter to Thomas Law in *Jefferson: Writings*, 1338.

¹³⁶ *Ibid.*

he desired for everyone in a society to view themselves as members of "one sect," and later in the Bill Jefferson refers to the rights which a man has in common with his "fellow citizens."

Thus, Jefferson believes that immoral people will not necessarily always act viciously out of self-love. Since their moral conscience can be strengthened, their good acts which were motivated by self-love may eventually turn into acts which are motivated by pleasure of doing good for their fellow citizens. Jefferson never says that society and education will cultivate a moral sense into a man that never had one, but society and education can eventually change a man's motives. A man who begins to strengthen his moral conscience will begin to feel pleasure when he looks back on the noble action that he has performed. Though the motive is still pleasure for oneself, the pleasure arises out of doing what is good for his fellow citizens instead of just himself. Therefore, a man who was born with a moral deficiency is not necessarily doomed to live in such a state for his whole life. God has given him the goodness of society to show him the way, along with his own free will to choose to do better.

While Jefferson believes that society can correct erroneous moral practices of deficient men, he does not think that society can use its power to correct erroneous beliefs of men. He gives the Lockean argument that one cannot attempt to allow other men to *decide* his own religious beliefs for him¹³⁷—he can only look to other men as

¹³⁷ In his *Letter Concerning Toleration*, Locke argues that a man cannot trust the civil magistrate with the care of his soul because "no man can so far abandon the care of his own Salvation, as blindly to leave it to the choice of any other...to prescribe to him what Faith or Worship he shall embrace" (Locke, *A Letter Concerning Toleration*, 26). This is because the man who does this would not truly believe the beliefs that are prescribed to him. "All

means of *persuading* him that a certain religion is true. This persuasion is not done by force, but rather by example:

...that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor, whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind;

The morals and righteousness of a certain pastor may persuade a man to consider the truth of the pastor's religion. From then, the man's own reason will determine whether or not he accepts that religion, but force is not necessary anywhere in this process. Since God does not approve of force being used as an attempt to make a man accept a particular belief, certainly he would not approve of the use of force to make him support that which he does not believe. Jefferson says that it is in fact sinful to force a man to support any church through taxation because this is a violation of his liberty. This reiterates his belief that liberty is a gift from God. Therefore, when the rulers of a government require taxes for a certain religion, they are actually sinning against God, though they

the Life and Power of true Religion consists in the inward and full persuasion of the mind; and Faith is not Faith without believing" (Ibid).

may claim they are showing Him favor by requiring support for the true religion. Civil Rights, Religion, and the Ends of Government

Like John Locke, Jefferson argues that our civil rights are not affected by our religious opinions.¹³⁸

...that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which in common with his fellow citizens he has a natural right;

Since a man's opinions which are formed in his own mind do not affect the protection of his rights, it follows that one who wants to pursue a government position (in which he has the duty of furthering the protection of the rights of citizens) cannot be prevented from doing so on account of his religious beliefs. Our natural rights provide us with certain "privileges and advantages," including running for public office, and

these cannot be taken away for any reason that pertains to religious belief.¹³⁹

Jefferson argues that, along with infringing on individual rights, establishments harm religion itself:

...that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honours and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way;

By saying that establishment corrupts the "principles" of that religion which it is meant to encourage, Jefferson is saying that establishment undermines the very teachings of the church, not just the institutional church itself. Religion denotes certain principles of righteousness, and when people witness seemingly righteous people acting as hypocrites, their belief in the principle of righteousness itself may be harmed. It harms the people who become members of

¹³⁸ Locke argues that natural rights "are not forfeitable upon account of Religion" (Ibid, 55). Since natural rights are converted into civil rights upon entering society, it follows that civil rights are not dependent on religion either. He argues that the purpose of a commonwealth is to preserve men's civil interests, which include "Life, Liberty, Health, and Indolency of Body; and the possessions of outward things" (Ibid, 26). These things have "nothing to do with the World to come" (Ibid, 28).

¹³⁹ Here, there is a contrast with Locke. Though Locke agrees with Jefferson that our civil rights have no dependence on our religious opinions, he does argue that certain citizens are unworthy of the public confidence because of their religious opinions. These would include atheists. "Promises, Covenants, and Oaths which are the Bonds of Humane Society, can have no hold upon an Atheist," (Ibid, 51). Since they do not believe in God, they cannot be trusted to keep contracts, which are necessary in a society that depends on political compact. Thus, the scope of Jefferson's belief that our rights are not affected by our religious beliefs extends even further than Locke's. This is because his view of human nature is more optimistic than Locke's view. Jefferson does not believe that people need the fear of God in order to keep contracts because God has implanted the moral sense within each person, regardless of whether or not they will come to believe in Him.

the church by leading them to such temptations of hypocrisy through bribery. Though they may not believe all the tenets of that particular religion, they will conform to it just because they want those worldly honors that they could not have had if they had not conformed.

Establishments are also a corruption of the proper ends of government.

...that the opinions of men are not the object of civil government, nor under its jurisdiction; that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own.

From this, two conclusions can be drawn. First, Jefferson believes that the civil magistrate's powers do not extend at all into the field of opinion. This is because the *end* of government has nothing to do with the shaping of men's opinions. In his letter to the Danbury Baptists, he says that "the legislative powers of government reach actions only, and not opinions."¹⁴⁰ Since the nature of legislative power is the use of force, it is impossible for it to have power over opinions, which cannot be changed by force; only actions are susceptible to force.¹⁴¹ While Jefferson says that the

legislature has power over actions, he does limit the actions over which it has power. According to Jefferson, the only acts which the government can control are those that harm others. "The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no god..."¹⁴² Jefferson is arguing that a man cannot claim that he is injured merely because another man professes a belief which offends him. This is further evidence that Jefferson believes courage is necessary for true conviction of religious beliefs. A man's conscience is not harmed merely because he witnesses the majority of the public expressing a different religion than his own.

The second conclusion that can be drawn is that the magistrate does not have the power to determine which principles have ill tendency and which ones do not,¹⁴³

or Forms of Worship, by the force of his Laws. For Laws are of no force at all without Penalties, and Penalties in this case are absolutely impertinent; because they are not proper to convince the mind" (Locke, A Letter Concerning Toleration, 27).

¹⁴² *Notes on the State of Virginia*, Query XVII in *Jefferson: Writings*, 285. Interestingly, Locke also argues that the powers of government only extend to acts that injure others: "The part of the Magistrate is only to take care that the commonwealth receive no prejudice, and that there be no Injury done to any man, either in Life or Estate" (Locke, *A Letter Concerning Toleration*, 42). Yet, as was mentioned earlier, he argued that a certain religious opinion, namely atheism, is in fact injurious to society. Locke would argue that Jefferson fails to see that some religious beliefs do harm society by threatening the social compact.

¹⁴³ Does this mean that Jefferson would allow any religion in civil society, even ones which have principles contrary to American principles? In his Autobiography, he discusses why he disagreed with the proposed amendment to the Bill which said that it should read "Jesus Christ, the holy author of our religion" rather than just "the holy author of our religion." He says that this amendment was rejected by a great majority,

¹⁴⁰ Letter to the Danbury Baptist Association, January 1, 1802 in *Jefferson: Writings*, 510.

¹⁴¹ Locke makes the same argument:

"I affirm, that the Magistrate's Power extends not to the establishing of any Articles of Faith,

and this necessarily follows from the first conclusion. If the magistrate's powers do not extend into the field of opinion, then certainly he does not have the power to declare that certain religious principles are wrong. For him to do so would be a violation of the liberty of conscience. This is because the magistrate would undoubtedly say that his principles and beliefs are the ones which are true, and thus others are not. Men would not be free to express any opinions which are contrary to the magistrate's because he would "approve or condemn" their sentiments. Even if the magistrate did not punish people for having different opinions, they would still be afraid to express their opinions because no one would want to have his opinions openly condemned by the Magistrate.¹⁴⁴

proving that "they meant to comprehend, within the mantle of its protection, the Jew and the Gentile, the Christian and the Mahometan, the Hindoo, and Infidel of every denomination" (Autobiography, 1821, in *The Founders' Constitution*, Volume Five: Amendments 1-XII, Philip B. Kurkland and Ralph Lerner, eds., Chicago: University of Chicago Press, 1987, 85). Jefferson's bill does protect people of all religions; for, "Infidel" would even include Aztecs and other denominations that have principles which are contrary to Judeo-Christian principles. However, this does not mean that Jefferson would allow those religious *practices* to take place in this country. He argues that the powers of government extend to actions only, not opinions, so it is possible that he would even allow Aztecs which believe in human sacrifice to assemble together so long as they do not actually practice human sacrifices. Though a man's freedom of conscience is protected in America, the government must not allow the practical implications of certain beliefs to harm the rights of other citizens.

¹⁴⁴ A man must have enough courage to witness the public expression of opinions that are different from his own, even if those opinions are held by the majority of the public. However, he does not have to be courageous enough to face the condemnation of his beliefs by the magistrate. The difference lies in the fact that the magistrate is the civil *authority*; for him to openly condemn a

...that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order.

Since such a government would be harmful to the security of natural rights, the officers of that government who recognize this must immediately take action against it in order to maintain the security of those rights.

Truth and Reason

Not only do establishments harm the citizens' rights and corrupt religious principles, but they are also harmful to Truth itself.

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

Truth does not need the assistance of government to prevail.¹⁴⁵ It only needs conversation between individuals since "free argument and debate" are its weapons. Jefferson is arguing against the claim that the government has the duty to correct erroneous arguments, or at least prevent certain erroneous religious beliefs from spreading. Government, in an attempt to prevent such errors, would actually be

certain religious opinion would be to suggest that his judgment on the matter is authoritative and should not be questioned. Certainly the magistrate may express his own personal religious beliefs, but he should not make them the law of the land.

¹⁴⁵ Locke also argues that Truth can stand on its own: "For Truth certainly would do well enough, if she were once left to shift for herself" (Locke, *A Letter Concerning Toleration*, 46).

causing them to spread even more; for the government to attempt to curtail them would be to disrupt the only process which can disprove them—debate. Thus, people must be free to debate in order for Truth to prevail. They cannot be free to debate if the magistrate is claiming that only his religion is the true religion and others should be silenced. Erroneous beliefs become dangerous only when Truth is disarmed in such a way. Jefferson is well aware that, even if Truth is given free reign, this does not mean that every person in society will automatically be able to recognize Truth versus error. There will certainly be many people who will believe false things, but they will become fewer as enlightenment spreads through free debate. Even though this will take some time, the diversity of opinions until then will actually be beneficial to society. “Difference of opinion is advantageous in religion. The several sects perform the office of a Censor morum of each other.”¹⁴⁶ Uniformity of opinion is not desirable, nor is it attainable even through establishments. He points out that no two states have the same established Church, which clearly shows the fallibility of establishments.¹⁴⁷

The previous paragraph shows the great faith that Jefferson had in reason. He argues that the *only* thing necessary for Truth to prevail is free reason. However, this view was not orthodox among Christians of his time. Many Christians then and now believe that men discover the truth of Christianity not because their own reasoning abilities led them to discover God, but because God revealed Himself to them through the inspiration of the Holy Scriptures. Therefore, according to this view, Christians should be cautious about overemphasizing the reasoning capacity of

man. Jefferson, however, disagrees with this view of religion as some divine mystery that God reveals to us. He, in fact, considers religion to be a branch of philosophy,¹⁴⁸ which is clearly a science of reasoning. The “Jefferson Bible” offers insight which reveals this belief: “‘Jefferson’s Bible’ reflects the same emphasis on morality, reason, and intellect over faith, dogma, and emotion that is found in many of his other writings.”¹⁴⁹ The Biblical passages that Jefferson chose to include in his Bible appealed to the moral lessons of Jesus, but ignored the theological and miraculous sections. Even the way Jefferson categorized the Bible emphasizes his view that religion is a philosophy; he used titles such as “Philosophy of Jesus” and “Life and Morals of Jesus.” He did not think of Jesus as a miracle-worker; he was simply the “best

¹⁴⁸ Sanford, “The Religious Beliefs of Thomas Jefferson,” 64.

¹⁴⁹ *Ibid.* In his later years, Jefferson made his “own Bible” by cutting his favorite passages from the Bible and pasting them into a binder. When he was President, he studied this Bible late at night after working on his state papers. He entitled his Bible “The Philosophy of Jesus of Nazareth.” He arranged the passages in order of time and subject and said that this Bible was an “abstract from the Evangelists of whatever has the stamp of the eloquence and fine imagination of Jesus” (Letter to William Short, October 31, 1819, quoted in Sanford, “The Religious Beliefs of Thomas Jefferson,” 62). Most of the “Jefferson Bible” has been lost except for the cover page and a few passages, but Henry S. Randall, who wrote an early biography of Jefferson, published a description of it (*Ibid.*). Jefferson did not believe that all of the writing in the gospels was accurate. He believed that the disciples who wrote some of the false stories were either misguided or dishonest. He was confident that he could distinguish the actual words of Jesus from the false; he believed they were “as easily distinguishable as diamonds in a dunghill” (Letter to John Adams, October 12, 1813, in *Jefferson: Writings*, 1301.)

¹⁴⁶ *Notes on the State of Virginia*, Query XVII in *Jefferson: Writings*, 286.

¹⁴⁷ *Ibid.*

preacher.”¹⁵⁰ He did not believe that miracles were necessary to spread the faith because he believed that true Christianity was reasonable—something that did not need miracles to prove its truth. The religious truth which Jesus taught “contains no mystery [and] needs no explanation.”¹⁵¹ His Bible also omitted all references to Jesus’ resurrection, subsequent appearances, and ascension.¹⁵² The way in which Jefferson organized his own extensive personal library in 1815 reiterates his belief that religion is a subset of philosophy; he catalogued religious books under the title “moral philosophy.”¹⁵³

Jefferson often wrote that reason was the guide for his own religious thought, and his personal letters show that he truly did believe that Truth could stand on its own when tested by reason. He did in fact believe that this was true for the Christian religion. When Peter Carr left for college, Jefferson instructed him to use reason both in his studied and in religion. He encouraged him to test the doctrines of Christianity before the “tribunal of reason” and not to be frightened by any “fear of it’s

[sic] consequences.”¹⁵⁴ Jefferson believed that one’s religious beliefs can only be born from reason rather than revelation and faith, or belief that is founded on revelation which is contrary to reason.¹⁵⁵ In fact, according to Jefferson, God prefers reasoned belief over a blind leap of faith. “Your own reason is the only oracle given you by Heaven; and you are answerable, not for the rightness, but uprightness, of the decision.”¹⁵⁶ God does not consider whether or not a man came to the right conclusion; He only considers intent.¹⁵⁷ It is better to be an atheist after employing one’s reason rather than a theist only out of blind faith and fear. According to Jefferson, God does not approve of the latter at all. Since he claims reason is the *only* oracle God gave us, Jefferson is arguing that He did not give us super-rational revelation at all. A man must test every one of his convictions by his own reason, which Jefferson considers to be every man’s “own rightful umpire.”¹⁵⁸ To stop thinking for oneself is the “last

¹⁵⁰ Letter to George Logan, November 12, 1816, quoted in Sanford, “The Religious Beliefs of Thomas Jefferson,” 64.

¹⁵¹ Ibid.

¹⁵² Jefferson denied one of the basic precepts of the Christian faith—the divinity and inspiration of Christ. In a letter to Dr. Joseph Priestley, he argued that there is no record of Christ Himself claiming to be divine. He said this claim was written by “the most unlettered of men” who only told it from memory long after Christ, when much was forgotten (Letter to Priestley, April 9, 1803 in *Jefferson: Writings*, 1121). In a letter to Benjamin Rush, Jefferson said that he was a Christian “in the only sense (Jesus) wished any one to be; sincerely attached to his doctrines, in preference to all others; ascribing to himself every human excellence; & believing he never claimed any other” (Letter to Rush, April 21, 1803 in *Jefferson, Writings*, 1122.)

¹⁵³ Sanford, “The Religious Beliefs of Thomas Jefferson,” 64.

¹⁵⁴ Letter to Peter Carr in *Jefferson: Writings*, 903.

¹⁵⁵ Jefferson thinks beliefs that are based on faith rather than reason should not even be considered as true religious beliefs. In a letter to Henry Weightman, he argues that those men who do not follow reason are trapped within the chains of “monkish ignorance and superstition” (Letter to Henry Weightman, June 24, 1826, Ibid, 1516). Any belief founded on faith rather than reason is merely “superstition.”

¹⁵⁶ Letter to Peter Carr, Ibid, 904.

¹⁵⁷ Perhaps this is why Jefferson was not evangelical. In a letter to Mrs. M. Harrison Smith on August 6, 1816, he wrote, “I never told my own religion, nor scrutinized that of another. I never attempted to make a convert, nor wished to change another’s creed” (Quoted in Koch, *The Philosophy of Thomas Jefferson*, 37). He did not fear God’s wrath for unbelievers. He felt no obligation to convince people of what was right because he believed that God did not judge based on “rightness.”

¹⁵⁸ Letter to John F. Watson, May 17, 1814 quoted in Sanford, “The Religious Beliefs of Thomas Jefferson,” 66.

degradation of a free and moral agent.”¹⁵⁹ Thus, he tells Peter Carr to “question with boldness even the existence of a god.”¹⁶⁰ This questioning is necessary, according to Jefferson, because human beings do not have an innate knowledge of God as we have an innate moral sense. If we did, we would not have to question the idea of him so boldly. He says that the moral sense is “submitted indeed in some degree to the guidance of reason; but it is a small stock which is required for this: even a less one than what we call common sense.”¹⁶¹ Morality only requires a limited use of reason; a man’s moral sense tells him what is right and wrong, but he must use his reason in order to apply that sense to particular situations. Morality requires even less than “common sense” because the moral sense is innate to each man. Therefore, since knowledge of God’s existence requires a full exercise of reason rather than simply “common sense,” it can be concluded that Jefferson believes God did not give men an innate knowledge of Him. He did, however, give them innate reason in order to discover Him. This raises one of the chief questions in the debate over religious liberty—what is the basis of authority in religion? “The medieval church and evangelical groups stressed faith and revelation. Jefferson’s new world of Newton, Bacon, and Locke stressed reason.”¹⁶² Both of these views were at war with one another in the religious debates of Virginia.

Thus, following the claims made regarding the harm that religious establishments do to the freedom of the mind, religious principles, individual rights, and

Truth itself, Jefferson proposes that the following statute will prevent such harms:

That no man shall be compelled to frequent or support any religious worship place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burhened 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 opinion in matters of religion, and that the same shall in no wise diminish enlarge, or affect their civil capacities.

Though the bill took 7 years to finally reach passage, it has become the most noteworthy document on the subject of religious liberty in American history, along with being one of Jefferson’s most prized accomplishments. As we have seen, the arguments put forth in the Bill give considerable insight into his views of human nature, theology, and the purpose of government. His understanding of religious liberty is dependent on his belief in a God who endowed human beings with free reason so that they may discover Him without fear of restraint or punishment. However, while Jefferson’s arguments focus on reconciling the concept of religious liberty with the idea of God’s goodness, he gives little attention to the relationship between government and the rights of conscience. As James Madison assisted Jefferson in the political battle for the passage of the Bill for Establishing Religious Freedom, he also assisted him in the philosophical battle over religious liberty in Virginia by fully addressing the idea that the rights of conscience are not submitted under the social compact when a man enters society.

¹⁵⁹ Letter to Francis Hopkinson, March 13, 1789 quoted in Sanford, “The Religious Beliefs of Thomas Jefferson,” 66.

¹⁶⁰ *Jefferson: Writings*, 901.

¹⁶¹ *Ibid*, 902.

¹⁶² Sanford, “The Religious Beliefs of Thomas Jefferson,” 67.

CHAPTER THREE

The Political Philosophy of Religious Liberty: James Madison's "Memorial and Remonstrance"

James Madison, who is known as the "Father of the Constitution," played a vital role in the fight for religious liberty in both Virginia and the entire nation. In Virginia, he began in 1776 with his proposed amendments to the Declaration of Rights. His role in the disestablishment struggle grew with his writing and promotion of the "Memorial and Remonstrance" in 1785 until finally he was able to dust off Jefferson's Bill for Religious Freedom and witness its passage in the Assembly in 1786, which completed the transformation from mere tolerance in Virginia to religious liberty. Following his work in Virginia, he brought his efforts on behalf of religious liberty to a national level with his role in the drafting of the First Amendment in 1789.

As mentioned earlier, in 1784 Patrick Henry introduced a new bill in Virginia entitled "A Bill establishing a provision for the Teachers of the Christian Religion." Henry wanted to tax the citizens of Virginia to pay the salaries of all the Christian clergy. Each property owner in Virginia was to specify the Christian denomination which he wanted his tax dollars to support. If a taxpayer did not specify a denomination, his money would go to the public treasury "to be disposed of under the direction of the General Assembly, for the encouragement of seminaries of learning..."¹⁶³ Henry exempt-

ed the Quakers and the Mennonites, who had no clergy, expecting to gain their approval of the bill.¹⁶⁴ As an attempt to obtain public support, a preamble was later added by a drafting committee which claimed that the purpose of the bill was education: "Whereas the general diffusion of Christian knowledge hath a 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..."¹⁶⁵ Despite this amendment, the common view was that the purpose of the bill was to keep power in the hands of the Christian ministry, particularly the Anglican clergy.¹⁶⁶ "While the total number of voters in Virginia numbered only 40,000, similar petitions against the Henry bill were soon signed by 10,929 protestors (especially Baptists), and the bill failed utterly."¹⁶⁷

James Madison took particular notice of the bill, as he had become passionate for the cause of religious liberty. This passion was not due to one particular event, but it was a result of a combination of education, experience, and a great deal of personal reflection. Madison had taken notice of the harsh persecution of the Separate Baptists, but he also learned of the philosophical arguments regarding religious liberty from his education under John Witherspoon.¹⁶⁸ Witherspoon was a Scottish Presbyterian who was the sixth President of the College of New Jersey, which Madison attended. He had a profound influence on Madison's thoughts on politics, theology, and the rights

¹⁶³ Virginia House of Delegates, Bill for Establishing a Provision for Teachers of the Christian Religion, December 24, 1784, downloaded from *The Constitutional Principle: Separation of Church and State*: <http://members.tripod.com/~candst/assessb.htm>. Retrieved on December 9, 2005.

¹⁶⁴ Michael Novak, *On Two Wings: Humble Faith and Common Sense at the American Founding* (San Francisco: Encounter Books, 2002), 53.

¹⁶⁵ Bill for Establishing a Provision for Teachers of the Christian Religion

¹⁶⁶ Vincent Phillip Munoz. "James Madison's Principle of Religious Liberty," *American Political Science Review* 97 (February 2003): 21.

¹⁶⁷ Novak, *On Two Wings*, 53.

¹⁶⁸ Buckley, *Church and State*, 15.

of conscience. When he returned to Virginia after college, he concluded that establishments only led to corruption and ignorance.¹⁶⁹ In a letter which he wrote in April, 1774, he commented on the legislature and the clergy: "That liberal catholic and equitable way of thinking as to the rights of Conscience, which is one of the Characteristics of a free people...is but little known among the Zealous adherents to our Hierarchy."¹⁷⁰ Madison became a part of the Virginia government in May 1776 as a delegate in the convention, where he would begin his work to put the political principles which he had studied into practice.

James Madison's views on Henry's bill were made clear in a letter to Thomas Jefferson, in which he said, "It is chiefly obnoxious on account of its dishonorable principle and dangerous tendency."¹⁷¹ He was not simply afraid of the effects of this particular bill, but also of the general principle behind the bill. This inspired him to write the "Memorial and Remonstrance Against Religious Assessments" in order to rebut the erroneous principles behind the bill and to provide correct principles based on social compact theory. He wrote the "Memorial" anonymously and was so successful at concealing his authorship that many people attributed it to George Mason, who was famous for drafting Article XVI of the Declaration of Rights. This is probably because Madison quoted Article XVI in at least four sections of the "Memorial."¹⁷² Nonetheless, it was Madison's eloquent writing and carefully crafted arguments which clearly articulated the political

arguments of Henry's opponents. While many of Jefferson's theological views are reiterated in this document, Madison focuses much more on the nature of rights and the relationship between religion and government. The "Memorial" is organized into 15 articles. Articles 1 through 4 articulate the principle behind the argument, articles 5 through 14 offer pragmatic reasons for defeating Henry's bill, and article 15 returns to the principle of article 1.¹⁷³

Inalienability of the Rights of Conscience and the Doctrine of Non-Cognizance

In article 1, as he begins to explain his first reason for why he and his supporters dissent to the "dangerous abuse of power" that is Henry's bill, Madison gives a brief definition of religion. He quotes Article XVI of the Virginia Declaration of Rights, which says, "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." He says that this is a "fundamental and undeniable truth." He goes on to say that the religion of each man must be left to his conviction and conscience, and every man has a right to exercise his religion as conviction and conscience may dictate.¹⁷⁴ Like Jefferson, Madison has given an epistemic foundation for his doctrine of religious liberty—that religion is directed by reason and conviction. "[The 'Memorial'] does not attempt to demonstrate how or why religion can be directed only by reason and conviction; it takes this as given."¹⁷⁵ Though Madison and Jefferson both argue

¹⁶⁹ Ibid.

¹⁷⁰ Letter to William Bradford, April 1, 1774 in *The Papers of James Madison*, Volume I. William T. Hutchinson, ed. (Chicago: University of Chicago, 1962), 112-13.

¹⁷¹ Letter to Thomas Jefferson, January 9, 1785 in *The Papers of Madison*, Vol. VIII, 229.

¹⁷² Dreisbach, "Church-State Debate in the Virginia Legislature," 152.

¹⁷³ Munoz, "James Madison's Principle of Religious Liberty," 21.

¹⁷⁴ Locke also recognizes this right: "Liberty of Conscience is every mans natural Right," (Locke, *A Letter Concerning Toleration*, 51.)

¹⁷⁵ Munoz, "James Madison's Principle of Religious Liberty," 22.

from epistemic foundations, Jefferson gives a theological argument *to support* his epistemic foundation, whereas Madison does not. Jefferson said that God actually has the power to coerce, but chooses not to exercise it; he states that “God hath created the mind free.” From the emphasis on divine goodness that is found in Jefferson’s other writings, it can be concluded that he believes God chose not to coerce the mind because of His goodness. Clearly, his understanding of religious liberty rests on his understanding of God. Madison, however, does not give such an explicit theology in the “Memorial.” He simply takes the epistemic foundation “as given.”

There are several possible explanations for why Madison does not give theological arguments to support his epistemic claim, as Jefferson did. One possibility is that Jefferson had already sufficiently explained that religion can only be directed as such because God created the mind free. It is possible that Madison agreed with the theological arguments and chose not to elaborate on them even further because Jefferson’s precise argument needed no further explanation. Or, he may have wanted to avoid the theological arguments altogether after witnessing the rejection of Jefferson’s bill. He may have thought Jefferson’s attempt at reconciling religious liberty with theology was unpersuasive because it was apparently too radical for the times; therefore, arguments with a more political emphasis might be more successful. However, it is just as likely that Madison did not include Jefferson’s theology because he himself did not embrace such a theology. In the “Memorial,” Madison makes no explicit claim that God is the author of religious liberty as Jefferson does. He speaks of the way in which men relate to their Creator (“the duty which we owe to our Creator”), but he does not speak of the way in which God relates to man as much as Jefferson did

when he argued that God created the mind free and restrained His power to coerce. Madison does make a theological claim when he asserts that God has some sort of expectation from humans since He in fact gave us a duty, but this duty is understood to be something that each individual must determine on his own. It even seems to leave open the possibility for an individual to claim that he has no duty even to acknowledge God. In his other writings, Madison is silent on the subject of his theological views. Therefore, it is possible that he does not recognize theological foundations for religious liberty as Jefferson recognizes God’s goodness as the foundation.¹⁷⁶

After stating that religion should be left to conscience and conviction alone, Madison then goes on to explain why the right of conscience is unalienable.

This right is in its nature an unalienable right. It is unalienable, because the opinions of men, depending only on the evidence contemplated by their own minds cannot follow the dictates of other men: It is unalienable also, because what is here a right towards men, is a duty towards the Creator.

¹⁷⁶ Another possible explanation for his emphasis on political theory rather than theology is Madison’s connection with the Declaration of Rights, which he references several times in this memorial. Madison’s involvement with the drafting of the Declaration was his first attempt to influence religious liberty in Virginia, and the arguments given in that document were more epistemic than theological. Clearly, his mission was to see the realization of the practical consequences of the principles laid forth in the Declaration. He articulates those practical principles in the “Memorial.” So, he may have not have been *avoiding* the theological arguments at all; perhaps they were just not relevant to his objective.

First, opinions of men are unalienable because they cannot follow the dictates of others. Since a man's opinions are formed by evidence only, he cannot change his opinion to conform to another man's if he is not truly persuaded by the evidence. It is important to note here that Madison considers opinions to be a form of property. He describes opinions as "unalienable" because he is distinguishing them from other types of property which are alienable. Under Lockean social compact theory, of which Madison's writing is reflective, a man transforms his natural right to property into a civil right to property upon entering society when he gives it up to the protection of the government. Since a man can place his property under the protection of government, he forfeits the executive power that he once had over those rights, thus alienating them.¹⁷⁷ This is not possible for property in opinions, however. In his 1792 essay entitled "Property," Madison argues that a man's opinions are in fact his most valuable form of property. He defines property as "that dominion which one man claims and exercises over the external things

¹⁷⁷ Locke argues:

But though men when they enter into society, give up the equality, liberty, and executive power they had in the state of nature, into the hands of the society, to be so far disposed of by the legislative, as the good of the society shall require; yet it being only with an intention in everyone the better to preserve himself his liberty and property...the power of the society, or legislative constituted by them, can never be supposed to extend further than the common good (John Locke, *Second Treatise of Government*, Richard Cox, ed. Wheeling, IL: Harlan Davidson, Inc., 1982, 77).

Men give up their executive power over their rights because their rights are not secure in the state of nature. Three things are lacking in the state of nature that are necessary for such security: established, settled, known law, a known and indifferent judge, and power to support and execute a right sentence (Ibid, 75-76).

of the world, in exclusion of every other individual."¹⁷⁸ A man's land, merchandise, and money are his property in this sense. The particular object which he has dominion over belongs to him alone. Just as a man has property in tangible things, he also has a property in things which are not tangible, such as his opinions and the free communication of them. Opinions fall under what Madison calls the "larger and juster" meaning of property. In this sense, property "embraces every thing to which a man may attach a value and have a right; and which leaves to everyone else the like advantage"¹⁷⁹ (emphasis original). This includes property in religious opinions and the profession and practice dictated by them, the safety and liberty of a man's person, and the free use of his faculties along with the objects on which he employs them.¹⁸⁰

In order to understand the distinction between these types of property, it is necessary to examine Madison's

¹⁷⁸ "Property," March 29, 1792, in *The Founders' Constitution*, Volume One: Major Themes, Philip B. Kurkland and Ralph Lerner, eds. (Chicago: University of Chicago Press, 1987), 598.

¹⁷⁹ Ibid.

¹⁸⁰ One may question whether or not Madison's "Property" essay can rightly be used as a guide to the doctrine of property of conscience that he articulates in the "Memorial," since the "Property" essay was written in 1792, seven years after the "Memorial" was written. However, *Federalist No. 10*, which was written in 1787, just two years after the "Memorial," reflects the same ideas.

"The diversity in the faculties of men from which the rights of property originate, is not less as insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of Government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results" (James Madison, *Federalist No. 10*, November 22, 1787 in *The Federalist*. Jacob E. Cook, ed. Hanover, NH: Wesleyan University Press, 1961, 58).

understanding of rights and labor. “In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights.”¹⁸¹ A man has a property in his rights as well as his physical possessions, yet there is a certain distinction between these two types of property. A man’s physical property is something which he claims dominion over, yet certainly more than the mere claim of dominion is necessary for him to possess it; a man cannot simply take an object as his property just because he possesses it. He must justly acquire it, and the original source of just acquisition is labor. Yet, certainly we do not labor for our rights as we labor for physical property. We do not construct our rights as we construct a house, nor do we purchase them as we purchase a house that someone else has already built. The rights do not depend on being created by men for their existence. According to Madison, these rights have been given to us by the “transcendent law of nature and of nature’s God.”¹⁸² Every human being is born with these rights, so no labor is required to obtain them.¹⁸³ It should be noted that Madison does not say that our rights *are* our property; rather, he says we have *property in our rights*. Our rights themselves cannot be said to be our property because we cannot change them or dispose of them as we can our tangible property. This is because we did not *acquire* them; they are in us by nature. In the *Second Treatise*, John Locke explains that there are four characteristics of property: It can be acquired, possessed,

used, and disposed of.¹⁸⁴ The property in our rights only fulfills the second and third property characteristics. We have property in our rights because we possess those rights and have full exercise over them, but we can never claim to have the ability to change or destroy them. We cannot destroy or change something that is intrinsic to our nature.

As rights are different in nature from tangible property, so are opinions. Yet opinions are different in nature from rights as well. They are in fact a third distinguishable type of property. Though a man does not construct his opinions with his own hands or purchase them from someone else who has already built them, he is also not born with them already in his possession as his rights are. He labors to form opinions, which involves contemplating evidence that is before him and determining whether or not certain claims are true. This evidence, like natural rights, is something which is not created by human labor, nor is the *truth*

¹⁸⁴ Locke argues that a man’s labor secures his right to *acquire* private property:

The labour of his body, and the work of his hands, we must say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with and joined to it something that is his own, and thereby makes it his property (Locke, *Second Treatise*, 18, emphasis original).

Once his labor was used to acquire the property, he also has a right to *possess* it; no one can take it from him: “The same law of nature, that does by this means give us property, does also *bound* that *property* too” (Ibid, 20, emphasis original). A man has the right to *use* his property as he wishes, so long as he does not let it spoil: “As much as any one can make use of to any advantage of life before it spoils; so much he may by his labour fix a property in” (Ibid). No one can simply allow his property to spoil because “[n]othing was made by God for man to spoil or destroy” (Ibid). Thus, a man has a right to give his property away, or *dispose of* it, in such a way that it may be put to its proper use: “If he gave away a part to any body else, so that it perished not uselessly in his possession, these he also made use of” (Ibid, 29).

¹⁸¹ Madison, “Property” in *The Founders’ Constitution*, Volume One, 598.

¹⁸² Madison, *The Federalist No. 43*, January 23, 1788 in *The Federalist*, 297.

¹⁸³ Certainly some labor is required for security of those rights. It can be said that a man labors when he agrees to the social compact. Still, regardless of whether or not he decides to have those rights secured, he still possesses them, and no labor is required for that.

which the man is attempting to reach. Truth is a correct understanding of Reality;¹⁸⁵ a man may or may not come to this correct understanding, but Reality will not change whether or not he does. When a man mixes his labor with physical nature in order to create something new or to use something which is in his possession, he inevitably changes the physical nature in some way, but this is clearly not so with Reality, or transcendent Nature. For example, a man who becomes a theist does not change the nature of God through his belief. Because of its transcendence, Reality is not affected by, nor does it depend on, human labor.

This explains Madison's argument that property in opinions "*leaves to everyone else the like advantage.*" A man's under-

standing of Reality is the *substance* of the opinion which he reaches, and this Reality does not become his own exclusively no matter how much labor was required to understand it. When a man labors for and acquires tangible property, he has the power to prevent others from handling that property; he appropriates it to himself exclusively. However, when a man forms an opinion, he does not *acquire* the substance of the opinion. Rather, he *discovers* it. He cannot exclusively appropriate the Reality which he has discovered so that others cannot discover it as well; in discovering it, he cannot remove any part of it to keep for himself.¹⁸⁶ Further, he cannot alter or appropriate to himself the evidence which led him to that opinion because the evidence that leads men to their religious conclusion is not man-made, but rather is something that is a part of Nature.¹⁸⁷ The mind is only able to discover, not appropriate. Therefore, just as a man cannot dispose of his rights, he also cannot dispose of his opinions as he can other property. Rights cannot be disposed of because they are an intrinsic part of each man; opinions cannot be disposed of, or alienated, because their substance is intrinsic to Reality—

¹⁸⁵ *Federalist No. 37* gives insight into Madison's understanding of Reality. Madison is explaining how errors in men's understanding of nature come about:

A still greater obscurity lies in the distinctive characters, by which the objects in each of these great departments of nature, have been arranged and assorted. When we pass from the works of nature, in which all the delineations are perfectly accurate, and appear to be otherwise only from the imperfection of the eye which surveys them, to the institutions of man, in which the obscurity arises as well from the object itself, as from the organ by which it is contemplated; we must perceive the necessity of moderating still farther our expectations and hopes from the efforts of human sagacity" (Madison, *The Federalist No. 37*, January 11, 1788 in *The Federalist*, 235).

Madison clearly thinks there is a Reality, a nature which is composed of perfectly delineated departments. However, these clear departments of Reality become muddled because of the "imperfection of the eye which surveys them." Here, Madison is making a claim about the fallibility of reason. Though there is a Reality and a correct understanding of it, we may not be able to reach this understanding completely because of "obscurity" that arises from the "institutions of man." We must be careful not to depend on "human sagacity" more than we should. Here there seems to be a contrast with Jefferson, who does not speak of the fallibility of reason.

¹⁸⁶ It is impossible to appropriate any part of Reality because of its permanent, immutable nature. All of physical nature was *created* such that it is susceptible to force. It is temporal and composed of matter that is mutable when force is applied to it. The Source of the creation, however, is completely insusceptible to force. Its nature is permanent and unchanging because it is not a mere creation that is susceptible to some greater power.

¹⁸⁷ A man does not usually come to a belief in God as a result of seeing man-made things such as churches and religious statues. Madison says that men come to their conclusions as a result of conviction and conscience, which involve an understanding of something much deeper than man-made things. For example, a man may look at nature and conclude that there must be an intelligent Creator.

something over which the man has not control. “Whereas a man can freely give away his money or have it stolen from him, no man can cede or lose his opinions unless he loses his mind.”¹⁸⁸ Perhaps this is one of the reasons Madison argues that “[c]onscience is the most sacred of all property.” Tangible property only requires labor to attain something which was crafted by men or to create something oneself, whereas property in opinions involves labor to reach some truth—an understanding of Reality—which no amount of human labor could have created. Opinions cannot follow the dictates of others because they, unlike other property, involve this transcendent Reality, or Nature, which is completely separate not only from human society, but from any human creation. A man cannot give up his executive power over this right.¹⁸⁹

Madison’s first argument for the inalienability of the rights of conscience makes certain metaphysical assumptions that

¹⁸⁸ Munoz, “James Madison’s Principle of Religious Liberty,” 22. Other than losing his mind, there is only one other way a man could lose an opinion—if further evidence persuades him that his understanding of Reality is incorrect. In this case, the reality itself does not change; rather, his understanding of it does. Still, he cannot give it away because it involves something that he discovered, not created. Even a change in one’s opinion always involves a discovery of something uncreated.

¹⁸⁹ There are certain cases in which men must give up their executive power over their conscience. The executive power includes the power both to protect against coercion and to act on the religious beliefs that the conscience has reached. However, some beliefs lead to practices which infringe upon the rights of others. Since the duty of the government is to protect the rights of life, liberty, and property of all people, it cannot allow one person’s right of conscience to infringe on the sacred rights of others. Both Jefferson and Madison would not allow such religious practices within political society, since the purpose of government is to secure the rights which were submitted under the social compact.

reveal his understanding of the “transcendent law of nature and of nature’s God.” Because of the way the mind works, it is not *possible* for a man’s opinions to follow the dictates of others.¹⁹⁰ One person cannot force his opinions on another man no matter how hard he tries. As a result, each man has a right not to be coerced with regard to religious opinions. The *right* to be protected from attempts to coerce the free conscience follows from the *fact* that the conscience is by nature free. This is because a just God would not create the mind in such a way that it cannot be coerced, while at the same time giving men the right to attempt to coerce it. Though Madison does not explicitly declare God’s goodness and justice as Jefferson does, his arguments reflect an understanding that the “transcendent law of nature and of nature’s God” is truly just.

Secondly, Madison claims that the right of conscience is inalienable also because it is a *duty* towards God. “It is the duty of every man to render to the Creator such homage and such only as he believes to be acceptable to him.” Though Madison declares that men owe a duty to the Creator in this statement, his reason for asserting this duty is not a result of some doctrine of theology concerning what the Creator deserves; rather, Madison derives this duty from his understanding of freedom of the human conscience. The “Governour of the Universe”—however He may be defined—endowed human beings with reason and conviction. We are aware of our ability to reason even before we understand the nature of the Creator. Because we have such reason, we ought to use it to explore the nature of its Source and likewise determine if there is any duty which we may owe to the

¹⁹⁰ Locke makes the very same claim: “And such is the nature of the Understanding, that it cannot be compell’d to the belief of anything by outward force” (Locke, *A Letter Concerning Toleration*, 27).

Creator. As each man has a free conscience, each man must use it to explore this possibility. Therefore, while Madison speaks of a duty, the duty itself is not what is crucial to the argument; the crucial point is that the duty must be rendered as each man sees fit according to what his conscience dictates.

The duty makes the right of conscience inalienable because obligations to God take precedence over civil duties. "This duty is precedent, both in order of time and in degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governour of the Universe." The duty to God takes precedence in order of time because a man is a subject of God before he was ever a member of civil society. It takes precedence in degree of obligation because duty to God is concerned with the eternal state of a man's soul, while duties to civil society are only concerned with the preservation of temporal civil liberties.¹⁹¹ "Just as no rational man would ever sacrifice his eternal soul for the temporary good of his body, a man could never rationally forsake his duties to God in order to fulfill his duties as a citizen."¹⁹² Because a man's duty to his Creator must take precedence over any allegiance that he makes to his society, Madison concludes that society must be "non-cognizant" of religion. "We maintain therefore that in matters of Religion, no man's right is abridged by the institution of Civil Society, and that religion is wholly exempt from its cognizance." Religion is wholly exempt from the

cognizance of civil society *because* no man's right in matters of religion can be abridged by it. Now and during Madison's time, the legal understanding of "cognizance" is "judicial notice or knowledge." More generally, it means "knowledge," "perception," or "notice."¹⁹³ Civil society is created by the social compact, and the social compact is formed when men give up executive power over their rights in exchange for protection over those rights. The rights which become a part of the compact are cognized, or perceived, by the government in order for the government to protect them. The right of conscience, however, does not become a part of the social compact as other rights do because it is wholly unalienable—a man cannot give up his executive power over his conscience.¹⁹⁴ Therefore, the state cannot perceive or acknowledge religion because religion is dictated by the conscience alone. As a result, the government cannot

¹⁹³ Noah Webster, *1828 American Dictionary of the English Language* (San Francisco: Foundation for American Christian Education, 1995).

¹⁹⁴ In arguing that the state cannot recognize religion, Madison would probably conclude that the government cannot even proclaim a national dependence on God. The United States would be wrong in putting "In God We Trust" on a coin or allowing non-sectarian prayer in public schools. This is because even acknowledgement of God would fall under the "duty which we owe to our Creator"—the duty which is to be left to each individual. Madison does not explicitly claim that God is the author of religious liberty as Jefferson does. Therefore, Jefferson would probably be supportive of a mere acknowledgement of God by the nation, but Madison would say that the government's acknowledgment of God is an acknowledgment of religious belief, something of which the state must be blind. Nonetheless, this does not mean—as the Supreme Court argues—that the First Amendment prohibits such an acknowledgment. Though Madison is known for being the "Father of the Constitution," his views are not the only ones which need to be considered. The wording of the First Amendment required a great amount of debate and *compromise*.

¹⁹¹ Here, Madison connects the eternal fate of a man's soul with duties to God. However, he does not make any claims as to what these duties are or how such duties affect the fate of the soul. He still leaves that question up to the individual.

¹⁹² Munoz, "James Madison's Principle of Religious Liberty" 22.

acknowledge religious societies or classify citizens according to religion. The citizens within a religious society are recognized only *as citizens* whose rights are protected under the compact.

At the close of article 1, Madison explained why even a religion which is held by the vast majority—as Christianity was at the time—cannot be established. “True it is, that no other rule exists, by which any question which may divide a Society, can be ultimately determined, but the will of the majority; but it is also true that the majority may trespass on the rights of the minority.” Since this is an issue of individual rights, the majority does not have the right to make a claim on behalf of the whole.

The Political Consequences of Non-Cognizance

In article 2, Madison explains the political consequence of the principle he put forth in article 1. From the fact that religion is not under the cognizance of Civil Society, it follows, he argues, that it must likewise not be under the cognizance of the Legislative Body. “The latter are but the creatures and vicegerents of the former.” Here, he makes a clear political statement about the limits of the government and where the authority of government comes from. “The preservation of a free Government requires not merely, that the metes and bounds which separate each department of power be invariably maintained; but more especially that neither of them be suffered to overleap the great Barrier which defends the right of the people.” To establish a religion and infringe on the right of conscience is to greatly overstep the boundary put on government. This “great Barrier” is the social compact.¹⁹⁵ Such an infringement is

even greater than an infringement of the separation of powers; for, it is an infringement on the authority of the people from which the government’s powers are derived: “The people who submit to it are governed by laws made neither by themselves nor by an authority derived from them, and are slaves.” To this, one may object by saying that if the majority of a people are Christians who give consent to the government to establish that religion, then certainly they are not slaves. If they do give their consent for the government to have such authority, then certainly the government is not tyrannical, as Madison claims it is. However, no citizen can rightfully give his consent for the government to have jurisdiction over matters of religion because his consent only extends to those matters which involve *alienable* rights that are submitted under social compact. Thus, “[t]he Rulers who are guilty of such an encroachment, exceed the commission from which they derive their authority, and are Tyrants.” Even if the people of Virginia give their consent to a general assessment, the legislatures are still tyrants because they overstep the boundary that the social compact has placed on their power.

In article 3, Madison gives a warning as to what happen if a society allows this: “Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects?” The authority may go even further and do more than just what the people gave consent to. It may use its power to take the establishment a few steps further and choose a particular denomination rather than just Christianity itself. This is crucial to the situation in Virginia because the people had just been freed from the dominion of the Anglican Church through an extensive

¹⁹⁵ Munoz, “James Madison’s Principle of Religious Liberty,” 23.

legislative battle from 1776 to 1779. The battle for the disestablishment of that one particular church was long and hard, and the last thing the opponents of establishment would want to do is risk facing a situation like the one they had just fought to remove themselves from. Madison is warning them that this “general assessment” may be just another attempt to return power to the previous establishment. By using such language, Madison is reminding the citizens of those days to which they surely would not want to return. Here, one can see that Madison’s arguments are not solely about principle; he uses political language as well. He instills a sense of caution in the readers: “Because it is proper to take alarm at the first experiment on our liberties...The free men of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents.” Even a slight infringement on liberty must not be tolerated.

Not only does Madison put forth the argument that the establishments violate the unalienable right to conscience, but he also says that they violate the principle of equality. This is the argument put forth in article 4. He says that all men enter into a Society on equal conditions—one man does not relinquish or retain his natural rights any more or less than another man does, including his right to conscience, and his right to the free exercise of religion which his conscience dictates.

Whilst we assert for ourselves a freedom to embrace, to profess and to observe the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offense against God, not against man: To God, therefore,

not to man, must an account of it be rendered. As the Bill violates equality by subjecting some to peculiar burdens, so it violates the same, by granting to others peculiar exemptions.

Just because some people have not come to realize religious truth does not mean that their equal rights cannot be exercised. For example, Christians’ knowledge of the Truth does not make them superior in any way regarding rights. We cannot “assert for ourselves” this freedom of religion without also allowing others to be free as well. Freedom does not depend on whether or not one has accepted the true religion. If all men are equal, then it follows that none of them can face burdens or receive exemptions on account of his religion. Once again, this clearly political argument by Madison makes metaphysical claims as well. He tells his Christian audience that if they undermine the equal freedom of an unbeliever, they will be accountable to God. A man may think he is gaining God’s favor by forcing others to submit to the true religion, but he is in fact offending God. God is offended when freedom is abused because God Himself has placed this freedom on each human mind.¹⁹⁶ Certainly the “peculiar burdens” that Madison speaks of are the taxes that those who are not Christians have to pay. The “peculiar exemptions” he refers to are the exemptions

¹⁹⁶ It is interesting that here Madison seems to make specific claims about what pleases and displeases God. His earlier writing regarding duty suggested that such claims should be left to each individual alone. Madison must think that the only indisputable fact about God that should *not* be left up to the individual conscience to determine is that He did endow each man with reason and conviction that must not be hindered by anyone else. No man can claim that conscience or conviction led him to believe he has a duty to coerce another man’s conscience.

for Quakers and Mennonites, who had no clergy. This is clearly against Madison's "non-cognizance" doctrine because it requires that the government "acknowledge" those differences in the religions that need the exemption. It requires the government to make a distinction based on religion alone.

Religion and Political Power

As mentioned earlier, articles 5 through 14 explain the pragmatic reasons for defeating Henry's bill. In article 6, Madison makes the argument that the Christian religion does not need the support of the government. He says that it would be contradictory to say that this religion depends on political power; for the religion itself...

...disavows a dependence on the powers of this world: it is a contradiction to fact; for it is known that this Religion both existed and flourished, not only without the support of human laws, but in spite of every opposition from them, and not only during the period of miraculous aid, but long after it had been left to its own evidence and the ordinary care of Providence.

Jefferson gave the argument that "Truth can stand on its own," but Madison here argues that the history of Christianity itself proves that it has flourished in spite of oppressive laws. His last statement makes a critical point—that it has done so even *after* the period of miraculous aid. This is important because some critics of the Lockean/Jeffersonian view of religious liberty argue that Christianity needs the support of government because there are no more miracles to assist evangelizers anymore. Madison solidified his historical argument with a logical argument as well: "...for a

Religion not invented by human policy, must have pre-existed and been supported, before it was established by human policy." If a religion pre-existed human policy, then how could it possibly be dependent upon it?

In article 8, he argues that, along with being unnecessary for the spread of Christianity, establishments are also unnecessary for the support of civil government. This argument rests on his prior argument that religion is not within the cognizance of Civil Government. "If Religion be not within the cognizance of Civil Government how can its legal establishment be necessary to Civil Government?" This argument is critical to the debate with those supporting the assessment because one of their foremost arguments is that religion is in fact necessary for good government. In fact, those who were in favor of Henry's bill claimed that morality in the Commonwealth had deteriorated since the establishment had begun to dissipate. Madison, however, reflects on past establishments, arguing that they have erected a spiritual tyranny over civil society, and they have also been used to support political tyranny. They have never been "guardians of the liberties of the people," which is the purpose of government according to Madison. The only relation between government and religion that Madison allows in the "Memorial" is that the government must protect the citizens' ability to freely practice their religion:

Such a Government (a just Government) will be best supported by protecting every Citizen in the enjoyment of his Religion with the same equal hand which protects his person and his property; by neither invading the equal rights of any Sect, nor suffering any Sect to invade those of another.

The government has a duty to protect both the citizens and the Sects that the citizens are members of; it only recognizes the Sects as groups of citizens though—it does not see them in light of their religious beliefs. This gives considerable insight into what exactly Madison means by “non-cognizance” of religion. The government serves the role of protecting sects within a society, allowing them to flourish or deteriorate as they may, but never acting as a catalyst for the flourishing of one religion and deterioration of another. In this way, it seems that the government must treat the different Sects within it as individual citizens—it views them as equals under its protection and nothing more.¹⁹⁷

Article 15 returns to the principle articulated in article 1. The right of citizens to exercise their own religion according to the dictates of conscience is “held by the same tenure with all our other rights.” This right is the “gift of nature.” He concludes by saying that the assessment would be displeasing to God. He says that the signers of the “Remonstrance” shall be earnestly praying that “the Supreme Lawgiver of the Universe, by illuminating those to whom [the “Memorial”] is addressed, may on the one hand, turn their Councils from *every act which would affront his holy prerogative*, or violate the trust committed to them...(emphasis added).”

Though Madison and Jefferson both believed that their efforts for the cause of religious liberty were pleasing to God, their opponents argued that they were in fact undermining the very purpose for which God created civil government by completely separating society from the acknowledgment of Him and His holy purpose that is declared

in the Scriptures—the salvation of souls. Not only were Madison and Jefferson wrong in claiming that the purpose of government is merely to protect civil rights, but they also had a seriously flawed understanding of human nature. In claiming that the mind is free, they clearly overlooked the fact that it is a slave to the passions, according to these opponents. They feared that if Jefferson and Madison’s vision for religious liberty became a reality in Virginia, licentiousness and corruption would quickly destroy the order that was once maintained by the established church.

¹⁹⁷ Locke explicitly makes this analogy in his letter: He says that individual churches “stand as it were in the same Relation to each other as private persons among themselves” (Locke, *A Letter Concerning Toleration*, 31).

CHAPTER FOUR

Opponents of Religious Liberty

Both Madison and Jefferson used rationalist arguments to support their theories of religious liberty; at no point did their arguments refer to Scripture or orthodox Christian doctrines. While some Christians argued in their petitions to the Assembly that the movement of the Holy Spirit alone can lead a man to religious truth, Jefferson and Madison argued that reason and conviction alone could do this. These rationalist arguments, however, were relatively new. It was not until the Enlightenment that Christian beliefs became subject to examination by critical reasoning.¹⁹⁸ Prior to the Enlightenment, the biblical arguments would have been the only noteworthy arguments because religion was not understood as something distinct from political society. Eleven of the thirteen colonies had had established churches prior to the Revolution, and this was not just a result of uncontested tradition. Rather, the tradition was accepted as a result of a common view of man and God that had not been questioned until the Enlightenment.¹⁹⁹

¹⁹⁸ McGarvie, *One Nation Under Law*, 4.

¹⁹⁹ See "Natural Rights and Protestant Politics" by Michael P. Zuckert for a full consideration of Protestant Christianity's influence versus the Enlightenment's influence on American principles of liberty. Zuckert considers the argument that the Enlightenment was not the only source of liberal republican principles, that in fact Protestantism, particularly Puritanism, played just as large a role in shaping and spreading American principles as did the Enlightenment secularism. He argues that "by the mid-eighteenth century there occurred a blending or amalgamation of Lockean Enlightenment political theories and American Protestantism" ("Natural Rights and Protestant Politics" in *Protestantism and the American Founding*. Thomas S. Engeman and Michael P. Zuckert, eds. Notre Dame: University of Notre Dame, 2004, 22).

The new Enlightenment view of the nature of man brought with it a new conception of the purpose of law:

If man is weak and inclined to evil, as proponents of perpetuating a Christian commonwealth espoused, then strict laws and enforcement of deference to authority are essential to restrain him. Establishment of religion arose as a product of this perspective. Ministers functioned as the societal alternative to lawyers and judges, best able to discern what was good and just and to develop law to serve these ends. Liberty was subordinated to concerns for the general welfare. But the Enlightenment humanism regarded man as rational, reasonable, and free. Laws enforced through limited state authority, preserved a realm conducive to man's exploration and development. In this realm, laws protected rights of individuals from the power of the state...Law and religion served as contrasting means of understanding man's place in the world.²⁰⁰

While the latter, more optimistic view of man is the result of the Enlightenment, the former is the result of Calvinist Protestantism. These two opposing theories were the most prevalent philosophies in eighteenth century America,²⁰¹ and, as we see in the Virginia struggle, they were often at war with one another. Prior to the Enlightenment, most Christians in colonial America embraced a Calvinist epistemology which claimed that men reach their religious conclusions by means other than a conscious thought process. According to some, a man

²⁰⁰ McGarvie, *One Nation Under Law*, 5.

²⁰¹ *Ibid.*

could only receive grace by way of the Holy Spirit. It was not until John Locke published his *Essay Concerning the Human Understanding* in 1690 that this idea was challenged.²⁰² Locke's philosophy brought to America the idea that the mind must come to religious conclusions through a process of critical reasoning rather than a mere spiritual experience.

Not only do the theories of Calvinism and the Enlightenment differ in their view of man, but they also differ in their view of God:

...for many individuals (Calvinists) religion remained a matter beyond the human reason and rationality, rooted in a mystical spiritual world that forever would exceed human comprehension. In this world, God as a living spiritual entity did unceasing battle with Satan for human souls. The need to design institutions to preserve public order against human tendencies to sin, incorporating the teaching of God's laws as moral absolutes, derived from these beliefs.²⁰³

²⁰² Ibid, 33. After the publishing of the *Essay*, many Christians in America attempted to reconcile Christianity with Locke's rationalism. Though some preachers retained Calvinist beliefs even after the Enlightenment, many began to preach Lockean ideas:

Samuel Langdon, this heir of the Puritans, was by no means unique in combining Christian and Lockean argumentation. Indeed, the best and most thorough surveys of clerical writing and sermonizing of the second two quarters of the eighteenth century show how representative Langdon was, if not of the entire American mind, then at least of the mind of his fellow post-Puritan clerics. These surveys show both that the preachers spoke out regularly and vociferously on politics, and... spoke the language of Locke and the natural rights philosophy (Zuckert, "Natural Rights and Protestant Politics," 41).

²⁰³ McGarvie, *One Nation Under Law*, 7.

According to this view, Jefferson's idea that God only approves of those who use their reason to find truth involves a grave underestimation of the spiritual battle between good and evil that is taking place. Government plays a vital role in this battle; it can be used to further God's Kingdom or, by allowing corruption to spread, it can be used by Satan to win souls. The purpose of government is not merely to protect men's rights; rather, the government is to be an instrument used to prevent men from indulging in the evil temptations that Satan uses to draw them away from God. It is not an institution dependent on the consent of men alone; it is an instrument used by God to provide order to a fallen people.

Public Opposition in the *Virginia Gazette*

Chapter One noted that many of the opponents of Jefferson's Bill for Establishing Religious Freedom voiced their opinions in the *Virginia Gazette*. While the articles focused on the argument that religion is necessary for public virtue within society, they also explained an idea of a depraved human nature which made this necessary. In arguing that the mind is by nature free, Jefferson neglects the fact that the mind is controlled by the passions, according to these opponents. The articles also express an understanding of the ends of government that is clearly inconsistent with Jefferson's; while his focus was on individual rights, the writers of these articles greatly emphasize what is best for the general good. Some of the newspaper articles explicitly announced an attack on Jefferson's ideas, and all of the pieces certainly revealed a disagreement with his philosophy.

A commonality found in all the articles opposing religious liberty is the attention given to the rule of the passions. For example, on November 1, 1776, a

member of the established church wrote a letter to the editor of the *Gazette*, arguing that, because men are inclined to allow their passion to rule, establishments are necessary for good government *and* churches. He argues that it is commonly acknowledged that Christianity is necessary for our temporal and eternal welfare. Because of this, it is the duty of the leaders of the state to find the best way to have it “propagated in the greatest purity.”²⁰⁴ The best church for this is the one which the majority finds to be “most orthodox in its doctrine, most apolitical in its form, and most rational in its precepts.” Public support is necessary to maintain such a church, and the best and brightest men who should be teachers in the church will want to be teachers if they know they will be provided for by the public. Men will not do this if there is no incentive: “That person must be but little acquainted with the world who has not observed that the generality of mankind are more influenced by their passions than by their reason.”²⁰⁵ The author goes on to say that men who want to be preachers will have to join churches of “fanaticks” that cater to the passions unless they want to starve. He is likely speaking of the dissenting sects that were influenced by the revivals which had swept through the commonwealth a few decades earlier. The Anglicans, who tried to controvert those revivals, feared the emphasis that those churches placed on feelings instead of reason. Thus, the government must have an established church in order to protect not only the individual citizens, but also the individual churches from being ruled by the passions. The

²⁰⁴ *Virginia Gazette*, November 1, 1776, downloaded from Past Portal: Colonial Williamsburg’s Portal to American History: http://www.pastportal.com/cwdl_new/VA_Gazet/Images/P/1776/0234hi.jpg. Retrieved on January 28, 2006.

²⁰⁵ *Ibid.*

established church would of course be the one which is most rational—the Anglican Church.

The writer is claiming that rationalists²⁰⁶ such as Jefferson who place a large emphasis on the human capacity for reason have a naïve understanding of human nature. Jefferson’s belief that men ought to use their own minds to contemplate religion is irrelevant; men will not always do this because they are more often ruled by their passions than their reason. The author claims that forcing unbelievers to pay to support a church which they do not agree with is not repugnant to liberty because they are making a small sacrifice for the general good, and they are still “permitted to enjoy their own private opinions, and to worship God according to the dictates of their own consciences.”²⁰⁷ Just because they are paying money to support the established church does not mean that they will feel a need to conform to it and act as hypocrites. The establishment does not take away their ability to follow their own consciences.

While some articles argued that the mind is not free because it is ruled by the passions, some argue that reason is simply fallen. An article printed on December 13, 1776, a month after the previously discussed article, makes an argument about the

²⁰⁶ While the Anglicans believed that they were the most rational of the Christian denominations, they made a clear distinction between being rational and being a “rationalist” such as Jefferson. A rationalist is one who is directed by reason alone as opposed to faith and tradition. The Anglicans, however, believed that rationalists neglect the fact that reason is often controlled by the passions. Therefore, according to the Anglicans, true rationality must include an acknowledgment of certain obvious elements of human nature, such as the power of the passions. This acknowledgment prevents one from being too “rationalist” while it also prevents one from being too passionate and allowing those passions to direct religious opinions, as the dissenting sects do.

²⁰⁷ *Ibid.*

inability of the human mind to comprehend truth:

Philosophers...whose sagacity enables them regularly to trace effects back to their causes, pursue nature through all her general laws...Here their inquiries are suspended, conscious that mortals have not faculties to comprehend immortality. Truth is assent to a uniform concurrence of experiments, or analogous reasoning from them. By this standard, every system of religion, that has been hitherto instituted, is equally false and foolish; from the Roman Catholic with his host, down to the African with his fetish.²⁰⁸

Philosophers have attempted to examine all of nature; however, they have been unable to completely understand *metaphysical* nature. If one understands truth to be an understanding of “analogous reasoning” from experiments, then certainly all religions would seem to be foolish, for religious doctrine and practice involves much more than mere reason as Jefferson claims. The author argues that this of course would seem to suggest that “each should be foolish in his own way,” meaning that no one religion should be the established religion if they are all flawed in light of what is reasonable. However, he argues that some are obviously worse for society than others: “for recent experience has taught, that some particular sects hold principles not only incompatible with the prosperity, but even the very existence, of established governments.” He gives the example of pacifist religions. Since some religions are worse for society than others, those which

are better should counteract those which are worse.

Religious evils have no remedy, but counteracting each other; and hence the expedience of an established church, which, while it receives protection from government, always pays a due obedience to its authority, and does remotely, though feebly, lay some restraints on systems more noxious than its own.²⁰⁹

Jefferson had argued that the magistrate cannot determine which religion is true because each individual person must use his own reasoning to discover this. However, the author claims that, since reason is not enough to understand religion, and since some religions are clearly better for a society, it follows that the magistrate can make a decision as to which religions should be allowed within the society.

Two articles in 1779 written by “an eastern layman” were explicitly critical not only of Jefferson’s views on religious liberty, but also of his idea of the state of nature—the very foundation of the natural rights argument. These two articles, which directly attacked the Bill for Establishing Religious Freedom, laid forth a clearly articulated explanation of the depravity of the human condition and how the government, by establishing a state church, must serve as a remedy to that so as to maintain order within society. The first article, which was published on September 11, 1779, begins with a criticism of Jefferson’s religious views that was not uncommon at the time: “The long preamble, in which we have the *principles of a deist*, contains a mixture of truth and error” (emphasis added).²¹⁰ Referring to the fall of

²⁰⁸ *Virginia Gazette*, December 13, 1776: http://www.pastportal.com/cwdl_new/VA_Gazet/Images/P/1776/0260hi.jpg Retrieved on January 28, 2006.

²⁰⁹ *Ibid.*

²¹⁰ *Virginia Gazette*, September 11, 1779: http://www.pastportal.com/cwdl_new/VA_Gazet/

Adam, he argues that the mind is not free because it has become subject to the rule of the passions: “The mind was also created innocent and lost its character of freedom when it became depraved and submitted to the dominion of unruly passions.” Reason cannot be trusted because it is now guided by the passions as a result of original sin. If reason is completely under the rule of the passions, then certainly it is not a man’s own reason that leads him to discover the truth of Christianity. This is the critical error that Jefferson commits in the preamble of the bill, according to the author.

The author disagrees with Jefferson’s theological assertions in the preamble as well. He admits that Jefferson is correct in claiming that the “holy author of our Religion” does not use force to propagate the minds and bodies of men. However, “this by no means proves that a society of Christians forming regulations to promote their happiness, may not make public worship and instruction in Christian principles, apart [sic] of their code of laws.”²¹¹ In fact, the “Ruler of the Universe demanded from them as a society, grateful and public acknowledgments.” Though He does not *physically force* men to honor Him, God does expect men as a society to publicly acknowledge Him. He expects the men in the society to inculcate upon the minds of the community “the great work of redemption as well as the incomparable [sic] system of moral precepts promulgated by its author.” This argument supports the view that the purpose of society is not only to secure rights, but to assist God in the battle between good and evil by promoting the salvation of souls through public acknowledgment of God. To accomplish this end, societies must designate places of public worship and compel citizens by

penalty to attend one of these places of worship. The author responds to Jefferson’s claim that “fallible” men with “impious presumptions” will abuse their power: “To argue from the abuse of things, against their use, is idle and unsatisfactory, and if allowed would overturn every system necessary to man, and even restrain him from food, because poison hath been sometimes found in it.”²¹² All human institutions are fallible, including religious societies. Certainly there may be a risk that immoral men will establish a religion for the sake of furthering their own power, but this does not mean that men should avoid attempting what is good for the society out of a fear of corruption.

The author goes on to consider the idea of natural rights and the state of nature. He notes that “the extreme limits of what men are supposed to yield to society of their natural rights hath been the subject of much speculation,”²¹³ (This makes evident the fact that the Enlightenment understanding of natural rights was an issue of great debate at the time.) Though the author agrees that natural rights do exist, he believes that they must often be sacrificed in order “to conform to what a majority, shall determine to be for the common good.”²¹⁴ The majority may thus believe that a religious establishment is for the common good. The author continues this argument in an article published on August 14, 1779 wherein he explicitly criticizes Jefferson’s idea of the state of nature, and proclaims that this criticism will not be unpopular:

...the author flatters himself, that this humble attempt to point out the folly and absurdity of applying to a state of society, and reducing to practice, those rules, which can only be

Images/D/1779/0124hi.jpg. Retrieved on January 28, 2006.

²¹¹ Ibid.

²¹² Ibid.

²¹³ Ibid.

²¹⁴ Ibid.

applicable to individuals in an imaginary state of uncorrupted nature, and the weakness of supposing that the condition of human nature is as versatile as our opinions, and to be new modeled upon the accidental humour of the times, will not be altogether unacceptable to the publick.²¹⁵

This suggests that a majority of the Virginians did not embrace Jefferson's liberal Enlightenment views. They rejected his doctrine of the "state of nature," and thus his theological view that God created all men to be free.

Once again, in this second article, the author claims that Jefferson ignores certain truths about human nature, namely the strength of the passions: "The little benefit we derive from historical views of human nature, and from a philosophical survey of the constitution of the human mind, and the force of human passions is but too manifestly displayed in the draught of the bill above referred to." Philosophy is what Jefferson uses to understand the human mind, but the conclusion which he reaches gives proof that philosophy is insufficient; for his conclusion ignores very obvious truths about the corruption of the mind. The writer says that he agrees with Jefferson's principle that opinions are not the object of civil government, but because men do have passions which may control their opinions, the government may need to prevent men from expressing certain opinions:

that it therefore follows, as we are taught to believe in the enacting clause, that all men ought to be free to profess, and by argument to

maintain their opinions in matters of religion, without any controul from the civil magistrate, as to the manner and limits of their religious exercises, is a concession, to which, it will be difficult to reconcile the peaceful citizen, who has always regarded social tranquility as one of the first objects of every civil institution.²¹⁶

The author grants that individuals are free to profess their beliefs in the state of nature (though he claims that such a state is "imaginary"), but he denies Jefferson and Madison's premise that the rights to conscience are not submitted under the authority of the government. In the state of nature, an individual is free to exercise and maintain his opinions in religion and everything else in whatever manner "and to whatever extent his own inclinations and his natural powers will carry him." Yet, when this individual joins civil society, his concern is no longer for his rights only, but also what is good for the whole society:

...he will find other people as ready to profess and maintain their opinions, and with as much zeal and earnestness as himself. In this state of inevitable confusion, to which this bill would reduce us, what expedient is it probable would be adapted to avoid the evils, to which their infant society must necessarily be exposed?²¹⁷

Because of this, he argues that there are "bounds" to religious liberty.

Would they begin to reason upon their original independence, and

²¹⁵ *Virginia Gazette*, August 14, 1779: http://www.pastportal.com/cwdl_new/VA_Gazet/Images/D/1779/0108hi.jpg Retrieved on January 28, 2006.

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*

infer from thence, that they had no right to retain irregular modes of propagating religious opinions; or would they rather, in the genuine and manly stile of bold and patriotick minds, seriously set themselves about prescribing the times, and pointing out the places, to which all publick exercises of religion should be confined?²¹⁸

While the government cannot control religious beliefs, it can certainly control religious practices in order to maintain social tranquility. When a man joins political society, he retains his right to follow his own conscience, but he loses his ability to exercise and propagate certain beliefs. The author concludes that the bounds placed on religious liberty will be fixed when it is declared that the members of “every sect of religion and denomination of Christians” are free to profess and by argument maintain their opinions, so long as they subject to these regulations. The only religious beliefs which are indeed beneficial to the general good of society are Christian beliefs.

In a *Gazette* article just a month later, a similar argument was made. A proponent of an establishment of Christianity argued that the publishing of certain beliefs are harmful to individuals because they are harmful to society at large:

...the bulk of this community are Christians; and there be a few who are Jews, Mahomedans, Atheists or Deists amongst us, though I would not wish to torture or persecute them on account of their opinions, yet to exclude such from our publick offices, is prudent and just; *to restrain them from publishing their*

singular opinions to the disturbance of society, is equally sound policy and a necessary caution to promote the general good (emphasis added).²¹⁹

The author argues that this is analogous to prohibiting a man from publishing opinions favoring a different form of government than the established one. Once again, there is an emphasis on what is beneficial for the general good. Therefore, while Jefferson had argued that it does a man no harm to hear another man profess religious beliefs which are different than his own, his opponents certainly disagree. It may not harm one individual man, but, if left to spread throughout society, it may harm the people as a whole by promoting principles which are subversive to their good.

Like the others, this article also endorses a view of human nature in which the passions rule instead of the reason. Yet, unlike the other articles, the author explains just how the society will be corrupted if the state is separated from the church. He argues that if men are left to their own judgment in deciding how to pass their time, and they are not reminded to care for their souls on Sunday, then inevitably their “irascible passions will be cultivated.” He argues: “the mind of man is active and must be employed, and if the legislature do not direct them to useful modes of passing the time on Sundays...they will repair to... gaming houses where every spark of religion and moral virtue will soon be extinguished from their minds.” He predicts that, like the Israelites after the death of Joshua when there was no government in Israel, such men will fall into the practice of “all manner of debauchery and dissipation.” He concludes

²¹⁸ Ibid.

²¹⁹ *Virginia Gazette*, September 18, 1779: http://www.pastportal.com/cwdl_new/VA_Gazet/Images/D/1779/0128hi.jpg Retrieved on January 28, 2006.

by saying that, though the government cannot instruct men with regard to belief, it can provide them with evidence to consider: "Although men should be left to the free exercise of their own judgment in matters of faith, yet they ought to be instructed in the Scriptures, and all knowledge necessary to form a right judgment." Providing men with evidence of the Truth will not harm their conscience because they are still able to use their own judgment to determine whether or not such evidence leads to the truth. This particular argument, along with many of the other arguments communicated in these articles, was not solely found within the historical setting of the Virginia disestablishment. In fact, such arguments are representative of the Anglican conception of the relation between church and state.

The Anglican Understanding of Man, God, and Society: Jonas Proast's Response to Locke's *Letter Concerning Toleration*

It has been shown in chapter two that Jefferson's arguments concerning religious liberty are very similar to those proposed by John Locke in his *Letter Concerning Toleration*. Just as these *Virginia Gazette* articles attacked the views of Jefferson, arguing that his understanding of human nature is too optimistic and that his view of God is incorrect, there were also critics of Locke's arguments. He conversed in a series of letters with Jonas Proast, an Anglican cleric, about the Christian understanding of church and state. In these letters Proast put forward many of the same arguments as Jefferson's critics, though his arguments were much more fully and clearly articulated. He too argues that men are ruled by their passions more than their reason and that the government has the power to force men to consider the evidence,

though it may not force them to agree with the conclusion. Since Proast was an influential Anglican during his own time, it is probable that his views on man and God are typical of the Anglicans in England and America during the eighteenth century.

Human Nature and Theology

Locke, Jefferson, and Madison all argued that reason and argument are the only means whereby a man may come to a religious conclusion, and therefore it is not proper to attempt to force a man to accept a certain religious belief. Proast admits this: "I readily grant that Reason and Argument are the only proper means, whereby to induce the Mind to assent to any Truth, which is not evident by its own Light: and that Force is very improper to be used to that end instead of Reason and Arguments."²²⁰ Not only is it improper, but he agrees with Madison and Jefferson that it is *impossible* for force to be used in such a way. Jefferson argued that the mind is "altogether insusceptible of restraint."²²¹ Proast agrees that the mind cannot be coerced by force because force, by its own power, is unable to change minds. It cannot be used "*in stead of Reason and Argument*, i.e.... to convince by its own proper Efficacy" (emphasis original).²²² However, it can be used...

to bring men to consider those Reasons and Arguments which are proper and sufficient to convince them, but which, without being forced, they would not consider: who

²²⁰ Jonas Proast, "The Argument of the Letter Concerning Toleration, Briefly Consider'd and Answer'd," 1690 in *The Reception of Locke's Politics, Volume 5: The Church, Dissent, and Religious Toleration 1689-1773*. Mark Goldie, ed. (London: Pickering & Chatto, 1999), 27.

²²¹ Jefferson, Bill for Establishing Religious Freedom

²²² Proast, "The Argument of the Letter Concerning Toleration," 27.

can deny, but that *indirectly* and *at a distance*, it does some service toward the bringing men to embrace that Truth, which otherwise, either through Carelessness and Negligence they would never acquaint themselves with, or through Prejudice they would reject and condemn unheard, under the notion of Error?²²³ (emphasis original)

Though Proast and Jefferson agree that the mind cannot be coerced, they disagree on Jefferson's next premise. He argues that, because God created the mind free, we know that "all attempts to *influence* it by temporal punishments, or burthens, or civil incapacitations...are a departure from the plan of the Holy author of our religion" (emphasis added).²²⁴ Jefferson believes that force has no use at all in forming opinions. It cannot even be used to *influence* the mind. Proast, however, argues that force does have a proper use in the forming of opinions. Though it cannot be used to convince a man of the truth of some claim by its own power, it can be used to persuade a man to consider evidence for that claim. It does this by...

"...*procuring* the Conviction of the Understanding, though it be not it self capable to *convince*. For certainly it is one thing to *convince* the Understanding, and another to *procure* its Conviction. The one indeed is peculiarly the work of *Reason* and *Argument*: but the other is done by whatever prevails with a man to consider and weigh those Reasons and arguments which do convince his Understanding (emphasis original).²²⁵

The latter can include a man's own inclination, advice from a friend, or command of law from a superior. Thus, he is not arguing that reason is not a sufficient means to convince men of Truth;²²⁶ it is in fact sufficient, but in order for the power of reason to take effect, men must be willing to listen to reason by considering the arguments. Some men do consider the arguments based on their own inclinations, but others need incentive to do so.

Here, Proast reveals a skepticism about human nature that Jefferson does not give great consideration to: men are not always eager to know the truth. When left to their own, they will follow their own prejudices instead of searching for evidence. They have certain preconceived notions about a religion that cause them to refuse to consider the evidence for it. Or they may simply be negligent and not care to discover Truth. Jefferson does believe that certain men will ignore truth, but this is because they are aiming for power instead. *Once a religion is established*, men become hypocrites and join that religion because it will gain them political power and prestige. They join because of the "monopoly of worldly honours" that such an establishment offers. However, Jefferson never considers the possibility that, even if left alone without an established church, most men will neglect

Toleration, Briefly Consider'd and Answer'd," 1691 in *The Reception of Locke's Politics*, 55.

²²⁶ This shows that Proast does not embrace the Calvinist understanding of reason that many of Jefferson's opponents had. Some Anglicans at the time did tend to be Calvinistic, but, as explained in chapter one, most of them were opposed to the Calvinist views that were brought into the colony by the religious revivals. Some of the newspaper articles, however, do give evidence to the fact that some of Jefferson's Anglican opponents did believe that reason was insufficient to grasp Truth. Therefore, both views deserve attention in this chapter.

²²³ Ibid.

²²⁴ Jefferson, Bill for Establishing Religious Freedom

²²⁵ Proast, "A Third Letter Concerning Toleration in Defense of the Argument of the Letter Concerning

a consideration of truth. Therefore, according to Proast, Jefferson's claim that the will plays no role in forming men's opinions is clearly wrong. Even if the conclusions of the mind do follow involuntarily from the evidence, as Jefferson claims, the will often prevents the mind from even considering such evidence. If men were not prone to negligence and prejudice, then there would be no need to use such force. However, not all men care about their souls as they should. Therefore, while the government cannot use force on the operations of a man's mind, it can use force upon his will; it can coerce a man to turn his mind to reason and argument.

Proast offers proof of his claim that not all men care about their souls by examining Scripture. "That if this were the case; as there is indeed but one true Religion, so there could be no other Religion but that in the world. Because (if we believe the Scriptures), no Man can fail of finding the way of Salvation, who seeks it as he ought."²²⁷ The variety of religions in the world is proof that men do not truly consider the Truth; for they "have sought out many Inventions, and contrived a great variety of Religions to themselves: so that there is nothing about which the World is more divided."²²⁸ If a man earnestly seeks Truth, he will find that it ends in a belief in the Christian God, that is, if his reason and conscience is not "perverted and abused."²²⁹ Jefferson and others would certainly argue that there are people who consider Truth yet do not come to the conclusion that Christianity is the true Religion. How could Proast deny that devout Jews or Hindus have

not truly searched for truth? Proast, however, does not claim that such people give *no* consideration to the salvation of their souls. Rather, he says that false religions arise from "slight and partial Consideration," and that their "Lust and Passions" led the enquiry. Men have worldly motives rather than reasonable ones for choosing a religion.

Other than a love of power, Jefferson did not claim that any other sin may cause a man to persist in an erroneous religion.²³⁰ Proast, however, claims that the sin of pride does. Not only do men neglect to consider truth fully when they first attempt to find it, but they also persist in that negligence once they have assented to the false religion. Whatever was hindering them from a full consideration of truth will in fact keep them content with their false religion, and they will not listen to reason any more than they did in the first place. The sin of pride causes men to refuse to consider the falsity of their own religion: "...once Men have espoused a religion, it is then become their *own*: and that alone (such is the power of Self-love) is enough to endear it to them, and to make them grow fond of it: as Men are apt to dote upon their Children, because they are *theirs*, even when they have little or nothing besides to recommend them" (emphasis original).²³¹ Though Jefferson dedicated several of his personal letters to the topic of

²²⁷ John 7:17. Psal. 25:9, 12, 14. Prov. 2:1-5.

²²⁸ Proast, "The Argument of the Letter Concerning Toleration," 28.

²²⁹ Proast, "A Third Letter Concerning Toleration," 83. Such people will not have force used on them; for "Remedies are not provided for the *incurable*" (Ibid, 87, emphasis original).

²³⁰ He does tell Peter Carr that "weak minds" are crouched under "fears and servile prejudices," but he does not say that these fears and prejudices are a result of some sin. It is more likely that he is speaking of fears and prejudices which are a result of pressure to conform to orthodox doctrines or the doctrines of established churches. He claims that "hypocrisy and meanness" are a result of establishments as well. All errors that men make with regard to religious opinions are not the result of an innate sinful nature, but only of attempts to coerce the mind.

²³¹ Proast, "The Argument of the Letter Concerning Toleration," 29.

how self-love affects the moral sense, he did not in any of those letters consider the idea that self-love may play a vital role in the forming of men's religious opinions. He claims that the society may use certain degrees of force to correct the moral sense of men, but it cannot use force to correct their false beliefs which were, according to Proast, caused by the same sin.

Proast also disagrees with Jefferson's theological claim that God does not approve of force being used in matters of religion. Jefferson argued that God, being "Lord of both body and mind" chose not to coerce either, even though He has the power to do so. Like Jefferson, Proast determines what force humans may use by examining what force God uses: "...neither does it upon that account lose its Acceptableness with God, any more than that Obedience does, which God himself drives men to by chastening and afflicting them."²³² God does not force men to believe in Him by physically forcing their minds to turn to Him; however, He does use force to remind them of their need for Him by afflicting them.²³³ By giving human beings pain and trials, God in a sense forces them to consider His existence. We know that God certainly does approve of the use of force to get men to consider arguments because He uses it Himself; therefore, there is no evidence that human authorities established by God should not use such force. Other than by the grace of God, this is the only way which stubborn men may begin to consider the Truth.

²³² Ibid, 27.

²³³ Jefferson would disagree with this. God, being all good, would not inflict His people and cause them pain and suffering in order that they may acknowledge Him. God desires the happiness of all men; thus, He gave them the "oracle" of reason to discover Him, and this does not require any pain or suffering.

Force and Political Power

Jefferson claimed that "truth is great and will prevail if left to herself," and that she only needs her natural weapons of "free argument and debate" to prevail. If this were the case, then a man who is in error only needs the persuasion of a fellow citizen in order to convince him of the truth. However, according to Proast, gentle persuasion will not work because the more one tries to get a man to consider the error of his religion, the more averse to considering truth will that man become. "I allege that such as are out of the right way, are usually so prejudiced against it, that no intreaties or Perswasions will prevail with them so much as to give an ear to those who call them to it."²³⁴ However, when force is used, "the uneasiness they meet with may at least put them to a stand, and encline them to lend an ear to those who tell them they have mistaken their way."²³⁵ Gentle persuasion is not enough because it gives men no incentive to consider arguments to which they are already averse. Force, on the other hand, will make them feel uneasy; they will know that they may have to sacrifice something if they do not consider an argument. Therefore, when a man realizes that his life may in some way be affected by his choice in religious matters, only then will he fully consider evidence. Proast recommends the use of the same methods which Jefferson suggests that a society should use in order to make men moral. Jefferson suggested that a society should appeal to a man's self-love to get him to choose moral acts, whereas Proast is suggesting that a society should appeal to a man's self-love in order to get him to consider religious truths. Penalties will

²³⁴ Proast, "A Third Letter Concerning Toleration," 76.

²³⁵ Proast, "The Argument of the Letter Concerning Toleration," 29.

force men to bring their opinions to the “Bar of Reason.”²³⁶ Jefferson would argue that there is a clear distinction between forcing with regard to the moral sense and forcing with regard to religious opinions. He argued that the powers of government only extend to actions, not beliefs. Proast answers that the power of the Magistrate certainly does not extend into the inward persuasion which is necessary to convince a man, but it can assist in the process of conviction by introducing a man to that which he must consider.²³⁷

Proast does not specifically define what sort of force should be used. He argues that there should be penalties that will “balance the weight of those Prejudices which enclined them to prefer a false Way.”²³⁸ He does not believe that one should receive physical punishments for not using reason when considering religion. This will in fact only make the man more adverse to the faith. All that can be done is to force men to “submit to Instruction”²³⁹ and listen to the reasons for the true religion, something which they had been refusing to do. He admits that he will not attempt to define specific examples of such force. He repeatedly describes them as being mild, which means he would probably approve of some of the force that was used in revolutionary Virginia: taxes, religious requirements for holding office, etc.

Proast proceeds to argue that there is indeed a *right* to use force. He uses the same logic to argue for the right that Madison uses to argue against the right. Madison had argued that force cannot be used to coerce the mind because the mind is incapable of being coerced. There is

therefore no right to attempt to coerce it. However, Proast does believe that force has a proper use. Because of the usefulness and necessity of force, there is therefore a right to use it. They both argued that the right is made evident by certain facts regarding the nature of the mind and how it is or is not receptive to force.

And certainly, if there be so great *Use* and *Necessity* of outward Force...for the promoting True Religion and the Salvation of Souls...this is as good an Argument, to prove there is somewhere a Right to use such Force for that purpose, as the utter *Uselessness* of Force (if that could be made out) would be, to prove that no body has any such Right (emphasis original).²⁴⁰

If force is utterly useless for the ends which he mentioned, then to use it for such would be abusing it, and no man can have a right to do that. However, if a certain amount of force is useful and necessary, then certain men have a right to use it to promote those ends: “...unless we will say (what without Impiety cannot be said) that the...Governour of all things has not furnish’d Mankind with competent Means for the promoting his own Honour in the world, and the Good of Souls.”²⁴¹ Jefferson and Madison both believed that to attempt to force men with regard to religious opinions was displeasing to God. Proast argues that, on the contrary, God is displeased when men do not take advantage of the means which He gave them in order to assist Him in the battle over souls, means which include political power.

Though a right to use force does in fact exist, it is not possessed by every person. Proast says that individuals as

²³⁶ Ibid, 30.

²³⁷ Proast, “A Third Letter Concerning Toleration,” 67.

²³⁸ Proast, “The Argument of the Letter Concerning Toleration,” 30.

²³⁹ Ibid, 31.

²⁴⁰ Ibid, 32.

²⁴¹ Ibid.

private citizens do not have this right, but the civil magistrate and those who derive their authority from him do have this right because the magistrate has the “Power of Compelling.”²⁴² In a lesser degree, parents and teachers have this right over the individuals under their authority. Churches, ecclesiastical officers, and religious societies do not have this right because they do not have what Proast calls “externally Coactive power.” God gives this power to civil magistrates alone. Certainly all Christians have a duty to care for the salvation of those who have not yet embraced the true religion, but this does not involve the use of power. Proast describes this care of souls as being more immediate than that of the civil power. For example, Proast would say that men can evangelize and share the gospel with other men, which does not involve the use of any force and is focused at a select few. This type of care operates “immediately upon the Consciences of men.”²⁴³ However, the magistrate’s care of souls is more remote. He uses temporal sanctions and penalties to care for the souls of men. His care is necessary because the immediate care is often insufficient.

Proast responds to the claim that no such right of force can be had by the magistrate because it is not consistent with the ends of government. According to Jefferson, the only purpose of government is to secure “Life, Liberty, and the Pursuit of Happiness”²⁴⁴ among men; therefore, the power of government only extends to “such acts only as are injurious to others.”²⁴⁵ It is not concerned with the salvation of souls because an unsaved person does no injury to another man’s rights. Proast denies that

those ends only extend to the securing of civil interests:

Doubtless Commonwealths are instituted for the attaining of the Benefits which Political Government can yield. And therefore if the *Spiritual* and *Eternal* Interests of men may any way be procured or advanced by Political Government; the procuring and advancing those Interests must in all reason be reckon’d among the Ends of Civil Societies, and so, consequently, fall within the compass of the Magistrate’s Jurisdiction.²⁴⁶

The purpose of government is to secure any benefits which it is able to yield. Proast’s understanding of the ends of government is determined not by an idea of natural rights or natural law, but rather by an examination of what is possible for the government to do, so long as it is beneficial and necessary to individuals within society. “I must again put you in mind that I do not ground it upon the bare *Usefulness* of such Force, but upon the *Necessity*, as well as *Usefulness* of it” (emphasis original).²⁴⁷ He has shown the necessity of force in religious matters by showing that men do not care about their souls as they ought. Like Jefferson’s Virginia opponents, Proast does not seem to acknowledge the state of nature from which Locke and Jefferson derive their understanding of the ends of government. Locke and Jefferson had argued that the power of government only extends to protecting the rights which were submitted under the social compact. Though Proast does not speak of a state of nature, he does speak of the laws of nature. In fact, it is the

²⁴² Ibid.

²⁴³ Ibid, 34.

²⁴⁴ United States Declaration of Independence

²⁴⁵ *Notes on the State of Virginia*, Query XVII in *Jefferson: Writings*, 285.

²⁴⁶ Proast, “The Argument of the Letter Concerning Toleration,” 33.

²⁴⁷ Proast, “A Third Letter Concerning Toleration,” 69.

laws of nature which invest the Magistrate with the Coactive power which he is obliged to use for "all the good purposes which it might serve...even for the restraining of false and corrupt Religion."²⁴⁸ Indeed, all the power which is invested in the Magistrate was to be used "for the advancing his Spiritual Kingdom in the World."²⁴⁹ Again, this idea that the government was to be used as an instrument to promote God's Kingdom was common in early America.

Yet, what if the magistrate sets up a religion which is actually contrary to the promotion of God's Kingdom in this world? Who is to say that the magistrate will be a competent judge of which religion is true? Madison says that such a claim is an "arrogant pretension falsified by the contradictory opinions of Rulers in all ages, and throughout the world."²⁵⁰ Jefferson says that such a claim is a "dangerous fallacy" because the ruler will merely "make his opinions the rule of judgment."²⁵¹ Other religious beliefs will be judged based on whether or not they are consistent with his, not based on how reasonable they are. However, Proast and those who support his understanding of government, including the writers of the previously discussed *Gazette* articles, do not believe that the magistrate has the right to set up any religion he wants. Because his Coactive power comes from God, he only has the right to establish the religion of the one true God. "For I spoke

not of the *Magistrate's Religion*, but of the *true Religion*...(emphasis original)"²⁵² All legitimate laws must support this religion; and ones that do not are indeed not laws. "For if true Religion, which is God's Law, forbids men to go to Mass, then those Laws can be no Laws, which require men to go to Mass."²⁵³ Therefore, rulers who are of false religions are only abusing the power which God gave them to promote the True religion. Because of this, "God will one day call them to an account for their neglect of their Duty, for the Dishonour they do to him, and for the Souls that perish by their fault."²⁵⁴

While Proast articulates an understanding of human nature and political philosophy that is very similar to the Virginia opponents of religious liberty, he offers specific responses to many of the Lockean/Jeffersonian objections which are not clearly addressed by the *Virginia Gazette* articles. For example, he responds to the claim put forth by both Locke and Jefferson that men cannot trust other men with the care of their souls; therefore, the majority of the people cannot give the magistrate consent to govern them in matters concerning religion. He agrees that men should not abandon the care of their souls. In fact, that is the very reason why he disagrees with Locke; not only should men not leave the care of their souls up to other men, but they also should not leave it up to their own passions: "They may not *blindly leave it to the choice*, neither of *any other Person*, nor yet of their own Lusts and Passions, *to prescribe to them what Faith or Worship they shall embrace*" (emphasis original).²⁵⁵ Jefferson and Locke only acknowledge the possibility of another man

²⁴⁸ Ibid, 70. Proast argues that the laws of nature are from God: The duty that magistrates have to use force is "as old as the Law of Nature, in which the Magistrate's Commission lies...For the Scripture does not properly give it him, but presupposes it (and speaks of him as antecedently entrusted with it) as it does also the Law of Nature, which is God's Law as well as the Scripture" (Ibid, 74).

²⁴⁹ Ibid, 70.

²⁵⁰ Madison, "Memorial and Remonstrance Against Religious Assessments."

²⁵¹ Jefferson, Bill for Establishing Religious Freedom

²⁵² Proast, "A Third Letter Concerning Toleration," 104.

²⁵³ Ibid, 82.

²⁵⁴ Ibid, 93.

²⁵⁵ Proast, "The Argument of the Letter Concerning Toleration," 35.

controlling another man's religious views; they do not acknowledge the fact that a part of that man's very nature may be wrongfully controlling his views as well. Therefore, rather than arguing that a man must determine his conclusions on his own, they would be more correct in saying that the *reason* of a man alone must form his opinions. Consequently, if men do consent to give the magistrate authority regarding religion, then certainly they are not abandoning the care of their own souls. Because of man's tendency to let his passions rule, it is actually in a man's interest not to be left entirely alone with the care of his own soul.²⁵⁶ A man, understanding his own nature, can allow another man to direct which evidence he should contemplate, and a man can even be forced to listen to reason even if he did not consent to it.

Madison and Jefferson both claimed that establishments only lead to hypocrisy because men will embrace a religion which they do not believe only to avoid penalties and condemnation of their true beliefs by the magistrate. However, Proast argues that these penalties are not the kind which would tempt a man to renounce a religion which he truly believes or to embrace one which he does not believe.²⁵⁷ If they do find that the

magistrate does not embrace the true religion, they will only have to suffer "tolerable Inconveniences" for following their own consciences and rejecting his religion.²⁵⁸ It is better for some men to suffer these minor inconveniences than to take that particular power away from the magistrate which is certainly beneficial to a greater majority of society.

One of Madison's points in the "Memorial" addressed the historical argument that Christianity prospered in spite of laws against it. It does not need the support of government; in fact, it is more prosperous without government support. Further, Madison argued that it remained prosperous even after the time of miracles:

for it is known that this Religion both existed and flourished, not only without the support of human laws, but in spite of every opposition from them, and not only during the period of miraculous aid, but long after it had been left to its own evidence and the ordinary care of Providence.²⁵⁹

Proast argues, however, that Christianity flourished after the time of miraculous aid only because it became the established religion of Rome. Miracles did not cease until "by their help Christianity had prevail'd to be received for the Religion of the Empire. And to be supported and encouraged by the Laws of it."²⁶⁰ God's will was manifested in the transformation from the period of miracles to the period of establishment. He used His own power to

²⁵⁶ Ibid.

²⁵⁷ Even if some men do embrace a religion merely for worldly honors, "they alone must answer for it" (Ibid, 61). It cannot be said that the civil authority is at fault if some men do become hypocrites: "...it is very unjust to impute it to those who *made such Laws...or to say that they prostitute holy Things, and drive men to profane them. They design by their Laws, to contribute what lies in them, to make men good Christians*" (Ibid). This argument can be employed in response to Jefferson's claim that those who tempt men to be hypocrites are at fault for the hypocrisy which they encourage: "that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay

the bait in their way" (Jefferson, Bill for Establishing Religious Freedom).

²⁵⁸ Proast, "The Argument of the Letter Concerning Toleration," 37.

²⁵⁹ Madison, "Memorial and Remonstrance Against Religious Assessments."

²⁶⁰ Proast, "A Third Letter Concerning Toleration," 75.

glorify Himself through miracles until men began glorifying Him through law. Therefore, it is clear that it is the duty of humans to use their own power to assist in the furtherance of Truth: "...then he leaves it to their care, under his ordinary Providence, to try whether they will do their Duties, or not: leaving them answerable for all that may follow from their neglect."²⁶¹

While Jefferson and Madison did not attempt to define the "duty which we owe to our Creator," Proast makes it clear that our duty involves not only acknowledging the true religion ourselves, but also using the means God gave us to convert others as well. As individuals we must personally evangelize, and those who are in the position of civil authority must use their God-given Coactive power to force men to consider Truth. Though Proast gives justifiable and convincing responses to many of the arguments in favor of religious liberty, it will be shown that he has an incorrect understanding of how men will react to the use of force upon their consciences.

CONCLUSION

The decade-long battle for disestablishment in Virginia not only changed the political relationship between the Commonwealth of Virginia and the Anglican Church, but it also led to a dramatic transformation of the understanding of the relationship between religion and society in the American mind. Jefferson, Madison, and their supporters faced the challenge of defeating an entire world view that was commonly accepted by their fellow citizens; though Locke's philosophy had started to influence the Christian teachings on religion and politics at the time, many Christians held onto their pre-Enlightenment understanding of both. What made the challenge even more difficult was that this commonly accepted world view was supported by solid reasoning and arguments. The battle was not merely political; it was one of the greatest philosophical debates in American history as well. Jefferson and Madison eventually prevailed politically, but was this because they truly had the stronger argument?

This debate involved almost every branch of philosophical inquiry: epistemology, human nature, theology, and political philosophy. In criticizing Jefferson's understanding of epistemology, many of his opponents objected to philosophical inquiry itself; they not only criticized his arguments, but they were also critical of the way by which he formed his arguments. Jefferson depended on reason and philosophy to understand the world around him along with the metaphysical world of which he had no experience. His opponents believed that it is foolish to attempt to reach truth by such inquiry. They formed their understanding of human nature from experience and Scripture. According to them, Jefferson simply had to observe human nature to see that men are ruled by their passions and do not

²⁶¹ Ibid, 48.

genuinely pursue truth. Certainly Jefferson acknowledged the desire for power that is commonly found in men, but he did not acknowledge their disdain for truth. Further, his theological views, which are based on philosophical inquiry as well, are extremely inconsistent with the Bible. Jefferson shaped his understanding of God based on what *he* understood to be goodness. However, since we know from experience and Scripture that human nature is fallen, one should not simply trust his own reasoning to form conclusions about God. In fact, some of Jefferson's opponents would say that Scripture is the only "oracle" given to us by God—not reason.

Jefferson's writings do reveal a naivety about human nature and the pursuit of truth. He does not acknowledge the prejudice and negligence to which Proast and the *Virginia Gazette* writers gave so much attention. If men are truly free by nature, as he believes, then their opinions are not determined by the evidence before them. They are able to choose to reject such evidence, whether it is because they truly find it unconvincing or because they do not *want* to be convinced to belong to a particular religion. Just as men let their desire for power lead them in their worldly endeavors, so often do men allow their passions to lead them in their religious pursuits. Though Jefferson fails to consider this particular element of human nature, his opponents fail to consider another element which has a much greater impact on the relation between church and state. They believe that men adhere to their own false beliefs as a result of the sin of pride, yet they believe that penalties will cause a man to overlook this pride and sincerely consider the truth instead. For example, Proast says, "Yet moderate Penalties may *make way* for Truth to men's *Understanding*, that so she may make way *into* it by *her own Light*."

(emphasis original)²⁶² Truth is prevented from reaching the understanding because a man's pride gets in the way. Personal persuasion will not be enough to get the man to consider the error in his beliefs; this will only make him more averse to the Truth. Such a task can only be accomplished through penalties that appeal to the man's worldly interests, according to Jefferson's opponents. They agree with Jefferson that some men will undoubtedly become hypocrites, but they argue that these men must someday answer to God for their hypocrisy. However, there is another crucial element in Jefferson's argument that goes unnoticed. He is not simply concerned with hypocrisy. He says that religious establishments will result in "hypocrisy and meanness."

Jonas Proast argues that penalties are necessary for procuring conviction in men because "the uneasiness they meet with may at least put them to a stand, and encline them to lend an ear to those who tell them they have mistaken their way."²⁶³ Pride causes human beings to be stubborn, but fear will cause them to lose their stubbornness once their ambition or property becomes threatened. Once the stubbornness is removed, the individual will sincerely become open to hearing arguments. On the contrary, Jefferson would argue that "meanness" would arise. The man will become even more indisposed to the argument. This is because it is not pride which causes a man to resist being persuaded by other men; it is his knowledge of his own sacred right to follow the dictates of his conscience without interference from others. Men are slowly becoming enlightened to this knowledge as the principles of the Revolution continue to spread: "All eyes

²⁶² Proast, "A Third Letter Concerning Toleration," 49.

²⁶³ Proast, "The Argument of the Letter Concerning Toleration," 29.

are opened, or opening, to the rights of man."²⁶⁴ In a letter to Benjamin Rush, Jefferson had explained why no man should be compelled to publicly profess his religious beliefs: "It behoves every man who values liberty of conscience for himself, to resist invasions of it in the case of others."²⁶⁵ A man will not simply cease to care about his right to conscience once his other rights are threatened. He will not lose the stubbornness that prevents him from considering the argument. Rather, he will become even more spirited in defense of his own liberty.

Jefferson would argue that, even if the stubbornness is a result of pride, force would still be ineffective in removing it. If gentle persuasion from the man's own friends will not convince him to consider arguments, then certainly penalties dispersed from a government which he disavows will not convince him. Jefferson's opponents may respond by citing the remedies which Jefferson prescribes for men who have a deficient moral sense. Education and worldly honors will eventually habituate them to be moral; why can the same remedy not cure men who have false religious beliefs based on pride? When a man is deprived of some worldly honor long enough, or when he is given evidence of the truth through education for a certain period of time, he will eventually understand the error of his beliefs and embrace the true religion, just as he would embrace moral actions after being educated about their value. However, Jefferson would argue that men who lack the moral sense only become habituated to good actions because of the pleasure that they find in such actions; it is still a result of the self-love that causes the deficiency. This self-love will certainly

never yield sincere religious beliefs from an individual because sincere religious beliefs must be a result of a desire to reach Truth.

Jonas Proast and the Anglicans in Virginia supported establishments because they believed that state churches would lead men to the Truth and inculcate virtue within the society. However, it is clear that they embrace a false optimism concerning how men will react to a violation of their liberties. They believe that men will submit their rights of conscience to the power of the civil authority in order to retain some other right that is being threatened. In doing so, Jefferson's opponents believe, men will sincerely open their minds to consider a religion which up until this point they had vigorously rejected. This view of human nature entails a misunderstanding of the sacredness of the rights of conscience. Jefferson's opponents had argued that he simply needed to observe human nature in order to understand it. Yet it is commonly observed that men will often sacrifice their property before they will submit to attempts of coercion upon their consciences. This shows that Madison is indeed correct when he says that a man's conscience is "more sacred than his castle."²⁶⁶ The right to follow the dictates of one's own conscience is more sacred than any other right because it allows men to know their Creator, the giver of all their natural rights. As Thomas Jefferson says in the *Notes on the State of Virginia*:

And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people

²⁶⁴ Letter to Roger C. Weightman, June 24, 1826, in *Jefferson: Writings*, 1517.

²⁶⁵ Letter to Benjamin Rush, April 21, 1803, *Jefferson: Writings*, 1123.

²⁶⁶ Madison, "Property" in *The Founders' Constitution*, Volume One, 598.

that these liberties are of the
gift of God?²⁶⁷

Of all the gifts of liberty which God has bestowed upon mankind, the greatest is that which allows His people to pursue Him freely. The American Founders' unwavering efforts on behalf of religious liberty have secured this gift for the people of their country as no other nation in history has done.

²⁶⁷ *Notes on the State of Virginia*, Query XVIII in Jefferson: Writings, 289.

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