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The Spirit of the Times: Church, State and Revolution in Virginia

Kenneth William Rosenfeld
College of William & Mary - Arts & Sciences

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THE SPIRIT OF THE TIMES
Church, State and Revolution in Virginia

A Thesis

Presented to

The Faculty of the Department of Government
The College of William and Mary in Virginia

In Partial Fulfillment

Of the Requirements for the Degree of

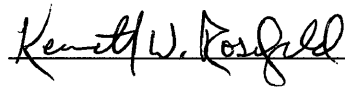
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Kenneth W. Rosenfeld

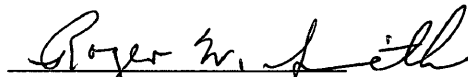
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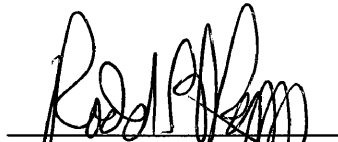
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Kenneth W. Rosfield

Approved, April 1996


Roger W. Smith


Ronald B. Rappoport

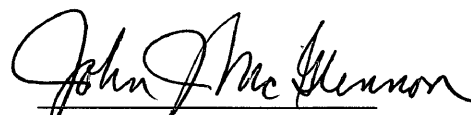

John J. McGlennon

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ABSTRACT

The separation of church and state is a defining moment in American history and political thought, and it can be traced through the decisions made in Virginia before and after the Revolutionary War. Virginia experienced an evolution in sentiment toward full religious freedom, but it faced the possibility of stalling at the end of the war. Instead, Virginians rejected backward moves, and adopted Thomas Jefferson's Statute for Religious Freedom.

This was accomplished as part of a social revolution which continued after the peace treaty was signed. Leading Virginians on both sides of the issue debated the merits of such a bold move, and the ultimate decision was in favor of Jefferson's bill. Political leaders and the general population combined to make this historic decision which continues to define American political thought.

THE SPIRIT OF THE TIMES

INTRODUCTION

There is nothing more common than to confound the terms American Revolution with those of the late American War. The American War is over, but this is far from being the case with the American Revolution. On the contrary but the first act of the great drama is closed.

Benjamin Rush, July 4, 1787¹

The American Revolution enjoys a mythical status, replete with epic heroes, herculean efforts, tragic struggles, and wondrous victories. The image is not one that grew slowly over generations; rather, at the very moment the events were unfolding, the American people transformed the Revolution into a venture greater than a military effort. It took hold in state capitols, courts, churches, schools, fields and homes. Out of this environment emerged the Declaration of Independence, the Constitution and the Bill of Rights -- documents which crystallized revolutionary social thought, and altered the way the world viewed human interaction. Forever changed was the role of government in free society; the issue which embodied this change was the historic emergence of religious freedom.

It has often been concluded that of all the significant innovations produced by the American experiment, the most important is the separation of church and state. This change

¹ Richard B. Morris, The American Revolution Reconsidered (New York, NY: Harper & Row, Publishers, Inc., 1967), 84-5.

was so drastic that centuries later Americans continue a struggle to define what occurred, and to what end. Value-laden terms are tossed about with little concern for their meanings. At the same time that everyone agrees that "religious freedom" is a glorious tenet of free society and holds the unique status of a "right," the phrase "separation between church and state" is quoted with reverence by some, and contempt by others. Religious freedom and church/state separation are inexorably linked, even synonymous, but Americans often find themselves diametrically opposed to one another on this issue. The Framers left later generations with as many questions as answers: a predominantly homogenous society chose to emphasize the rights of the individual and the minority; religious citizens fought to remove religion from government and create a secular society; the separation of church and state was intended not to benefit one body or the other, but both church and state.

At a minimum, this contest persisted for a full decade after declaring independence; it continues to resonate today. Scholars, politicians, and the general public discuss the intent of the Founders, and arrive at wildly different conclusions. Everyone has an opinion, but exposing "intent" is a difficult and perilous undertaking. The Framers are long gone, as is the version of America which they knew. Even if there was some agreement on intent, it is only as useful as we desire it to be. Thomas Jefferson stressed that every generation must reinvent itself; change, ideally progress, has traditionally been an American trait. Still, America is rooted in certain ideals, and it is important that Americans understand them. There are resources available to consider the thorny question of intent, and they are used here: first-person accounts by the principal actors, government records and documents, citizen petitions, and more.

To properly address this question, one must go to not only primary sources, but also the physical source -- Virginia. The colony stretched from the Atlantic Ocean to the Mississippi River, it was the most populous jurisdiction of the revolutionary period, and its economy, history and physical location thrust it to the forefront of American life. The large and increasingly diverse population combined with a unique class of statesmen to produce a crucible of political thought, and a driving force behind the American Revolution. John Adams wrote to Patrick Henry in 1776: "We all look up to Virginia for examples."²

Virginia held the focus of the debate on church and state relations, and not coincidentally produced the ideas and the documents which altered America. Generations after Virginia's settlement, the church remained established by law, but the landscape of the colony had changed. Populated by immigrants of diverse backgrounds and religions, the largest colony in America faced an increasing problem. With its aforementioned qualities, Virginia provided the ultimate setting for this debate.

In Virginia, the Revolutionary War was not aimed at disestablishing the church. The war for political independence, however, overlapped and became enmeshed with an ongoing revolution for social reform -- a movement that survived and persevered after the peace treaty was signed, and witnessed the adoption of the Virginia Statute for Religious Freedom. This success came with great difficulty, however. Not everyone believed that there was more to the conflict than separation from Great Britain. "A fundamental mistake of the Americans," wrote Noah Webster, "has been that they considered the Revolution as completed when it is

² Thomas E. Buckley, Church and State in Revolutionary Virginia, 1776-1787 (Charlottesville, VA: University Press of Virginia), 6.

just begun."³

This paper begins by tracing the evolution of the relationship of church and state in Virginia, beginning with settlement at Jamestown, and following the issue through decades of social change. The middle chapter examines the leading political actors who together formed the unique class of statesmen in revolutionary Virginia. Finally, the critical series of events which comprised the decade between 1776 and 1786 are explored, culminating in the separation of church and state in the Old Dominion. The evidence reveals two central and complementary conclusions: the celebrated Virginia Dynasty was not at all in agreement on the direction this issue should take; but through the exertions of some political leaders and through the insistence of the general population, Virginia maintained the spirit of the revolution, resolved the question of religious freedom, and set a clear course for the future of America.

³ Morris, 84; Harold Hellenbrand, The Unfinished Revolution: Education and Politics in the Thought of Thomas Jefferson (Newark, DE: University of Delaware Press of Associated University Presses, 1990), 12.

CHAPTER ONE

ESTABLISHMENT

In the spring of 1607, Englishmen arrived in the Chesapeake Bay. The creation of the colony of Virginia was an attempt to glorify King James I and all that the English empire represented -- including its religion. The landing site on the south entrance to the bay received the name "Cape Henry" in honor of the Prince of Wales; a cross was quickly erected.⁴ There would be no question as to the religious orientation of Virginia. The founders hoped to establish a colony that would not only benefit England materially, but would eventually serve as a suitable representative of English culture. The Church of England was a dominant part of that culture which was transported to the New World. The appointment of a rector to Virginia symbolized the significance of the undertaking, and the establishment of a permanent outpost of English people, customs, and religion.⁵

The relationship between church and state would differ in every American colony, but as always, Virginia held a distinction. Some colonies experienced religious pluralism, and several were founded, in theory, as homes for dissenters. In Virginia, as a royal colony, the

⁴ Virginius Dabney, Virginia: The New Dominion (Charlottesville, University Press of Virginia, 1971), 3.

⁵ George M. Brydon, Virginia's Mother Church (Richmond, VA: Whittet and Shepperson, 1947), 1-4.

Church of England was firmly established, and from the beginning every attempt was made to imitate the model of the mother country.⁶ The Anglican Church was in every way part of the state; the King acted both as the head of state and as the church's highest representative on earth.⁷

Every government in colonial America eventually struggled with the issue of religious freedom. Even Pennsylvania and Maryland, designated as bastions of religious freedom, were at times clearly intolerant of non-Christians and even some Christian dissenters. In a land desperate for labor, it was not unusual to be refused the privilege of immigration on the basis of religion. Once present in colonial America, penalties inflicted on dissenters included refusal of the rights to vote, hold public office, and own property, and in some cases, lives were taken.⁸ In this respect, Virginia was quite similar.

The original charters of the Virginia Company were riddled with references to religion, showing how ingrained the church was in English society, and how decisive its influence could be. In the opening paragraph of the initial charter, dated April 1606, the jurisdiction of Virginia was set as any territory within specified boundaries, not otherwise "actually possessed by any christian prince or people." The attitude toward non-Christians was clear. The leaders of the colony were also charged with the responsibility of furthering the religious aspect of the settlement, "that the true word, and service of God and Christian

⁶ Buckley, 5.

⁷ Dell Upton, Holy Things and Profane: Anglican Parish Churches in Colonial Virginia (Cambridge, MA: The MIT Press, 1986), 55.

⁸ Henry W. Foote, The Religion of Thomas Jefferson (Boston, MA: Beacon Press, 1960), 32-4.

faith be preached, planted, and used."⁹

The charters did not limit their religious influence to the scope of English settlers. An additional mission implored settlers to spread the faith to the native inhabitants of the land, under what was believed to be good intentions. Conversion of the American Indians was viewed as a "noble" undertaking, which would assist "such people, as yet live in darkness and miserable ignorance of the true knowledge and worship of God, and may in time bring the infidels and savages, living in those parts, to human civility, and to a settled and quiet government."¹⁰

If Virginia was to be a home to the Anglican Church, and the English version of "civility," other religions needed to be excluded from the colony. The Charter of 1612 included measures to keep out those who did not believe in the appropriate faith. Specifically, it stated that entrance should not be permitted for those "suspected to effect the superstitions of the church of Rome." The settlement's council was instructed to ensure this by administering an "oath of supremacy" to all people voyaging to the colony.¹¹

When martial law was declared in Jamestown in 1610, many of the articles dealt directly with religion. Prayer services were mandatory, performed twice daily, in the morning and evening; settlers who missed them "often and wilfully" were subject to punishment. Speaking "impiously or maliciously" against the Trinity, the Christian religion, or a minister,

⁹ William W. Hening, ed., Hening's Statutes at Large (Charlottesville, VA: University Press of Virginia, 1969), I-57,68.

¹⁰ Ibid., 58.

¹¹ Ibid., 98.

would necessitate corporal punishment, even death. Any man or woman leaving the faith, and not responding to the help of the minister, was to be whipped.¹²

Martial law ended, but strict regulations concerning religion continued to become law in seventeenth century Virginia. One law restricted travel on Sunday, and required church attendance. If services were not attended "diligently," the penalty was a fine of fifty pounds of tobacco; Quakers were allowed to pay their fines by the month. Another law set the penalty for refusing to baptize a child with "a lawfull minister": two thousand pounds of tobacco, to be split evenly between the government and the informer. Virginia even found it necessary to restrict sheriffs from executing writs or warrants on Sundays. According to this law, officers, "for their owne ease and benefitt," had been performing their duties at church, where all citizens were required to appear; apparently, church attendance suffered, "neglected by such who are in danger of arrests."¹³

The church continued to define societal relationships throughout the colony. To ensuing generations of Virginians, the church was a regular facet of daily life, and an accepted part of the civil authority. Taxes on every "tithable" person, levied by the county courts, paid for ministers' salaries and the building and maintenance of churches. Office-holders had to be members of the Anglican Church. Not only were local vestrymen public officers, but vestries and county courts were often comprised of the same individuals. In some locations,

¹² Brydon, 411-13.

¹³ Hening, II-48, II-165-6, I-457.

clerks transcribed the proceedings of both bodies in the same book.¹⁴ The intent of this close relationship between church and state was to promote civic qualities as well as spiritual, and this link was physically symbolized in every church, evidenced by a central display of the Royal Arms, juxtaposed with the Ten Commandments.¹⁵

TOLERATION

English laws concerning religion would have been unnecessary if all citizens shared the same opinions. Long before the settlement of America, England had already made some movement toward the acceptance of religious dissenters. In the sixteenth century, in an attempt to unite the nation, Elizabeth informally allowed for toleration of dissenters, as long as they followed the laws of the land. Breaking the law would be a civil offense, but this was a small step away from intrusion into what Elizabeth called "men's souls."¹⁶

In seventeenth century Virginia, the establishment of religion posed problems from the beginning. Virginia's physical situation created difficulties long before dissent or anti-establishment principles became serious concerns.¹⁷ With an ocean separating America from England, the distance from religious centers was an issue faced by every colony. Additionally,

¹⁴ Edmund S. Morgan, American Slavery, American Freedom: The Ordeal of Colonial Virginia (New York, NY: W.W. Norton & Company, Inc., 1975), 209, 150.

¹⁵ Upton, 96-97.

¹⁶ Buckley, 3.

¹⁷ Bernard Bailyn, The Ideological Origins of the American Revolution (Cambridge, MA: The Belknap Press of Harvard University, 1967), 247.

despite Virginia's relatively large population, the countryside was sparsely populated, as settlers steadily spread out in search of farmland. Central authority, not only in London but even within Virginia, was thus limited in its abilities to manage colonists.

A utilitarian concern furthered the increase of toleration. In a region new to Europeans, where death annually conquered a significant portion of the population, there was a continuous need for labor. Encouraging immigration sometimes required relaxing the rigidity of religion-based codes, but it was viewed as being in the best interest of the settlement. At various times, waves of settlers entered the colony with different backgrounds: Scottish, Scotch-Irish, Huguenot, German, Dutch, etc. And Virginia never had secure borders. For instance, despite several laws forbidding Quakers to enter Virginia, they found their way into the colony in increasing numbers.¹⁸

The important consideration was that these new citizens would be productive members of society, but not disturb the status quo. A 1679 instruction to the governor stated the essence of toleration as viewed by the British government: "And because we are willing to give all possible encouragement to persons of different persuasions in matters of religion to transport themselves thither ... you are not to suffer any man to be molested or disquieted in the exercise of his religion so he be content with a quiet and peaceable enjoyment of it, not giving offense or scandal to the government." The document concludes, however, by strongly encouraging the governor to advocate the official religion to "all others under your

¹⁸ Brydon, 247, 197.

government."¹⁹ Varying forms of this official view of religion remained until the American Revolution.

In England, the notion of religious liberty gradually gained popularity, but the practical situation demanded toleration as a minimum. The growing multitude of religious sects made strict uniformity impossible in English society. The result was the Toleration Act of 1688-89. Religious liberty was not granted, but for certain denominations the act relaxed several requirements, reducing the quantity of persecution permissible under the law.²⁰

Toleration, however, does not equal religious freedom; the increase in the former still left considerable remains of long-standing policy. "Toleration is not the opposite of intolerance, but is the counterfeit of it," wrote Thomas Paine. "Both are despotisms. The one assumes to itself the right of withholding liberty of conscience, the other of granting it." From 1679 until the American Revolution, Virginia's governors held this royal instruction: "Take special care that God Almighty be devoutly and duly served throughout your government, the Book of Common Prayer as by law established read each Sunday and holy day, and the Blessed Sacrament administered according to the rites of the Church of England." The special status of an individual sect was not only protected, but encouraged. Until 1756, the governor and council were also directed to pursue the conversion of blacks and American Indians "to the Christian religion."²¹

¹⁹ Leonard W. Labaree, ed., Royal Instructions to British Colonial Governors Vol. II:1670-1776 (New York, NY: D. Appleton-Century Company, Inc., 1935), 495.

²⁰ Buckley, 3; Brydon, 210.

²¹ Moncure D. Conway, Omitted Chapters of History Disclosed in the Life and Papers of Edmund Randolph (New York, NY: G.P. Putnam's Sons, 1888), 161; Labaree, 482, 505.

Entire segments of the population were disadvantaged for professing certain religions. It remained illegal for parents not to baptize their children. Quakers were prohibited from assembling. Jews and Roman Catholics lacked many of the same civil liberties other Virginians enjoyed. These groups and others were often able to take part in their worship, but only at a price. As Thomas Jefferson later remarked, immigrants "cast their eyes on these new countries as asylums of civil and religious freedom; but they found them free only for the reigning sect."²²

AWAKENING

Progress toward religious freedom was slow in the eighteenth century, but beyond the realm of laws and royal instructions, great changes were occurring in the world of ideas. Of greatest importance was the spread of the Enlightenment -- the era of Francis Bacon, Isaac Newton, and John Locke. It was hoped that with continuous and intensive study, one may come closer to an understanding of how the world operates. European authors championed the pursuit of knowledge, the growth of reason, and a revolutionary concept -- natural rights.

John Locke left an especially lasting effect on political thought, particularly on the issue of church and state. Locke defined the purpose of religion as "the regulating of men's lives according to the rules of virtue and piety"; the function should not be "erecting an external pomp, nor to the obtaining of ecclesiastical dominion, nor to the exercising of

²² Merrill Peterson, ed., The Portable Thomas Jefferson (New York, NY: Viking Penguin, Inc., 1975), 208; Buckley, 3-4.

compulsive force."²³ As with many Enlightenment thinkers, Locke cherished the essence of religion, but questioned much of the practice.

Locke drew a clear line between church and state, which to him were two complementary but separate spheres. "The magistrate ought not to forbid the preaching or professing of any speculative opinions in any church," Locke wrote, "because they have no manner of relation to the civil rights of subjects." It similarly follows, Locke reasoned, that no church holds "any right of jurisdiction over those that are not joined with it."²⁴

Locke believed, however, that religion is necessary to the survival of a society. This was a delicate balance he formed between the rights of the individual and the community, and some groups did not fit into the equation. Atheists, for instance, held no place in Locke's image of society:

Promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist. The taking away of God, though but even in thought, dissolves all. Besides, also, those that by their atheism undermine and destroy all religion, can have no pretence of religion whereupon to challenge the privilege of a toleration.

This reference to toleration, by a tower of the Enlightenment, demonstrates how harsh the concept can be, while defining its status as a privilege. Atheists, according to Locke, should be "shut out of all sober and civil society."²⁵ Still, Locke represented a stance vastly more liberal than what was generally accepted around the world.

In America, the ideas of the European Enlightenment stimulated part of a rising

²³ John W. Yolton, A Locke Dictionary (Cambridge, MA: Blackwell Publishers, 1993), 124.

²⁴ *Ibid.*, 126-7.

²⁵ *Ibid.*, 127, 23.

generation of leaders. The traditional establishment of the era was not nearly as enthusiastic to experience the spread of these principles. The secular pursuit of knowledge led to a questioning of religion, and specifically organized religion. Religious skepticism often evolved into anticlericalism and a challenge to dogmatic teaching.

The Anglican clergy in Virginia were already faced with an image problem. A large number of these ministers were not serving in the New World by choice; many came to Virginia because their services were not desired at home. The Virginia clergy, according to Edmund Morgan, "contained a high proportion of misfits, drunkards, and libertines who had come to the colonies because no parish in England would have them." That may be an exaggeration, but the clergy, no matter their background, arrived to a tenuous position once situated in Virginia. The ministers held their positions at the discretion of the local vestries, instead of the Anglican leadership in London. This responsibility of the local gentry, granted out of necessity, meant an unusual degree of job insecurity and subservience for an English clergyman.²⁶

The above factors combined to place the ministers lower on Virginia's social scale than might be expected; some of the more prosperous planters did not wish for their daughters to marry one. One effort to raise the standards of Virginia's clergy came to fruition in the final years of the seventeenth century, with the establishment of the College of William and Mary.²⁷ Chartered in 1693, making it the second college in America, William and Mary was intended to educate Virginians from reputable families, and create a native-born clergy. This mission,

²⁶ Morgan, 348-9.

²⁷ Ibid., 348-9.

along with a largely unsuccessful attempt to Christianize American Indian youth, demonstrates the distinct religious aspect of the Anglican school.

Anticlericalism persisted as an undercurrent in Virginia society, but it rose to new levels in the mid-eighteenth century. Specifically, the Two-Penny Act of 1759 created a void between the colony's clergy and political leaders. An indirect effect of the act devalued the ministers' income, and the clergy responded by appealing to London. In the short-term, the appeal was successful. The King disallowed the Two-Penny Act, and the clergy successfully sued for reparation in the Parsons' Cause cases. Furthermore, the Bishop of London sent a scathing letter to the people of Virginia, denouncing them for their disrespect to the Church of England, lack of discipline in dealing with dissenters, and desire "to lessen the influence of the crown and the maintenance of the clergy."²⁸ In the long-term, however, this controversy foreshadowed great upheaval. In the minds of much of Virginia's leadership, the clergy, with support from England, acted against the interest of the public. Frustration and anger were directed toward the clergy, the Bishop of London, and the King.

While the entrenched clergy struggled with their reputation, and the Enlightenment arrived from across the Atlantic, another significant set of ideas swept across eighteenth century America. The first Great Awakening, with its evangelical style and itinerant preachers, spread from the northern colonies down through the entire country, reaching Virginia in the 1740s. This was a cultural change not at all based on rationality as was the Enlightenment, but it caused a similar type of questioning that would challenge the existing society.

²⁸ Bailyn, 252-3.

Arriving in the colony in 1748, Samuel Davies typified the introduction of the Great Awakening to Virginia. Davies was granted a license to preach as a Presbyterian minister, but his future influence on the colony was certainly underestimated and unexpected. He immediately attracted an audience with his zealous preaching. Davies' style and substance was well received by a large number of Virginians, and his following spread from county to county. He avoided the appearance of directly opposing the Anglican Church, and kept his movement within acceptable limits granted to dissenters. However, he also helped spur an increase in the amount of influence wielded by dissenters in the colony.²⁹

Adding to this internal wave of dissent, Baptists and Presbyterians rapidly immigrated into Virginia. The uneasy standoff of the 1740s and '50s gave way to widespread unrest in the next two decades. The Separate Baptists, New Light Presbyterians, and by the 1770s the Methodists, were all hostile to coercion, especially in matters of religion. During these decades, some of the rising religious groups followed the existing rules of toleration, while others, such as the Separate Baptists, refused to submit to what they considered unjust laws. The established clergy, shocked by these groups' methods of worship, were unsympathetic to their difficulties. There were attempts ranging from court action to violence, intended to disrupt the revivals held by dissenting groups; such action was often self-defeating, increasing the prominence of the movement. The crowds of dissenters grew larger, while traditionalists believed that society, based on the existing acts on toleration, was being disturbed.³⁰

²⁹ Bailyn, 251; David A. McCants, Patrick Henry: The Orator (New York, NY: Greenwood Press, 1990), 22.

³⁰ Bailyn, 257-8; Buckley, 9-14; Rhys Isaac, The Transformation of Virginia: 1740-1790, reprint (New York, NY: W.W. Norton & Company, Inc., 1988), 192-93, 152.

In the eyes of many Virginians, the Anglican clergy were not positioned to recover from a long series of public relations errors. This was understood by all sides of the religious spectrum. Thomas Jefferson recounted the situation in a letter written late in his life: "Our clergy, before the Revolution, having been secured against rivalry by fixed salaries, did not give themselves the trouble of acquiring influence over the people." Edmund Randolph offered a similar interpretation of the Anglican troubles, in comparing the perspectives of competing clergymen: "Those of the Church of England were planted on glebes, with comfortable houses, decent salaries, some perquisites, and a species of rank which was not wholly destitute of unction ... The dissenters, on the other hand, were fed and clothed only as they merited the gratitude of their congregations. A change or modification of the ancient regime carried no terrors to their imagination."³¹

Virginians were uncertain how the laws on religion should be interpreted in their situation, and the tumult continued. By this time, the Burgesses had little choice but to respond to increasing pressure and address the multiplying calls for religious freedom. In 1769, the House created a Committee for Religion. In 1772, the House of Burgesses attempted to clarify the official position on dissenters, but with little success. The Committee for Religion reported that recent petitions from dissenting groups were reasonable, and referred the entire matter to the House for consideration. The resulting bill restated the toleration acts and extended their coverage to all Protestant dissenters. However, many Virginians remained excluded, and the situation for the affected groups barely improved.

³¹ Dumas Malone, Jefferson and His Time, Vol. 1, Jefferson the Virginian (Boston, MA: Little, Brown and Company, 1948), 276; Conway, 157-8.

According to the bill, dissenters were permitted to meet only during daylight hours, in licensed places of worship, and with unlocked doors. Baptizing slaves and preaching to them was prohibited. Dissenters could still be forced to take test oaths and swear to the articles of the Church of England.³²

The bill survived several readings in the House, but its publication provoked public outrage. Instead of easing the religious controversy and soothing nerves, the committee appeared to side heavily with the establishment. A fresh wave of petitions arrived from throughout the colony.³³ However, more pressing concerns captured the attention of the House, and the bill was held over from year to year. In 1774, a young and astute James Madison assessed the legislative stalemate pessimistically, from the dissenters' point of view:

We have it is true some persons in the Legislature of generous Principles both in Religion & Politicks but number not merit you know is necessary to carry points there. Besides, the Clergy are a numerous and powerful body ... and will naturally employ all their art & Interest to depress their rising Adversaries; for such they must consider dissenters who rob them of the good will of the people and may in time endanger their livings and security.³⁴

As the prospect of rebellion against England mounted, the religion question temporarily subsided; the controversial bill in the House of Burgesses was tabled piece by piece.

Throughout these final years leading to war, religion continued to play a central role in the colony. When England announced that on the first day of June, 1774, it would close

³² Oliver Perry Chitwood, Richard Henry Lee: Statesman of the Revolution (Morgantown, WV: West Virginia University Library, 1967), 52; Bailyn, 258.

³³ Bailyn, 258.

³⁴ William T. Hutchinson and William M.E. Rachal, eds., The Papers of James Madison (Chicago, IL: The University of Chicago Press, 1962-), I-112.

the port of Boston, Massachusetts, the leadership in Virginia knew one response that would signify the extreme importance of the time -- an official day of fasting and prayer. Thomas Jefferson, who would later lead the effort to separate church and state, was among the select group of leaders in the House which organized this protest. In this instance, the practical side of Jefferson overwhelmed his idealistic tendency: "We were under conviction of the necessity of arousing our people from the lethargy into which they had fallen, as to passing events; and thought that the appointment of a day of general fasting and prayer would be most likely to call up and alarm their attention."³⁵

The House leaders produced a bill calling for such an occasion, specifying the first day of June. The intent, according to Jefferson, was threefold: "to implore Heaven to avert from us the evils of civil war, to inspire us with firmness in support of our rights, and to turn the hearts of the King and Parliament to moderation and justice." The small group which framed the resolution was composed of younger leaders in the House, and they realized that the introduction of such a solemn proposition would be better left to an elder Burgess. They easily arrived at their choice, Robert Carter Nicholas, "whose grave and religious character was more in unison with the tone" of the resolution. Nicholas acceded, and moved the resolution the same day he received it. Jefferson noted the immediate outcome in the House: "[I]t passed without opposition. The Governor dissolved us, as usual."³⁶

Thus, at the urging of the government, citizens throughout Virginia met in assemblies

³⁵ Saul K. Padover, ed., The Writings of Thomas Jefferson (New York, NY: The Heritage Press, 1967), 10.

³⁶ *Ibid.*, 11.

to pray on June 1, 1774. Ministers directed ceremonies and spoke of the ominous events faced by the colonies. Localities elected delegates for a Continental Congress to be held in Philadelphia. Jefferson recounted the day as an unqualified success: "The people met generally, with anxiety and alarm in their countenances, and the effect of the day, through the whole colony, was like a shock of electricity, arousing every man, and placing him erect and solidly on his centre."³⁷ Church and state continued to form a unique relationship in America, and a new generation of political leaders began to address the meaning of revolution.

³⁷ Ibid., 11.

CHAPTER TWO

Centuries removed from the era, some are tempted to characterize the revolutionary generation of Virginia's political leaders as a single group. They were white, male, and generally quite wealthy. Beneath the surface, however, there were occasional profound disagreements. Closer inspection reveals a wealth of spirited debate among contrasting personalities and ideologies. Political alliances shifted continually. No issue illustrates this better than the extended debate on religious freedom. By the time of Independence, individual delegates came to the House with differing religious and educational backgrounds, and more significantly, with different ideas and visions. Yet, two fairly distinct camps formed to contest this issue, creating a debate so complex and emotional that individuals on all sides of the question were known as friends of religious freedom.

THE DEFENDERS

Patrick Henry embodied this complicated time. Widely regarded as a champion of religious freedom, he was also the unquestioned leader of the forces in Virginia who sought to retain the tie between church and state. Throughout his life, Henry was personally and politically torn between the worlds of the Anglican establishment and the frontier dissenters. With his dynamic personality and oratory prowess, he became a forceful leader who

successfully moved among many social circles.

Henry was born in 1736 into an Anglican family, as was most of the generation, and his was strongly religious. His father was a vestryman, and his uncle and namesake served as a minister in the Church of England. From his earliest years, he was indoctrinated with the conservative notions of the Anglican establishment. In his youth, he attended services directed by his uncle, sitting with his parents in the pew reserved for vestrymen and justices and their families. Henry remained a devout Episcopalian throughout his life.³⁸

This portrait of Henry is incomplete, however, without noting where he was born and lived for most of his life. Hanover County was not the edge of the Virginia frontier, but it remained extremely rural in the mid-eighteenth century, and effectively removed from the centers of establishment in the Tidewater. This county was one of the earliest locations of organized religious dissent in the colony. In the 1730s, in the decade of Henry's birth, a group displeased with their minister's preaching stopped attending Anglican services. The minister was Henry's uncle, the Reverend Patrick Henry. The Great Awakening soon reached the family on an even more personal level, when Henry's mother, Sarah, began attending Presbyterian services in Hanover. When Patrick Henry was eleven years old, his mother began taking him to these services, and he continued to attend voluntarily into his twenties.³⁹

The year after Henry began to frequent the Presbyterian church, a new minister arrived to lead the congregation -- an individual who influenced Henry's life in historic proportions. The new Presbyterian minister was Samuel Davies. For a dozen years, Henry received

³⁸ McCants, 21.

³⁹ Ibid., 19-22.

religious tutelage from arguably the leading dissenting voice in Virginia. Davies stayed in Hanover until 1759; Henry left the church the same year. Having absorbed Calvinistic doctrines, Henry entered his adult life equipped with knowledge of ideas such as democracy and individual conscience.⁴⁰

Henry's most renowned skill, oratory, can also be traced from Davies. Henry's rhetorical presence was clearly modeled from the evangelical style that fueled the Great Awakening. American oratory changed forever, as a new persuasive style of speech won public attention away from the stiff, staid manner of the past. Samuel Davies is sometimes credited with founding this revolution in language. Henry could not have had a better example as a youth, and he claimed that from Davies he learned "what an orator should be." His oratorical skill quickly made him a spokesman for the people and a popular hero. It also made Henry a symbol of change which attracted hostility from members of the gentry. The new style of communication was a symptom of the growing notions of equality and social leveling.⁴¹

Henry's arrival on the public stage coincided neatly with a rising tide of public unrest, including the increasing frustration with England. Patrick Henry was not yet thirty years old when he made his place in American history. In 1765, the House of Burgesses debated how to respond to the Stamp Act. Henry took the floor and espoused resolutions calling for opposition -- opposition to a law approved by both Parliament and the King. His message seemed so radical for the time, and it was delivered in such an unusual style, that cries of

⁴⁰ Ibid., 22.

⁴¹ Ibid., 30-1.

sedition followed from much of the House. But the news of Henry's performance soon spread across Virginia, and through the press it spread to the north. And standing at the door of the House, a young law student watched Henry in awe. Thomas Jefferson remembered the moment more than fifty years later, recounting that he "heard the splendid display of Mr. Henry's talents as a popular orator. They were great indeed; such as I have never heard from any other man. He appeared to me to speak as Homer wrote."⁴²

Henry parlayed his social and oratorical skills into a life-long legal career, which in turn spurred his political success. As a lawyer, his Presbyterian influences led him to take up the cause of religious dissenters. Early in his career, for instance, Henry assisted Quakers with their request for legislative exemption from military service, based on religious belief. Soon, Henry was so celebrated that his legal practice, similarly to his political career, became a mixture of fact and legend, growing to mythical status.

Throughout rural Virginia, stories extolling Henry thrived and multiplied. One told of Henry riding fifty miles out of his way to Spotsylvania, where he volunteered his services to Baptist preachers who were jailed for professing their faith. Reportedly, Henry quickly embarrassed the prosecution into dropping the case. Another story had Henry travelling to Chesterfield County, where he successfully overturned an order jailing an itinerant preacher. The jailer would not release the prisoner without receiving payment for the costs of confinement -- an expense the preacher could not afford. Soon after, an anonymous friend

⁴² Padover, 8.

paid the fees. Patrick Henry, the preacher later discovered, was the anonymous man.⁴³

Subsequent involvements in church/state matters are not always clear, such as Henry's disputed relationship with the religion clause in the Virginia Declaration of Rights. But this champion of religious freedom was very clear in the ensuing battles in the House of Delegates. Henry believed that the rights of all Christian denominations deserved to be protected, but only Christian sects. Furthermore, he believed that a connection between church and state was necessary to preserve society.⁴⁴ These two points created the line of division which framed the debate in Virginia.

Henry was not unusual in holding these opinions, and many leading figures in the colony echoed him, in differing degrees. That list included perhaps the most towering individual of the time -- George Washington. Though never considered one of the leading thinkers of his era, Washington was excellent in dealing with both issues and people. Revered to an unparalleled degree, Washington's opinion carried great weight with all sectors of the population. He was literally a legend in his own time. Early biographer Mason Weems even lamented that the public lacked a thorough knowledge of Washington as a private man, "below the clouds." Instead, he wrote, we merely know Washington "the HERO, and the Demigod - Washington the sun-beam in council, or the storm in war."⁴⁵

This one man became the center of the nation, nearly regarded as a religious leader

⁴³ Henry Mayer, A Son of Thunder: Patrick Henry and the American Republic (New York, NY: Franklin Watts, 1986), 160-1.

⁴⁴ McCants, 23, 21.

⁴⁵ Mason L. Weems, The Life of George Washington (Philadelphia, PA: J. Allen, 1840), 7.

himself, embodying the spirit of the new country. Criticism was sometimes directed at Washington, especially in military matters, but it could not affect his burgeoning status; he had become the integral part of a new national mythology.⁴⁶ Washington handled the unique position well. He was not only a powerful symbol, but a good manager, and it was these factors combined which made him indispensable to the fledgling nation. He was known to direct his attention to the most important issues, have an excellent sense of timing, and make the best use of a powerful personality. The leadership of Washington was crucial to the immediate accomplishment of the Revolutionary War -- an orderly transfer of power following Independence. Few revolutions, political or social, have been so fortunate.

Religion was important to Washington, although he wrote little which clarifies his beliefs. He was born into an Anglican family, well-placed on Virginia's social scale, and he remained a church-going Episcopalian throughout his life. Washington, however, was also influenced by the Enlightenment's focus on reason and scientific inquiry, and he professed a great concern for individual rights. This side of Washington occasionally produced comments which resembled the most liberal sentiments of the time:

I beg you will be persuaded, that no one would be more zealous than myself to establish effectual barriers against the horrors of spiritual tyranny, and every species of religious persecution. For you doubtless remember, that I have often expressed my sentiments that every man, conducting himself as a good citizen, and being accountable to God alone for his religious opinions, ought to be protected in worshipping the Deity according to the dictates of his own conscience.⁴⁷

⁴⁶ Catherine L. Albanese, Sons of the Fathers: The Civil Religion of the American Revolution (Philadelphia, PA: Temple University Press, 1976), 145, 147.

⁴⁷ Norman Cousins, ed., In God We Trust (New York, NY: Harper & Brothers, 1958), 58-9.

It appears, however, that while Washington quoted Enlightenment precepts, he favored the establishment which he valued and accepted. His own devotion to religion led him to envision America as a Christian nation. Washington saw in Christianity qualities which all should aspire to, and he could never reconcile this with the liberal theory he wished to adopt. During the Revolutionary War, Washington regarded his army in terms that may have made some patriots uncomfortable: in his General Orders, days after the adoption of the Declaration of Independence, Washington referred to the troops as "Christian Soldier[s]." In 1778, at Valley Forge, Washington again revealed in his General Orders the depth of his sentiments, and the good intentions of his beliefs:

While we are zealously performing the duties of good Citizens and Soldiers we certainly ought not to be inattentive to the higher duties of Religion. To the distinguished Character of Patriot, it should be our highest Glory to add the more distinguished Character of Christian.⁴⁸

Other members of the Virginia leadership were more outspoken than Washington in professing their allegiance to the Anglican establishment. Edmund Pendleton is an example of the conservative forces which were raised within the establishment, benefitted from it, and favored a continuance of the status quo. Pendleton was born into a family which had produced a great number of Anglican ministers, and he grew up as a very religious man. His relationship with the church was reinforced when he began his professional career as clerk of a vestry in Caroline County.⁴⁹ His attachment to the establishment was both spiritual and economic.

⁴⁸ Ibid., 51.

⁴⁹ Robert L. Hilldrup, The Life and Times of Edmund Pendleton (Chapel Hill, NC: University of North Carolina Press, 1939), 7, 11.

Later in life, Pendleton held public offices in which he rigidly followed laws intended to deter dissenters. As chief magistrate of Caroline County, he arrested Baptist preachers who lacked licenses to preach. Although Pendleton properly followed the letter of the law, similar disputes were considered judgement decisions in many parts of the colony. In this case, Pendleton decided to enforce the law in a county which otherwise displayed a relatively relaxed concern for organized religion. Later, as an influential member of the House of Burgesses, he faced similar decisions. Serving as chairman of the House committee on elections, Pendleton overturned a 1772 election in Lunenburg County. Pendleton proved to the House that many Baptists, purposefully or not, had voted although they did not meet property qualifications. Again, Pendleton followed the law, but took great efforts, including a lengthy investigation, to preserve the establishment. Ironically, succeeding generations of Pendleton's family continued to produce many church leaders, but the majority was soon Baptist instead of Episcopal.⁵⁰

In many instances, the immediate generation presented challenging situations to the conservative ranks, as previously discussed with the Henry family. The venerable Lee family, for example, was similarly challenged by religious shiftings. Richard Henry Lee was a powerful member of the Virginia elite, and despite reservations about tithes and ecclesiastical courts, he acted as a staunch ally of the Anglican establishment. Lee received his education from a private religious academy in England, and always favored private over public schooling. In his adult life, he served the church as a vestryman, and held Sunday services at home for his family. Lee's sister, Hannah, however, did not share the religious sentiments of

⁵⁰ Hilldrup, 92-3, 7.

the rest of the family. In 1764, she became a Baptist and refused to attend Anglican services. A grand jury sent an indictment to the Westmoreland County court, where the president of the court, the defendant's brother, may have been greatly embarrassed. Supposedly, the relationship between Richard Henry Lee and his sister was not adversely affected by this event in court.⁵¹

Many who wished to retain the establishment were confronted by family crises or ideological dilemmas. As a result, this side of the debate lacked the relatively strong coherence which emanated from the dissenters and the proponents of church/state separation. Edmund Randolph, another influential supporter of the establishment, is an example of the level of uncertainty which typically plagued Patrick Henry's alliance. Randolph pitied the dissenters, "who renounced all hopes of ascending to salvation through the gates of the church." He also stated that the taxes which they were forced to pay for support of the Anglican Church were "small and not harshly inconvenient." In the same sentence, however, Randolph called the taxes "unjust and oppressive."⁵²

The latter sentiment was overruled by Randolph's anxiety over the future of the establishment. His concern was that the possible suspension of salaries for the clergy could act as the "first fracture in a chain" -- a fracture that could lead to the end of the establishment.⁵³ Faced with a growing and persistent opposition, and an onslaught of theoretic challenges, the proponents of the status quo found themselves on the defensive.

⁵¹ Chitwood, 201, 7, 203, 227, 12-3.

⁵² Conway, 159.

⁵³ *Ibid.*, 159.

However, with leaders such as Henry, tacit support from men as revered as Washington, and the backing of an entrenched religion, clergy, and system of government, this side of the debate held great and concrete advantages.

THE REFINERS

It is critical to note that the opposition to the reigning establishment was not merely comprised of religious dissenters. The Enlightenment combined with the Great Awakening to produce a generation which crossed sectarian lines and believed strongly in genuine religious freedom -- a belief that the disentangling of church and state would benefit both the state and religion. The introduction of these ideas resulted in confusion and some anger across Virginia and America. Thomas Jefferson emerged as the active leader of these forces -- the "refiners," to borrow a word from Richard Henry Lee.⁵⁴ In this position, Jefferson became a target of continual attacks on his personal beliefs, and on his fitness to hold public office. Much of this, however, can be attributed to politics; George Washington received many of the same slanders which shadowed Jefferson's public career.

Conservative churchmen regarded Jefferson as an enemy of Christianity. Their motive may or may not have been politically driven, but to the contrary, Jefferson was not anti-Christian, nor was he anti-religion. Jefferson was born into the Anglican Church, attended religious services throughout his life, and considered himself to be a Christian. He served as a vestryman, held close relationships with members of the clergy, and contributed money to

⁵⁴ Hutchinson and Rachal, VIII-149.

local churches. In general, Jefferson remained in the circle of the Anglicans, albeit the more moderate elements of the group. Jefferson sympathized with the dissenters, but he was not necessarily one of them.⁵⁵

It was the issue of religious freedom that united Jefferson with the dissenters. In many ways, he was at odds with the establishment. He held religious beliefs which deviated from the traditional church, and long before the start of his political career, Jefferson questioned the privileges and authority of the Virginia establishment. His stint as a vestryman is primarily a reflection of the social structure of the time; in Virginia, the few educated men among the elite land-holders were expected to assume positions of responsibility.⁵⁶ But Jefferson did not understand why the Anglican Church possessed a special status, and wielded authority over the people as an artificial aristocracy, in the same manner as royalty.

The beginnings of these views can be traced back to Jefferson's education. As a boy, he was regarded as bright and studious; this was furthered by Jefferson's father, Peter Jefferson, who never received much formal schooling, but greatly desired it for his son. Jefferson commenced a classical education under the direction of private tutors, which was the best available option prior to the invention of a public school system, and without travelling to England. This life was interrupted when Thomas Jefferson, fourteen years old, experienced the death of his father. He could look forward to the time when he would reach majority, and receive land and slaves and the means to a comfortable life; Jefferson, however, had other goals. He asked the executor of his estate for money to continue his education at

⁵⁵ Malone, I-109, 276-7.

⁵⁶ Foote, 6.

the next level.

Jefferson enrolled at the College of William and Mary, and his time in Williamsburg greatly influenced his life. Jefferson was among the young men in Virginia who came to the college not to enter the clergy, but to gain a unique experience and a level of education which was quite rare in eighteenth century America. Here Jefferson was introduced to the ideas of the Enlightenment. The ranks of the college's professors included one member of the Scottish Enlightenment, William Small, and Jefferson considered it to be his "great and good fortune" to learn the sciences from such a teacher. Jefferson credited Small "with a happy talent of communication, correct and gentlemanly manners, and an enlarged and liberal mind." The student eagerly and excitedly sought information through classwork and daily conversations with his professor. "I got my first views of the expansion of science, and of the system of things in which we are placed," Jefferson later remarked. Armed with a new conception of the world, Jefferson stated that this relationship "probably fixed the destinies of my life."⁵⁷

Williamsburg, the colonial capital of Virginia, provided Jefferson with much more than the college. This was the region's center of government, commerce, architecture, and in general, culture. In this environment, Jefferson also benefitted from introductions made for him by Professor Small. Jefferson met George Wythe, one of the preeminent legal scholars in the country, and they formed a close bond. Jefferson remained in Williamsburg to study law under Wythe's direction. "Mr. Wythe," Jefferson wrote, "continued to be my faithful and beloved mentor in youth, and my most affectionate friend through life."⁵⁸ Jefferson also met

⁵⁷ Padover, 6.

⁵⁸ Ibid., 7.

the royal governor, Francis Fauquier, who was well-educated and shared interests in the sciences and arts. The young Jefferson found himself in an enviable position, forming part of a regular gathering at the governor's palace, joined by William Small, George Wythe, and Governor Fauquier -- three of the leading figures in Virginia.

Jefferson embarked on a lifelong quest for knowledge, and embraced the Enlightenment concept of reason. Through reason and scientific inquiry, "truth" could be revealed to humankind. This confidence in the capability of individuals was critical to Jefferson's notion of both politics and religion. Jefferson wrote in his only published book, Notes on the State of Virginia:

... the Newtonian principle of gravitation is now more firmly established, on the basis of reason, than it would be were the government to step in, and to make it an article of necessary faith. Reason and experiment have been indulged, and error has fled before them. It is error alone which needs the support of government. Truth can stand by itself.⁵⁹

This central belief framed Jefferson's view of the relationship between church and state. It also led him to examine his personal religious beliefs. Reason and faith coexist awkwardly, and a significant part of this generation of Americans, devoted to the Enlightenment, questioned the tenets of organized religion.

Jefferson responded, predictably, with intensive study. He poured over the Old and New Testaments, and reached his own conclusions. Jefferson found in Jesus a great teacher and philosopher -- an individual who provided "the purest system of morals ever before preached to man." He reached a similarly strong conclusion, however, that both the Bible and organized religion were suspect. Jefferson believed that the teachings of Jesus had been

⁵⁹ Ibid., 302.

"adulterated" in the Bible, that the miracles detailed in the Bible had never occurred, and that these offenses had been perpetrated by a self-serving clergy.⁶⁰ Jefferson went to the extreme of literally cutting and pasting verses from the Bible, with the intent of distilling the true meaning of Christianity. He regularly read his resulting volume, "The Life and Morals of Jesus of Nazareth." Jefferson referred to himself as a disciple of Jesus, but this was in the realm of moral philosophy, rather than theology.⁶¹ Jefferson considered himself a Christian; then and ever since, others have attempted to label him "unitarian," "deist," and even "atheist," all with varying levels of success.

Central to Jefferson's belief system was the notion of natural law, which he crystallized in the Declaration of Independence as the rights to life, liberty, and the pursuit of happiness. This notion linked his religious faith with revolutionary politics. If God is evident in nature to all, Jefferson reasoned, then each individual must answer to this higher law, and not decrees sent from royalty or clergy. Jefferson wrote in Notes on the State of Virginia: "... our rulers can have no authority over such natural rights, only as we have submitted to them. The rights of conscience we never submitted, we could not submit. We are answerable for them to our God."⁶²

The citizenry can then agree to laws which are deemed necessary to the survival of the individual and the community. "The legitimate powers of government extend to such acts

⁶⁰ Malone, 109.

⁶¹ David N. Mayer, The Constitutional Thought of Thomas Jefferson (Charlottesville, VA: University Press of Virginia, 1994), 161.

⁶² Padover, 301.

only as are injurious to others," Jefferson wrote in Notes. His subsequent sentences continue to be quoted and controversial: "But it does me no injury for my neighbor to say there are twenty gods, or no God. It neither picks my pocket nor breaks my leg."⁶³

Furthermore, Jefferson questioned the historical introduction of religion into common law -- a question he occasionally pursued for sixty years. He challenged the widely held assumption that Christianity had always been part of the law. Jefferson pointed to the year 1613 and a work by Sir Henry Finch, in which the author may have made a critical mistranslation. A fifteenth century opinion included the term "en ancien scripture," which Finch translated as "holy scripture." Jefferson contended that the phrase referred to ancient writing, intimating precedent, not necessarily religion. He traced this crucial error throughout the subsequent great legal works, arriving at his own era, and thus provided an original and important explanation of common law.⁶⁴

Jefferson did not confine his intensive research to the realm of theory; the church/state issue held a high position in his life-long political agenda. Political opponents attacked Jefferson for both his personal religious beliefs and his vision of America's future. His views were revolutionary in significant ways and understandably alarming to some, but he was clearly and often maliciously misinterpreted by his critics. Jefferson was characterized by some as being hostile to religion -- an image which continues to resurface undeservingly over a century and a half after his death.

⁶³ Ibid., 301.

⁶⁴ Merrill D. Peterson, The Jefferson Image in the American Mind (New York, NY: Oxford University Press, 1960), 95-6.

Jefferson's study resulted in a degree of anti-clericalism, but he was in no sense irreligious. He rejected some of the traditional dogma only after gaining an in-depth understanding, and essentially performing a scientific study. Jefferson actually stressed throughout his life the importance of religion. Even in his final years, while suffering with financial problems, Jefferson contributed generously to the building of local churches; he did not restrict his subscriptions to any specific sect.⁶⁵

According to Jefferson, religion should survive and flourish with a separation between church and state. And the precepts of the Enlightenment could make religious exploration all the more interesting. "Reason and free inquiry are the only effectual agents against error," Jefferson wrote. "Give a loose to them, they will support the true religion by bringing every false one to their tribunal, to the best of their investigation."⁶⁶ What Jefferson sought to remedy was the artificial preferred status of the Church, and the suppression of free expression of the mind, and to this end he was unremittingly consistent and focused. He was, in fact, referring to the establishment clergy in one of his most famous statements: "I have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of man."⁶⁷ In this sentence, Jefferson simultaneously revealed both his own devotion to God, and his contempt for those who would define religion for all.

Throughout his efforts, Jefferson had a powerful ally. James Madison may have struck an odd figure next to his 6'2 1/2" friend Jefferson -- legend says that Madison's enemies

⁶⁵ Foote, 67, 8.

⁶⁶ Padover, 301.

⁶⁷ David N. Mayer, 164.

listed him as 5'2", while friends estimated 5'9" -- but together this pair was a force in political theory and practice. These two soft-spoken Virginians formed not just a friendship, but an alliance which altered history in significant ways. Madison brought to the relationship an analytical mind which rivalled Jefferson's, and a calm and practical demeanor which belied his status as a revolutionary.

Madison harbored religious views which were broad but more traditional than Jefferson's. He came from a devout Anglican family, and throughout his life Madison credited the tutoring of Anglican clergymen. He shared Jefferson's thirst for books and knowledge, and like many young Virginians with suitable financial resources, he left the Commonwealth to attend college. Madison journeyed to the north to attend Princeton, a school founded by Presbyterians with religious intentions, but grounded in the notion of toleration. Following graduation, Madison stayed in Princeton for several more months, studying "divinity" among other subjects with the esteemed Reverend John Witherspoon. Madison briefly considered entering the clergy, and expressed admiration for those who did. Madison, as well as Jefferson, counted many religious leaders among his friends.⁶⁸

Born in 1751, Madison was relatively young during the tumultuous years when he joined the ranks of the Founding Fathers, but he possessed a knowledge of theology which rivalled any of his colleagues.⁶⁹ Madison greatly valued religion, and while he was also a product of the Enlightenment, he, perhaps to a degree greater than Jefferson, distanced

⁶⁸ William L. Miller, The Business of May Next: James Madison and the Founding (Charlottesville, VA: University Press of Virginia, 1992), 105-6.

⁶⁹ Cousins, 296.

himself from its anti-religious faction. Similarly, his education was based on Christian teaching, but not through its zealous evangelical segment.⁷⁰

Perhaps Madison would have rather avoided the wranglings over religion, but in his dedicated pursuit of liberty, religion surfaced as a recurring issue. Madison found himself utterly frustrated with the persecution that persisted around him in the cause of religion. In a 1774 letter, Madison reported with disgust that "5 or 6 well meaning men" in the Orange County area were sitting in jail; their crime, as described by Madison, was "publishing their religious Sentiments which in the main are very orthodox." His exertions on their behalf were entirely unsuccessful. Madison's pride in Virginia was severely tested: "That diabolical Hell conceived principle of persecution rages among some and to their eternal Infamy the Clergy can furnish their Quota of Imps for such business." "So," Madison ended his diatribe, "I leave you to pity me and pray for Liberty of Conscience to revive among us."⁷¹

Bitter contests over religion helped to shape Madison's theory of politics. He reasoned in the aforementioned letter:

Union of Religious Sentiments begets a surprising confidence[,] and Ecclesiastical Establishments tend to great ignorance and Corruption[,] all of which facilitate the Execution of mischievous Projects.⁷²

Madison concluded that religious pluralism would be greatly advantageous to the country.

Well over a decade later, he expressed strikingly similar sentiments in The Federalist Papers:

"A religious sect may degenerate into a political faction in a part of the Confederacy; but the

⁷⁰ Miller, 106.

⁷¹ Hutchinson and Rachal, I:105-6.

⁷² Ibid., I:105.

variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source."⁷³

For Madison, his conclusion transcended religious disputes and indicated a framework for the republic. With increasing numbers of represented interests, it is "less probable that a majority of the whole will have a common motive to invade the rights of other citizens." Madison believed factions to be mischievous, and ruled by passion which he so distrusted; he also perceived that the country would be at risk without them -- "Liberty is to faction what air is to fire, an aliment without which it instantly expires."⁷⁴

Madison brought these strong convictions to the political arena, where he was very effective, and not only behind the scenes. Madison -- shy, soft-spoken, sickly, possibly hypochondriacal -- advanced through the political ranks to the top -- the presidency. It is affirmation of the renowned strength of Madison's analytical abilities, and the profound respect he commanded from his colleagues. A recent admirer, William L. Miller, explained how Madison could overcome his evident liabilities: "[Madison] was regularly the best prepared and the most well read of the participants in the many political events through which he lived for half a century. He persuaded others by having the facts and ideas, the knowledge and the thought, already worked out more deeply and thoroughly than any one else present."⁷⁵

Jefferson was not only a friend, but clearly an admirer of Madison. Jefferson

⁷³ Isaac Kramnick, ed., The Federalist Papers, reprint (New York, NY: Penguin Books, 1987), 128.

⁷⁴ *Ibid.*, 127, 123.

⁷⁵ Miller, 10.

marvelled at his colleague's "luminous and discriminating mind." He particularly recognized and appreciated Madison's understated rhetorical skills: "Never wandering from his subject into vain declamation, but pursuing it closely, in language pure, classical and copious, soothing always the feelings of his adversaries by civilities and softness of expression." Jefferson perceived these qualities in Madison early in their relationship, and claimed that they "rendered him the first of every assembly afterwards, of which he became a member."⁷⁶ Together, Jefferson and Madison provided enough leadership to unify many splintered voices in Virginia, and pose a credible challenge to the establishment.

⁷⁶ Padover, 38-9.

CHAPTER THREE

Besides, the spirit of the times may alter, will alter ... It can never be too often repeated, that the time for fixing every essential right on a legal basis is while our rulers are honest, and ourselves united.

Thomas Jefferson, 1781⁷⁷

The Revolutionary War was fought to achieve political independence from Great Britain; many Americans believed that as part of that war, an equally significant social transformation took place. Defining this revolution proved difficult for its contemporaries, and conflicting interpretations continue to surface over two centuries later. Debate continues, for example, even on determining the number of Americans in favor of the revolution on its most basic level. Loyalists were a sizeable minority. To bolster revolutionary sentiment, a public relations blitz ensued, including a constant barrage of political pamphlets, the printing of lists of Loyalist names, and public spectacles varying from a Day of Fasting and Prayer to tarring and feathering.

While the public decided its leanings, the elite went through a similar process. By the time shots were fired, however, the Virginia gentry was nearly united. Of those who originally wished to maintain ties with England, most realized that this was no longer a viable

⁷⁷ Padover, 303.

option. Those who retained their allegiance to the motherland either packed and left for England or stayed and chose to be vocal only when in the confines of British occupation. During the Revolutionary War, the gentry stood as a relatively unified front. The Founding Fathers were united in the desire to throw off British rule, and replace it with self-determination, and some improvement over monarchy.

Beyond this point, positions widely diverged, but a strong conservative element was reinforced by practical considerations. Leaders across the political spectrum were faced with the serious challenges of running a revolution and a country. During wartime, even the most progressive leaders had to focus their attention on providing supplies and controlling inflation. By the end of the 1770s, the legislatures in America's most influential states -- Massachusetts, Pennsylvania, Virginia -- were ruled by conservative majorities.⁷⁸ The country had to worry about winning a war, and the immediate consideration was survival -- physically and financially.

By the end, George Mason reported the sentiment he was hearing in conversation: "If we are now to pay the debts due to the British merchants, what have we been fighting for all this while?"⁷⁹ To others, the Revolutionary War meant much more than British debts. It meant more than political independence. Before the war began, the struggle for social reforms in America slowly caught hold. Revolution provided the opportunity to separate from England, but it also provided the unique opportunity to create a new and innovative society, based on other precepts than those which ruled the Old World. The social revolution,

⁷⁸ Morris, 150.

⁷⁹ Ibid., p.82.

containing such ideas as social leveling and natural rights, had an unquantifiable effect on the political revolution, but it was undeniably a significant part of its fabric.

America's political leaders -- the social and financial elite -- could take part in these changes because they drew a distinction between America's ruling class and the leadership overseas. America lacked a titled aristocracy, and provided the treasured opportunity for land ownership. The American elite decried the distant aristocracy, providing the colonies with a sense of classlessness. Meanwhile, the society actually retained a fairly strict social strata. While harboring radical notions, this was a notably conservative leadership which orchestrated a revolution.

The American leadership survived the process of revolution, and retained its position after the fighting subsided. This was due partly to the guidance of George Washington, but mainly to the acceptance of the American "aristocracy" by the general population. Class antagonism was virtually nonexistent; the riots of the France Revolution had no parallel in America.⁸⁰ Class mobility was an attractive feature of the colonies, but the leadership was heavily controlled by the family trees of inherited wealth. America scoffed at the English elite, but generally embraced its own. The gentry, in turn, felt a paternalistic responsibility to pursue the common good. This unique situation provided the colonies with its exceptional class of planter-statesmen.

By the war's end, America appeared truly united. Few doubted the virtue of this war, but many disagreed on the next step. The mythology of the revolution grew into a powerful

⁸⁰ Ibid., 58, 65.

force, and it carried with it the rhetoric of the Enlightenment.⁸¹ The natural rights of mankind were mentioned alongside the particular grievances of British colonists, evidenced graphically by the Declaration of Independence. The revolution acquired a myth and a mission which now overwhelmed the specific protests which prompted a call to arms.

In this setting, laws were brought forward for revisal and society braced for a reformation. The previous generation was occasionally punctuated by temporary outbursts of unrest. Now there was a broad pattern, and the wave of revolution swept with it a myriad of causes. Political independence may have been the immediate concern, but along with that effort, the revolution, according to Richard Morris, "aroused expectations, encouraged aspirations, and created a climate conducive to a measurable degree of social reform."⁸²

In the Virginia legislature, this period was greeted by a very independent collection of representatives. Partisan politics was disdained, and legislators individually answered to their communities and themselves. Burgesses held seats in the capital in thanks to their apolitical status back home as members of the gentry. Partisanship was foreshadowed by the dividing line between conservatives and progressives, but the distinction allowed for considerable movement, and much of the time it bore little significance, sometimes none.⁸³

The "progressive" and "conservative" labels are useful, but alliances shifted from issue to issue. In April 1775, Patrick Henry marched volunteer troops into Williamsburg, unsettling

⁸¹ Albanese, 28-9.

⁸² Morris, 84.

⁸³ John E. Selby, The Revolution in Virginia: 1775-1783 (Williamsburg, VA: The Colonial Williamsburg Foundation, 1988), 39; Malone, 248.

other conservatives such as Edmund Pendleton and Richard Henry Lee, and drawing threats of censure from Robert Carter Nicholas and Carter Braxton. In 1777, a conservative faction championed term limits, in an alleged attempt to remove fellow conservative Richard Henry Lee. Years later, conservative Edmund Pendleton and progressive Thomas Jefferson worked together in the formation of the Democratic-Republican party. From the first inklings of revolution through the adoption of the United States Constitution, labels bore little importance to the practical matter of governing Virginia.⁸⁴

Religion had a constant effect on the shiftings in the Virginia legislature. Samuel Davies and the Great Awakening led to changes which reverberated from distant counties to the Capitol in Williamsburg. The dissenting population grew so rapidly that its political influence began to swell. Estimates of the religious divisions in Virginia differ, but the political landscape was changing, due to the pressure from a diverse constituency and the leanings of the burgesses themselves. Geographical differences drew the attention of the legislature, and at this time the rise of the religious dissenters framed the question. Edmund Randolph described what was quickly becoming an east-west division:

The lower country was the principal residence of the protectors of the establishment, and it was apparent that these must soon be outnumbered in the legislature, where petitions were readily granted for the division of the upper counties, and the consequent multiplication of the representation of dissenters.⁸⁵

The western counties, where the government was promoting settlement, proved to be a relatively safe haven for religious dissenters. Dissenting groups were often permitted to

⁸⁴ Selby, 1-6; Malone, 248-9; Hilldrup, 313.

⁸⁵ Conway, 160.

hold services without ever having registered, as the law required. Individuals were commonly exempted from attendance at Anglican communion, and sometimes exempted from parish taxes. Protestant dissenters succeeded at voting and holding public office, and even Catholics occasionally assumed official posts. These activities taking place in Virginia, home to one of America's most conservative establishments, indicated the magnitude of this transformation.⁸⁶

Thomas Jefferson maintained that by the time of the revolution, the majority of Virginians were dissenters; he once placed his estimate at two-thirds. He also found that "a majority of the legislature were churchmen." Jefferson added: "Among these, however, were some reasonable and liberal men, who enabled us, on some points, to obtain feeble majorities."⁸⁷ Opponents may have interpreted the situation differently. Thus the legislature embarked into this critical time period with religion not as an overwhelming issue, but emblazoned as a sensitive and potentially defining component of every debate.

In the spring of 1776, the rumblings in Virginia began to take form as political theory was debated and placed onto paper. With a declaration of independence imminent, Virginia took to framing a Declaration of Rights.⁸⁸ George Mason drafted this revolutionary document which, as drafted, represented truly progressive thought. The opening words of the Declaration -- "That all men are by nature equally free and independent, and have certain inherent rights..." -- suggest the social revolution that was gaining momentum.

Mason's draft for an article on religion proposed "the fullest toleration" for dissenters;

⁸⁶ Bailyn, 248.

⁸⁷ Padover, 36, 300.

⁸⁸ Hening, IX:109-112.

"toleration," however, implied the continued existence of the establishment. The article might have quietly advanced except for the presence of James Madison, then a young newcomer to the House. Madison followed his objection with a proposed amendment, changing the language to include "full and free exercise" of religion.⁸⁹ This single alteration, a mere change in wording, deserves special recognition; religious liberty became a natural right, "according to the dictates of conscience," as opposed to a privilege.

The Convention did not allow for further adjustments by Madison, which would have effectively ended glebes and tithes, and this left the document with the contradiction of retaining the establishment while proclaiming religious liberty.⁹⁰ The religion article itself ends with the direction, "that it is the mutual duty of all to practise Christian forbearance, love, and charity, towards each other." This was accepted by Mason and Madison, and demonstrates what a complicated issue this was.

The history of this article in the Declaration of Rights is further complicated by the disputed input of the conservative ranks. Edmund Randolph credited Patrick Henry with authorship of the final version; Henry never personally made that claim. Edmund Pendleton is reported to have offered the final amendment, although records do not show what it included. No matter the specific involvement of the conservatives, they accepted the article, although with a different interpretation than Madison's intent. Henry saw no challenge to the establishment in the wording, and continued to find justification for the government subsidy

⁸⁹ Selby, 108-9.

⁹⁰ Ibid., 110.

of religion.⁹¹

Meanwhile, in Philadelphia, Thomas Jefferson was drafting the Declaration of Independence, which reflected the change in attitude toward religion, and its importance in revolutionary thought. The Declaration bowed to custom by invoking God, but the reference was very different from what Americans and the English were used to. Jefferson chose to mention "nature's God," and the "laws of nature."⁹²

The Declaration was penned by a Virginian, but Jefferson never took credit for the words; he believed that he was merely placing on paper what every American believed and expressed. Jefferson knew well that the plea of "inalienable," natural rights, developed in Europe. The supposed divine right of monarchs and clergy was found to be incorrect. No individual was born with the right to rule over other people; God created natural rights, and they cannot be taken away by anyone.⁹³ In addition to addressing the specific injustices inflicted by a single monarch, Jefferson used the opportunity to address universal ideas.

Back in Virginia, the framing of a state constitution provided another opportunity to define religious freedom. Jefferson, absent from Williamsburg, attempted to influence the proceedings by sending several drafts to the assembly, but his efforts fell short. His most complete draft arrived too late to be fully advanced by friends such as Madison and Wythe. Ultimately, the assembly incorporated sections which Jefferson explored more fully than the

⁹¹ Ibid., 109-10.

⁹² Peterson, ed., The Portable Thomas Jefferson , 235.

⁹³ Charles B. Sanford, The Religious Life of Thomas Jefferson (Charlottesville, VA: University Press of Virginia, 1984), 19.

present delegates. This included sections on the court system and the contentious western borders. It was also easy to add Jefferson's list of grievances with King George III as a preamble to the constitution.⁹⁴

Jefferson's draft also included a clause on religious freedom. He proposed a single sentence which would have represented a simple and clear repudiation of the establishment: "All persons shall have full and free liberty of religious opinion; nor shall any be compelled to frequent or maintain any religious institution."⁹⁵ The adopted Constitution did not include Jefferson's suggestion, and made only a vague reference to the subject. The opportunity to replace toleration with religious freedom passed again without resolution. Jefferson was still proud of both the Virginia Constitution and the Declaration of Rights, and certainly proud that these documents emerged from his home state.⁹⁶

Virginia next had to move away from the loftiness of framing a constitution, to the real challenge of addressing the laws which would govern the state. This was a truly extraordinary task -- remaking the entire body of a state's laws at a single moment in history. The legislature chose to tackle the project by selecting a five-person committee, instructed to return with recommendations. The committee's objective, according to member Thomas Jefferson:

... to take up the whole body of statutes and Virginia laws, to leave out everything obsolete or improper, insert what was wanting, and reduce the whole within as moderate a compass as it would bear, and to the plain language of common sense,

⁹⁴ Selby, 120.

⁹⁵ Peterson, ed., The Portable Thomas Jefferson , 249.

⁹⁶ Malone, 237.

divested of the verbiage, the barbarous tautologies and redundancies which render the British statutes unintelligible.⁹⁷

Jefferson, now esteemed very highly considering his young age, received top-billing on the committee of five. Virginia furnished a notable group to undertake this effort: Jefferson, Edmund Pendleton, George Wythe, George Mason, and Thomas Ludwell Lee. This grand collection of talent, however, did not last long. George Mason asked to be relieved from the committee, claiming an insufficient knowledge of the law; Thomas Ludwell Lee died. Remaining was a determined group of three, exemplified by George Wythe, who resigned his seat in Congress in order to accept this challenge. The threesome divided the law into sections and individually set to work. Jefferson, clearly enthusiastic for this type of assignment, and equipped with a legendary work ethic, ventured well beyond his assignment. Jefferson by far had the greatest influence on the final report.⁹⁸

The committee submitted a startling 126 bills to the General Assembly. As expected, the report covered an endless list of issue areas, and some bills were passed immediately. Specifically, Jefferson struck down some of the barriers to his interpretation of the American dream. His vision of an egalitarian society, based on land-ownership, but replacing the "aristocracy of wealth" with an "aristocracy of virtue and talent," advanced through reform of the real property laws. The British model, including longtime traditions such as entails, was abolished. In reforming the land laws, America advanced to a point which England did

⁹⁷ Ibid., 262.

⁹⁸ Ibid., 261-2.

not equal until the twentieth century.⁹⁹ Despite this progress, most proposals escaped the immediate attention of the legislature. While the war raged, the legislators deferred the report as a whole. Some of Jefferson's most crucial causes were set aside, including a bill to establish religious freedom.

Among all of these statutes, one stands out in its historic importance: "A Bill for Establishing Religious Freedom," submitted in 1779.¹⁰⁰ As in the Declaration of Independence, Jefferson did not shy from mentioning God. The bill stressed that "God hath created the mind free" and it would be "sinful and tyrannical" to force a person to support another's opinion, or "otherwise suffer, on account of his religious opinions or belief." Jefferson added that under this change people will be free to maintain their own beliefs, but this does not "affect their civil capacities." He drew a line between public and private: in the public realm, individuals have responsibilities toward each other which can fall under the watch of government; in the private realm the government holds no influence.

In crafting this bill, Jefferson stepped beyond the notion of toleration. Whereas John Locke found a distinction for several groups, such as Catholics and atheists, Jefferson believed that religious opinion could not by itself be seditious. Jefferson placed all individuals on a level field. The author of the Declaration of Independence tried, as he would throughout his life, to make good on his assertion that all men are created equal. In doing so, Jefferson was conscious of his debt to the past writings of Locke, but he was also aware of the importance of his own efforts. Jefferson placed Locke into a context: "It was a great thing

⁹⁹ Morris, 80-1.

¹⁰⁰ Peterson, ed., The Portable Thomas Jefferson, 251-53.

to go so far ... but where he stopped short, we may go on."¹⁰¹

Jefferson did not merely add religious freedom as a right under the law; he sought to illuminate the status of religious freedom as a natural right, beyond the jurisdiction of laws and governments. This concept was so crucial to Jefferson that he flirted with braking his own tenet that laws should not bind future generations. While admitting that there was no legal effect to the clause, Jefferson ended the bill with a pronouncement that any future attempt to repeal or "narrow" this act, "will be an infringement of natural right."

Jefferson was not a lone voice, even while most Americans focused on the war. Petitions flooded the legislature in the fall of 1776, asking the lawmakers for disestablishment of the church. Petitions were taken quite seriously, representing a great interest and effort on behalf of constituents. They often acted to prompt legislation, and on the issue of disestablishment they were too numerous to be ignored. A petition presented on October 16 contained the signatures of approximately 10,000 Virginians, asking for both disestablishment and relief from taxation for religious purposes. Similar pleas arrived throughout the decade, spilling into the 1780s, protesting such injustices as the extra taxes charged to those not taking the oath of loyalty, and the lack of legal recognition of marriages performed by dissenting ministers.¹⁰²

The opposing side was vocal as well, setting the stage for a petition war. Countering the increasingly active dissenters, the Anglican clergy requested deferral of the entire issue,

¹⁰¹ David N. Mayer, 159.

¹⁰² Randolph W. Church, ed., Virginia Legislative Petitions, 1776-1782 (Richmond, VA: Virginia State Library, 1984), 43, 329, 373, 389.

and petitions arrived in Williamsburg which endorsed the establishment, and in some cases asked for additional powers. This was rarely a civil discourse: citizens of Lunenburg County challenged the petitions produced by dissenters, claiming that some signatures were invalid.¹⁰³ Normally, petitions from both sides would be referred to the Committee on Religion; normally, no action followed.

With Jefferson's bill on the table, and petitions rushing in, the legislature could not defer the issue forever. Everyone understood the significance of resolving the question of religious freedom, and battlelines were soon set. The establishment continued to present a strong front against any rash changes. Edmund Pendleton wielded great power and influence in the legislature, and though he displayed a degree of pragmatism and a desire for civil cooperation, he also understandably used his position to advance his ideas. As evidence, the Committee of Religion, appointed by Pendleton, included liberal representation, but was placed under the care of strong conservatives. Pendleton's friend Carter Braxton received the committee chairmanship, and Robert Carter Nicholas also brought strong pro-establishment sentiments.

These individuals were always respected by the liberal forces, usually on both a personal and professional level. Jefferson recognized early on that Pendleton would become a leader of the conservatives, but always regarded him as a friend.¹⁰⁴ Jefferson labeled Pendleton and Nicholas as "honest but zealous opponents." He criticized them for their social conservatism: "... from their natural temperaments they are more disposed generally to

¹⁰³ Ibid., 167.

¹⁰⁴ Malone, 88-9.

acquiesce in things as they are, than to risk innovations"; he also credited them for their civic attitudes: "... whenever the public will had once decided, none were more faithful or exact in their obedience to it."¹⁰⁵

Jefferson held an even more varied relationship with Patrick Henry. The two met during the Christmas season, while Jefferson was in his teens, and Henry in his early twenties. The ebullient Henry danced, fiddled and conversed his way to making a memorable impression. The first impression, however, did not last. Jefferson always regarded highly Henry's social skills as well as his public service, but he was disappointed in other aspects. As Jefferson broadened his horizons in Williamsburg, he realized that Patrick Henry did not share his interest in learning. Jefferson may have developed some animosity early on when both men prepared for admittance to the bar. Jefferson prepared for years, performing the intensive study he was celebrated for; Henry was passed after only six weeks of study. The circumstances behind Henry's admission have long been debated, and Jefferson may have been momentarily angered. More significantly, Jefferson always disparaged Henry's lack of detailed knowledge. Jefferson, addressing a subject quite dear to himself, proclaimed Henry "the laziest man in reading I ever knew."¹⁰⁶

Henry, according to Jay Fliegelman, "both impressed and disturbed Jefferson." It was clearly Henry's oratorical talents which most produced Jefferson's conflicting emotions. Jefferson offered the following depiction of Henry, according to a second-hand account by Daniel Webster:

¹⁰⁵ Padover, 36-7.

¹⁰⁶ Malone, 89-90; Padover, 12.

... it was difficult when he had spoken to tell what he had said, yet, while he was speaking, it always seemed directly to the point. When he had spoken in opposition to my opinion, had produced a great effect, and I myself been [sic] highly delighted and moved, I have asked myself when he ceased: "what the devil has he said?"¹⁰⁷

Throughout his life, Jefferson never could resolve his feelings toward his colleague.

With Henry joining Pendleton, Nicholas and others, and Jefferson and Madison gaining stature and public support, a showdown was imminent. The establishment, until now, had been able to deflect much of the dissent. Madison had tried to take a large step in the Virginia Constitution but was not yet able to impose such a change. As the war gained momentum, and the revolution rolled forward, the time was ripe for setting a course for the new country. Impressive figures now stood in opposition to one another on a critical issue. Jefferson considered the ensuing struggles to be "the severest contests in which I have ever been engaged."¹⁰⁸

Late in 1776, the House began to hear back from the Committee on Religion. The recommendations were somewhat timid, but important: dissenters should be free from taxes to specific sects, but all denominations must be properly regulated; acts for support of the clergy should be repealed, but vestries retain the right to raise funds from the public; and all properties of the established Church should remain unaltered. On November 19, coinciding with an absence of Carter Braxton, the House approved resolutions which began to shake the establishment: laws punishing heresy and blasphemy should be repealed, along with laws mandating church attendance; dissenters should be exempt from supporting the Anglican

¹⁰⁷ Jay Fliegelman, Declaring Independence: Jefferson, Natural Language, & the Culture of Performance (Stanford, CA: Stanford University Press, 1993), 94-95.

¹⁰⁸ Padover, 36.

Church. Baptists and others protested, however, as the resolutions retained critical vestiges of the past: clergy should continue to be licensed; present establishment clergy should continue to receive their salaries; and again, the status of Church glebes was deemed to be secure.¹⁰⁹

The House formed a special committee to address the resolutions and craft a bill. It was populated with the leading voices: Madison, Jefferson, Braxton, Nicholas. It did not take long, however, for the political pendulum to quickly swing back. On November 30, the Committee on Religion essentially retracted its previous recommendations. In their place, the committee submitted a bill which included the exemption for dissenters, but little else. On December 9, with amendments by the Senate, the bill passed in both houses.¹¹⁰ The act took a bold step, by attempting to eliminate "several oppressive acts of parliament respecting religion." However, it shied away from specifically challenging the basic status of the establishment, and it deferred the question of continuing an assessment to support the salaries of ministers, until "the opinions of the country in general may be better known."¹¹¹ The act frankly admitted: "this difference of sentiments cannot now be well accomodated."

Some of the language of the 1776 act sounded encouraging, but in practice little changed. Years slipped by, but practical considerations kept the larger question on the table. Glebe lands were a sensitive issue; Edmund Pendleton was among many who warned that

¹⁰⁹ Church, 49; Selby, 145.

¹¹⁰ Church, 50; Selby, 145-6; Hening, IX:164-7.

¹¹¹ During this period, the term "country" was regularly used in reference to one's hometown or state, as often as it referred to the nation.

dissenters were interested in gaining church property, as opposed to religious freedom.¹¹² Ministers' salaries also needed to be addressed. In order to reach the end of the 1770s, compromises needed to be found. A functional understanding protected the church ownership of glebe lands, but suspended ministers' salaries on a year-to-year basis. The arrangement was only temporary, and in 1779, the introduction of Jefferson's bill for religious freedom revitalized statewide attention on the issue.

On October 21, Culpeper County citizens delivered a petition opposing Jefferson's bill; on October 22, a petition arrived from Essex County, containing over one hundred signatures in protest. In November, Amherst County produced over one hundred signatures in support of a general assessment, and also asking for the removal of Roman Catholics, Jews, Turks, and infidels from public office. During this same period, petitions supporting the bill also arrived, including one from the aforementioned Amherst County.¹¹³

The legislature managed to avoid a decision on Jefferson's bill, but other bills became law, furthering the need for a final judgement. For instance, a 1780 act, "declaring what shall be a lawful marriage," addressed the use of "ministers, other than the church of England." After passage of the act, legal marriages included "any society or congregation of christians, and for the society of christians called quakers and menonists." The act represented progress, but beyond the glaring omission of non-Christian marriages, dissenting ministers were granted only a limited number of marriage licenses, to be determined by county courts.¹¹⁴

¹¹² Hilldrup, 338.

¹¹³ Church, 316, 344, 328.

¹¹⁴ Hening, X:361-63.

Supporters of the establishment were on the defensive, left to amend bills and try to find ways to retain authority within the Church. A symbolic step was taken in May 1783, reaffirming the link between church and state. Edmund Randolph reported the victory with restrained enthusiasm:

Religion, which has hitherto been treated with little respect by the Assembly, was yesterday incorporated into their proceedings. Mr. Hay moved for a chaplain, and that a prayer should be composed adapted to all persuasions. The prayer has not been reported, though several trials, I am told, have been made.¹¹⁵

Randolph's correspondent, James Madison, may have sympathized with the efforts on behalf of religion, but certainly must have been amused at the inability to compose an acceptable prayer. Madison, who understood so well the challenges and rewards of a multiplicity of groups, could have predicted this dilemma.

The year 1783 also marked the official end of the war with England. Winning this seemingly impossible war was in many minds an act of God. George Washington was among many who promoted the image of a Christian nation acting with divine support. Following one successful battle, Washington referred to his "Doctrine of Providence" in a letter to Brigadier General Thomas Nelson: "The hand of Providence has been so conspicuous in all this, that he must be worse than an infidel that lacks faith, and more than wicked, that has not gratitude enough to acknowledge his obligations..." At the war's conclusion, Washington made such an acknowledgement: "I cannot fail at this time to ascribe all the honor of our late successes to the same glorious Being."¹¹⁶

¹¹⁵ Conway, 162-3.

¹¹⁶ Cousins, 54; John C. Fitzpatrick, ed., The Writings of George Washington (Washington, DC: United States Government Printing Office, 1931-44), XXVII:249.

In celebrating victory, Washington recognized the unique goals of this revolution, and staked his claim to the mantle of religious freedom:

The establishment of Civil and Religious Liberty was the Motive which induced me to the Field; the object is attained, and it now remains to be my earnest wish and prayer, that the Citizens of the United States would make a wise and virtuous use of the blessings, placed before them.¹¹⁷

Washington's claim that "the object is attained" suggested that not only has "Civil" independence been achieved, but "Religious Liberty" as well. Considering the circumstances, Washington can be excused for his use of hyperbole, but he was incorrect to suggest that ousting the British equalled religious freedom. Great strides had been made while Virginia revised its legal code, but the work was not done. The war ended, and the establishment was still standing.

In 1784, Patrick Henry took to the offensive. Deftly utilizing his connections among both Anglicans and dissenters, Henry worked behind the scenes to forward a proposal for a general assessment. The tax would support not only the established church, but Christian denominations in general. Citizens could select the church to receive their tax from a list of acceptable denominations, as determined by the legislature. This move brought some Presbyterian leadership into the fold, forming a formidable alliance. John Blair Smith, a Presbyterian clergyman, leader of Hampden-Sydney College, and friend of Henry, drafted a memorial for the legislature.¹¹⁸

With Henry persuading his fellow lawmakers, and Smith rallying the Presbyterian

¹¹⁷ Fitzpatrick, XXVII:249.

¹¹⁸ Henry Mayer, 360.

community, passage of the assessment appeared possible. The concept of full religious freedom, however, had been amassing supporters. Despite the Anglican majority in the legislature, and the best efforts of Henry, the proposal stalled. James Madison wrote to Jefferson on July 3: "The Episcopal Clergy introduced a notable project for re-establishing their independence of the laity ... Extraordinary as such a project was, it was preserved from a dishonorable death by the talents of Mr. Henry. It lies over for another Session."¹¹⁹

By the fall, supporters of the assessment had rallied. A reading of the bill in November survived by a fair margin. Madison reported the situation in a letter to James Monroe:

47 have carried it agst. 32. In its present form it excludes all but Christian Sects. The Presbyterian Clergy have remonstrated agst. any narrow principles, but indirectly favor a more comprehensive establishment.

Richard Henry Lee pressed on and lobbied Madison for approval. Lee was not kind to the opposition:

Refiners may weave as fine a web of reason as they please, but the experience of all times shows Religion to be the guardian of morals - and he must be a very inattentive observer in our Country, who does not see that avarice is accomplishing the destruction of religion, for want of a legal obligation to contribute something to its support.

Lee weaved his own web of reason in defense of the assessment: "The Declaration of Rights, it seems to me, rather contends against forcing modes of faith and forms of worship, than against compelling contribution for the support of religion in general." Lee believed that there were Presbyterians who desired to enlarge the circle of potential recipients beyond

¹¹⁹ Henry Mayer, 360; Hutchinson and Rachal, VIII:93-4.

Christianity, and he favored this approach.¹²⁰

In July 1784, Jefferson left for France to serve as America's representative to the court of Louis XVI, leaving Madison as the leading voice for church/state separation in the Assembly. Madison could not be swayed on this issue. He wrote to Jefferson: "Should the bill ever pass into a law in its present form it may & will be easily eluded. It is chiefly obnoxious on account of its dishonorable principle and dangerous tendency." In notes for a planned speech, Madison restated that religion is "not within the purview of civil authority." He argued that religion in the past has been corrupted by an establishment, and that many states experienced their demise under a strong establishment -- a point which directly opposed the pleas of Lee and Henry. The problems experienced by the young country could be better remedied, Madison maintained, through peace, law and order, and education.¹²¹

Jefferson was out of the country, but Patrick Henry was also removed from the debate. Henry agreed to return to the position of Governor, a position which may have given him personal satisfaction, but afforded little power. Having recently separated from the King, American legislatures granted few powers to the executive. Without Henry's direct influence on the debate, his supporters were anxious. John Marshall, then a member of the House, expressed strong apprehension for the fate of the bill, and simultaneously provided insight into the reputation of the governorship: "When supported by all the Oratory & influence of Mr. Henry the [general assessment] could scarcely gain admission into the house & now, when he is about moving in sphere of less real importance & power his favorite measure must

¹²⁰ Hutchinson and Rachal, VIII:136-7, 149-50.

¹²¹ Hutchinson and Rachal, VIII:229; Cousins, 302-4.

miscarry." From the other side of the debate, Madison interpreted the bill's situation similarly: "Its friends are much disheartened at the loss of Mr. Henry. Its fate is I think very uncertain."¹²²

On December 24, the House voted to defer the next reading of the bill until its next session in the fall of 1785. It was also decided to print the bill so that it could be disseminated and considered throughout the commonwealth. Virginians were presented with essentially a year-long referendum to debate the general assessment, along with Jefferson's bill, which continued to labor with others from the massive code revisal. Soon after the close of the session, Madison assessed the situation for Jefferson; the scorecard on the general assessment was not encouraging: the eastern Anglican establishment joined with the Presbyterian clergy in favor; the Presbyterian laity were split; the "other Sects Seemed to be passive." Madison was particularly incensed by the Presbyterian clergy, as he expressed in a later letter to Monroe: "[The Presbyterian clergy] seem as ready to set up an establishmt. which is to take them in as they were to pull down that which shut them out. I do not know a more shameful contrast than might be formed between their Memorials on the latter & former occasion."¹²³

The delegates returned to their communities, and the bill was circulated. In the spring, Madison sensed a change in the air as he wrote to Jefferson: "The Bill for a Genl. Assesst. has produced some fermentation below the Mountains & a violent one beyond them. The contest at the next Session on this question will be a warm & precarious one." Reports arrived from

¹²² Herbert A. Johnson, ed., The Papers of John Marshall (Chapel Hill, NC: The University of North Carolina Press, 1974-), I:131; Hutchinson and Rachal, VIII:175.

¹²³ Hutchinson and Rachal, VIII:200, 229, 261.

throughout the commonwealth. Madison received the following correspondence from an acquaintance, George Nicholas, in Charlottesville: "I have been through a considerable part of the country and am well assured that it would be impossible to carry such laws into execution and that the attempt would bring about a revolution."¹²⁴

According to Madison, a revolution was taking place in the spring of 1785. Elections for the upcoming session produced several upsets, and Madison credited reaction to the general assessment bill as a prime influence. In Culpeper, Madison reported to James Monroe, Henry Fry surprised James Pendleton: "Mr. Pendleton[,] a worthy man & acceptable in his general character to the people[,] was laid aside in consequence of his vote for the Bill, in favor of an Adversary to it." One month later, Madison wrote again to Monroe: "I have heard of several Countries where the late representatives have been laid aside for voting for the Bill, and not of a single one where the reverse has happened." By this point, Madison was encouraged by the fervor of public opinion: "The printed Bill has excited great discussion and is likely to prove the sense of the Community to be in favor of the liberty now enjoyed."¹²⁵

In this period when travel and communication were still very slow, it was rapidly evident that public opinion was swaying away from the general assessment. While the Anglicans were still in favor of the bill, Madison found that "the zeal of some of them has cooled." As for the rest of Virginia, he claimed that the "laity of the other Sects are equally unanimous on the other side." By the end of May, even the Presbyterian leaders slowly backed away from their alliance with the Anglicans: "The Presbyterian Clergy too who were

¹²⁴ Ibid., VIII:268, 264.

¹²⁵ Hutchinson and Rachal, VIII:272; Cousins, 307.

in general friends to the scheme, are already in another tone, either compelled by the laity of that sect, or alarmed at the probability of further interferences of the Legislature, if they once begin to dictate in matters of Religion."¹²⁶

In the summer, Madison furthered his cause, likely in response to others' insistence, by drafting a remonstrance against the general assessment bill. It was widely printed and circulated, with a request for signatures. "Subscriptions to it are on foot I believe in sundry Counties, and will be extended to others," Madison wrote in a July letter. "My choice is that my name may not be associated with it." The remonstrance successfully spread across Virginia, and Madison's authorship remained fairly well concealed. George Washington received a copy in October from George Mason; the latter noted that it was "confided to me by a particular friend, whose Name I am not at Liberty to mention ... I have been at the charge of printing several Copys, to disperse in the different parts of the Country..."¹²⁷

Mason asked Washington to sign the document: "Your Signature will both give the Remonstrance weight, and do it Honour." Washington sent a response the next day; it can be assumed that no signature was included:

Altho' no mans sentiments are more opposed to any kind of restraint upon religious principles than mine are; yet I must confess that I am not amongst the number of those who are so much alarmed at the thoughts of making people pay towards the support of that which they profess.

Washington expressed support for the assessment in theory, but then turned his thoughts

¹²⁶ Hutchinson and Rachal, VIII:261; Cousins, 307.

¹²⁷ Hutchinson and Rachal, VIII:328; W.W. Abbot, ed., The Papers of George Washington, Confederation Series (Charlottesville, VA: University Press of Virginia, 1992-), III:290.

toward the politics of the situation and the likely reaction of the citizens:

As the matter now stands, I wish an assessment had never been agitated - & as it has gone so far, that the Bill could die an easy death; because I think it will be productive of more quiet to the State, than by enacting it into a Law; which, in my opinion, would be impolitic, admitting there is a decided majority for it, to the disgust of a respectable minority. In the first case the matter will soon subside; in the latter it will rankle, & perhaps convulse the State.¹²⁸

Once again, Washington displayed a keen understanding of the needs of the country. The House returned, and the general assessment died a quiet death.

Jefferson's bill for religious freedom was still alive, and the reaction to the general assessment had mobilized the state. With the tax dispute over, even the Presbyterians could now be counted as solid supporters of this bill. Madison later remarked: "A General convention of the Presbyterian church prayed expressly that the bill in the Revisal might be passed into a law, as the best safeguard short of a constitutional one, for their religious rights." Although the mood may have finally been receptive to this bill, there was little action. Madison believed he understood why -- this was one bill in a large and unwieldy set which remained from the code revisal. On November 11, Madison wrote to George Washington: "The House have engaged with some alacrity in the consideration of the Revised Code proposed by Mr Jefferson Mr Pendleton & Mr Wythe. The present temper promises an adoption of it in substance. The greatest danger arises from its length compared with the patience of the members."¹²⁹

Over one month later, in mid-December, the revisal appeared headed for another

¹²⁸ Abbot, III:290-3.

¹²⁹ Hutchinson and Rachal, VIII:473; Abbot, III:355.

deferral. Madison wrote to James Monroe: "Our progress in the Revisal has been stopped by the waste of time produced by the inveterate and prolix opposition of its adversaries & the approach of Christmas." The news, however, was not all bad. Some of the bills, Madison added, escaped the postponement: "Among these was the Bill for establishing Religious Freedom, which has got thro' the H. of Delegates without alteration, though not without warm opposition."¹³⁰

In fact, the bill ran into difficulties in both houses. The preamble, which included terms such as "reason," proved to be the stumbling block. On December 16, a motion to strike the preamble had support from Speaker of the House Benjamin Harrison, John Tyler, and even John Page -- a childhood friend of Jefferson. In a testament to the widespread support for religious freedom, and the continued efforts of Madison, the amendment was soundly defeated, 66-38. On December 29, the amendment was defeated a second time, 56-35. Amendments to the preamble flew in from both houses, including suggestions to insert the words "Jesus Christ" or substitute the religion article from the Declaration of Rights. Jefferson's bill did not emerge from final deliberations unscathed, but it did resist amendments which would have reduced its message, if not eliminate it. On January 16, 1786, the two houses arrived at an agreement. The Statute for Religious Freedom was signed on January 19. On January 22, Madison wrote to his friend Jefferson: "...this Country extinguished for ever the ambitious hope of making laws for the human mind."¹³¹

¹³⁰ Hutchinson and Rachal, VIII:445-6.

¹³¹ Malone, 279n.; Hutchinson and Rachal, VIII:454, 474, 481n.

CONCLUSION

Jefferson spent a considerable amount of time and effort defending the qualities of Virginia and America, and his opinions were only strengthened by his visit to Europe. "My god!" Jefferson wrote, even before passage of his statute, "How little do my countrymen know what precious blessings they are in possession of, and which no other people on earth enjoy." With the good news from home, he could now be justifiably proud of the adoption of the Statute for Religious Freedom. Jefferson received the news with delight, but his true joy came with the response he found in Europe. Jefferson reported the reaction to Madison from Paris:

The Virginia act for religious freedom has been received with infinite approbation in Europe, and propagated with enthusiasm. I do not mean by the governments, but by the individuals which compose them. It has been translated into French and Italian, has been sent to most of the courts of Europe, and has been the best evidence of the falshood of those reports which stated us to be in anarchy. It is inserted in the new Encyclopedie, and is appearing in most of the publications respecting America.

It was not by accident that the statute received such immediate attention; Jefferson had copies printed and circulated. "It is honorable for us," Jefferson continued, "to have produced the first legislature who has had the courage to declare that the reason of man may be trusted with the formation of his own opinions."¹³²

¹³² Julian Boyd and others, eds., The Papers of Thomas Jefferson (Princeton, NJ: Princeton University Press, 1950-), VIII:233, X:603-4; Malone, 279.

Jefferson's boasting aside, he expressed beliefs in the statute which referred to the world -- not a single commonwealth. This was a victory for the cause of the Enlightenment, and the spread of human rights around the world. Jefferson could boast only because he felt a great value in the efforts of himself, Madison, and their supporters: "In fact it is comfortable to see the standard of reason at length erected, after so many ages during which the human mind has been held in vassalage by kings, priests and nobles."¹³³

Jefferson gave due recognition to the "unwearied exertions" of his friend Madison. The opposition in the legislature, as Jefferson described it, was unrelenting: "...endless quibbles, chicaneries, perversions, vexations and delays of lawyers and demi-lawyers..."¹³⁴ The accomplishment was difficult to achieve, and it arrived not through the efforts of Madison and Jefferson alone, but through a grand coalition which crossed all boundaries. The refiners faced an uphill struggle, clashing against a strong opposition which held the advantages of being in power. Victory was not possible without an energetic political struggle, including the circulation of ideas, the formation of alliances, and the persistence of all involved. Jefferson and Madison acted as both political theorists and political strategists. The task of coalition-building was understood by Madison, as reflected in his writings on factions, but also in his effort to assemble the groups needed to pass the bill.¹³⁵ A multitude of religious leaders, secular theorists, and citizens from all sides joined into an overwhelming force. The people spoke, and they asked for both protection of religion and protection of the

¹³³ Boyd, X:604.

¹³⁴ Padover, 42.

¹³⁵ Miller, 12, 181.

state.

The refiners succeeded at demonstrating the significance of natural rights, and their relationship with government. Religious freedom became a law in Virginia in 1786, but Madison and Jefferson both knew that it deserved the status afforded by inclusion on a constitutional level. Even popular democratic government needs rules, and under that structure, it is then possible to effect change. Jefferson wrote: "The, shackles, therefore, which shall not be knocked off at the conclusion of this war, will remain on us long, will be made heavier and heavier, till our rights shall revive or expire in a convulsion."¹³⁶ Jefferson was not pessimistic toward the future when he insisted that the spirit of the times will change; rather, he was optimistic that if, during this unique opportunity in time, the spirit of the revolution was used wisely to form a new political structure, then each generation would be free to improve upon its predecessor. The United States Constitution and the Bill of Rights, overcoming many protests, soon followed the Statute for Religious Freedom and provided this structure.

Jefferson was correct that the spirit of the times changed and has continued to change with each generation. The question of defining the uniqueness of America will always be fresh. It continues, in large part, because lofty goals were set for the country, and many took the bold initiative to try to reach them. Political leaders, community leaders, and the general population decided together that there was more to the revolution than political independence. They combined their efforts in order to effect monumental change. When the Revolutionary War ended in victory -- when the flags were lowered and guns laid down --

¹³⁶ Padover, 303.

Jefferson, Madison, and many others decided that the revolution was still a work in progress. The Virginia Statute for Religious Freedom was one step along that road, as the American Revolution continued. "The generation which commences a revolution can rarely complete it," Jefferson wrote, nearing the end of his life, "...one of the ever renewed attempts will ultimately succeed."¹³⁷

¹³⁷ Hellenbrand, 11.

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VITA

Kenneth William Rosenfeld

Born in Philadelphia, Pennsylvania, January 5, 1970. Graduated from Abington (PA) High School, June 1987. Received Bachelor of Science in Commerce from the University of Virginia, May 1991. Employed 1991-1994 at Monticello, the home of Thomas Jefferson, in Albemarle County, Virginia. Entered the College of William and Mary in the fall of 1994 as a graduate assistant in the Department of Government. With this thesis, the requirements are completed for the Master of Arts degree.

Served on the Capitol Hill staff of United States Senator Charles S. Robb (Virginia) in the fall of 1995. On New Year's Day, 1996, began service as the legislative assistant to Penelope A. Gross, Fairfax County (VA) Board of Supervisors.