



A Bill for Establishing Religious Freedom in Virginia (1777, 1786)

Thomas Jefferson

According to Merrill D. Peterson, Jefferson initially drafted his bill for religious freedom sometime in 1777.¹ In 1779, the Virginia House of Delegates debated but did not adopt the bill. It was amended and then adopted by the Virginia General Assembly on January 16, 1786. The italicized words were deleted during the October 1785 session of the Virginia General Assembly.

Well aware that the opinions and belief of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; 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 was in his Almighty power to do, but to extend it by its influence on reason alone; 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: 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 [temporal] rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependance [sic] on our religious opinions, any more than [on] 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

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Source: Daniel
Church and State

1. Merrill D. Peterson, ed., *The Portable Thomas Jefferson* (New York: Viking Penguin, 1975), 251.

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and advantages to which, in common with his fellow citizens, he has a natural right; that it tends also² to corrupt the principles of that *very* 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; *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 falacy, [*sic*] 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; 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; 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.

*We the General Assembly of Virginia do enact*³ that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

And though we well know that this Assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this act [to be] irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement of natural right.

Source: Daniel L. Dreisbach, *Thomas Jefferson and the Wall of Separation between Church and State* (New York: New York University Press, 2002), 133–135.

². The act replaced “also” with “only.” See Dreisbach, *Thomas Jefferson and the Wall of Separation*, 243, n. 3.

³. The act started the paragraph with “Be it enacted by the General Assembly . . .” Ibid., 243, n. 4.

Memorial and Remonstrance against Religious Assessments (1785)

James Madison

James Madison drafted the "Memorial and Remonstrance" in the spring of 1785 in the midst of a statewide debate over Patrick Henry's proposed legislation "Establishing a Provision for Teachers of the Christian Religion." Henry's bill was a property tax designed to fund religious Christian ministers in the state of Virginia. Under the bill's provisions, each property owner was to specify the Christian denomination to which he wished his tax directed. If a taxpayer failed or refused to specify a Christian society, his tax would go to the public treasury "to be disposed of under the direction of the General Assembly, for the encouragement of seminaries of learning . . . and to no other use or purpose whatsoever." Similarly, the taxes received by the various denominations were to be "appropriated to a provision for a Minister or Teacher of the Gospel, or the providing of places of divine worship, and to none other use whatsoever." An exception to this rule was made for Quakers and Mennonites, who were allowed to place their distribution in their general funds because they lacked the requisite clergy.

Madison published his remonstrance anonymously. It helped defeat Henry's proposal in 1785. The following year, in 1786, the Virginia legislature, guided by Madison, adopted Thomas Jefferson's statute for religious freedom.

To the Honorable the General Assembly of the Commonwealth of Virginia. A Memorial and Remonstrance.

We the subscribers, citizens of the said Commonwealth, having taken into serious consideration, a Bill printed by order of the last Session of General Assembly, entitled "A Bill establishing a provision for Teachers of the Christian Religion," and conceiving that the same if finally armed with the sanctions of a law, will be a dangerous abuse of power, are bound as faithful members of a free State to remonstrate against it, and to declare the reasons by which we are determined. We remonstrate against the said Bill.

1. Because we hold it for a fundamental and undeniable truth, "that religion or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and conviction, not by force or violence." The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. 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. 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. 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 Governor of the Universe: And if a member of Civil Society, do it with a saving of his allegiance to the Universal Sovereign. 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. 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.

2. Because if religion be exempt from the authority of the Society at large, still less can it be subject to that of the Legislative Body. The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited: it is limited with regard to the co-ordinate departments, more necessarily is it limited with regard to the constituents. The preservation of a free Government requires not merely, that the metes and bounds which separate each department of power be invariably maintained; but more especially that neither of them be suffered to overleap the great Barrier which defends the rights of the people. The Rulers who are guilty of such an encroachment, exceed the commission from which they derive their authority, and are Tyrants. The People who submit to it are governed by laws made neither by themselves nor by an authority derived from them, and are slaves.
3. Because it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of Citizens, and one of [the] noblest characteristics of the late Revolution. The free men of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much, soon to forget it. 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? That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?
4. Because the Bill violates the equality which ought to be the basis of every law, and which is more indispensable, in proportion as the validity or expediency of any law is more liable to be impeached. If "all men are by nature equally free and independent," all men are to be considered as entering into Society on equal conditions; as relinquishing no more, and therefore retaining no less, one than another, of their natural rights. Above all are they to be considered as retaining an "equal title to the free exercise of Religion according to the dictates of conscience." 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 offence 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 principle, by granting to others peculiar exemptions. Are the Quakers and Menonists the only sects who think a compulsive support of their religions unnecessary and unwarrantable? Can their piety alone be entrusted with the care of public worship? Ought their Religions to be endowed above all others with extraordinary privileges, by which proselytes may be enticed from all others? We think too favorably of the justice and good sense of these denominations to believe that they either covet pre-eminencies over their fellow citizens or that they will be seduced by them from the common opposition to the measure.

5. Because the bill implies either that the Civil Magistrate is a competent Judge of Religious Truth; or that he may employ Religion as an engine of Civil policy. The first is an arrogant pretension falsified by the contradictory opinions of Rulers in all ages, and throughout the world: The second an unhallowed perversion of the means of salvation.
6. Because the establishment proposed by the Bill is not requisite for the support of the Christian Religion. To say that it is, is a contradiction to the Christian Religion itself; for every page of it 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: Nay, it is a contradiction in terms; for a Religion not invented by human policy, must have pre-existed and been supported, before it was established by human policy. It is moreover to weaken in those who profess this Religion a pious confidence in its innate excellence and the patronage of its Author; and to foster in those who still reject it, a suspicion that its friends are too conscious of its fallacies to trust it to its own merits.
7. Because experience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of Religion, have had a contrary operation. During almost fifteen centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy; ignorance and servility in the laity, in both, superstition, bigotry and persecution. Enquire of the Teachers of Christianity for the ages in which it appeared in its greatest lustre; those of every sect, point to the ages prior to its incorporation with Civil policy. Propose a restoration of this primitive State in which its Teachers depended on the voluntary rewards of their flocks, many of them predict its downfall. On which side ought their testimony to have greatest weight, when for or when against their interest?
8. Because the establishment in question is not necessary for the support of Civil Government. If it be urged as necessary for the support of Civil Government only as it is a means of supporting Religion, and it be not necessary for the latter purpose, it cannot be necessary for the former. If Religion be not within the cognizance of Civil Government how can its legal establishment be necessary to civil Government? What influence in fact have ecclesiastical establishments had on Civil Society? In some instances they have been seen to erect a spiritual tyranny on the ruins of the Civil authority; in many instances they have been seen upholding the thrones of political tyranny: in no instance have they been seen the guardians of the liberties of the people. Rulers who wished to subvert the public liberty, may have found an established Clergy convenient auxiliaries. A just Government instituted to secure & perpetuate it needs them not. Such a Government will be best supported by pro-

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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.

9. Because the proposed establishment is a departure from the generous policy, which, offering an Asylum to the persecuted and oppressed of every Nation and Religion, promised a lustre to our country, and an accession to the number of its citizens. What a melancholy mark is the Bill of sudden degeneracy? Instead of holding forth an Asylum to the persecuted, it is itself a signal of persecution. It degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority. Distant as it may be in its present form from the Inquisition, it differs from it only in degree. The one is the first step, the other the last in the career of intolerance. The magnanimous sufferer under this cruel scourge in foreign Regions, must view the Bill as a Beacon on our Coast, warning him to seek some other haven, where liberty and philanthropy in their due extent, may offer a more certain repose from his Troubles.
10. Because it will have a like tendency to banish our Citizens. The allurements presented by other situations are every day thinning their number. To superadd a fresh motive to emigration by revoking the liberty which they now enjoy, would be the same species of folly which has dishonoured and depopulated flourishing kingdoms.
11. Because it will destroy that moderation and harmony which the forbearance of our laws to intermeddle with Religion, has produced among its several sects. Torrents of blood have been split in the old world, by vain attempts of the secular arm, to extinguish Religious discord, by proscribing all difference in Religious opinion. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American Theatre has exhibited proofs, that equal and complete liberty, if it does not wholly eradicate it, sufficiently destroys its malignant influence on the health and prosperity of the State. If with the salutary effects of this system under our own eyes, we begin to contract the bounds of Religious freedom, we know no name that will too severely reproach our folly. At least let warning be taken at the first fruits of the threatened innovation. The very appearance of the Bill has transformed "that Christian forbearance, love and charity," which of late mutually prevailed, into animosities and jealousies, which may not soon be appeased. What mischiefs may not be dreaded should this enemy to the public quiet be armed with the force of a law?
12. Because the policy of the Bill is adverse to the diffusion of the light of Christianity. The first wish of those who enjoy this precious gift, ought to be that it may be imparted to the whole race of mankind. Compare the number of those who have as yet received it with the number still remaining under the dominion of false Religions; and how small is the former! Does the policy of the Bill tend to lessen the disproportion? No; it at once discourages those who are strangers to the light of [revelation] from coming into the Region of it; and countenances by example the nations who continue in darkness, in shutting out those who might convey it to them. Instead of levelling as far as possible, every obstacle to the victorious progress of Truth, the Bill with an ignoble and unchristian timidity would circumscribe it with a wall of defence against the encroachments of error.
13. Because attempts to enforce by legal sanctions, acts obnoxious to so great a proportion of Citizens, tend to enervate the laws in general, and to slacken the

bands of Society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case, where it is deemed invalid and dangerous? And what may be the effect of so striking an example of impotency in the Government, on its general authority?

14. Because a measure of such singular magnitude and delicacy ought not to be imposed, without the clearest evidence that it is called for by a majority of citizens; and no satisfactory method is yet proposed by which the voice of the majority in this case may be determined, or its influence secured. "The people of the respective countries are indeed requested to signify their opinion respecting the adoption of the Bill to the next Session of Assembly." But the representation must be made equal, before the voice either of the Representatives of the Counties, will be that of the people. Our hope is that neither of the former will, after due consideration, espouse the dangerous principle of the Bill. Should the event disappoint us, it will still leave us in full confidence, that a fair appeal to the latter will reverse the sentence against our liberties.
15. Because finally, "the equal right of every citizen to the free exercise of his Religion according to the dictates of conscience" is held by the same tenure with all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us; if we consult the Declaration of those rights which pertain to the good people of Virginia, "as the basis and foundation of Government," it is enumerated with equal solemnity, or rather studied emphasis. Either then, we must say, that the will of the Legislature is the only measure of their authority; and that in the plenitude of this authority, they may sweep away all our fundamental rights; or, that they are bound to leave this particular right untouched and sacred: Either we must say, that they may control the freedom of the press, may abolish the trial by jury, may swallow up the Executive and Judiciary Powers of the State; nay that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary assembly: or we must say, that they have no authority to enact into the law the Bill under consideration. We the Subscribers say, that the General Assembly of this Commonwealth have no such authority: And that no effort may be omitted on our part against so dangerous an usurpation, we oppose to it, this remonstrance; earnestly praying, as we are in duty bound, that the Supreme Lawgiver of the Universe, by illuminating those to whom it 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: and on the other, guide them into every measure which may be worthy of his [blessing, may redound to their own praise, and may establish more firmly the liberties, the prosperity and the Happiness of the Commonwealth.

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The Massachusetts Constitution of 1780 and *Barnes v. Falmouth* (1810)

The declaration of rights in the Massachusetts Constitution of 1780 recognized the right of all individuals to worship according to conscience (Art. II) and the right of the people to authorize their legislatures to collect taxes to support "public Protestant teachers of piety, religion, and morality" (Art. III).

Pursuant to Article III, Massachusetts provided for a system of local taxation to support religious clergy. The arrangement was the subject of several lawsuits, including one by Thomas Barnes, a Universalist minister. The ministerial taxes paid by Barnes's followers were directed not to Barnes but to the local Congregational minister. Barnes filed suit in an attempt to receive these tax dollars. The Supreme Judicial Court of Massachusetts decided against Barnes, ruling that Article III ministerial taxes could be directed only to ministers of incorporated religious societies, a criterion Barnes failed to meet.

In the opinion of the court, Chief Justice Theophilus Parsons set forth a justification of Article III that defended the wisdom, propriety, and reasonableness of Massachusetts's arrangement of taxpayer support of religion. Reproduced here are the first three articles of the declaration of rights of the Massachusetts Constitution of 1780 and excerpts of Chief Justice Parsons's defense of Article III's provision for taxpayer-funded ministers.

Massachusetts Constitution of 1780

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts

Article I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Art. II. It is the right as well as the duty of all men in society, publicly and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession or sentiments, provided he doth not disturb the public peace or obstruct others in their religious worship.

Art. III. As the happiness of a people and the good order and preservation of civil government essentially depend upon piety, religion, and morality, and as these cannot be generally diffused through a community but by the institution of the public worship of God and of the public instructions in piety, religion, and morality: Therefore, To promote their happiness and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies-politic or religious societies to make suitable provision, at their own expense, for the institution of the public worship of God and for the support and maintenance of public Protestant teachers of piety, religion, and morality in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided, notwithstanding, That the several towns, parishes, precincts, and other bodies-politic, or religious societies, shall at all times have the exclusive right of electing their public teachers and of contracting with them for their support and maintenance.

And all moneys paid by the subject to the support of public worship and of public teachers aforesaid shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid toward the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

And every denomination of Christians, demeaning themselves peaceably and as good subjects of the commonwealth, shall be equally under the protection of the law; and no subordination of any sect or denomination to another shall ever be established by law.

**Thomas Barnes v. The Inhabitants of the
First Parish in Falmouth, 6 Mass. 401 (1810)**

Supreme Judicial Court of Massachusetts

PARSONS, C. J.

... [404] The object of a free civil government is the promotion and security of the happiness of the citizens. These effects cannot be produced, but by the knowledge and practice [405] of our moral duties, which comprehend all the social and civil obligations of man to man, and of the citizen to the state. If the civil magistrate in any state could procure by his regulations a uniform practice of these duties, the government of that state would be perfect.

To obtain that perfection, it is not enough for the magistrate to define the rights of the several citizens, as they are related to life, liberty, property, and reputation, and to punish those by whom they may be invaded. Wise laws, made to this end, and faithfully executed, may leave the people strangers to many of the enjoyments of civil and social life, without which their happiness will be extremely imperfect. Human laws cannot oblige to the performance of the duties of imperfect obligation; as the duties of charity and hospitality, benevolence and good neighborhood; as the duties resulting from the relation of husband and wife, parent and child; of man to man, as children of a common parent; and of real patriotism, by influencing every citizen to love his country, and to

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Neither can the laws prevent, by temporal punishment, secret offences, committed without witness, to gratify malice, revenge, or any other passion, by assailing the most important and most estimable rights of others. For human tribunals cannot proceed against any crimes, unless ascertained by evidence; and they are destitute of all power to prevent the commission of offences, unless by the feeble examples exhibited in the punishment of those who may be detected.

Civil government, therefore, availing itself only of its own powers, is extremely defective; and unless it could derive assistance from some superior power, whose laws extend to the temper and disposition of the human heart, and before whom no offence is secret, wretched indeed would be the [406] state of man under a civil constitution of any form.

This most manifest truth has been felt by legislators in all ages; and as man is born, not only a social, but a religious being, so, in the pagan world, false and absurd systems of religion were adopted and patronized by the magistrate, to remedy the defects necessarily existing in a government merely civil.

On these principles, tested by the experience of mankind, and by the reflections of reason, the people of *Massachusetts*, in the frame of their government, adopted and patronized a religion, which, by its benign and energetic influences, might cooperate with human institutions, to promote and secure the happiness of the citizens, so far as might be consistent with the imperfections of man.

In selecting a religion, the people were not exposed to the hazard of choosing a false and defective religious system. Christianity had long been promulgated, its pretensions and excellences well known, and its divine authority admitted. This religion was found to rest on the basis of immortal truth; to contain a system of morals adapted to man, in all possible ranks and conditions, situations and circumstances, by conforming to which he would be meliorated and improved in all the relations of human life; and to furnish the most efficacious sanctions, by bringing to light a future state of retribution. And this religion, as understood by Protestants, tending, by its effects, to make every man submitting to its influence, a better husband, parent, child, neighbor, citizen, and magistrate, was by the people established as a fundamental and essential part of their constitution.

The manner in which this establishment was made, is liberal, and consistent with the rights of conscience on religious subjects. As religious opinions, and the time and manner of expressing the homage due to the Governor of the universe, are points depending on the sincerity and belief of each individual, and do not concern the public [407] interest, care is taken, in the second article of the declaration of rights, to guard these points from the interference of the civil magistrate; and no man can be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession or sentiment, provided he does not disturb the public peace, or obstruct others in their religious worship; in which case he is punished, not for his religious opinions or worship, but because he interrupts others in the enjoyment of the rights he claims for himself, or because he has broken the public peace.

Having secured liberty of conscience, on the subject of religious opinion and worship, for every man, whether Protestant or Catholic, Jew, Mahometan, or Pagan, the constitution then provides for the public teaching of the precepts and maxims of the religion, of Protestant Christians to all the people. And for this purpose it is made the right and the

duty of all corporate religious societies, to elect and support a public Protestant teacher of piety, religion, and morality; and the election and support of the teacher depend exclusively on the will of a majority of each society incorporated for those purposes. As public instruction requires persons who may be taught, every citizen may be enjoined to attend on some one of these teachers, at times and seasons to be stated by law, if there be any on whose instructions he can conscientiously attend.

In the election and support of a teacher, every member of the corporation is bound by the will of the majority; but as the great object of this provision was to secure the election and support of public Protestant teachers by corporate societies, and as some members of any corporation might be of a sect or denomination of Protestant Christians different from the majority of the members, and might choose to unite with other Protestant Christians of their own sect or denomination, in maintaining a public teacher, who by law was entitled to support, and on whose [408] instructions they usually attended, indulgence was granted, that persons thus situated might have the money they contributed to the support of public worship, and of the public teachers aforesaid, appropriated to the support of the teacher on whose instructions they should attend.

Several objections have at times been made to this establishment, which may be reduced to three: that when a man disapproves of any religion, or of any supported doctrines of any religion, to compel him by law to contribute money for public instruction in such religion or doctrine, is an infraction of his liberty of conscience; that to compel a man to pay for public religious instructions, on which he does not attend, and from which he can therefore derive no benefit, is unreasonable and intolerant; and that it is antichristian for any state to avail itself of the precepts and maxims of Christianity, to support civil government, because the Founder of it has declared that his kingdom is not of this world.

These objections go to the authority of the people to make this constitution, which is not proper nor competent for us to bring into question. And although we are not able, and have no inclination, to assume the character of theologians, yet it may not be improper to make a few short observations, to defend our constitution from the charges of persecution, intolerance, and impiety.

When it is remembered that no man is compellable to attend on any religious instruction, which he conscientiously disapproves, and that he is absolutely protected in the most perfect freedom of conscience in his religious opinions and worship, the first objection seems to mistake a man's conscience for his money, and to deny the state a right of levying and of appropriating the money of the citizens, at the will of the legislature, in which they all are represented. But as every citizen derives the security of his property, and the fruits of his industry, from the power of the state, so, as the price of this protection, he is bound to contribute, in common with his fellow-citizens, [409] for the public use, so much of his property, and for such public uses, as the state shall direct. And if any individual can lawfully withhold his contribution, because he dislikes the appropriation, the authority of the state to levy taxes would be annihilated; and without money it would soon cease to have any authority. But all moneys raised and appropriated for public uses, by any corporation, pursuant to powers derived from the state, are raised and appropriated substantially by the authority of the state. And the people, in their constitution, instead of devolving the support of public teachers on the corporations, by whom they should be elected, might have directed their support to be defrayed out of the public treasury, to be reimbursed by the levying and collection of state taxes. And against this mode of support, the objection of an individual, disapproving of the object of the public taxes, would have the same weight it can have against the mode of public support through the medium of corporate taxation. In either case, it can have no

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weight to maintain a charge of persecution for conscience' sake. The great error lies in not distinguishing between liberty of conscience in religious opinions and worship, and the right of appropriating money by the state. The former is an unalienable right; the latter is surrendered to the state, as the price of protection.

The second objection is, that it is intolerant to compel a man to pay for religious instruction, from which, as he does not hear it, he can derive no benefit. This objection is founded wholly in mistake. The object of public religious instruction is to teach, and to enforce by suitable arguments, the practice of a system of correct morals among the people, and to form and cultivate reasonable and just habits and manners; by which every man's person and property are protected from outrage, and his personal and social enjoyments promoted and multiplied. From these effects every man derives the most important benefits; and whether he be, or be not, an auditor of any public [410] teacher, he receives more solid and permanent advantages from this public instruction, than the administration of justice in courts of law can give him. The like objection may be made by any man to the support of public schools, if he have no family who attend; and any man, who has no lawsuit, may object to the support of judges and jurors on the same ground; when, if there were no courts of law, he would unfortunately find that causes for lawsuits would sufficiently abound.

The last objection is founded upon the supposed antichristian conduct of the state, in availing itself of the precepts and maxims of Christianity, for the purposes of a more excellent civil government. It is admitted that the Founder of this religion did not intend to erect a temporal dominion, agreeably to the prejudices of his countrymen; but to reign in the hearts of men, by subduing their irregular appetites and propensities, and by moulding their passions to the noblest purposes. And it is one great excellence of his religion, that, not pretending to worldly pomp and power, it is calculated and accommodated to meliorate the conduct and condition of man, under any form of civil government.

The objection goes further, and complains that Christianity is not left, for its promulgation and support, to the means designed by its Author, who requires not the assistance of man to effect his purposes and intentions. Our constitution certainly provides for the punishment of many breaches of the laws of Christianity, not for the purpose of propping up the Christian religion, but because those breaches are offences against the laws of the state; and it is a civil, as well as a religious duty of the magistrate, not to bear the sword in vain. But there are many precepts of Christianity, of which the violation cannot be punished by human laws; and as obedience to them is beneficial to civil society, the state has wisely taken care that they should be taught, and also enforced by explaining their moral and religious sanctions, as they cannot be enforced by temporal [411] punishments. And from the genius and temper of this religion, and from the benevolent character of its Author, we must conclude that it is his intention that man should be benefited by it in his civil and political relations, as well as in his individual capacity. And it remains for the objector to prove, that the patronage of Christianity by the civil magistrate, induced by the tendency of its precepts to form good citizens, is not one of the means by which the knowledge of its doctrines was intended to be disseminated and preserved among the human race.

The last branch of the objection rests on the very correct position that the faith and precepts of the Christian religion are so interwoven, that they must be taught together; whence it is inferred that the state, by enjoining instruction in its precepts, interferes with its doctrines, and assumes a power not intrusted to any human authority.

If the state claimed the absurd power of directing or controlling the faith of its citizens, there might be some ground for the objection. But no such power is claimed.

The authority derived from the constitution extends no further than to submit to the understandings of the people the evidence of truths deemed of public utility, leaving the weight of the evidence, and the tendency of those truths, to the conscience of every man.

Indeed, this objection must come from a willing objector; for it extends, in its consequences, to prohibit the state from providing for public instruction in many branches of useful knowledge which naturally tend to defeat the arguments of infidelity, to illustrate the doctrines of the Christian religion, and to confirm the faith of its professors.

As Christianity has the promise not only of this, but of a future life, it cannot be denied that public instruction in piety, religion, and morality, by Protestant teachers, may have a beneficial effect beyond the present state of existence. And the people are to be applauded, as well for their benevolence as for their wisdom, that, in selecting a religion whose precepts and sanctions might supply the [412] defects in civil government, necessarily limited in its power, and supported only by temporal penalties, they adopted a religion founded in truth; which in its tendency will protect our property here, and may secure to us an inheritance in another and a better country.

These objections to our constitution cannot be made by the plaintiff, who, having sought his remedy by an action at law, must support it as resting on our religious establishment, or his claim can have no legal foundation. . . .

[415] Again, it is asked, What relief can a few conscientious men have, who are of a religious sect, different from that of the parish in which they live, and have no teacher of any corporate society in their neighborhood, of their own sect or denomination, on whose instructions they can conscientiously attend?

The rights of conscience, in matters of religious opinion and worship, are protected by the second article; and by the third article, they are not obliged to attend on the instructions of any teacher, whom they cannot conscientiously hear. The inconvenience, therefore, is merely pecuniary, and of no great magnitude. In this case, they ought, as good citizens, to submit to those laws, from which they derive protection for their persons and property, and which must regulate the disposition of all assessments made [416] by their authority. When their numbers are large, and they are able and willing to submit to the obligation of electing and supporting a public teacher, the liberality of the legislature will grant them relief, by vesting them with corporate powers; when, in consequence of those powers, other corporations will not be disabled from discharging the duties already imposed on them by law. And it seems a mistake to suppose that the legislature cannot grant any further relief in particular cases, which in its discretion it may consider as deserving relief. Quakers are not provided for by the third article, because they have no teacher, and they resist the payment of any ministerial taxes. But they were exempted from ministerial assessments by the provisions of a provincial statute now expired; and those provisions are reenacted by the statute of 1799, c. 87.

But the object of the constitution was to settle general principles and to secure general rights, and not to legislate in all cases. If particular cases should arise, which might claim relief, consistently with the constitution, those cases were left to the discretion of the legislature, to whom the interests of the citizens are intrusted.

The last paragraph of the third article has also been pressed upon us. It provides that "every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of law; and no subordination of one sect or denomination to another shall ever be established by law."

In our opinion, this paragraph has no relation to the subject before us. Its object was to prevent any hierarchy, or ecclesiastical jurisdiction of one sect of Christians over any other sect; and the sect of Roman Catholics are as fully entitled to the benefit of

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this clause, as any society of Protestant Christians. It was also intended to prevent any religious test, as a qualification for office. Therefore those Catholics, who renounce all obedience and subjection to the pope, as a foreign prince or prelate, may, notwithstanding [417] their religious tenets, hold any civil office, although the constitution has not provided for the support of any public teacher of the Popish religion.

If this paragraph can be considered as relating to the provision for public teachers, a Catholic teacher of a Catholic congregation might maintain an action to recover the parish taxes of his hearers, as well as a public Protestant teacher of any incorporated religious society.

The only inferiority, created by the third article, is founded on a social principle, essential to the existence of any society—the submission of the minority to the majority. This submission is required, without any regard to sects or denominations of Christians. In the present case, if the plaintiff was of the same sect as the inhabitants of the first parish in *Falmouth*, and they were of the denomination to which he belongs, the law would be precisely the same.

This construction, which we find ourselves obliged to give to the constitution on this subject, is agreeable to the construction adopted by the legislature, as expressed in the statute of 1799, c. 87, before cited. Thus all citizens, except Quakers, are obliged to contribute to the support of public teachers; and when any member of any society, but of a different sect, shall request to have his taxes paid to the teacher of his own sect, but of another society, his request cannot prevail, but on his producing a certificate signed by his public teacher, and by a committee of the society, purporting in substance such facts as entitle him to the obtaining of his request; and the assessors of the society in which he dwells may afterwards omit him in their assessments.

This construction is not denied; but it is argued that the legislature cannot, by any construction, control the constitution. This is true; but where any part of the constitution is of doubtful construction, the opinion of the legislature deserves to be heard, and is entitled to due consideration. And in the present case, their construction [418] appears to us to be correct. Certainly no conclusion can be drawn from it, that the statute intended to exempt any citizen, except Quakers, from contributing to the support of some public Protestant teacher.

It is our opinion that the verdict do stand, and that judgment be rendered upon it.

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Records of the First Congress Pertaining to the Drafting of the Religion Clauses of the First Amendment (1789)

The records below from the House of Representatives are reproduced from the Annals of the Congress of the United States, volume 1, published by Gales & Seaton in Washington, DC, in 1834. The Annals were compiled using the best records available, primarily newspaper accounts. Speeches are paraphrased and cannot be considered verbatim accounts of the House debate.*

*The records below from the Senate are reproduced from the Journal of the Senate of the United States of America, published by Gales & Seaton in Washington, DC, in 1820.** Unfortunately, the Journal of the Senate lacks detailed information about, or even a paraphrased transcription of, the debates that took place on the Senate floor. It notes only the matters considered and the votes taken by the Senate.*

The House of Representatives

MONDAY, June 8

[448] MR. MADISON.—. . .

[450] The amendments which have occurred to me, proper to be recommended by Congress to the State Legislatures, are these:

[451] First, That there be prefixed to the Constitution a declaration, that all power is originally vested in, and consequently derived from, the people.

That Government is instituted and ought to be exercised for the benefit of the people; which consists in the enjoyment of life and liberty, with the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety.

That the people have an indubitable, unalienable, and indefeasible right to reform or change their Government, whenever it be found adverse or inadequate to the purposes of its institution. . . .

Fourthly. That in article 1st, section 9, between clauses 3 and 4, be inserted these clauses, to wit: The civil rights of none shall be abridged on account of religious belief or

*Available online at "Annals of Congress," Library of Congress, <http://memory.loc.gov/ammem/amlaw/lwac.html>.

**Available online at "Annals of Congress," Library of Congress, <http://memory.loc.gov/ammem/amlaw/lwsj.html>.

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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.

The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.

The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the Legislature by petitions, or remonstrances, for redress of their grievances.

The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms shall be compelled to render military service in person. . . .

[452] Fifthly. That in article 1st, section 10, between clauses 1 and 2, be inserted this clause, to wit:

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

SATURDAY, August 15

AMENDMENTS TO THE CONSTITUTION

[757] The House again went into a Committee of the whole, on the proposed amendments to the constitution, Mr. BOUDINOT in the chair.

The fourth proposition under consideration being as follows:

Article 1. Sect. 9. Between paragraph two and three insert "no religion shall be established by law, nor shall the equal rights of conscience be infringed."

Mr. SYLVESTER had some doubts of the propriety of the mode of expression used in this paragraph. He apprehended that it was liable to a construction different from what had been made by the committee. He feared it might be thought to have a tendency to abolish religion altogether.

Mr. VINING suggested the propriety of transposing the two members of the sentence.

Mr. GERRY said it would read better if it was, that no religious doctrine shall be established by law.

Mr. SHERMAN thought the amendment altogether unnecessary, inasmuch as Congress had no authority whatever delegated to them by the constitution to make religious establishments; he would, therefore, move to have it struck out.

Mr. CARROLL.—As the rights of conscience are, in their nature, of peculiar delicacy, and will little bear the gentlest touch of the governmental hand; and as many sects have concurred [758] in opinion that they are not well secured under the present constitution, he said he was much in favor of adopting the words. He thought it would tend more toward conciliating the minds of the people to the Government than almost any other amendment he had heard proposed. He would not contend with gentlemen about the phraseology, his object was to secure the substance in such a manner as to satisfy the wishes of the honest part of the community.

Mr. MADISON said, he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. Whether the words were necessary or not he did not mean to say, but they had been required by some of the State Conventions, who seemed to entertain an opinion that under the clause of the constitution, which gave power to Congress to make all laws necessary and proper to carry

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into execution the constitution, and the laws made under it, enabled them to make laws of such a nature as might infringe the rights of conscience, and establish a national religion; to prevent these effects he presumed the amendment was intended, and he thought it as well expressed as the nature of the language would admit.

Mr. HUNTINGTON said that he feared, with the gentleman first up on this subject, that the words might be taken in such a latitude as to be extremely hurtful to the cause of religion. He understood the amendment to mean what had been expressed by the gentleman from Virginia; but others might find it convenient to put another construction upon it. The ministers of their congregations to the Eastward were maintained by the contributions of those who belonged to their society; the expense of building meeting-houses was contributed in the same manner. These things were regulated by by-laws. If an action was brought before a Federal Court on any of these cases, the person who had neglected to perform his engagements could not be compelled to do it; for a support of ministers, or building of places of worship might be construed into a religious establishment.

By the charter of Rhode Island, no religion could be established by law; he could give a history of the effects of such a regulation; indeed the people were now enjoying the blessed fruits of it. He hoped, therefore, the amendment would be made in such a way as to secure the rights of conscience, and a free exercise of the rights of religion, but not to patronize those who professed no religion at all.

Mr. MADISON thought, if the word national was inserted before religion, it would satisfy the minds of honorable gentlemen. He believed that the people feared one sect might obtain a pre-eminence, or two combine together, and establish a religion to which they would compel others to conform. He thought if the word national was introduced, it would point the [759] amendment directly to the object it was intended to prevent.

Mr. LIVERMORE was not satisfied with that amendment; but he did not wish them to dwell long on the subject. He thought it would be better if it was altered, and made to read in this manner, that Congress shall make no laws touching religion, or infringing the rights of conscience.

Mr. GERRY did not like the term national, proposed by the gentleman from Virginia, and he hoped it would not be adopted by the House. It brought to his mind some observations that had taken place in the conventions at the time they were considering the present constitution. It had been insisted upon by those who were called antifederalists, that this form of Government consolidated the Union; the honorable gentleman's motion shows that he considers it in the same light. Those who were called antifederalists at that time complained that they had injustice done them by the title, because they were in favor of a Federal Government, and the others were in favor of a national one; the federalists were for ratifying the constitution as it stood, and the others not until amendments were made. Their names then ought not to have been distinguished by federalists and antifederalists, but rats and antirats.

Mr. MADISON withdrew his motion, but observed that the words "no national religion shall be established by law," did not imply that the Government was a national one; the question was then taken on Mr. Livermore's motion, and passed in the affirmative, thirty-one for, and twenty against it. . . .

MONDAY, August 17

AMENDMENTS TO THE CONSTITUTION

[778] The House went into a committee, Mr. BOUDINOT in the chair, on the proposed amendments to the constitution. The third clause of the fourth proposition in the report

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was taken into consideration, being as follows: "A well regulated militia, composed of the body of the people, being the best security of a free state, the right of the people to keep and bear arms shall not be infringed; but no person, religiously scrupulous, shall be compelled to bear arms."

Mr. GERRY.—This declaration of rights, I take it, is intended to secure the people against the mal-administration of the Government; if we could suppose that, in all cases, the rights of the people would be attended to, the occasion for guards of this kind would be removed. Now I am apprehensive, sir, that this clause would give an opportunity to the people in power to destroy the constitution itself. They can declare who are those religiously scrupulous, and prevent them from bearing arms.

What, sir, is the use of a militia? It is to prevent the establishment of a standing army, the bane of liberty. Now it must be evident, that under this provision, together with their other powers, Congress could take such measures with respect to a militia, as make a standing army necessary. Whenever Governments mean to invade the rights and liberties of the people, they always attempt to destroy the militia, in order to raise an army upon their ruins. This was actually done by Great Britain at the commencement of the late revolution. They used every means in their power to prevent the establishment of an effective militia to the eastward. The Assembly of Massachusetts, seeing the rapid progress that administration were making, to divest them of their inherent privileges, endeavored to counteract them by the organization of the militia, but they were always defeated by the influence of the Crown.

Mr. SENEY wished to know what question there was before the committee, in order to ascertain the point upon which the gentleman was speaking.

Mr. GERRY replied that he meant to make a motion, as he disapproved of the words as they [779] stood. He then proceeded. No attempts that they made were successful, until they engaged in the struggle which emancipated them at once from their thralldom. Now, if we give a discretionary power to exclude those from militia duty who have religious scruples, we may as well make no provision on this head. For this reason he wished the words to be altered so as to be confined to persons belonging to a religious sect, scrupulous of bearing arms.

Mr. JACKSON did not expect that all the people of the United States would turn Quakers or Moravians; consequently, one part would have to defend the other, in case of invasion. Now this, in his opinion, was unjust, unless the constitution secured an equivalent: for this reason he moved to amend the clause, by inserting at the end of it, "upon paying an equivalent to be established by law."

Mr. SMITH, of South Carolina, inquired what were the words used by the conventions respecting this amendment. If the gentleman would conform to what was proposed by Virginia and Carolina, he would second him. He thought they were to be excused provided they found a substitute.

Mr. JACKSON was willing to accommodate. He thought the expression was, "No one, religiously scrupulous of bearing arms, shall be compelled to render military service in person, upon paying an equivalent."

Mr. SHERMAN conceived it difficult to modify the clause and make it better. It is well known that those who are religiously scrupulous of bearing arms, are equally scrupulous of getting substitutes or paying an equivalent. Many of them would rather die than do either one or the other; but he did not see an absolute necessity for a clause of this kind. We do not live under an arbitrary Government, said he, and the States, respectively, will have the government of the militia, unless when called into actual service; besides, it would not do to alter it so as to exclude the whole of any sect, because there are men

amongst the Quakers who will turn out, notwithstanding the religious principles of the society, and defend the cause of their country. Certainly it will be improper to prevent the exercise of such favorable dispositions, at least whilst it is the practice of nations to determine their contests by the slaughter of their citizens and subjects.

Mr. VINING hoped the clause would be suffered to remain as it stood, because he saw no use in it if it was amended so as to compel a man to find a substitute, which, with respect to the Government, was the same as if the person himself turned out to fight.

Mr. STONE inquired what the words "religiously scrupulous" had reference to: was it of bearing arms? If it was, it ought so to be expressed.

Mr. BENSON moved to have the words "but no person religiously scrupulous shall be compelled to bear arms," struck out. He would always leave it to the benevolence of the Legislature, for, modify it as you please, it will be impossible to express it in such a manner as to clear it from ambiguity. No man can claim this indulgence of right. It may be a religious persuasion, but it is no natural right, and therefore ought to be left to the discretion of the Government. If this stands part of the constitution, it will be a question before the Judiciary, on every regulation you make with respect to the organization of the militia, whether it comports with this declaration or not? It is extremely injudicious to intermix matters of doubt with fundamentals.

I have no reason to believe but the Legislature will always possess humanity enough to indulge this class of citizens in a matter they are so desirous of; but they ought to be left to their discretion.

The motion for striking out the whole clause being seconded, was put, and decided in the negative—22 members voting for it, and 24 against it. . . .

[783] The committee then proceeded to the fifth proposition:

Article I, section 10, between the first and second paragraph insert "no State shall infringe the equal rights of conscience, nor the freedom of speech, or of the press, nor of the right of trial by jury in criminal cases."

Mr. TUCKER.—This is offered, I presume, as an amendment to the constitution of the United States, but it goes only to the alteration of the constitutions of particular States. It will be much better, I apprehend, to leave the State Governments to themselves, and not to interfere with them more than we already do; [784] and that is thought by many to be rather too much. I therefore move, sir, to strike out these words.

Mr. MADISON conceived this to be the most valuable amendment on the whole list. If there was any reason to restrain the Government of the United States from infringing upon these essential rights, it was equally necessary that they should be secured against the State Governments. He thought that if they provided against the one, it was as necessary to provide against the other, and was satisfied that it would be equally grateful to the people.

Mr. LIVERMORE had no great objection to the sentiment, but he thought it not well expressed. He wished to make it an affirmative proposition; "the equal rights of conscience, the freedom of speech, or of the press, and the right of trial by jury in criminal cases, shall not be infringed by any State."

This transposition being agreed to, and Mr. TUCKER's motion being rejected, the clause was adopted. . . .

THURSDAY, August 20

[795] AMENDMENTS TO THE CONSTITUTION

The House resumed the consideration of the report of the Committee of the whole on the subject of amendment to the constitution.

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Mr. AMES's proposition was taken up. Five or six other members introduced propositions on the same point, and the whole were, by mutual [796] consent, laid on the table. After which, the House proceeded to the third amendment, and agreed to the same.

On motion of Mr. AMES, the fourth amendment was altered so as to read "Congress shall make no law establishing religion, or to prevent the free exercise thereof, or to infringe the rights of conscience." This being adopted.

The first proposition was agreed to.

Mr. SCOTT objected to the clause in the sixth amendment, "No person religiously scrupulous shall be compelled to bear arms." He observed that if this becomes part of the constitution, such persons can neither be called upon for their services, nor can an equivalent be demanded; it is also attended with still further difficulties, for a militia can never be depended upon. This would lead to the violation of another article in the constitution, which secures to the people the right of keeping arms, and in this case recourse must be had to a standing army. I conceive it, said he, to be a legislative right altogether. There are many sects I know, who are religiously scrupulous in this respect; I do not mean to deprive them of any indulgence the law affords; my design is to guard against those who are of no religion. It has been urged that religion is on the decline; if so, the argument is more strong in my favor, for when the time comes that religion shall be discarded, the generality of persons will have recourse to these pretexts to get excused from bearing arms.

Mr. BOUDINOT thought the provision in the clause, or something similar to it, was necessary. Can any dependence, said he, be placed in men who are conscientious in this respect? or what justice can there be in compelling them to bear arms, when, according to their religious principles, they would rather die than use them? He adverted to several instances of oppression on this point, that occurred during the war. In forming a militia, an effectual defence ought to be calculated, and no characters of this religious description ought to be compelled to take up arms. I hope that in establishing this Government, we may show the world that proper care is taken that the Government may not interfere with the religious sentiments of any person. Now, by striking out the clause, people may be led to believe that there is an intention in the General Government to compel all its citizens to bear arms.

Some further desultory conversation arose, and it was agreed to insert the words "in person" to the end of the clause; after which, it was adopted, as was the fourth, fifth, sixth, seventh, and eighth clauses of the fourth proposition; then the fifth, sixth, and seventh propositions were agreed to, and the House adjourned.

The Senate

THURSDAY, September 3, 1789

[70] . . . The Senate resumed the consideration of the Resolve of the House of Representatives on the Amendments to the Constitution of the United States. . . .

On motion to amend article third, and to strike out these words: "religion, or prohibiting the free Exercise thereof," and insert, "one religious sect or society in preference to others";

It passed in the negative.

On motion for reconsideration:

It passed in the Affirmative.

On motion that article the third be stricken out:

It passed in the negative.

On motion to adopt the following, in lieu of the third Article: "Congress shall not make any law infringing the rights of conscience, or establishing any religious sect or society":

It passed in the negative.

On motion to amend the third article, to read thus: "Congress shall make no law establishing any particular denomination of religion in preference to another, or prohibiting the free exercise thereof, nor shall the rights of conscience be infringed";

It passed in the Negative.

On the question upon the third Article as it came from the House of Representatives:

It passed in the Negative.

On motion to adopt the third Article proposed in the Resolve of the House of Representatives, amended by striking out these words, "nor shall the rights of conscience be infringed";

It passed in the affirmative. . . .

WEDNESDAY, September 9, 1789

[76] . . . Proceeded in the consideration of the Resolve of the House of Representatives of [77] the 24th of August, on "Articles to be proposed to the legislatures of the several states as amendments to the Constitution of the United States"; and,

On motion to amend article the third, to read as follows: "Congress shall make no law establishing articles of faith or a mode of worship, or prohibiting the free exercise of religion, or abridging the freedom of speech, or the press, or the right of the people peaceably to assemble, and petition to the Government for the redress of grievances":

It passed in the Affirmative. . . .

On motion, on article the fifth, to strike out the word "fifth," after "article the," and insert "fourth," and to amend the article to read as follows: "A well regulated militia being the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

It passed in the affirmative. . . .

On motion to strike out the tenth and the eleventh articles:

It passed in the affirmative.

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Letter to the Annual Meeting of Quakers (1789)

George Washington

September 1789

Government being, among other purposes, instituted to protect the persons and consciences of men from oppression, it certainly is the duty of rulers, not only to abstain from it themselves, but, according to their stations, to prevent it in others.

The liberty enjoyed by the people of these states of worshipping Almighty God agreeably to their consciences, is not only among the choicest of their *blessings*, but also of their *rights*. While men perform their social duties faithfully, they do all that society or the state can with propriety demand or expect; and remain responsible only to their Maker for their religion, or modes of faith, which they may prefer or profess.

Your principles and conduct are well known to me; and it is doing the people called Quakers no more than justice to say, that (except their declining to share with others the burden of the common defense) there is no denomination among us, who are more exemplary and useful citizens.

I assure you very explicitly, that in my opinion the conscientious scruples of all men should be treated with great delicacy and tenderness; and it is my wish and desire, that the laws may always be as extensively accommodated to them, as a due regard to the protection and essential interests of the nation may justify and permit.



Letter to the Hebrew Congregation at Newport (1790)

George Washington

1790

Gentlemen:

While I received with much satisfaction your address replete with expressions of esteem, I rejoice in the opportunity of assuring you that I shall always retain grateful remembrance of the cordial welcome I experienced on my visit to Newport from all classes of citizens.

The reflection on the days of difficulty and danger which are past is rendered the more sweet from a consciousness that they are succeeded by days of uncommon prosperity and security.

If we have wisdom to make the best use of the advantages with which we are now favored, we cannot fail, under the just administration of a good government, to become a great and happy people.

The citizens of the United States of America have a right to applaud themselves for having given 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 were 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 in giving it on all occasions their effectual support.

It would be inconsistent with the frankness of my character not to avow that I am pleased with your favorable opinion of my administration and fervent wishes for my felicity.

May the children of the stock of Abraham who dwell in this land continue to merit and enjoy the good will of the other inhabitants—while every one shall sit in safety under his own vine and fig tree and there shall be none to make him afraid.

May the father of all mercies scatter light, and not darkness, upon our paths, and make us all in our several vocations useful here, and in His own due time and way everlastingly happy.

G. Washington

Jan. 1, 1802.

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Letter to the Danbury Baptist Association (1802)

Thomas Jefferson

Jan. 1, 1802.

To messrs. Nehemiah Dodge, Ephraim Robbins, & Stephen S. Nelson, a committee of the Danbury Baptist association in the state of Connecticut.

Gentlemen,

The affectionate sentiments of esteem and approbation which you are so good as to express towards me, on behalf of the Danbury Baptist association, give me the highest satisfaction. My duties dictate a faithful & zealous pursuit of the interests of my constituents, & in proportion as they are persuaded of my fidelity to those duties, the discharge of them becomes more and more pleasing.

Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & 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 & State. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties.

I reciprocate your kind prayers for the protection & blessing of the common father and creator of man, and tender you for yourselves & your religious association, assurances of my high respect & esteem.

Th: Jefferson