

RELIGION AND THE FOUNDERS

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Religion has always been important in America. During the colonial and Revolutionary eras, religion permeated the lives of Americans. Blue laws kept the Sabbath holy and consumption laws limited the actions of everyone. Christianity was one of the few links that bound American society together from Maine to Georgia. The Bible, in addition to being the divine word of God that would guide people through life's journey to the next world, served as a textbook for history, a source book for morals, a primer for mothers to teach their children how to read, and a window through which to view and understand human nature. With the high death rate, especially among infants, child-bearing women, and seafarers, and with periodic lethal epidemics, Americans stoically resigned themselves to the will of God. Because religion and morality were seen as necessary components of stable society, colonial and Revolutionary governments supported religion. Clergymen were among the most influential members of the community and many of them actively participated in government.

The liberal religious provisions embodied in the charters and fundamental laws of Rhode Island, Pennsylvania, New Jersey, Maryland, and the Carolinas read very much like the declarations of indulgences promulgated by Charles II and James II that were so bitterly denounced by the Anglican clergy and members of Parliament. Like a magnet, however, these liberal policies attracted Dissenters to these religiously benevolent colonies.

Although colonists often emigrated to the New World to escape religious persecution or intolerance, many new Americans readily discriminated against others on the basis of religion. Nine of the thirteen American colonies authorized established churches—the Congregational Church in New England and the Anglican Church in the Middle and Southern colonies. Established churches attracted settlers who wanted the cohesiveness of a common religion. In these colonies tax revenues usually supported ministers of the established church, and the right to hold office and to vote were sometimes restricted to members of that church.

The first twelve American colonies were founded during the seventeenth century. Much of the fear and hatred of Catholics in England during this time found its way across the Atlantic. The four imperial wars between Protestant Great Britain and Catholic France and Spain and their

colonies intensified American animosity toward Catholics. Only in Maryland did Catholics find a welcome haven in Britain's New World.

Jews, although discriminated against in every colony, were generally tolerated and prospered especially in Newport, Philadelphia, and Charleston. After the Revolution, even the most tolerant states continued to deny citizenship and voting rights to Jews, although they were allowed to practice their religion, but usually not publicly. In addressing President George Washington when he visited Rhode Island in August 1790, the Hebrew congregation of Newport hoped that the government under the new Constitution might provide them with “the invaluable rights of free Citizens” which they had been heretofore denied. (17 August 1790) Washington praised Americans for giving

to mankind examples of an enlarged and liberal policy: a policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship. It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights. For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance requires only that they who live under its protection should demean themselves as good citizens.¹

Not, however, until the nineteenth century did states extend full citizenship to Jews.

Quakers—banished, whipped, fined, imprisoned, and occasionally executed in early New England—found a refuge in William Penn's experiment. Discrimination against Quakers, even in Pennsylvania, intensified during and after the Revolution, especially against those who steadfastly practiced pacifism. The combatants—both British and Americans—felt that if Quakers were not on their side, they must be enemies. During the war, Quakers were often disenfranchised. In September 1777, when the British threatened Philadelphia, Congress ordered the arrest of seventeen prominent Philadelphia Quakers, two ousted Quakers, and another man for their refusal to sign loyalty oaths and to provide needed supplies. Without the benefit of the writ of habeas corpus, they and later their families petitioned for their release from the “arbitrary, unjust, and cruel treatment of Us, our character, and families.” Although never officially charged

¹ 18 August 1790, Dorothy Twohig, ed., *The Papers of George Washington* (Charlottesville, Va., 1996), Presidential Series, VI, 285-86.

or convicted, Congress deemed them dangerous and on September 9 ordered them banished to Winchester, Virginia in the Shenandoah Valley far away from the fighting and their homes. Two days later an armed guard of Continental soldiers escorted the accused Quakers in a wagon train bound for Virginia as their distressed families stood by hopelessly. Only after the immediate danger subsided and over thirty-five petitions from family members were the eighteen surviving exiles released from their seven months' confinement and allowed to return to Philadelphia. (Norman E. Donoghue II, *Prisoners of Congress: Philadelphia Quakers in Exile, 1777-1778*, Penn State University Press, 2023) Only slowly after the war were Quaker voting rights restored. In Pennsylvania the disenfranchisement ended in 1789.

Religion played a significant role in the coming of the American Revolution. In New York the demand by some for an American Anglican bishopric raised fears of heightened ecclesiastical controls similar to the civil controls being mandated by Parliament. American animosity toward and fear of Catholics increased, especially when Parliament enacted the Quebec Act in 1774 which extended southward the borders of the captured Catholic French territory to the Ohio River and guaranteed "the free Exercise of the Religion of the Church of Rome." The Declaration of Independence listed the Quebec Act as one of the charges against the king and Parliament. Ironically, because of America's desperate need for support in its struggle for independence, Congress allied with Catholic France and Spain. Consequently, His Christian Majesty Louis XVI and His Catholic Majesty Charles III were regularly toasted in America as true friends of the new republic.

The American Revolution led to a significant separation between church and state. Increasingly religion was thought to be a matter of personal opinion which should not be dictated by government. Of the nine states that had established religions during the colonial period, three separated church and state in their new constitutions—New York, North Carolina, and Virginia. In the remaining six states, concessions were made allowing public support of more than one church. Often, in New England, this concession was nominal because public funds were given to only the one dominant church in a town, and that always happened to be the Congregational church in every New England town. However, as the eighteenth century ended, most states in which tax revenues supported churches passed legislation increasing the flexibility individuals had of earmarking their taxes for the support of their own minister. A continuing relationship between church and state was still considered important. This was made explicit in

Massachusetts, where its Declaration of Rights of 1780 provided that because “the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality,” the legislature was required to provide public revenues to support ministers. Furthermore, the legislature had the authority “to enjoin upon all the subjects an attendance upon the public instructions of the public teachers.” New Hampshire, Connecticut and Massachusetts did not fully dis-establish their state churches until 1817, 1818, and 1833, respectively.

Virginia disestablished the Anglican church merely by not specifically retaining the church-state relationship. The last provision of the Virginia Declaration of Rights (adopted in June 1776 and among the first political acts of James Madison) provided

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.

But when in the mid-1780s Patrick Henry, Edmund Pendleton, and Richard Henry Lee joined with Anglican ministers in an effort to provide public financial support for all Christian non-Catholic denominations (in essence creating a multiple establishment) James Madison revived Thomas Jefferson's bill for religious freedom which provided for the true separation of church and state. A convention of Presbyterian ministers advocated the bill “as the best safeguard short of a constitutional one, for their religious rights.”² The advocates of the general assessment measure all supported liberty of conscience and toleration, but because they strongly believed that Christianity was needed to support public morality and because ministers were woefully underpaid by their congregations, they felt that Christian clergy needed the financial support of the state. Jefferson's bill, adopted in January 1786, stated “that the opinions of men are not the object of civil government, nor under its jurisdiction.” The act provided

that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer, on account of his

² Madison to Jefferson, Richmond, January 22, 1786, Robert A. Rutland et al., eds., *The Papers of James Madison*. (Chicago, 1973), VIII, 473.

religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities.

Madison happily reported to Jefferson that the act “extinguished for ever the ambitious hope of making laws for the human mind.”³

In other state constitutions, like New York’s, explicit provision was made that “the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall for ever hereafter be allowed within this State to all mankind.” Religious liberty was not unlimited, however. According to the New York constitution, “the liberty of conscience hereby granted, shall not be so construed, as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.” But this was a religious liberty rare in the world. Such a libertarian position alienated Congregationalists in Vermont who felt unsafe under New York’s rule because their “religious rights and privilidges would be in danger from a Union with a Government” whose constitution tolerated all religions and excluded the establishment of any.⁴ In 1777 the Vermonters declared their independence not only from Great Britain, but also from New York.

Five state constitutions prohibited ministers from holding civil or military positions—Delaware, Georgia, New York, North Carolina, and South Carolina. The clergy, it was argued, should attend to the important job of tending to their flocks. Eleven states retained a religious test for officeholding, usually requiring belief in God, the Protestant religion, the divine inspiration of the Bible, the trinity, and in life in the hereafter. Only the constitutions of New York and Virginia omitted a religious test for officeholding. In New York, Huguenot-descended John Jay argued unsuccessfully in the provincial convention for a prohibition against Catholic officeholding. In February 1788, however, the New York legislature approved an act requiring officeholders to renounce all foreign authorities, “in all matters ecclesiastical as well as civil”—an obvious exclusion of Catholics from holding office.

Throughout the Revolutionary era, Congress, the state governors, and the first presidents all issued proclamations for fasting and thanksgiving. James Madison later regretted that such

³ Ibid., 474.

⁴ Egbert Benson to John Jay, Poughkeepsie, July 6, 1779, Henry P. Johnston, ed., *The Correspondence and Public Papers of John Jay* (4 vols., New York, 1890-1893), I, 211-12.

connection between state and religion had occurred. The Articles of Confederation made only indirect reference to religion. In Article III the states bound themselves together “in a league of friendship” to secure themselves from attacks on “any of them, on account of religion, sovereignty, trade or any other pretence whatever.” In the last article, “the Great Governor of the World” was acknowledged for being pleased with the states' ratification of the Articles. As with all of America's fundamental documents, the Articles were dated “in the year of our Lord. . . .”

During and after the war, the states ceded their western lands to Congress. On July 13, 1787—when the Constitutional Convention was meeting in Philadelphia—Congress, meeting in New York City, adopted the Northwest Ordinance which provided for the territorial government of the national domain north and west of the Ohio River and for its transition to statehood on an equal basis with the original states. The Ordinance included an abbreviated bill of rights that guaranteed religious freedom in the first article. “No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in the said territory.” The third article acknowledged the necessity of “Religion, morality and knowledge” in promoting “good government and the happiness of mankind” and provided that “schools and the means of education shall forever be encouraged.” Two years later the first federal Congress reenacted the Ordinance.

Increasingly the Founding Fathers abandoned traditional Christian religion and became what could be called unitarians or deists. Many of these converts publicly maintained their original religious affiliations, choosing to avoid the censures that prominent deists like Jefferson, Franklin and Paine regularly received. Deists abandoned the belief in the divinity of Jesus, the trinity, any notion of predestination, the Bible as the divinely inspired word of God, and state-sponsored religion. Rather, deists believed in one God, a benevolent initiator of all events. The word of God was not to be found in the Bible, but in nature and the Creation. Deists believed that Jesus had lived and that his morality and teachings were estimable. They believed that Christian clergy and priests of other religions had perverted the true religion. The way to God was open to all men, and a direct relationship could exist between man and God without the assistance of clergy, Jesus or the state. Deists believed in the importance of living a moral life and following the dictates of conscience. Although uncertain about the nature of the hereafter, deists believed in a life after death. The basic tenet of deism was perhaps best expressed by Thomas Paine in the first volume of his *Age of Reason*, published in 1794.

The only idea man can affix to the name of God, is, that of a FIRST CAUSE, the cause of all things. And incomprehensibly difficult as it is for man to conceive what a first cause is, he arrives at the belief of it, from the tenfold greater difficulty of disbelieving it. It is difficult beyond description to conceive that space can have no end; but it is more difficult to conceive an end. It is difficult beyond the power of man to conceive an eternal duration of what we call time; but it is more impossible to conceive a time when there shall be no time. In like manner of reasoning, every thing we behold carries in itself the internal evidence that it did not make itself . . .; and it is the conviction arising from this evidence, that carries us on, as it were, by necessity, to the belief of a first cause eternally existing, of a nature totally different to any material existence we know of, and by the power of which all things exist, and this first cause man calls God.

A growing number of Americans could be called unitarians as they rejected the doctrine of the Trinity. Abigail Adams wrote her son that

There is not any reasoning which can convince me, contrary to my senses, that three, is one and one three. Is it possible for the humane mind to form an idea of the Supreme Being, without some visible qualities such as wisdom, power, and goodness. The creator, preserver and governor of the world. The first commandment forbids the worship of but one God. That Jesus Christ was sent into the world by the Father to take upon him humane nature, to exalt redeem and purify the world, to set an example to all his followers of sinless obedience and holiness of life and conversation, and to bring life and immortality to light, the scriptures fully testify, and that a conformity to his precepts and example, as far as humane nature is capable of it, will be rewarded by future happiness in the world to come, is my firm belief.

Is there not a subordination to the Father manifested in the whole life and character of Jesus Christ? Why said he call ye me good. There is none good but one that is God. Again, I do nothing of myself, but the Father in me. . . . From these and many other passages of scripture, I am led to believe in the unity of the Supreme Being.

Abigail Adams to John Quincy Adams, Quincy, May 4, 1816

When the delegates to the Federal Convention of 1787 drafted a new Constitution for the United States, they omitted any specific references to God or religion. However, during the debate over ratifying the Constitution, Federalists sometimes asserted that the Constitution was divinely inspired. James Madison asserted in *The Federalist* No. 37 that “It is impossible for the man of pious reflection not to perceive in it [the drafting of the Constitution], a finger of that Almighty hand which has been so frequently and signally extended to our relief in the critical stages of the revolution.” Dr. Benjamin Rush in the Pennsylvania ratifying Convention in December 1787 suggested that “the hand of God” was as assuredly employed in drafting the Constitution as it was in dividing the Red Sea or in fulminating the Ten Commandments from Mount Sinai. Rush urged Antifederalists to differentiate between the inclinations of their constituents and the dictates of their consciences. Listen, Rush admonished, to the latter. “It is the voice of God speaking” to their hearts. Antifederalists condemned “this new species of DIVINE RIGHT.” They “regretted that so imperfect a work should have been ascribed to God.”⁵

The Constitution provides no religious test for officeholding and, in fact, prohibits one from ever being required. Federalists argued that religious tests were “useless, tyrannical, and peculiarly unfit for the people of this country.”⁶ Religious oaths were supposed to guarantee honorable public service for fear of incurring the wrath of God. Public officials who violated their oaths might escape punishment here on earth but could not avoid punishment in the hereafter. But Federalists argued that the unscrupulous and hypocritical would readily subscribe to oaths and would not hesitate to violate them. Only the conscientious—those who would be the best public officials—would refuse to take a religious oath if they did not believe in its provisions. Thus test laws were totally ineffectual and in fact counterproductive. Antifederalists raised the specter of Jews, Turks, and infidels being elected to key federal positions, while Federalists argued that voters would be knowledgeable enough to select the best people to serve.

Some Antifederalists wanted the Constitution explicitly to acknowledge the existence of God and a dependence on Him. William Williams of Connecticut suggested an addition to the Preamble which should read:

⁵ Merrill Jensen, John P. Kaminski and Gaspare J. Saladino, eds., *The Documentary History of the Ratification of the Constitution* (45 vols. to date, Madison, Wis., 1976-), II, 593, 595. Hereafter cited as DHRC.

⁶ “A Landholder” VII (Oliver Ellsworth), *Connecticut Courant*, December 17, 1787, DHRC, III, 498.

We the people of the United States, in a firm belief of the being and perfections of the one living and true God, the creator and supreme Governor of the world, in His universal providence and the authority of His laws: that He will require of all moral agents an account of their conduct, that all rightful powers among men are ordained of, and mediately derived from God, therefore in a dependence on His blessing and acknowledgment of His efficient protection in establishing our Independence, whereby it is become necessary to agree upon and settle a Constitution of federal government for ourselves, and in order to form a more perfect union, etc.⁷

A week later Williams was answered by the pseudonymous writer “Elihu.” “A low mind may imagine that God, like a foolish old man, will think himself slighted and dishonored if he is not complimented with a seat or a prologue of recognition in the Constitution, but those great philosophers who formed the Constitution had a higher idea of the perfection of that INFINITE MIND which governs all worlds than to suppose they could add to his honor or glory, or that He would be pleased with such low familiarity or vulgar flattery.” The framers avoided such demagoguery. “They come to us in the plain language of common sense and propose to our understanding a system of government as the invention of mere human wisdom; no deity comes down to dictate it, not even a God appears in a dream to propose any part of it.”⁸ Some Federalists, Benjamin Rush being one, would not have agreed.

Many Americans agreed with the freemen of Paxton, Mass., that the Constitution, by its failure explicitly to guarantee the freedom of religion, was “Subversive of Liberty and Extremely dangerous to the Civil and Religious rights of the People.”⁹ Speaking for Antifederalists, Patrick Henry argued in the Virginia ratifying Convention that the “sacred and lovely thing Religion, ought not to rest on the ingenuity of logical deduction.” Without an explicit protection, religion “will be prostituted to the lowest purposes of human policy.”¹⁰ Federalists, however, argued that the Constitution would create a federal government of strictly enumerated powers that would

⁷ Hartford *American Mercury*, February 11, 1788, DHRC, III, 589.

⁸ “Elihu,” Hartford *American Mercury*, February 18, 1788, DHRC, III, 592.

⁹ DHRC, V, 1003.

¹⁰ DHRC, X, 1213.

never be capable of violating religious liberty. According to James Madison in the Virginia Convention, there was “not a shadow of right in the General Government to intermeddle with religion—Its least interference with it would be a most flagrant usurpation.” Furthermore, with the “multiplicity of sects” throughout America, Madison asserted that no one sect “could oppress and persecute the rest.”¹¹

Throughout the ratification debate Antifederalists demanded that freedom of religion be protected. A majority of ratifying conventions recommended that an amendment guaranteeing religious freedom be added to the Constitution. In recommending a bill of rights in the first federal Congress on June 8, 1789, Madison proposed that “the civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner or on any pretext infringed.” He also proposed that “no state shall violate the equal rights of conscience.”¹²

The prohibition on states was removed by the Senate, while the restrictions on the federal government were combined and recast into what came to be the First Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” The exact meaning of this prohibition has not been easy to ascertain. Perhaps President Thomas Jefferson interpreted it best in his response to the Baptist Association of Danbury, Conn., on January 1, 1802.

Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should “make no law respecting an establishment of religion, or prohibiting the free exercise thereof,” thus building a wall of separation between church and state.¹³

¹¹ DHRC, X, 1223-24.

¹² Helen E. Veit, Kenneth R. Bowling, and Charlene Bangs Bickford, eds., *Creating the Bill of Rights: The Documentary Record from the First Federal Congress* (Baltimore, 1991), 12-13.

¹³ Merrill D. Peterson, ed., *Thomas Jefferson: Writings* (New York, 1984), 510.

