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"The Building of the Wall": Historical and theological reflections on the American experiment in church and state

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Rice University, 1989

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1989
"THE BUILDING OF THE WALL": Historical and Theological Reflections on the American Experiment in Church and State

By

C. Chappell Temple

ABSTRACT

Two centuries after its formulation, the American doctrine of the separation of Church and State yet remains a continuing source of controversy and confusion for many. For the interpretation of that idea— as embodied in the First Amendment to the Constitution— has been frequently beset by two historical myths or misunderstandings. From early in our history on, for example, there has been an attempt to cast our national beginnings in explicitly Christian terms, exemplified by such notions as "redeemer nation" and the belief in ours as a Christian republic. A clearer reading of the evidence suggests, however, that such an interpretation is not warranted by the facts, nor has it ever been.

Yet likewise, neither true is the suggestion that has frequently been advanced by the other historical misunderstanding, namely, that the Founding Fathers set out to create an intentionally "secular" state, wishing to completely deny any significant role for religion within the affairs of public life. For the reality is that the First Amendment was the finely balanced product of compromise, re-
reflecting not simply the more well-known elements of Jeffersonian rationalism and Enlightenment political theory, but an equally significant theological pedigree, as well. One may see within even its few words, in fact, the reflections of such Christian thinkers as Augustine, Luther, Calvin, Edwards, and particularly perhaps, Roger Williams. Taken together with the insights of Locke, Jefferson, and Madison, American separationism thus emerged as a synthesis of sorts between those two visions, as well as a practical solution to the very real problem of vastly different religious experiences between the American states.

As a compromise, therefore, the Amendment (and the subsequent American understanding of Church and State), should not be "pushed" too far in either direction. Rather, the key to understanding its continuing relevance for today is to both recognize the complex and varied context out of which the notion of separationism was adopted two hundred years ago, and the truly revolutionary changes which the American experiment was to represent.
ACKNOWLEDGEMENTS

The writing of this dissertation would not have been possible without the special encouragement and support of many, for whom these words of acknowledgement may seem to be an inadequate form of thanks indeed. I am grateful nonetheless to all of those at Rice University who have patiently "waited me out" on the completion of my degree program there, and particularly in this respect Professor Niels Nielsen. His perspective has not only stimulated my thinking in so many areas over these past several years, but his demeanor has given me as well a genuine example of how one may, in the words of John Wesley, unite the two so long divided, "knowledge and vital piety."

Similarly, the keen insights of others within the Department of Religious Studies, and especially those of Professors Clyde Manschreck, James Sellers, and Werner Kelber, have challenged me in a myriad of ways and provided me with a good foundation on which to write this thesis. Outside of the department, Professor John Boles' willingness to read the present work has been greatly appreciated, and the continuing counsel of Sylvia Louie has more than once kept me on track, at least insofar as the keeping of the academic Law has been concerned.
Incredibly to me, four congregations have had a part in this enterprise over the past nine years, from the Methodists at Brazoria, Texas, who first encouraged me to pursue doctoral studies, to those at East Houston, Katy, and Lindale, Texas, each of whom have graciously allowed me time off here and there to try and steal away the hours to study and to write. Their indulgences have been appreciated and I hope that in turn something good has happened to their pastor as a result of this program.

As is usual, however, it is my family who has made the most sacrifices along with me during these times, and for that I will ever be grateful. On both sides of the generational gap I have been fortunate, with parents who have encouraged me all the way through my life, and children who have made that life all the more special now. Most of all, I owe a debt of love to my wife, Julie, for to her has fallen the unenviable task of being not only a parson’s wife, but a graduate student and writer’s spouse at the same time. Through it all, however, she has supported me repeatedly in ways beyond my comprehension and served as my touchstone back to reality. To Julie, therefore, this dissertation is fondly dedicated. Even if Church and State are separated forever, may the two of us continue to be joined by God, likewise unto eternity.

April 1989

Lindale, Texas
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Chapter One

BEHIND THE WALL: SOME INTRODUCTORY CONSIDERATIONS

"The relationship between Church and State is the greatest subject in the history of the West" -- Emil Brunner

WHY ANOTHER LOOK AT CHURCH AND STATE?

The issue is almost as regular of a feature in many newspapers as the sports page or daily weather forecast: a news item tucked away here or there detailing yet another First Amendment case or controversy in which the federal courts have been asked to rule on the role of religion in American public life. For even as the celebration of the two hundredth anniversary of that supposed constitutional solution to the issue, the Bill of Rights, approaches, it is evident that the relationship between Church and State in America is far from a settled question indeed.

Above the sounds of Christmas carols each year, for instance, one may hear the generally not-so-melodic voices of opposing lawyers arguing hard and loud over such matters as whether or not the governor of Mississippi may burn lights in a state-owned building which form into the shape of a cross... or whether the city-county building in Pittsburg may display a nativity scene and Hannukah symbol... or whether a privately owned creche must be removed from public
property in a community in California. Indeed, can an employee in Kentucky be fired for refusing to answer her company's telephone with "Merry Christmas" because the greeting would conflict with her religious beliefs as a Jehovah's Witness?¹

Likewise, the start of school each fall signals the beginning of a new season of litigation, as well. Can the home football games at Douglasville, Georgia, be opened with a prayer, as has long been the custom (thus, mingling two of the more revered institutions and values in much of Southern culture, viz., faith and football)? Can invocations be part of California high school graduation ceremonies? May students even voluntarily gather for Bible study and discussion on high school campuses before the school day officially begins? And once it has, may legislatures in Louisiana and other states across the nation give the Old Testament "equal time" by mandating the teachings of "creation-science" when and wherever the name and tenets of Darwin are invoked? Does the absence of much significant religious reference in social studies and history textbooks translate into the promotion of atheism? (For, in fact,

¹ The Kentucky Court of Appeals ordered the company to pay the employee's back wages and compensatory damages for failure to make a "reasonable accommodation" of the woman's religious beliefs. In the public display cases, the Supreme Court has ruled that nativity scenes and programs have become traditional in American society and that in accommodating them, governments do not violate the constitutional ban on establishment.
was John Dewey, whose influence upon education in this country has been profound indeed, "trying to found a new religion, a religion to supplant earlier religions," which has now eased its way into the public educational system? And is the pedagogical foundation now based upon a core belief that right and wrong are defined only by consequences, and that human beings cannot look to divine sources to be taught the difference between the two?)

Clearly, thus, the schools have become a major testing ground not simply for the content of their curricula, but for the further definition of what American separationism

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2. The quotation is by U.S. District Judge Brevard Hand in a ruling of March 1987 which banned forty-five textbooks in Alabama, and included a 111-page amalgam of scholarship on humanism and a virtual dissertation on values. Hand, whose 1982 decision upholding prayer in schools was overturned by the U.S. Supreme Court, in this case focused in on Dewey, whom he treated as the "prophet" of "secular humanism." He then traced a direct line from the humanist debates of the 1920s through contemporary education, that is, into the colleges of education and the offices of the publishers of textbooks, to arrive at his conclusions that the main source of the problem is values clarification. See the article ""Secular Humanism' ruling key to ban of 45 Alabama textbooks," by Lyle Denniston, The Dallas Times Herald, March 8, 1987, page A-16.

A three-judge federal appeals court reversed Judge Hand's order in August of that same year, suggesting that his ruling had turned the First Amendment requirement for neutrality "into an affirmative obligation to speak about religion." Interesting to note, however, is the admission by Herb Adams, president of educational publishing division of Doubleday, one of the nation's top ten textbook publishers, that "the allegation that religion has been softpedaled in textbooks is true," stemming from most publishers' concerns to "avoid controversy." See the National and International Religion Report, Volume 1, Number 10 (May 18, 1987).
means, as well. But even outside the realms of Christian holidays and public school education, the questions continue to be raised. For whether the specifics center around state regulation of church-run homes for children or day-care centers, the granting of funds to religious organizations that promote sexual abstinence among teenagers, the legality of a courtroom oath ending with "so help me God," or the question of retaining tax-exempt status for the Roman Catholic Church despite their activity opposing abortion\(^3\) (to name but some of the other areas of concern), it is clear that, even two hundred years after the passage of the First Amendment, a consensus on the appropriate relationship between Church and State is far from agreed upon in American life and thought. Indeed, the case may be argued that it is in the very nature of the American "solution" to the question, that is, in the principle of separation as embodied in the First Amendment,

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3. The Supreme Court in a ruling of June 1988 upheld that the Adolescent Family Life Act, also known as the "Chatistity Act", did not on its face violate the First Amendment in that it did not have the primary effect of advancing religion or creating an excessive entanglement of church and state.

The courtroom oath, reflecting a state law in Texas, was questioned by Robin Murray-O'Hair in December 1987, who also refused to take an alternate oath dropping the religious reference, noting that the state should have a uniform oath for all its citizens called for jury service. O'Hare was jailed for several hours and later released pending a hearing on a contempt of court citation.

The case challenging the Catholic Church's tax status is potentially an explosive one which could affect many faiths. See the article by Joan Kelly, "Court Fight could redefine church, state boundaries" in the Houston Chronicle, November 28, 1987, Section 6, page 1.
that much of the continued controversy is rooted. For the carefully chosen verbiage of that amendment, heightened by its often overlooked but equally carefully (and sometimes only selectively) drawn up historical context, is ironically both its genius and the genesis of much of its current misunderstanding.

All of which may serve as simple prolegomena to answer the question of why yet another examination on the subject of Church and State, specifically in the form of the present dissertation. For as the succeeding review of the literature will demonstrate, an almost overwhelming volume of material has been written over the years on the topic of ecclesiastical and political relations, both here and elsewhere. One may reasonably wonder, thus, if the pertinent information has not already been adequately covered and if any further attempts to explicate it might just be an exercise in academic overkill.

One answer, of course, is to note that each examination of a precious jewel will hopefully reveal different facets that may indeed have been forgotten or even not yet been sufficiently admired. Or, to change the metaphor, it is the case that each historian shines the spotlight of his or her examination of a subject at varying speeds and angles, so that even if it is shining on the same material (in this case, conveniently so for extending the metaphor, the "wall of separation"), varying shadows will be discerned there.
Accordingly, we may note that the "angle" which this dissertation will take in re-examining what may be old and familiar material to some will be to cautiously approach the First Amendment as an intentionally ambiguous doctrine, the product of a ideological fusion between specifically religious concerns, the more rationalistic insights of the Enlightenment, and the pragmatic exigencies of an emerging pluralistic society within the newly embodied Republic.

Beyond such justifications, however, it may be argued as well that the existence of so many books, articles, and theses which have been penned over the years, coupled with the ongoing confusion over the meaning of separation as evidenced by the preceding examples, simply shows that the question continues to be one worth considering, and one that has not been exhausted at all. In this respect, we may take note of the observation made long ago by Emil Brunner with which we prefaced this examination that, indeed, "the relationship between Church and State is the greatest subject in the history of the West," a view which if slightly overstated nonetheless is strongly appealing to any who contemplate further study in the area. For it is not too much to say that the issues involved do touch upon the basic concerns of both individuals and societies. Or, as Oscar

4. Quoted by James Wood in his prefatory comments to the initial issue of A Journal of Church and State, Waco: Baylor University, Volume I, No 1 (November 1959).
Cullmann has expressed it, the problem of Church and State is one which arises "because of the very essence and presuppositions of the Christian faith." It is a question which exists even in those countries and times in which there appears to be no contest at all, and thus one that merits continued consideration.

One initial obstacle for such, however, is an obvious one: namely, how to deal with all of the aforementioned volumes of materials which have preceded this analysis. For even a cursory review of all of the pertinent materials would require a dissertation-length examination in itself, as at least two bibliographic studies have demonstrated. Albert J. Menendez, a writer long affiliated with the advocacy group of Americans United For Separation of Church and State, for example, detailed the historical development of both the separation doctrine and the idea of religious liberty in his useful compilation of 1976, *Church-State Relations: An Annotated Bibliography*, and an earlier study by George R. Lanoue focused in specifically upon doctoral dissertations undertaken in the area of religion and politics.  


5. *ibid.*
Despite the bulk, however, it is possible to cull out those works which have been either more seminal or at least representative in advancing an understanding of the particular concerns which the First Amendment raises in the American formulation of the Church and State equation. With regard to primary sources, it is clear of course that the writings of James Madison and Thomas Jefferson will bear keen relevance to the immediate construction of the First Amendment. Madison, it will be noted, is the probable author of the *ipsimma verba* of the Amendment presented to the First Congress; he provides as well the best source of information as to what happened in the Constitutional Convention which preceded that government and, in the *Federalist Papers* coauthored with Hamilton and Jay, the arguments which were promoted for its ratification. The debate over the Bill of Rights itself can be followed by perusing through the pages of the *Annals of Congress*, which gives at least the House version of what happened in some detail, the Senate proceedings being closed to the public for several years more.

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7. See Madison’s *Journal of the Federal Convention*, first released in 1840 and reprinted several times since, and *The Federalist Papers*, available in several editions. With respect to his other writings and correspondence, several editions have been produced over the years but Saul K. Padover has compiled a most helpful anthology of Madison’s thought arranged topically in his work, *The Complete Madison*. See bibliography for publishing data on the above.
Jefferson's contribution to the framing of the Amendment is equally significant, despite his absence from the country while it was being debated. For as the author of the Virginia Declaration of Rights and a long-time proponent of religious liberty, Jefferson's views remained at the forefront of consideration for many, even while he remained in France as the first American minister to that ally. His predilections in the area of religion have long been cited, and they may be seen not only in the statutes which he helped to frame, but in such works as his "Notes on the State of Virginia," and in much of his personal correspondence.\(^8\)

Beyond the actual formulation of the Amendment, however, we may clearly trace the evolution of an idea, and it is that which will be suggested holds the key to its successful interpretation. The historical connection between Jefferson and certain figures of the Enlightenment such as Locke, Hobbes, Montesquieu, and Sidney, has long been noted and indeed it has passed even into the popular understanding of from where American democratic ideals originally came. What has at times been overlooked, though, is that there is an equally significant theological pedigree behind the idea of separation of Church and State. In this respect, the

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\(^8\) The particular views of Jefferson on religious issues have been collected and discussed by Norman Cousins in his work on the religious beliefs and ideas of the Founding Fathers, \textit{In God We Trust.}, 1958.
works of Martin Luther and, more importantly for the American situation, John Calvin, must be cited, for a genetic link back to the Reformers can clearly be discerned.

It was Calvin, for instance, who provided the theological underpinnings not only for both the Anglicanism of the Southern colonies and the Puritanism of New England— a fact at times forgotten by some— but for the Puritan divines who contemplated the right relationship between the sacred and the secular in their societies, as well. On both sides of the Atlantic, there was considerable theological reflection along such lines in the seventeenth and eighteenth centuries, and the discourses of such men as William Ames, William Warburton, John Wise, William Bradford, and John Cotton will be noted as representative of such, along with the earlier theological assertions of Calvin and his reflections upon the theocracy which was erected at Geneva.9

But two other American thinkers in the generations before Jefferson and Madison were perhaps most significant in the germination of the idea of separationism, namely, Jonathan Edwards and Roger Williams. For despite the paucity of direct references to religious liberty which may be found in Edwards, it is clear that he, moreso than any other man of his time, represented an American fusion of both the En-

9. The primary source for Calvin’s theory is, of course, his Institutes of the Christian Religion, and particularly Book IV, chapter XX. Bibliographical date for the Puritan divines mentioned will be cited in the following chapters.
lightenment insights and the Reformation heritage. And since it was just such a fusion, it will be suggested, that resulted in the move towards the separation of church and state in America, Edwards in that sense may be thought of then as a catalyst for the American doctrine who provided many of the philosophical and theological tools with which others were later on to construct the actual "wall" of separation.\textsuperscript{10}

Of more direct impact upon the process was, of course, Roger Williams. For both in his "lively experiment" in Rhode Island and in his exchange of verbal missiles with John Cotton and other Puritan leaders, Williams set forth a model for separationism which, perhaps as much as Jefferson's later reflections, contributed to the building of the separation ideal. Any such study of Church and State in America must obviously thus take notice of his essays such as \textit{The Bloody Tenet of Persecution for cause of Conscience Discussed} and Cotton's reply. Such then will form the core of the primary sources used in the construction of the present dissertation.\textsuperscript{11}

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11. Williams' work, like that of most of the eighteenth century sources, is most readily available on microfilm records and accessed by title; current publishing data is sometimes thus not available. For a full listing of the sermons, tracts, and other pamphlets of this era, consult Charles
When it comes to dealing with secondary sources, however, the winnowing down process is not quite so easily accomplished. Frank Gavin's *Seven Centuries of the Problem of Church and State* (1938), though somewhat dated now, remains a helpful overview of the background of the problem and still is worthy of critical study. In particular, we may note that Gavin clarified the parameters of the issue by noting that there are two fundamental poles in the problem of Church and State relations: first, the theological issue of what the Church is, and what its attitude towards the State should be, and second, the practical and historical exigencies which even in the Lutheran state-church of Germany created the necessity for eventual compromise. Gavin's thesis is thus an apt one for the American situation, as well, namely that the fundamental issue of Church and State is nothing more or less than the old matter of theory and practice, "of adjustment of principle to actuality, of divergent convictions and adjustment to reality."12

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Quotations in this dissertation from the actual documents of the period, including state constitutions and statutes, have been drawn from several sources, including a 1965 compilation published by Americans United for Separation of Church and State, *Basic Documents Relating to the Religion Clauses of the First Amendment,* and pertinent references in many of the secondary works cited below.

12. See Gavin, *Seven Centuries of Church and State,* (Princeton, New Jersey: Princeton), 1938, page 1. His assertion that if the Church was indeed a divine institution, founded by God with domain over the whole of human life,
Similarly helpful background summaries of the overall problem of Church and State relations and its development through the centuries may be found in Owen Chadwick's contribution to the Pelican histories on the Reformation, and in three works produced during the early years of the 1960s. J. Marcellus Kik's insights into the Constantinian era of the church are especially revealing, as are those of Catholic scholar Luizo Sturzo on the thought and impact of Martin Luther. And Brian Tierney, in his study on the crisis in church and state during the eleventh to fourteenth centuries, has proposed that a theocratic ordering of society may, in fact, be a very common pattern of human government since mere force cannot in the long run maintain order and unity in groups larger than extended family systems. We may note, as well, the general histories of that no compromise with totalitarian states was then possible was especially relevant to the times in which it was rendered.

13. See the works by Kik and Sturzo both entitled Church and State, and Tierney's The Crisis of Church and State, 1050-1300, first published in 1964 and revised in 1980. Tierney observes that the most common solution to the above problem is to simply endow the ruler not just with the powers of state coercion, but with a sacred role, too, as the head of the people's religion. As examples one may cite the Pharoahs of Egypt, the Incas of Peru, the emperors of Japan, the Roman Caesars (whose titles included Pontifex Maximus), and even the heads of totalitarian states who simultaneously control the Party (church) as well.

Sturzo, the founder of Italy's Popular Democratic Party (now known as the Christian Democrats) argues for more democracy in both Church and State and a firm separation between the two.
the time from Augustine to the reformers, or "the thousand years of uncertainty," as Kenneth Scott Latourette referred to it in his readable, if clearly evangelical, effort. 14 Studies in the political thought of the reformers have been less numerous than in other areas of their work, but several have made clear contributions to our understanding of this important dimension. Despite a popular assessment of Martin Luther, for instance, as an apolitical thinker, Hans Hillebrand is right in suggesting that "it is impossible to understand the Reformation fully apart from the general developments of the time," and most notably the political factors to which Luther had to speak. 15 We may applaud the efforts of Philip Broadhead, as well, in discovering, "finishing out," and publishing posthumously the excellent exposition of Luther's political thinking by the late Reformation scholar of King's College in London, W.D.J. Cargill Thompson. 16 Both works have been drawn upon in the course of the present dissertation, as has Heinrich Bornkamm's ex-


15. See Hillebrand's excellent study on Christendom Divided, (New York: Corpus Instrumentum), 1971, page xi. Hillebrand's observation was, of course, not a completely new one; Ranke had earlier made a similar assertion in his history of the German people and nation.

16. The book was published in 1984 as The Political Thought of Martin Luther, (Sussex: Harvard Press).
position of the two-process doctrine, and the analysis of Luther’s thought by Thomas Sanders who, in comparing it to that of Augustine, has concluded that there are three fundamental elements in all Christian political thought: a dualism between Church and State, the sovereignty of God over both, and an evaluation of the State as both good and evil. 17

An adequate comparison of Luther’s thought with that of John Calvin may be found in a 1965 study by William A. Mueller on Church and State in the two reformers; further insights into the Genevan have been drawn from Wilhelm Niesel’s older analysis of The Theology of Calvin, who noted that the honor of God is the fundamental and ordering principle upon which the Calvinistic system rests, including its view on secular and sacred authority. The observations of William Marnell and Evarts Greene regarding Calvin and his Puritan successors, contained within their general studies on church and state, may also be cited as instructive in this regard, as is the collection of papers edited by Stanford Reid on John Calvin: His Influence in the Western World. With regard to Jonathan Edwards, the assessment of that "first modern American" by Perry Miller remains among the best, and the observations of Edward Davidson, Alan

17. Bornkamm’s introduction to Luther’s Doctrine of the Two Kingdoms is an extremely cogent one, found in his brief book of the same name. Sanders’ observations are contained in his 1964 study, Protestant Concept of Church and State.
Heimart, Suzanne Geisler, Henry May, and Philip Chapman, should also be cited for contributing to the understanding of Edwards as one emblematic of the new fusion between Enlightenment rationalism and Reformation dogma.18

Of the seemingly innumerable surveys of the intellectual and institutional history of the eighteenth century, and its subsequent impact upon the formulation and practice of American separationism, several may be noted as having provided either a readable rehearsal of the basic facts, a particular insight into their meaning then and now or, serendipitously so, occasionally even both. Philip Schaff produced what was most likely the first comprehensive treatment of the Church and State question in America in his brilliant commentary of 1888 which strongly affirmed the necessity of maintaining religious liberty through a strict division of the two estates. Schaff had the distinction of being both a theologian and an immigrant to America, coming to teach theology at the new German Reformed seminary at Mercersberg, Pennsylvania in 1843. The analysis which Schaff produced thus bore the weight not only of a closer

18. Miller’s treatment of Edwards in this regard may be found in his 1949 intellectual biography and in essays published otherwise; his basic thesis, well-known to many, is that Edwards was "infinitely more than a theologian;" rather, he was a modern empirical or idealist philosopher of the first rank, one of America’s five or six major artists who merely happened to work with ideas instead of with poems or with narratives. Information on the other authors cited may be found in the bibliography following this dissertation.
immediacy to the framing of the First Amendment itself, but also of a first-hand acquaintance with alternative arrangements in church and state to the American solution of voluntaryism and separation.

Shortly after the turn of the century, Sanford Cobb produced his historical narrative, *The Rise of Religious Liberty in America*, detailing the cultural influences which he suggested lay behind the creation of the "unique" American solution to the question, and two decades later, the work of H. Richard Niebuhr first in *The Social Sources of Denominationalism* (1929) and later in *The Kingdom of God in America*, (1935) were recognized by many as significant contributions to the general study of the phenomenon of the American voluntary church existing within an essentially secular society. In the 1930s and 1940s, in addition to Niebuhr's work and those previously mentioned of Frank Gavin (*Seven Centuries of the Problem of Church and State*) and Evarts Greene (*Religion and the State: The Making and Testing of an American Tradition*), Carl Bridenbaugh produced a general study in England on *Mitre and Sceptre (1689-1775)*, which also bears noticing, again for the relative objectivity of its author's viewpoint.

Whether occasioned by the Supreme Court rulings of the time or not, the decade of the 1950s saw a succession of works produced on the topic of American Church-State relations, including general summaries of the area by Loren
Beth, Winthrop Hudson, Conrad Moehlman, and the clear winner at least for amassed information, processed or not, Anson Phelps Stokes. Stokes, who admitted that his three-volume work was more of a recounting of the events in the history of American Church and State than an attempt to write a "well coordinated consecutive narrative,"\(^{19}\) still performed a valuable service by offering the most comprehensive compilation of data and analysis since Philip Schaff's work; it remains today a standard reference work, even though it is now dated and no longer in print.

Hudson's analysis of the voluntary principle within American religion and its relation to religious liberty, contained within in *The Great Tradition of the American Churches*, led him to suggest that a carefully defined equilibrium of Church and State has been the outstanding accomplishment of American religious and political life. Indeed, he noted, churches have flourished in strength and influence whenever subjected to the coercion of a purely voluntary status and in turn allowed that coercion to be translated into "a compulsion to fulfill a distinctive and specific vocation in society."\(^{20}\) But, Hudson warned, that

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19. See the preface to his *Church and State in the United States*, (New York: Harper and Row), 1950, Volume I, page xlvi. Pertinent information for the purposes of this dissertation will be found within the first volume; the book was, we may note, partially occasioned by the commemoration in 1938 of the sesquicentennial of the Constitution, and the subsequent celebration of 1941 of the ratification of the Bill of Rights.
all-important equilibrium is a fragile one as well, and it may be upset by the slightest encroachments of state or church into the territorial dimension of the other.

Moehlman's volume, as the subtitle will suggest -- "An Historical Study of Recent Criticism of the religious clause of the First Amendment--, carries a clear agenda within its recounting of the historical background of American separationism. For it is the intention of the author not simply to refute Catholic claims upon public support of parochial schools, but to assert as well that the theological and practical claims of Roman Catholicism are incompatible with the principles of liberalism and the democracy of American civilization. We may note, for example, Moehlman's conclusion early on that "no amount of sophistic arguments or of clever distinctions and subdistinctions will ever convince us that Catholicism has radically changed its point of view and that its goal is no longer that of conquering the political and social power in this country and that we should reshape our Constitution and our way of life according to the pattern of Catholic ideals."21 Fortunately, as


21. See Moehlman's *The Wall of Separation Between Church and State*, (Boston: Beacon Press), 1951, page 4. In assessing Moehlman's anti-Catholicism, it should be remembered that the ethos of both Catholicism and Protestantism was considerably more distinctive from one another four decades ago than it is now.
the work progresses, such rhetoric substantially decreases and the subsequent chapters are useful for the primary sources which they cite, if not always for their interpretation.

More to the point will be Loren Beth's *The American Theory of Church and State* which, written in 1958, provides a well researched interpretation of the parameters within which the United States has relegated its civil and sacral functions. His stated attempt is to go behind the controversy and accomplish two things: first, find out what separation really is, and second, validate it in modern terms. Towards that end, Beth's analysis of the English background and Enlightenment influences is particularly concise, and his insights have been drawn upon at several points within the present dissertation. He concludes that the reasons for the existence of separation are as valid and important today as they were in 1790, but when conflicts arise, they must be settled by the state, since it is the only social agency with valid jurisdiction over all of the citizens and institutions within society.

Other studies produced within this decade which we may briefly cite at this point will include those of Roy Nichols, whose Rockwell Lectures at Rice University formed the basis for his 1959 piece on *Religion and American Democracy*, John Wilson, whose theological and historical sampler, *Church and State in American History*, includes es-
says by Niebuhr, William Warren Sweet, Perry Miller, as well as Daniel Boorstin and Irving Brant, and the 1955 narrative by Robert Allen Rutland on The Birth of the Bill of Rights, 1776-1791, a well-written summary of both the colonial background of separationism and the political struggle to embody that doctrine within the Constitution. One further work may be noted from the 1950s, that being the sound articulation of the Baptist and Separatist view of James E. Wood in his Church and State in Scripture, History, and Constitutional Law.22

The following decade saw fewer dissertations and academic works on the separation principle produced, perhaps a reflection of a change in national interests away from church and state conflicts and more toward the civil rights and anti-war movements which dominated the 1960s. Still, several substantial contributions were made during this time. Sydney Mead, for example, noted the physical fact of the frontier in interpreting Christian history and the rise of religious liberty in America in his 1963 volume, The Lively Experiment: The Shaping of Christianity in America, Winthrop Hudson enlarged upon his contribution with a volume on American Protestantism, and Leo Pfeffer, whom some have

22. Wood's contribution to this field of study has continued through the years in his association with both the Church and State studies institute at Baylor University in Texas, and the journal which is produced through that program.
called "the dean of American Church-State attorneys," offered his summary of the American system in a 1967 tome, Church, State and Freedom.

A collection of papers presented for a California conference on Church and State relations edited by a political scientist, Fred Krinsky, in 1968 includes thoughtful essays by Pfeffer, Stokes, and Paul Blanshard and suggests that there are two aspects to the long-standing conflict: first, the notion of religious ideology as a competitor with the state for the loyalty of its citizens, and second, the reality of institutional religion as a competitor with the secular authority for the supreme power in the political process. In a similar vein came Paul G. Kauper's call for a re-examination of the American tradition, occasioned by the developments of both religious pluralism and the expansion of the government's role in all areas of American life. A further brief but significant summary of the evolution of American voluntaryism and separation which emerged during

23. See The Politics of Religion in America, (Beverly Hills: Glencoe Press), 1968. Krinsky posed the questions raised by the church-state problem as these: "(1) to what extent are law and public policy based in "universal" morality and ethics, and to what extent should they be? , (2) If morality has a place in politics, to what degree should this morality be based in religious values? , (3) At what point does the application of religious values to government policy become state support of religion? , and (4) Does religion have a legitimate role to try to influence politics, and if so, what methods and goals are proper to this role?", page 3.
this decade may be seen in the work of William Marnell, who carries the story well from its colonial days right up until the time of his writing in 1964.

And what of the decades of the 1970s and 1980s? We may cite with appreciation in this respect Sydney Ahlstrom's *A Religious History of the American People* (1972), for its near encyclopaedic handling of American religious history, including the developments within Church and State relations; the work of Martin Marty in highlighting the Puritan influence in America in his *Righteous Empire* (1972); and the anthologies edited by Russell Richey and Donald G. Jones on *American Civil Religion*, Henry B. Clark, II, on *Freedom of Religion in America*, and Richard Rutyna and John W. Kuehl on *Conceived in Conscience*. Each has presented a provocative collection of essays by serious theorists in the field of Church and State relations which have been utilized in the dissertation that follows, as will be evidenced from the footnotes throughout the paper.

Two further summaries of the historic material have been made by Glen T. Miller in a 1976 volume on *Religious Liberty in America*, and, most recently, Thomas J. Curry, whose 1986 study entitled *The First Freedoms: Church and State in America to the Passage of the First Amendment*, presents not only good historical narrative but insightful interpretation of the basic facts, as well. Curry argues, in fact, a central premise of the present dissertation, namely, that
religious freedom in America sprang from several sources, "from the passionate adherence to religious freedom of those who held it to be an article of faith, from the steady increase in numbers of those who believed that no article of faith commanded sufficient importance to warrant persecution on its behalf, and from the circumstances of colonial America that threw a multitude of different religions together and demanded that they get on in peace with the business of colonization."\(^{24}\)

In addition, several have addressed specific concerns within the area of American separationism, such as Robert Bellah who has focused in on the related matters of civil religion and of "Cultural Pluralism and Religious Particularism," found in the volumes edited by Richey and Jones and Henry Clark, respectively. Francis X. Curran and Joseph Chinnici have likewise highlighted the situation of Roman Catholics under colonial law and in the early Republic which followed, and two excellent interpretations of the meaning of the American experience have been advanced by Mark DeWolfe Howe in the mid-Sixties, and George Goldberg in the mid-Eighties. Finally, we may note that the more

\(^{24}\) See Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment*, (New York: Oxford University Press), 1986, page 78. The discovery of Curry's beliefs, made after the outlines of the present examination were already largely laid, has confirmed this writer of the appropriateness of the interpretation which is presented herein.
general insights of three historians, Gordon Wood, Edmund Morgan, and Bernard Bailyn, are of considerable value in assessing the American experience and how the idea of religious liberty and separation of Church and State emerged. For suggestive of the occasional void between the disciplines of history and theological studies or not, it is interesting to note that in Bailyn’s view the Two-Penny Act of 1759 and the resulting anti-clericalism which it ignited were of far more importance in moving towards separationism than the slighting and even oversight of this experience by most theological interpreters of the events might suggest.25

Returning at last to the original question, therefore, in the light of such voluminous materials which have been foisted upon the academic world already, how then can yet another dissertation on the separation of Church and State in America be tolerated? Perhaps simply thus: that, as before, each examination will hopefully produce its own light to shed on the question which, more to the point, has not yet been satisfactorily answered for all, or at least not with any convincing degree of finality. In this regard we may echo the sentiments of Loren Beth who noted almost three decades ago that the abundance of materials indicates not just a continuing interest in the subject of Church and State, but a basic uncertainty still as to what separation

25. Further development of this incident will be noted in Chapter Five.
really is, and what it means for modern America. To repeat then an earlier assertion, it is the case therefore that the abundance of books, articles and theses which have been written over the years, juxtaposed against the backdrop of a continuing legal and social confusion as to just where the line between Church and State ought actually to be drawn in American society, demonstrates that the relationship between the two estates is far from a settled question in late twentieth century America indeed.

At the obvious risk of some presumption, thus, how can we attempt to answer that question in the current inquiry? (And thus, to paraphrase a popular idiom, to "boldly go where many men [and women too] have dared to go before," many with only minimal degrees of success?) We begin by noting, as others have done, that the relationship between Church and State in the United States is not only a complex one, but it is often not even what the current controversy makes it out to be.

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Almost two centuries after its adoption, most Americans would probably agree that there are few other tenets of government so important to our system as the admittedly ambiguous idea of "freedom of religion," believed to be secured somewhere in the very earliest statements of our individual liberties within the social compact. The problem is, however, that even among those who could correctly place that guarantee within the First Amendment of the Bill of Rights-- formulated in the summer of 1789 and ratified and made effective by the states some two years later-- there are perhaps fewer still who could recount what that amendment actually says, much less what it might have meant at the time of its adoption. For aside from the more pedestrian problem of misquoting the amendment-- a practice which began with one who certainly should have known the difference, James Madison, the author of the statute\textsuperscript{26}-- it

\textsuperscript{26} Madison actually misquoted the amendment twice in public pronouncements, both times while President in February, 1811 in his communications with the Congress concerning his veto of their actions to incorporate a Protestant Episcopal Church in Virginia and make a land grant to a Baptist group in the Mississippi territory. In each instance, Madison replaced the words "an establishment of religion" with the term, "a religious establishment." The distinction between the two may seem insignificant, but nuances could be drawn from the change in phrasing, as we shall see. See Padover's edition of Madison's works, pages 307-308.
is clear that the technical terminology used has long since become decontextualized for most. Few Americans today could, for example, define the term "an establishment of religion" with any reasonable degree of accuracy, that is, in the historic sense of a church supported by the civil authority and granted special privileges within the society so governed.

Likewise, in the economy of its wording, it may be argued that the First Amendment is as revealing in what it does not say as in what it does. The Amendment itself, or rather the first two clauses which deal with the matter at hand, read simply thus:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

And generally speaking, it is fair to suggest that the Bill of Rights as a whole was written to limit and define the new federal government and not the individual liberties with which it deals. The Seventh Amendment, for example, which bans the imposition of any "cruel and unusual punishment," makes no attempt whatsoever to define what specific approaches might constitute such a form of punishment, choosing instead to simply pick up the phrase from the English Bill of Rights and assume a general consensus on its meaning by the populace at the time. Similarly, the oft-quoted Fifth Amendment never spells out exactly what "due process of law" means; it only guarantees that under the new federal
compact, that right shall not be denied to any of its citizens. And-- as constitutional purists are often quick to point out-- it was not until the passage of the Fourteenth Amendment, ratified in 1868, that the application of the federal guarantees was even seriously contemplated to be binding upon the individual states themselves.

What is more, it should be noted right off that the phrase that is most often recalled by many when reflecting upon the standing of religion within America-- namely, "a wall of separation between Church and State-- is not even a part of the legal document, but rather is a commentary upon it, made by Thomas Jefferson in 1802 in a letter to a group of Baptist pastors in Danbury, Connecticut, explaining his reluctance to designate a day of fasting in connection with the nation's past ordeals. The passing of time has thus blurred not only the constitutional prescription regarding religion and the role of government, but the difference between text and mishnah in the public mindset has been overshadowed, as well.

And the result has been that some have argued that the term "separation of Church and State" is unduly suggestive of a strict division which is not there and has never been. Others have proposed abandoning even the terms "Church and State" themselves. John Wilson, for instance, has commented that the connotations of the phrase "Church and State" are
excessively formalistic for the American experience in that they infer that there is "one spiritual authority confronting a single temporal authority structure." There is neither here, Wilson notes, for a single state is no more an empirical reality than a single church in America. Rather, what is present here are both religious and governmental pluralisms, the latter of which consists of a "multiplicity of authorities which possess overlapping jurisdictions within our society." We have not then "Church" and "State" in America, but a variety of religious institutions and a manifold number of civil governments, all roughly autonomous and all interactive within our society.

In a similar vein, Paul Kauper reminds us that "Church-State terminology comes to us from Europe and recalls a background which is quite unlike the American scene," a historical contention which is open for debate, to be sure, but which largely rings true when applied to the contemporary understanding. In that respect, he is perhaps right that it is safer in some ways to speak of the interrelationship of civil and religious communities, each of which

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embrace in part a common membership within American society. Still, the historic terminology of "Church and State", and even the appendage notion of "separation" between the two, is not without its own value, however, as is the related idea of "voluntaryism" or the "voluntary principle" within American churches, terms both descriptive of the practice of denominationalism and the American arrangement which stands in opposition to that of state established churches elsewhere. Each phrase thus merits continued usage in the debate, as the present dissertation shall unabashedly do.²⁹

Nevertheless, all of the above should be sufficient to demonstrate the point that both within the common understanding of Church and State relations within the United States, and the academic discussion of the same, confusion and misunderstandings continue to abound. And the result is that two extremes of interpretation, or perhaps more accurately, two historical myths, have been produced. For disregarding the admonition of Glen Miller, that the most serious temptation facing historians is that we might "project an ideal and judge the past in terms of that ideal,"³⁰ two explanations of the circumstances surrounding

²⁹. An additional notation may be made with respect to the practice of capitalizing the terms "Church" and "State." Following the traditional usage, we have done so herein whenever we have meant to signify their status as entities within society, and not merely individual and particular institutions.

the formal adoption of separationism in America have gained both currency and circulation: one, that America was founded as a specifically Christian nation, and alternately, that it explicitly was not.

The first of these myths, an attractive ideal to many, emerged early on the life of the new nation, promulgated in not only "orthodox" versions, but in more secular variants, as well. We may note, for example, the depiction of Washington and others of the Founding Fathers in almost pantheonic terms in some of the paintings and sculptures of the early republic, along with the latter emergence of "manifest destiny" as both a national policy and an unifying doctrine. A popular print of the eighteenth century, for example, goes so far as to portray Washington as a new Moses, coming down from the mountaintop not with the Ten Commandments in his hands, but with the Declaration and Constitution therein to give unto his people.

The more widely accepted versions of this myth usually begin, however, with a romanticized reference back to the Puritan and Pilgrim colonists, whose religious inclinations were clearly prominent in their agenda for the new land. It is de rigueur in this interpretation, in fact, to cite the inspiring words of William Bradford whose Pilgrim band came to these shores to be "stepping stones" for others and who
established that famous Mayflower Compact as a testimony to the fact that they had undertaken it all for "ye glorie of God, and advancement of ye Christian faith." But the problem is, of course, that in all of the genuinely religious (if not always strictly "Christian") activities which are cited, two rather glaring historical oversights are customarily made.

For first, it should be manifestly clear that from the very beginning of American life, the Puritan was not the only one with dreams and visions for the new land, nor was the Pilgrim necessarily representative of all who came to the colonies, both in the north and in the south. Statistically, in fact, it has been estimated that by the time of the Constitution’s adoption, nowhere in the new nation was church membership more than thirty-five percent of the population, and in many places it hovered closer to the range of only ten to twenty percent. One historian has even estimated that at the close of the colonial period, New England, the best churched section of the country, had no more than one church member for every eight persons, and another authority has suggested that at the end of the seventeenth century, the figures may have been closer to one out of twenty. The Puritan and the Cavalier, the

religiously motivated and the economically driven—like the Afrikaners and the Zulus in what is now South Africa—both arrived to stake their claim on the new land at roughly the same time then, and often, they even got off of the same ship.

Likewise, it is not quite correct to envision the majority of those early Christian settlers as men and women who came here to establish religious freedom for anyone other than themselves. In fact, as Norman Cousins has observed, "there was hardly a form of persecution known in the Old World which was not transplanted to the New;" it is thus "one of the ironies of human history that what was to be a religious haven in the New World turned into an arena of fierce religious competition and discrimination."\(^{33}\) The point will be made, however, that at least insofar as the Puritan states were to be involved, the intention of making their colonies "a religious haven" for those who did not

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share in their particular brand of faith—despite the myth—was never to begin with a part of their social agenda or program at all.

What is fair to say is that the population as a whole did possess a kind of "generic" shared religious consciousness, as DeToqueville and other foreign observers were later to notice. And oftentimes this did take on specifically Christian dimensions. The reflection of this is demonstrated, for example, in Daniel Webster's discourse delivered at Plymouth in 1820 which credited the Pilgrims with laying the first foundations of America "under the divine light of the Christian religion." His words are worth repeating at some length here, for they sum up very well the principle features of this interpretation of American history which early on made its debut:

Let us not forget the religious character of our origin. Our fathers were brought hither by their high veneration for the Christian religion. They journeyed by its light, and labored in its hope. They sought to incorporate its principles with the elements of their society, and to diffuse its influence through all their institutions, civil, political, or literary. Let us cherish these sentiments, and extend this influence still more widely; in the full conviction, that this is the happiest society which partakes in the highest degree of the mild and peaceful spirit of Christianity.34
In a like spirit, we may observe the later interpretation of the First Amendment's meaning by Joseph Story, whose multi-volume set of "Commentaries on the Constitution" in 1833 came during the middle of his service as an Associate Justice on the Supreme Court (1811-1845). Looking back upon the intent of the framers, Story, a colleague of Marshall's and a leading Unitarian, argued that the general sentiment was "that Christianity ought to receive encouragement from the State" so far as it was not incompatible with the private rights of conscience, and that "any attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation."\(^35\)

In short, Story suggested that the real object of the First Amendment was not to countenance or advance other faiths by "prostrating Christianity", but simply "to exclude

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35. Story's comments have been been noted by almost all commentators on the First Amendment, and particularly those who argue for its loose interpretation. See, for example, Charles E. Rice's essay, "The First Amendment: Religious Neutrality or an Establishment of Secularism?", in collection edited by Richard Rutyna and John W. Kuehl, *Conceived in Conscience*, (Norfolk, Virginia: Donning Company), 1983, page 46. Those who would like to read Story's words without benefit of comment may find them in his *Commentaries on the Constitution*, Abridged Edition, 1833, pages 701-702.
all rivalry among Christian sects." Whether such was an accurate assessment of the statute's principle purpose or not will remain to be seen; nevertheless, it is plain that at least as early as Webster and Story, and actually much earlier, the tendency of Americans to think of their national origins in religious terms had become a well-established practice. One further citation may serve to illustrate the point, that of the words of Ezra Stiles, the president of Yale, in a speech before the governor and General Assembly of Connecticut in 1783: "the United States will embosom all the religious sects or denominations in Christendom. Here they may all enjoy their whole respective systems of worship and church government complete... and who can tell how extensive a blessing this American Joseph may become to the whole human race...?" Clearly thus, a sense of America's uniqueness and its divine destiny ran deeply in the consciousness of many of its citizens early on. All might not have agreed with the exact metaphors which some would use to describe America -- "righteous empire" and "redeemer nation" -- but most would have certainly understood them, even if they did not concur with the specific references or even sentiments of Stile's vision.

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36. The quotation is cited in Hall, op.cit., page 238, and taken from an 1860 volume by J. Wingate Thornton, The Pulpit of the American Revolution.
Such is not to imply, however, that an explicit endorsement of the Christian faith was ever a part of the structuring of the new nation, for clearly it was not. Even allowing for the lingering affects of the Great Awakening upon American thought, in fact, it is correct to say that the mindset of most Americans was perceptibly different in 1787 than it had been just a decade or so earlier. What is more, if we allow that Webster and Story did indeed speak for many in their day, it was apparently different during the time of the Constitution's framing than it would be in those decades and centuries that followed, as well.\textsuperscript{37} We may note, for instance, that no invocation to God prefaced the Constitution as it had in the earlier Declaration of Independence, and likewise, no session in Philadelphia in 1787 opened with

\textsuperscript{37} Even there, however, there are ambiguities present which suggest that contradictory signals were being sent with regard to the implementation of the First Amendment early on. The case of Stephen Girard, cited by Henry Steele Commager in his contribution to the Clark volume, illustrates this point, for instance. Girard, who died in 1843, provided in his will for the establishment of a college for orphans but directed that no ecclesiastic, minister, or missionary of any persuasion should ever be admitted to the grounds. Family members contested the will on the basis that Christianity was a part of the common law, and that being derogatory to religion, Gerard's will was thus void. None other than Daniel Webster presented this argument to the Supreme Court, where none other than Joseph Story ruled against him. See Commager's essay, "The Significance of Freedom of Religion in American History," in Freedom of Religion in America, papers from a Conference of the Center for the Study of the American Experience at the University of Southern California, April 27-30, 1981, edited by Henry B. Clark, II, and distributed by Transaction Books of Rutgers University, 1982, pages 22-25.
or included any public prayers. Of interest as well is the fact that of the six purposes of the new government enumerated in the Preamble to the Constitution that was adopted there, all were limited to plainly secular matters. "We the People" came together specifically to "form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and to our posterity." Blessings might therefore come from Heaven, but here on earth they were to be secured by mortal men and women.

Indeed, the case may be argued that the closing decades of the eighteenth century were the most skeptical ones in American history, a fact which has been obscured both by carrying forward some of the earlier Pilgrim and Puritan ideals and myths, and by projecting back to the 1780s the more favorable climate for faith which did indeed exist in the United States from the turn of the nineteenth century onward. Even Peter Marshall, Jr. and David Manuel, whose recent popular interpretation of history leans more towards the Christian republic myth, rather inconsistently note that the years in which the Constitution was created represent a rather narrow window in American history, during which period the spirit of skepticism and French rationalism was equally strong to that of Christianity, if not at times actually stronger.
Reflecting that ideological reference, thus, the rejection of any explicit endorsement of Christianity by the new republic was stated without reservation not only by such "bell-cow" rationalists as Thomas Jefferson, but by others as well. Illustrative of this is the original language of the American treaty with Tripoli in 1792, negotiated under the administration of largely the same men who had drafted both the Constitution and its first set of amendments. Article XI read, in part:

The government of the United States of America is not in any sense founded on the Christian religion... it has in itself no character or enmity against the laws, religions, or tranquillity of Musselmen."39

The fact that in 1815 after the Protestant Revival this treaty was renegotiated and the first of those two clauses omitted may indeed support the idea that the last two decades of the eighteenth century were, at least in the area of American beliefs and values, substantially different not

38. Marshall and Manuel's 1986 book, From Sea to Shining Sea, represents a follow-up to an earlier work tracing America's "Christian origins" entitled The Light and the Glory. In their view, it was only divine providence in the form of Jefferson's absence from the Constitutional Convention which saved it from the fatal capitulation of giving supreme power to the states.

merely from the years which came before them, but from many of those which followed, as well. We may note, for instance, that by 1863, representatives of eleven denominations who met in Zelia, Ohio, issued a manifesto insisting that Christianity be made the official religion of the United States. Such an obvious overture as that one was (fortunately from a pluralistic point of view, at least) rebuffed rather speedily, but we should observe that it was not buried sufficiently so as to prevent its occasional resurrection by various individuals and groups in the years since then, up until, in fact, the current day.

All of which may be helpful in explaining why the myth of America's specific Christian chartering has continued. For we may suggest that the late nineteenth century interpreter's unfortunate habit of equating "religion" with Protestant Christianity has been followed in this century, as well. Even Anson Phelps Stokes, for example, whose massive and at places even monumental contribution to the study of Church and State in America has already been cited, proposed in 1950 the thesis that under the Constitution and the Bill of Rights, drafted "mainly by men of Christian faith, tradition and ideals," the United States has developed the social phenomenon of self-governing churches which exist "with the moral support of the Federal and state
governments, which guarantee entire religious freedom," admitting his own fundamental belief that religion is necessary to retain the well-being of the State and its citizens.

Of a far more obvious nature will be Marshall and Manuel's interpretation that, in the framing of the national compact,

There needed to be enough committed Christians to get the job done and to make democracy work. For democracy is not a natural form of government; it is supernatural, relying on a dynamic Judeo-Christian ethos to provide the continual spiritual renewal needed to inspire naturally selfish men to selflessness. The framers of the Constitution understood the reality of man's fallen nature, which was why they created our unique system of checks and balances. While the assumed presumptuousness of this may offend some, more to the point will be the fact that, disregarding the evidence for other sources of democratic political theory, the writers have simply absorbed the republican principles within the rubric of the Judeo-Christian heritage. And it is this almost unconscious appropriation of democratic ten-

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dencies, polity, and national history under explicitly Christian coverings which continues to feed the myth of an American Christian republic.

One other illustration will suffice to prove the point, and that is take note of the textbooks being circulated today among many of the independent and sectarian Christian schools. One such volume in wide-spread currency, an amalgamation of primary sources and predominately late nineteenth century historical interpretations compiled by Verna M. Hall, is nothing if it is not forward in its assertions. According to its editors, America is the world’s first Christian republic... [But] America’s Christian history has not been taught in Christian schools and colleges for over one hundred years. This fact has contributed to the rise of secularism-- the "irreligious" spirit-- more than any other single educational factor. With few exceptions Christian institutions teach a secular interpretation of history-- not the Providential approach... As Americans and as Christians have moved away from the teaching of history from its original sources they have accepted the interpretations of those who deal with history "seeing only secondary causes and human agencies." The result has been our separation of history from God as the Author of History. Ignorance, then, is our enemy-- ignorance of the Hand of God in American history.\textsuperscript{42}
Hali concludes that the solution to such ignorance is to recognize the "Biblical principles of Christian self-government, Christian property, and voluntary Christian unity" [emphasis mine], all of which found their "ultimate protection" in the United States Constitution.

Such presuppositions plainly lie at the base then not only of the Christian republic myth, but also of the ideological foundation upon which much of the so-called "religious right" of more recent years has operated. Thus, one televangelist may roar that the Supreme Court is "an institution damned by God Almighty" for allowing abortions, while another may argue that the United States has a "moral obligation" to support Nicaraguan contras who battle against "satanic" Communism, and all will generally decry what they see to be America's declension away from its supposed Christian moorings. 43 Yet when it is examined historically and

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42. See Hall, _op cit_, page 1a. Hall goes on to note that "each religion has a form of government, and Christianity astonished the world by establishing self-government. With the landing of the Pilgrims in 1620, Christian self-government became the foundation stone of the United States of America."

43. The opinions are those of Jimmy Swaggart and Pat Robertson respectively, reported in _Time_, February 17, 1986, pages 62 and 65. We may add that of Jerry Falwell also quoted therein who has commented that "theologically, any Christian has to support Israel, simply because Jesus said to."
objectively, Eric Jorstad is right in concluding that the Constitution adds up to something far less than an "explicit Christian witness or testimony." Even while conceding that the assumption may have been that the federal government would stay out of religious matters because such concerns belonged more properly to the states, and allowing for the kind of shared general religious consciousness earlier alluded to within the populace at the time, it yet manifestly twists the historical record unconscionably therefore to propose that America was founded as a "Christian nation," in any less than the most vague sense of that term. Despite the myth—which has demonstrated an enormous staying power throughout the decades—such is simply not the case and it only unduly confuses an attempt to understand American separationism and the First Amendment in the light of its actual context.

On the other hand, equally misleading is the second myth of historical interpretation, namely, that in structuring the new society, the Founding Fathers wished to exclude religion from public life altogether and create a totally secularized state. This contravening notion to the "Christian republic" ideal has long enjoyed currency with many in America, and has sometimes led to an almost irrational application of the

principle that if any trace of religious interest can be found in the public sector, it must be quickly and thoroughly rooted out. Any variety of paranoia is undesirable in folks, of course, but many of those afflicted with this strain seem to be, ironically perhaps, near fanatical in their approach—a religious, and specifically Christian, frame of reference is neither necessary or even legitimate in their eyes in deliberating upon the meaning of American ideas and institutions, for such was certainly alien to the men who contemplated and created them.45

In many ways, we may say that such a view has been fueled by a misunderstanding as to the extent to which the aforementioned deism affected the beliefs of those who crafted out our earliest national framework. Jefferson is, of course, the principle suspect for most here, for it will be fairly obvious that, along with Benjamin Franklin, the Virginian and later President served as the visible embodiment of European rationalism for many. But Jefferson’s influence in this regard has perhaps been a bit overstated, particularly in the light of his absence from both the Constitutional Convention and the First Congress which subse-

45. Such, it would appear to some, is oftentimes the attitude of organized "watch-dog" groups such as Americans United for the Separation of Church and State and the American Civil Liberties Union, both of which have occasionally chosen to defend the principle of separationism with both overkill and what would seem to be a near-vengeance.
quently settled upon the Bill of Rights itself. While it is true that a study of the correspondence across the Atlantic will verify that Jefferson remained substantially interested in how the national government which he represented in France was taking shape, and that he rather freely expressed his views to Madison and to others, what emerged at the end of the political process to become the First Amendment was manifestly not merely the product of Jefferson's religious, or supposed "irreligious," persuasions at all.

For, in fact, even Jefferson was not so much hostile to religion in general, or blinded to its contributions to an emerging society, as he was simply unfulfilled intellectually by traditional or evangelical Christianity of his day and extremely wary of the spectre of religious factionalism in the land. As the present dissertation unfolds, we shall note, indeed, that religion flourished rather than faltered in Virginia following the adoption of the statute for religious freedom which Jefferson largely penned. And as Merrill Peterson, the Dean of the Faculty and Thomas Jefferson Professor of History at the University of Virginia, has observed, we should not suppose that Jefferson was either much surprised or dismayed by that result. For despite the occasional rhetoric (which in some ways simply reflected a favorite indoor activity of the times), Jefferson's aversion was never to religious toleration _per se_, but rather to religious tyranny; his concern was simply that when religion
became "clothed with public authority it became corrupt and oppressive and so the public realm must be secured from its influence." As stringent as such a view might be, thus, it is still a far cry from suggesting that even Jefferson saw no role whatsoever for religion within the public order.

In fact, all that has been said thus far with regard to rejecting the notion of explicitly Christian origins for the basic doctrines of American constitutionalism must be balanced out at this point with the unvarnished admission that most of the Founding Fathers, including Jefferson and Madison, grew up in a strong religious atmosphere and most of those who did so had Calvinistic backgrounds. What is more, it is reading far beyond the evidence to conclude that even with the rise of rationalism and deism in the latter part of the eighteenth century that the majority of the Founding Fathers might have consciously chosen to completely move away from their earlier training and beliefs. Norman Cousins is thus right in commenting that "in reacting against it [that is, the rigorous Calvinism of their elders], they did not react against basic human religious ideas or what they considered to be the spiritual nature of

man."47 Nor, he adds, did they lose their respect for God or religious belief.

Thus, even while we have noted that the document which they produced in 1787, and straightway amended the following year, did not contain the kinds of outward religious references such as invocations and the like which the earlier Declaration of Independence (largely penned, we should recall, by Jefferson himself) had included, still we may suggest that for the large number of those men whose public lives extended through the adoption of both foundational documents, it is not likely that their essential beliefs in the more important "God-given" nature of the rights which they declared in 1776 and more concretely enumerated in 1787 and 1788 had substantially changed over the dozen years which separated those efforts.

It is perhaps pedantic to observe further that the Constitution while making no overt reference to God yet concludes with the conventional manner of reckoning time two centuries ago, "in the Year of our Lord." Yet even an obviously passing and largely irrelevant usage such as that one might surely have been expunged if, in fact, the framers had been intent on erasing every reference to religion and Christianity from the foundational document which they created. For in a much more substantive way, logic itself

47. Cousins, _op cit._, page 9.
would seem to dictate that since the framers barred not only the enactment of laws respecting the establishment of religion, but also the making of any laws which would prohibit its free exercise, they could hardly have had as their primary intention a policy of such strict separation as would consequently frustrate or inhibit the reality and practice of the religious experience for others.

Likewise, the corollary to this second historical myth—that the First Amendment as well as the Constitution was purely the product of political thinkers and not theologians—bears closer examination, too. Edmund Morgan is clearly correct in noting that the leading intellectuals and figures in American society changed from clergymen in the 1740s to statesmen in the 1790s. But as above, we should not suppose that some of those statesmen at least were not religiously-motivated laymen as well, every bit as imbued with the spirit of their faith as their clergy were and sometimes even moreso. Equally significant may be the sociological phenomenon involved, for what is sometimes overlooked is that "when Americans turned from revivals to revolution, religion was not left behind; it simply changed shape."48 Or, in short, politics became a form of religion. In the words of Morgan, then, the shift from the 1740s to

the 1790s was marked not just by the substitution of political for clerical leadership, but by the substitution too of politics for religion "as the most challenging area of human thought and endeavor." 49

And for the sake of perspective here, we might also remember the observation once made by Franklin Delano Roosevelt that "the Constitution of the United States was a layman's document, not a lawyer's contract. That cannot be stressed too often. Madison, most responsible for it, was not a lawyer-- nor was Washington or Franklin, whose sense of the give and take of life had kept the Convention together." 50 Furthermore, as we shall see, it should be understood that most American churches did not have their voluntary status simply thrust upon them. Rather, as Winthrop Hudson has argued, they claimed it for themselves, and not just for the sake of expediency, but on the basis of good theological reasons too. That this fact has often been ignored is precisely the point of the present argument regarding the historical misunderstandings and myths which have sprung up over the years. Hudson's words, written

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thirty-five years ago, thus ring true even today: "a distinctly religious principle in America, separation of church and state, is now defended primarily on secular grounds, a phenomenon which reflects the confusion in present theological thinking."\textsuperscript{51} The recognition that there is a theological tradition of disestablishment in America, in fact, may be the principle casualty of the adoption of the more rabid secularists’ views in the common understanding of Church and State that is held by so many.

What may we conclude therefore with regard to the place of religion within American life and thought, and specifically within the intentions of those who crafted out our political compact? Simply this, that it is a mistake to argue that a genuinely significant role for religion to play within that process was ever abdicated. For from the very beginning of the nation building enterprise, most would probably have agreed with the sentiments expressed many decades later by Justice Douglas, "We are a religious people whose institutions presuppose a Supreme Being."\textsuperscript{52} What is

\textsuperscript{51} See Hudson, \textit{op cit.}, page 42.

\textsuperscript{52} The comment was made in 1952 in the context of Douglas’ support for a release time program in the public schools and, like the words of Justice Story a century earlier, has been cited by many as both a "proof text" and as an admission of fuller implications which Douglas most likely did not intend to suggest. How, in contrast, we may more accurately interpret the justice’s words in this respect will be suggested in the closing chapter.
more, despite the influence of deism upon Jefferson and some of the others who were the principle players in that historical drama, Charles Rice is probably correct in asserting that a general Christian consensus did exist, as we suggested before, and did so even at the height of America's flirtation with skepticism.\textsuperscript{53} Which means, in short, that whatever else we may say about them, the Founding Fathers did not intend to create any constitutional provision which mandated a godless society in America.

Further, we may argue the case that the First Amendment itself was not simply a political principle, but that it was a religious doctrine too, born out of not just the pragmatic American experience or Enlightenment theories, but out of centuries of genuine theological reflection as well. Such a thesis, in fact, brings us to assert what is a central premise of the present dissertation, namely, that in the American experience two streams of thought flowed and mingled together, creating an unique understanding of Church and State indeed. We may say indeed with Peterson that there were even "two versions of what religious freedom was for" and "two visions-- one secular in the Enlightenment mold, one theological in the evangelical, Protestant mold-- of what the nation should be."\textsuperscript{54} Understanding that there

\textsuperscript{53} See Rice's essay on "The First Amendment: Religious Neutrality or an Establishment of Secularism?" in Rutyna and Koehl's collection, \textit{op. cit.}, pages 42-56. Rice serves as a Professor of Law at Notre Dame University.
was a fusion of those two expectations, coupled with the very real exigencies of a nation marked by a vivid plurality in religious, social, and even political traditions, is therefore the key to unraveling not simply the context out of which the American doctrine of separationism emerged, but its continuing meaning for today, as well.

For all of the above points out that even Thomas Jefferson's metaphor of the "wall of separation" can be seen from two sides. That is, we may look at it from the point of view of Jefferson himself, for whom it affirmed doubt and caution. Or conversely, we may see it from the vantage point of say, Roger Williams, who utilized a near-identical metaphor decades before Jefferson, and for whom it clearly affirmed belief. The fact that in the more publicized rulings of the Supreme Court in this century regarding the First Amendment that the majority of justices have chosen to adapt the more "secular", Jeffersonian version does not, of course, invalidate the other one. It does, however, make it all the more important that both streams which converged in the making of the First Amendment, and its subsequent designation as the embodiment of a national ideal, be fully uncovered and well understood. For it is precisely because the American tradition of religious liberty and voluntaryism is a dual or "forked tradition" (to borrow Peterson's

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54. Peterson, _op cit._, page 37.
phrase), that issues remain unsettled, the historical record clouded, and the question a live and open one even today. It is addressing that task which is the goal of the work at hand, thus, with the hopeful end of at least the shedding of some further light upon an issue which all too often in American thought has been settled upon the basis of its shadows and subtle nuances.

Before proceeding to do such, however, one further disclaimer as to what this dissertation is and is not is perhaps appropriate. For as will be all but obvious to any who have been trained in the legal profession, the work in hand is clearly not a legal discourse or commentary on the First Amendment, nor will we make any pretense to speak the kind of "legalese" at which barristers and their sympathizers are so proficient. Such is not, however, to accept any inferior standing for those who would wish to examine the Constitution in the light of its broader social and even philosophical context. For while there is plainly a significant place for a study of the legal language, for example, in a total assessment of the original intent and implications of the Constitution, to remand the document over in its entirety to the professors and practitioners of the Law among us is to disregard not only the aforementioned reminder of Roosevelt as to its origins and nature, but the kind of common sense which innervated the Founding Fathers as well.
Therefore, we shall offer with appropriate appreciation and deference for, but not apology to, the "constitutional experts of the Law" a kind of general analysis of the First Amendment which we believe to be in keeping with an understanding of those words as the manifestation not just of a legal decision but of a deeper principle and more far-reaching tradition indeed. To understand that philosophical context more adequately, however, it is necessary that we first unravel the historical and theological development of the ideals which would come, in the American equation, to be called the separation of Church and State.
Chapter Two

"DIVVYING UP THE SPOILS": THE CONTEST OF THE CENTURIES

"Then he said to them, 'Give to Caesar what is Caesar's, and to God what is God's.'" -- Matthew 22.21

THE CHECKERED HERITAGE OF CHRISTENDOM

In many ways perhaps, the problem of accommodating the often opposing realms of Church and State in America began appropriately enough in a "courtroom"—the "courts" of the Temple in Jerusalem, that is, almost two millenia ago when Jesus deflected the questions of his opponents with the classic admonition which we have noted above. In a similar manner, in words that were also to be repeated throughout the centuries, only a few decades later the apostle Paul advised the Christians at Rome that "everyone must submit himself to the governing authorities, for there is no authority except that which God has established."¹ And therein, we may say, lay the two Biblical loci around which the questions of Church and State were principally to revolve during the seventeen centuries preceding the emergence of the American consensus.

¹.
See Romans 13.1. Biblical quotations herein are cited from the New International Version, unless otherwise noted.
For when the founder of Christianity expressed not only a concern to keep Caesar’s things separate from those of God but uttered as well what some might call an almost paradigmatic statement of the issue at hand, namely, "My kingdom is not of this world,"² it may be said that a new movement was born which was to eventually assign to each of the two powers a separate province, and in so doing, create therefore the unavoidable problem of how those two powers were to relate, one to the other. Or, as Luizo Sturzo has proposed it, what developed was "the problem of the form of Christian presence in history, and the nature of its relationship to the power-structure which is the basis of human social institutions."³

2. See John 18.36. The inability of Pilate to understand the spiritual significance of these words has been replicated time and again in countless rulers of the secular realm since then, often creating the same confusion and unfortunate response. That Jesus was officially crucified at the hands of the Roman state, and as an enemy of the state, is not without significance in this regard. For it may be said that what the opponents of Jesus accused him of was a violation of the delicate balance which the ruling Jews had struck with the Roman occupation forces, by supposedly encouraging his followers into a rebellion against the Empire in order to make him King.

3. See the preface to Sturzo’s volume on Church and State, (South Bend, Indiana: Notre Dame Press), 1962, page ix. We may note here, in passing, the observation made by Frank Gavin half a century ago that the views of other scriptural writers are somewhat divergent from those of Paul who demonstrated near absolutism with regard to the divine right of rulers. Peter, for example, has been called by some the "father of constitutional monarchy" and John’s perspective is clearly reflective of the sense of antagonism which he saw between Christians and the world. We should remember in any case that early Christianity had little idea of the con-
It was, therefore, similarly inevitable that when the Christian movement emerged from the relative protection of its status as a sect within Judaism and into a belief-system of its own, that it would soon come to be regarded by the secular powers as a direct challenge to the authority of the state. The degree to which the Romans were willing to "put up" with Jewish sensitivities regarding the idolatry of Emperor worship may be debated, but it is clear that in the end, the Roman government ultimately demanded absolute loyalty to the Emperor from all of its citizens, pagan and religious alike. Initiating with a series of persecutions from the reign of Nero on, thus, conflict and outright hostilities between the Christian Church and the secular State existed for some two and a half centuries, ending only in fact with the ascension of Constantine and the subsequent Edict of Milan in 313 A.D.4

What began as toleration of the Christian Church by the State soon evolved, however, into a rapid conjuction between the two, a mingling of the spiritual and the secular which

4. A decree of toleration was actually issued from Nicomedia in 311 by Galerius shortly before his death. It was Constantine, however, who admitted Christianity into the group of authorized State religions.
produced the first spectre of Caesaro-papism, that is, not just the regulation of, but the actual rule by the State over the Church. Constantine, for example, is reported by Lactantius to have told the bishops of his day that "God made you the bishop of the internal affairs of the Church, and me, the bishop of its external affairs."\(^5\) And in actuality, some of the bishops might have been grateful if the emperor had confined his involvement to just the latter. For in fact, the attention of Constantine to both the inner workings and the outer manifestations of the Church is well-known. Following Nicea, for instance, it was Constantine and not the bishops who deemed that the heresy of the Arians deserved punishment by the State, and not merely expulsion from the Church.

Almost a century later, however, when the foundations of the Roman political order had at last begun to crumble, an abrupt reversal of roles began also to take place there, with the Church moving rapidly to fill much of the power vacuum left within society which the Empire’s demise had created. The great African saint, Augustine (354-430 A.D.), was an early witness of these events and, perhaps moreso than any other individual of his time, he helped to shape the Church’s response to them. As he did in so many other

areas of Christian theology, in fact, Augustine largely
defined the parameters that came to dominate Christian
thinking on the issue for centuries afterwards. In his mam-
moth work, *De Civitate Dei* (413-426), Augustine dealt with
the question by reference to the "two cities" which he
believed existed, both of which are eternal and universal in
their nature. Each of the entities, the *civitas caelestius*
and the *civitas terrena*, were the product of two certain
kinds of love: the one, a love for God (*caritas*) and the
other, a love for self, or greed (*avaritia*). At the very
dawn of human history, these two kinds of love were manifest
in two types of men, Cain and Abel. In their example,
Augustine thus saw the possibility for two radically dif-
ferent societies. And accordingly, he suggested, as men
follow in either Cain or Abel's footsteps, they place them-
selves within the ranks of one or the other of the two
people and the corresponding societies.

As clear and distinct as he drew that line of separation
between the two cities, however, practically Augustine real-
ized that the earthbound colonies of the City of God and the
City of Man would remain intermingled until the end of time.
And what is more, politically it appears that the Bishop of
Hippo was more than willing to let them do so at times,
especially whenever it was to the advantage of his ec-
clesiastical interests. (We may cite in this respect his
encouragement of the State's role in repressing both the
Donatist and Pelagian heresies.) The point will be made then, that the virtual identification of the kingdom of evil with the kingdom of man, that is, the State, was never so absolute in Augustine's broader thought as it may have appeared to be in his *summa theologica*, and it is to the former that we must appeal in arriving at an evaluation of the Augustinian legacy. For despite all of its defects and obvious moral lapses, even the latter Roman Empire was never so bad for Augustine so as to be called diabolical. Likewise, the notion of a Christian emperor (somewhat like unto his contemporary, Theodosius, who had made Christianity the official religion of Rome) continued to intrigue the great bishop for all of his life. If he was not willing to accord to the State equal standing with the Church as an institution *established* by God, Augustine would nonetheless affirm that both orders stood under the sovereign authority of God. And with this amplification of Pauline thought, Augustine thus set the pattern of dualism which was to dominate most of the reflections on the Church-State question for a millennium to come.

By the end of the fifth century, for example, Pope Gelasius was to echo Augustine's beliefs in expressing perhaps the fundamental premise concerning Church and State which has come to characterize Western thinking: "There are two," that is, two swords or two authority structures to which the faithful must always respond. But Gelasius went
one step further by proclaiming that society was single and universal, that the Church and State were simply parallel principles which in tandem could be said to constitute Christendom. This understanding, in turn, was consolidated, if in some ways turned around, by Justinian (483-565 A.D.) who two years after becoming emperor in 527 began his extensive revision of the previous Theodosian Code. What emerged from that effort was not simply a legal framework for the reconstitution of the old Roman Empire, but a theological ideal as well which, in the view of some observers at least, may be said to have conditioned the later English reformers and in some ways is normative still for many within the Eastern branch of the Christian faith. Even if his plan did interfere with the independence of the Church and subordinate the pope to the emperor in several matters, the overall effect of Justinian’s reforms was yet plainly to reinforce the emerging notion of a single society.  

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6. In Gavin’s view, the task awaiting Justinian at the outset of his reign was enormous. For the tradition which he inherited was of both the old Roman pagan law and the new Christian interpretation of it. Constantine, for example, had come to conceive of the authority of the State and the exercise of religion as having one and the same interests, that is, one ruler and one religion. Thus by 381, orthodoxy had already become not just a matter of belief but a test of loyalty, and heresy was accordingly viewed as treason. See Gavin’s volume, op cit.
In the centuries that followed, thus, the marriage of Church and State became a given in Western society. It was, however, we may suggest a tempestuous relationship always, with power rarely shared equally but rather one side dominant over the other as the political and ecclesiastical fortunes of each waxed and waned in succession. The resultant tension may account in no small measure for why LaTourette called this period "the thousand years of uncertainty," as earlier observed, for the series of conflicts between kings and popes were all simply changing aspects of one long and continuing crisis. From the ninth to the eleventh centuries, for example, the pattern that was set was clearly Carolingian, with the popes subordinated to the emperor and the Church itself an appendage of the temporal order. With the ascension of Gregory VII or Hildebrand (1020-1085 A.D.) to the See of Rome, the tide began to turn. Succeeding in his challenge to Henry IV over the issue of lay investiture of bishops just two years after becoming pope in 1073, Gregory pushed even further, asserting the pope's right to punish even princes who transgressed the law of God. The result was not simply the spectacle of an emperor barefoot for three days in the snows at Canossa, but the emergence of a period of Triumphalism in which the Church increasingly held sway over the civil authorities.
By the end of the twelfth century, Innocent III made further claims for the power of the papacy, likening the Church to the sun and the imperial order to the moon which derived it light from the former. The zenith of ecclesiastical presumption was to come with the issuance of the papal bull *Unam Sanctum* by Boniface VIII in 1302, calling for the complete reversal of the Carolingian pattern and outright subordination of the temporal to the spiritual in all matters significant to society. Boniface, in fact, as Stokes has expressed it, "practically claimed that he was both Caesar and Pope," alternately displaying a crown on his head and a sceptre in his hand and with the clear symbolism of two swords borne before him.\(^7\) The irony was, of course, that even as he made such a claim, the papacy was soon to be humiliated by its captivity at Avignon and reduced in influence further still by the rising power of nationalism, and particularly the stirrings in England and in France. Though the Vatican would continue to trumpet forth its claims to world dominion, it increasingly became the case that, in the words of Owen Chadwick, "these vast pretensions corresponded to little enough in the cold reality of

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European politics." For while the Pope could sometimes secure what he wanted, he came to do so by diplomacy and no longer simply by decree.

The point should be made, however, that no matter which side was on top, there remained that essential identification between the two estates in medieval society, not dissimilar to what in the Old Covenant of the Hebrews had been the effective union between religion and the nation. As Brian Tierney has suggested, this duality was eventually "rationalized in works of political theory and was ultimately built into the structure of European society" as a whole, coming to express itself most commonly in the notion of Christendom, an unified Christian society, or the corpus christianum. Even when the papacy itself declined therefore, and the pendulum swung back to the power of the state or states once more, the basic assumptions of this fusion were rarely challenged as such within medieval thinking. It is in this respect, indeed, that we can understand the sug-

8. See Chadwick’s fine contribution to the Pelican History of the Church, The Reformation, (Penguin Books: Middlesex, England), 1964, page 28. Symbolic of the claims, however, we may note that as late as 1493 Pope Alexander VI, as lord of the continents, divided the newly discovered world of America between Spanish and Portuguese interests.

gestion of Gavin that, despite the dramatic changes which it wrought, the subsequent Protestant Reformation was "never more medieval than in its assertion of the principle of divine authority having been given to a ruler."\textsuperscript{10} For it is more than insignificant that when Henry VIII began to refashion England's political and social landscape, that he went all the way back to Justinian for his plan and his program.

In the main, therefore, we may say that what came to characterize the relationship between Church and State in the Middle Ages-- indeed, the ideological glue that held that synthesis together-- was both the notion of Christendom or an unified Christian society, and the subsequent submission of its citizens thus to one or the other of the constituent entities of Church and of State as representative of them both. Accordingly, when the general consensus which supported that submission began to be challenged-- on either side of the equation-- it presaged as well the eventual dissolution of the old order and the crumbling of the corpus christianum.

In this respect, it is perhaps a bit ironic that Thomas Aquinas-- "the Angelic Doctor" of the Church-- as early as the middle of the thirteenth century spelled out the clear notion that if a king fails to defend the church and repress

\textsuperscript{10} See Gavin, \textit{op cit.}, page six.
injustice, that the people are not bound by any compact to be loyal to him, for it is the will of the people operating through the king that makes a law. For from there, it was not too far afield for a Marsiglio of Padua to suggest that an elective monarchy was preferable to a hereditary one or even, conversely for a Dante to say much the opposite, that monarchies and empires were a gift of God and that the Emperor was as directly and divinely chosen as the Pope. For the emerging bottom line was that which John of Paris dared to argue, that a single and universal society was valid only in the spiritual realm and not the temporal one. Even if there was a "time-lag of thought, slow to accomodate the new conditions" then,\textsuperscript{11} nevertheless the world was changing in the thirteenth and fourteenth centuries, and with it not only the political thinking of the time, but the understanding as well of what the relationship between the two central institutions of life-- the Church and the State-- should be.

The concession must be made here that the idea of individual liberties, either political or religious was, of course, as of yet largely undeveloped, and indeed the uniformity of religious belief and practice within a particular society was still considered to be an essential principle of both governing and ordering such a society.

\textsuperscript{11} The quote is from T.M. Parker, \textit{Christianity and the State in the Light of History}, (London: Adam and Charles Black), 1955, page 145.
The resulting mindset was predictable for, as Marcellus Kik has commented, "centuries of habit had ingrained the thought that all citizens are members of the Christian Church and subject to discipline, [and that] sin against the Church was a sin against the State, and vice-versa." After so many years of mingling together and competing with one another for power and control, it is easy to understand therefore how the functions and offices of the Church and State had in many aspects become almost hopelessly confused. We may cite in this respect what must have been the particularly curious vision of Pope Julius II himself at the head of the papal armies in north Italy; "the vicar of Christ, sword at side and helmet on head, climbing the breach in the fortress of Mirandola which his generalship had captured." And later on, accordingly, Martin Luther was to protest quite vocally against what he saw as a two-fold perversion of power in which bishops, instead of governing souls with the Word ruled "castles, cities, lands, and peoples outwardly," and secular authorities, instead of justly governing their ter-

12. Kik, _op cit._, pages 74-75.

13. The words are those of Chadwick, _op cit._, page 17, who concludes that in saving the Papal States from anarchy, laying the foundations of St. Peter's (1506), and employing Raphael and Michelangelo, that his work must have seemed "that of an Italian, and of a great prince of the Renaissance, not that of an international and moral authority."
ritories and not simply exploiting them, tried to "exercise a spiritual rule over souls" by prescribing the papalist faith and trying to root out "Lutheran heresies" by force.\textsuperscript{14}

The occasional exceptions notwithstanding, however, with the dawning of the sixteenth century we may say that already a whole series of tendencies were at work to produce the post-medieval world into which the institutions, as well as the systems and assumptions of earlier times, were rapidly to dissolve. What would not simply go away was the very real problem of Church and State, however. It is clear now in assessing the Middle Ages that the conflation of politics and religion-- an arrangement which both sides had accepted and promoted for centuries-- was on the whole increasingly seen to be an unhealthy situation for both. But the dimensions of the question which still confronted both the theologians and the political thinkers of the new age were those such as have been summed up by Elson Ruff:

A Church cannot exist without a State because voluntary acceptance of group standards is never so complete and unanimous that there are not some who must be compelled

\textsuperscript{14} Martin Luther, "Secular Authority: To What Extent It Should be Obeyed," found in \textit{Martin Luther: Selections from His Writings}, edited by John Dillenberger, (Garden City, New York: Anchor Books), 1961, page 386. Dillenberger's edition (hereafter cited as \textit{Selections}), though limited, provides a good abridgement of Luther's thinking on this subject.
to conform. A State cannot exist without a Church because coercive power cannot sustain itself when there is no faith to sanction its authority.\textsuperscript{15}

As Christian thinkers within an intensely political era, then, the Reformers quite obviously had to provide an answer to the question of Church and State. In doing so, we will suggest that they not only produced a restatement of the earlier Augustinian reflections on the issue, but that they modified that model too, resulting in a new perspective which, no less than that of Augustine, was to have profound effects upon many, including those who would later formulate the American solution.

\textbf{THE LEGACY OF MARTIN LUTHER}

As well as any other individual of his day, Martin Luther clearly understood the full dimension of the problem of Church and State in Germany in the first third of the sixteenth century. For his was a society caught in the throes of breaking out of the medieval synthesis which for centuries had enveloped it like a cocoon. The question which confronted the renegade monk was thus nothing less than how to disentangle a Church and State which for almost a mil-

lennium had to come to conceive of a symbiotic relationship as essential for the maintenance of Christendom, to say nothing of their individual fortunes and objectives. And the answer, we may say, Luther found in his doctrine of the "Two Kingdoms," or two governments and ways in which God effects His will within the spiritual and secular realm of men.

Suggested first in his "Open Letter to the German Nobility" of 1520, we may trace Luther's thinking on this idea as beginning with the simple notion that the spiritual and temporal arms might be correlative and able to correct one another. Two years later, the distinction between the two had sharpened further in Luther's mind, as can be seen in the third and fourth sermons which he preached to Duke John of Saxony at Weimar in October, 1522. For it was out of those sermons which grew the foundational essay of Luther's on the topic of Church and State, the 1523 address on "To What Extent Should Secular Authority Be Obeyed?" Although the inconsistencies which are here continue to be debated--a reflection of a general tendency which Heinrich Bornkamm has called Luther's "unacademic, living theology"16

16. See Heinrich Bornkamm, Luther's Doctrine of the Two Kingdoms, (Philadelphia: Fortress Press), 1966, page three. Bornkamm's introduction to the Two-Kingdom doctrine remains one of the best available and has been relied upon substantially for parts of the present discussion. See Chapter One of his work for a discussion of how Luther's thinking at this point has been variously praised and damned.

Many of the problems in pinning down Luther on various views stem from the fact that even as events and conditions
the Biblical and theological foundations for his ideas seem to have stemmed from two loci. The first of these was Luther's strong convictions that whether as revealed in his Word or as hidden in his World, it is ultimately God who reigns over the whole of Creation always. For in Luther's eyes, God was not simply a clock-maker who had set the universe into motion and then left it to operate according to its own laws. Rather, God is one who, although he may delegate the exercise of his authority to others--preferring to remain the Deus Absconditus or "hidden God" who works behind the scenes, visible to men only through his "masks" or "larvae"--yet is still Himself active in His creation. Within this understanding, therefore, Luther was able to apply his notion of the "hidden God" to the State itself, which allowed him to suggest that it, no less than

changed rapidly around Luther, so too his ideas and attitudes evolved over the course of his career. Here we may think, for example, of Luther's position on the treatment of heretics, or of the right of princes to resist the Emperor, a position on which Luther totally reversed himself over the span of twenty years. More broadly, we may agree with William Mueller who noted that, pragmatically at least, Luther began as a political optimist who believed that German social and religious problems might be remedied by an appeal to the emperor and the German nobility (hence the 1520 tract of that same name), then became disillusioned following his exhumation at Worms in 1521 and tried to separate the Church from all involvement with the secular powers, finally moving back in his thinking to a willingness to sanctify political power itself. The point will be obvious, then, that in evaluating the character of Luther's political writings, the evolutionary nature of his thinking on such issues must always be taken into account.
the Church, could best be thought of as but another "mask" or "larvae" through which the Almighty chose to work in this world in which he still has more than just a passing interest.

Second, Luther drew the inspiration for his political theory from the eschatology of St. Paul also, for in the apostle's teaching of the two aeons or ages (namely, that of Adam, the first man, and Christ, the second Adam), Luther found a dichotomy which structurally at least supported his own two corresponding kingdoms of Creation and Redemption. 17 We may note in this respect that Luther filtered his thinking here through Augustine, but as in other instances, he re-worked it in the process. And the formal difference which emerged is that, in a striking illustration of synthesis, Luther recycled in a sense Augustine's two cities back through the notion of Paul's two aeons to come out with a new understanding altogether which went beyond them both: that is, no longer simply a kingdom of God, identified with the Church, and a kingdom of Man or Evil, identified with the State, but instead two different (yet not antithetically so) kingdoms which are, however, but two distinct orders within the one unified creation of God.

17. See in particular the fifth chapter of the Letter to the Romans in this regard. As is well-known, Luther drew heavily from the remainder of Romans also in formulating a theological underpinning for his ethics.
Again we may note that some of Luther's inconsistencies here have apparently led to his misinterpretation by some, and that is not entirely without good reason. For Luther both modified Augustine and retained a part of the older Augustinian model for use within his own. Put most simply, however, and disregarding for the moment the secondary features of Luther's thought, what we must say is that Luther's doctrine thus came to consist of two elements, each "closely related but... conceptually distinct."\textsuperscript{18} For first, Luther argued that God has instituted two realms (reiche)\textsuperscript{19} or or-

\textsuperscript{18}. The words are those of W.D.J. Cargill Thompson in his The Political Thought of Martin Luther, edited by Philip Broadhead and published posthumously by Harvard Press, page 37. In point of fact, a third element did exist in Luther's complete theory, somewhat contrary to the other two. For in addition to Luther's notion of the Two Kingdoms or realms, and their corresponding two types of government and responsibilities, Luther did pick up the more traditional Augustinian notion of two opposing orders, as well: the Kingdom of God and that of the Devil or the World. Here Luther "rewrote" Augustine a bit, however, in order to say that which Augustine himself should have said, or perhaps even may have meant to say, namely, that the kingdoms of God and the devil represent two utterly opposite and mutually exclusive groups, the invisible community of true Christians (or the communio sanctorum), and all of those who make up the rest of the world, including false Christians. We may think of Luther's famous simile in De Servo Arbitrio that man is like a horse who is being fought over by two masters. Either God or the Devil rides him, but not both. Thus, the conflict between these two societies Luther understood to be inevitable; in Thompson's words, it was "the inescapable backcloth against which human life is lived." (page 53).

\textsuperscript{19}. Luther's use of language itself in propounding these notions was often quite imprecise and inconsistent. Thompson has done much to further our understanding here, noting that in sixteenth-century German usage, there were two distinct, though cognate meanings, of a primary term used by Luther in the formulation of his "Two Kingdoms" doctrine, the word
ders for man’s existence, corresponding to his two natures: that is, a spiritual realm (das geistliche Reich), in which man exists solely in respect to his relationship to God, and a temporal or natural one (das weltliche Reich) in which man exists in relation both to God and to others. And second, 

reich (or in the medieval Latin, regnum.) The term could mean either the kingdom over which a king rules, or the "kingship" or authority exercised by a king, and Luther used it freely in both senses, speaking in the first sense, for example, of a reich Gottes and meaning by that the communio sanctorum, or the Church.

Likewise, Thompson has noted that Luther frequently used the word welt in its Biblical and largely negative connotation of the "world," that is, the fallen world of sin and of the Devil. But when he used the corresponding adjective, weltlich, it was most generally in a non-pejorative and neutral sense, meaning "natural" or "temporal" (that is, simply the opposite of geistlich or "spiritual." Thus we may conclude that in Luther’s lexicon, at least, das weltliche Reich carried a whole different connotation, if not meaning, from the related phrase, das Reich der Welt. A similar inconsistency came in Luther’s usage of another key term, regimine, or government, and we may further cite Luther’s propensities to speak in dichotomies also somewhat inconsistently. For sometimes those dichotomies expressed antithesis, sometimes parallels, and sometimes even both.

It is correct to say then that several of Luther’s distinctions, even some which were critical to his thinking, were at best only "conceptual ones", and generally not reflected "with any degree of precision in Luther’s vocabulary." The clarity of his political theories sometimes suffered accordingly. See Thompson, op cit, page 42.

20. The theological linkage of this with Luther’s thinking on justification will be obvious, for in proposing that even after his salvation a Christian is still simul justus et peccator, Luther laid the presuppositional groundwork for arguing thus that a Christian’s two natures must result as well in two roles. Or to express it in another manner, Luther argued that a Christian on earth is never simply a "spiritual person," but always one who is yet flesh and blood, old man and new, with natural needs which are independent of his spiritual existence.
corresponding to those two realms or roles, Luther posited that, even as Gelasius had said, God has instituted as well two types or orders of government in the world (die Zwei-Regimenter Lehre), a spiritual government of the Word and a temporal government of the Sword.

Where Luther went beyond all those who had drawn these distinctions before him, however, was to relate his doctrine of the two kingdoms not simply to the two earthly institutions which others had long assumed constituted its embodiment, but to his theological idea of how it is that God has chosen to govern the world. And the effect of this was to free up that second Kingdom from any dependence, ontologically or otherwise, upon the first. For in Luther's understanding, both orders exist completely distinct from one another, as they are each under the sovereign rule of God and have been, in fact, since even before the Fall as a part of God's order of creation. Or, in short, Luther argued that the secular kingdom, no less than the spiritual one, derived its authority directly from God and not, as the papalists were wont to assert, mediately in any sense of that term through the Pope or even the Church as a whole.

Thus, no less than the Church, Luther saw the secular estate as "a divine order which every person is bound to obey and honor," and the office of the magistrate as a divine

gift, finding its basis along with all secular orders in the Fifth Commandment since all superiors, like parents, have been placed by God in a position to rule. And if secular orders are God-given and God-ordained, therefore it follows, Luther reasoned, that men should be obedient to them, because it is really God himself who requires such obedience of us. While one may argue that Luther himself as well as many who would follow him were sometimes apt to take this particular idea too far—steering into the kind of unfortunate quietism, for example, that marked the German church in the early twentieth century—the deeper significance of what lay behind this point should not be missed. For it was the genius of Luther’s thought to suggest in the light of this, that the Christian can never live or operate in only one or the other of the two kingdoms and their corresponding types of rule, but must always live and act in both, using the means appropriate to the one or to the other in carrying out the will of God. Or, in short, Luther thus saw the believer in a double perspective, as both a Christian person and a worldly person with the concomitant dual responsibilities. The doctrine of the Two Kingdoms became therefore not just a social-ethical program but, in Bornkamm’s words, "the means of orientation which the Christian must again and again employ when considering his role and action in the world."^22

How then did this doctrine come to express itself in the specific context of the Church and State question which faced the reformer, caught as he was in a time of shifting structures and uncertain institutions? Several specific issues immediately presented themselves in the light of the reformer's "theo-political" doctrine of the two kingdoms. The first, "Does the Christian need the State and is he subject to temporal government?" we have already suggested that Luther answered in the affirmative, largely for two reasons: first, because the law of love will compel a believer to obey the secular authorities out of a genuine concern for the welfare of his neighbors, and second, because even though he has been redeemed, a Christian too is still a man of "the flesh" who will from time to time also need the external restraints that the secular order should provide for all. We may add to this that Luther warned that the majority of men will always be non-Christians; thus, the State offers to the Christian a hedge of protection just in its enforcement of the "natural law." In contrast to the Anabaptists, therefore, Luther argued that Christians should even take part in temporal government, for they were not precluded by the Sermon on the Mount from doing so, and in

23. Luther's response to the Anabaptist isolationism bears examining, for his suggestion that the Sermon on the Mount is only binding upon Christians qua Christians, that is, when acting in one's private and not public office, has the attractiveness of both simplicity and of offering a workable solution to an otherwise sometimes inexplicable problem; that is, how can individuals today carry out the precepts
fact, their influence could be very helpful.

At the same time, Luther was quick to point out that although he believed that secular government was divinely ordained, he did not see it as a specifically Christian institution, nor (unlike Augustine, and even Calvin who would follow him), did he ever hold out for any idea of a Christian state per se. Luther saw, in fact, no real difference between Christian rulers and heathen ones in this regard, suggesting that even in pagan societies, God will not abandon men wholly to the devil. Likewise, he noted, scripture has no place in temporal government because it belongs to the spiritual Reich, and not the secular one. And though he would later reverse himself, the reformer argued as well that a magistrate has no responsibilities for the Church nor, by extension of this principle, has an emperor any business leading a crusade against the Turks. For the emperor is not the head of Christendom (which was, in Luther's eyes, a purely spiritual society), and a crusade on behalf of the Word is always wrong since spiritual battles must be fought with spiritual weapons, and not by the powers of the sword. For a prince to act thus ex officio in the church was for Luther only to invite confusio regnorum, or a confusion of the regimes.

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espoused in Matthew 5-7 without having to "opt" out of the world which has ignored them?
Some overlap was, of course, inevitable, as the limits of the frontiers between the two kingdoms were at points ill-defined, to say the least. For example, magistrates and ministers each had responsibility for oversight of the other, but it was never clear how far to go. Ministers should denounce the sins of their rulers, including any abuse of office, but it was not their function to tell princes how to rule any more than they ought to tell bakers how to bake. Likewise, magistrates were responsible for upholding the "natural law" as much as the civil, and accordingly for punishing public crimes against God, such as blasphemy and swearing. One may see, thus, how the possibilities were already set for a blurring of the distinction between the two regiments, particularly as the reformers waffled when it came to justifying the intervention of the sword against religious practices of which they disapproved, such as the teachings of the Anabaptists.

In the main, however, with regard to the extent of secular authority, Luther suggested that the essential function of government was simply to preserve order, protect property, look after the poor, execute the laws of the land and punish the wicked, being careful not to show too much mercy lest it again confuse the regimes by putting mercy into the temporal kingdom and wrath into the spiritual. Or, in short, to make possible an ordered life in society. How far should a Christian go in obeying the secular authorities
placed over him? To be sure, we may explain some of Luther's often-criticized admonition concerning submission to rulers by the fact that, as Thomas Sanders has noted, "Luther looked at the world with an authoritarian and hierarchial outlook, and consequently he interpreted those relationships in terms of those who command and those who obey." At other times, Luther may even have felt that God will allow some bad civil rulers to have their way in order

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24. See Thomas Sanders, _Protestant Concepts of Church and State_ (New York: Holt, Rinehart, and Winston), 1964, page 28. It is true that Luther's ideas of obedience were rooted firmly not just in the Biblical context of Romans 13 and 1 Peter 2, along with the aforementioned extrapolation of the Fifth Commandment of the Decalogue, but also in a personal penchant for orderliness, as well. Two mitigating facts should be remembered in this respect, however. First, like most sixteenth century and medieval thinkers, the State as an abstract institution hardly existed in Luther's mind. Indeed, the political authority of the time was not abstract at all, but always vested in individuals. Likewise, obedience was given not to a state or city, but to a prince or a king, or the magistrates who collectively represented such. The key word in Luther's political vocabulary was thus obrigkeit, meaning, political authority at all levels. For again, rules were, in Luther's theological understanding, simply the "masks" behind which the hidden God exercised in secret his temporal governing of mankind. Thus, we may explain the rather exalted tone of many of Luther's remarks about temporal rulers by remembering that the reformer strongly believed that the hand that holds the sword is not simply the hand of man, but the hand of God.

Second, we should remember in all of this as well that Luther himself had few illusions as to how most rulers would actually behave: many were sinful, cruel, and tyrannical, and Luther observed more than once that "a prince is a rare bird in heaven." He insisted, in fact, that obedience should not be a one-sided matter, but that if it is the duty of subjects to obey their rulers, then those in authority also have obligations to the ones who are under them. The difference was, Luther explained, the latter was a moral duty of a prince, and not a legally enforceable one.
to punish his people for their sins. In either case, however, he made it rather plain that ultimately Christians are called upon to obey even the most abusive rulers unless and until those rulers clearly violate God’s law, such as by trying to coerce their subjects into idolatry or rejecting outright the first three commandments.

What may we say about Luther’s impact as a "political theologian" thus, as one seasoned commentator has called him? Overall, it is clear that the doctrine of the Two Kingdoms called for a sharp separation of the functions of Church and State which nonetheless affirmed the independence and integrity of each, an accomplishment all the more impressive in the light of the virtual fusion between the two which had marked Western thinking on the subject for the centuries before him. We may note, correspondingly that Luther initially even hoped that a program of congregational autonomy might result from his new perspective on the issue, until the pragmatics of his situation convinced him of the difficulty of trying to implement such an ideal. The result in Germany itself was, of course, the eventual establishment of a Protestant state-church there, as the "temporary" arrangement Luther devised of allowing princes to act as "emergency bishops" (euphemistically labeled nichtbischof, in fact) in the new movement turned into a more permanent one.

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25. See Thompson, op cit, page nine.
Yet even if things had a way of "not turning out according to theory"²⁶, and in practice the separation of Church and State in Germany evolved in a different direction from how Luther had envisioned that it would, still Luther's contribution on the subject was not without its impact. For the doctrine of the Two Kingdoms provided a workable foundation for a genuine separation of Church and State in this country, as well as in others. In giving the world a new theory of the State, that is, as an entity separated from the Church and yet not completely unakin to it, Luther opened the way for the ideas of both a non-state-established religion and a non-church run state. Similarly, we may say that in demanding the right of private judgment over and against the Church and State, Luther declared boldly that the individual conscience is supreme, a message that may sometimes pose great dangers (such as anarchy), but that still brings encouragement and hope wherever it is heard.

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²⁶ See G. Elson Ruff, The Dilemma of Church and State, (Philadelphia: Muhlenberg Press), 1954, page 53. The resulting territorial German Church came to be supervised by consistories, made up of lawyers, government officials, and theologians, and directed by superintendents under the authority of the "archbishop" or summa episcopus, the prince. Not until the emergence of the so-called "Confessing Church", led by Bonhoeffer and others, in fact, did the Land of Luther thus practice the kind of polity that he envisioned that it would.
Luther's political ethic perhaps was, as Roland Bainton has called it, in truth "Augustinian and small town," yet plainly it revolutionized political thought across a much broader spectrum than just that by integrating into Protestant thinking a series of concepts which had radical influence on sixteenth-century political theory. Indeed, we may even agree with Thompson here that "in his own century, Luther's influence on man's attitudes to the State were far greater than that of Machiavelli, for he introduced into Protestant thinking principles...which ran counter to many of the received political principles of the late medieval Church." In so doing, Luther overturned in essence that which had gone largely unchallenged for centuries, the theoretical basis for Christendom, or the "unified" Christian society.

What is more, it is perhaps the measure of his magnitude that the principles which he proposed--the aforementioned beliefs, for example, that secular authority was instituted by God, and that temporal and ecclesiastical authorities are completely distinct, and even that which has been termed the doctrine of non-resistance--all were in the centuries that followed interpreted in a number of different ways, from the


Erastianism of the Church of England to the resurgent Hildebrandism of Andrew Melville. For to be sure, there were many different directions in which one might take the Lutheran program and run with it. William Marnell's observation is pertinent here, that

Democracy and the divine right of kings, religious tolerance and religious persecution are among the things implicit in [Luther's] thought. George III is his ideological descendent and so is Thomas Jefferson; Cotton Mather looks back to Luther, and so does Roger Williams.29

In this respect, therefore, Luther stood "at the watershed" and it is indeed possible to see him as "the intellectual source of various divergent streams in later Protestantism."30 To be sure, Luther did not invent these principles ex nihilo, and yet it is true to say too that in a way that no one perhaps since Augustine before him had done, Luther re-discovered them, rescuing them from an earlier confusion and— even if adding his own confusion to some of them at points— giving them a new currency for the critical time in which he lived.

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30. Thompson, op cit, page 173.
Luther's subsequent place within the history of the development of Church and State relations is thus a secure one, as one simple and final illustration will suggest. For near the end of Luther's life, and following the abdication of Charles V, the Imperial Diet of the "Holy Roman Empire" for the first time in its history declared it unnecessary for the new emperor to be crowned by the Pope. Such may not have been the sign of any absolutist wall of separation between Church and State, but surely it was a start on the erection of such an edifice, one we will suggest was at least built in part out of bricks and mortars produced in the fertile mind of Martin Luther.

THE CONTRIBUTION OF JEAN CALVIN

When we turn to Jean Calvin, it will be obvious right away that the Genevan reformer picked up and shared many of Martin Luther's ideas on Church and State but— as he did in so many other areas— Calvin further refined and systematized them, "expressing them and thinking them afresh in terms of his Latin mind."31 One might well expect that a

man such as Calvin, the son of a law clerk and one trained as a lawyer himself (along with learning in the classical treatises of Cicero and Seneca\textsuperscript{32}), would be more than slightly interested in the relationship between the ecclesiastical and the secular authorities, and so he was. For unlike Luther, whom we may agree remained "largely untouched by the renaissance of humanistic learning of his time,"\textsuperscript{33} Calvin early took to humanistic studies, manifesting a profound interest in the many cultural developments of the day. Yet interestingly enough, he did not write a single tract that dealt exclusively with the nature and

\textsuperscript{32} Calvin's instructors included the outstanding legal scholars of his time, Pierre de l'Estoile and Andrea Anciat; it is interesting to note that the age of twenty-three, Calvin wrote as his first and only substantial non-theological work a commentary on a book of Seneca's called De Clementia. See T.H.L. Parker, Portrait of Calvin, (Philadelphia: Westminster Press), 1954, pages 18 and following. We may note too the somewhat ironic fact that Calvin's first studies were at the University of Paris in preparation for the priesthood until a dispute arose between his father and the Bishop of Noyon. The younger Calvin was then instructed to forget any clerical ambitions and moved to Orleans to be trained as a lawyer instead. It was there, however, that the lawyer-to-be was converted to Protestantism; after his father's death, he then returned to Paris, but with a new orientation.

\textsuperscript{33} The words are by Robert Knudsen in his contribution to a festschrift honoring Paul Woolley, "Calvinism as a Cultural Force," found in John Calvin: His Influence in the Western World, edited by W. Stanford Reid, (Grand Rapids: Academie Books/Zondervan), 1985, page 15.
function of the State, preferring to filter all of his thoughts through his overarching theological concern for the attributes and purposes of God.

For what Calvin did do, however, was to construct in fact as well as in theory a consciously theocratic society which was later to serve as both a philosophical and a pragmatic model for the Puritan theorists of the Massachusetts Bay Colony and elsewhere. In this respect we may agree with Marnell's assessment that "as an influence on the relation of Church and State in America, Jean Calvin transcends in importance the other continental reformers, individually and taken all together"\(^{34}\) and that his exposition of Church and State relations became the most important one which the sixteenth century produced. For at Geneva, where Calvin first became involved in 1536, the Calvinistic Church-State was brought into being, expressing in tangible form Calvin's belief in both the visible and invisible Church, and it was delineated further in the subsequent history of that community, as well as in Calvin's famed *Institutes of the Christian Religion*, and particularly its closing chapter.

In an excellent study of the theology of Calvin, Wilhelm Niesel has broken down the reformer's thought here in a most helpful way which we may follow. First, as we have already

\(^{34}\) See William Marnell, *op. cit.*, page 24.
somewhat suggested, Calvin along with Luther argued that "secular government rests upon God's divine providence and sacred prescription,"35 that is, that government is of divine origin and ought to be regarded as such since civil order is necessary for the well-being of the Church. As he put it elsewhere in his writings, Calvin saw that God had instituted civil authorities "in order that they may govern the world according to law and righteousness."36 This meant that magistrates not only had a divine commission and were equipped with a divine authority for their work but that, in Calvin's view at least, they stood "in the place of God and in a certain sense conduct His affairs."37 By way of explication, it may be said here that this mode of government could be accounted for in Calvin by the fact that he felt that God exercised his sovereign power here on earth only mediately, and thus, all earthly rule was but "a symbol of the kingly authority of our Lord Jesus Christ.38

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35. See Calvin's Institutes, IV.20.4. The 1845 translation of Henry Beveridge (Grand Rapids, Michigan: Eerdmans), reprinted 1972, has been utilized for this present work, along with the traditional numbering system of book, chapter, and paragraph in use in most editions of the Institutes.


37. Institutes, IV.20.4

Consequently Calvin thought that, second, the duty of secular rulers was "to look after and protect the outward side of church worship, to defend the pure doctrine appertaining to the true worship of God and to secure the stability of the Church, to establish social harmony, to shape our conduct as citizens according to the law, to bind us to each other and to maintain the common peace." 39 Thus, it may be noted that although practically Calvin often encouraged it in Geneva, theoretically at least it was not the proper task of civil authority to care for the physical well-being of men so much as it was to see that in a Christian society, religion might receive public and official recognition and that humanity might prevail among men. The State, then, was charged with the task of maintaining peace and order not because human life had any ultimate value in itself, but because the public worship of God was imperiled whenever strife was dominant between men. Again we may observe here that the Genevan's predilection for upholding the sovereignty and glory of God over everything else came often to the forefront, for he insisted that the pre-eminent duty of the secular order, in fact, no less than that of the sacred, was to secure the right worship and service of God.

39. *Institutes*, IV.20.2
This task, Calvin argued, could be done in two ways. Initially, the state should move to protect the pure preaching of the gospel and if need be, civil magistrates had a responsibility before God to even put idolators, blasphemers, and heretics (such as the ill-fated Servetus, for example) to the sword. In fairness, it should be said here that Calvin did not really seem to enjoy his role in encouraging such actions (as some have charged), but it is interesting to note that he seems to have had far less of a painful journey in moving to this position than did Luther, Melanchthon or even Augustine. But beyond this, and more positively, the State had an obligation in Calvin’s mind to care for the Church and to actually help it spread the pure and unmixed gospel in whatever way that it could. Practically speaking, in several ways that would later be rejected by the American framers, this meant that Calvin favored the civil authorities providing for pastors, caring for the poor (and caring that the church not become one of them), creating schools, paying teachers, and even safeguarding the schools and universities from irreligious and heretical spirits. For the bottom line of all of this for Calvin was in his unswerving conviction that it is impossible for a state—anymore than an individual—to be neutral in the matter of acknowledging the power and purposes of God: both
were either for Christ, or against Him. Calvin thus simply wished to move the State towards the positive and former position.

At the same time, however, he did not desire that the State should ever go too far in this respect. The civil order never had the authority over the inner life of men, nor could human laws have any power to bind an individual's conscience against God's laws should they come into conflict. With a commendable sense of balance, Calvin interpreted the admonition of Romans 13:5—"it is necessary to submit to the authorities, not only because of possible punishment but also because of conscience"—as a simple reminder that the divine law in general bids us to honor civil authorities since they rest on an ordinance of God, as has already been noted. For with the apostle Peter, Calvin would certainly have agreed that, if push came to shove between the two estates, "we must obey God rather than men." 40 But in the interim, the end result which Calvin most often arrived at was that the chief duty of civil power was yet to foster the fear of God and to produce peace among men.

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40. Acts 5.29
In accordance with this belief, we may observe that, third, the Swiss reformer stood with Luther in arguing the obligation of the Christian to be obedient to the State, even if he should "live under Turks, tyrants, or deadly enemies of the gospel." For Calvin's point was that God demands not only outward obedience but a genuine appreciation within us as well that authority is there for our own good and those who have it are representatives of God Himself. To be sure, it should not be a matter of indifference to Christians who ruled over them, and they did have a responsibility to work to secure a God-fearing government if possible. But ultimately, Calvin reminded his followers that obedience to authority—good or bad—rests solely on the fact that it manifests one's obedience to God Himself, since it was He who has set up rulers and Himself rules over them. Like Luther, Calvin even seemed to suggest that it may be our own fault if God takes the benefit of good government from us, "for it is the wrath of God which sends us evil rulers."

Regarding the limits of secular government, then, in Calvin's thoughts only those holders of subordinate office had the actual right to proceed against a government which

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42. ibid, page 242.
had degenerated into tyranny, and then only with a special and rightful call from God, although Calvin recognized that others might unknowingly be used at times to trigger such an uprising. The social contract or mutua obligio made between the people and the ruler before God seemed to preclude any right to revolution for Calvin, yet it is interesting to note that in every edition of the Institutes, he added a word about tyranny and stated, "Let princes hear and be afraid."

Thus, in some ways, Calvin did leave open the door at least a crack for acquiescence in a revolution to overthrow a repressive regime, perhaps even one such as that of Francis I of France which had persecuted many of Calvin's friends and supporters and driven himself to Switzerland. And though he endorsed the State's authority to inflict capital punishment, levy taxes, and pursue war in defense of land and people-- seeing each of these functions as a continuation of the administration of justice-- Calvin did note the one aforementioned limit to the obedience of even the simplest subjects. If the civil authorities ever forbade a man to serve and honor God, or commanded idolatry in any way, they were no longer to be recognized as having any divinely-commissioned authority at all, and ought to be overthrown, for the fear of God must precede everything else.43

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43. The force of Calvin's view in this regard can be seen in
Within his principle writings, thus, we may suggest by way of recapitulation that what Calvin proposed, similar to Luther, was a theocracy in its truest sense: that is, not a hierocracy, or government by the Church or by priests, but a genuine theocracy, or government over all by God. Although the subtlety of this distinction has at times been lost in view of the preference Calvin often showed for the Church over the State, it should be reiterated that Calvin, like Luther, did indeed see a definite line of demarcation between the functions and offices of Church and State which he consciously attempted to maintain. As Philip Hughes has summarized it,

the whole structure of society as conceived in Calvin's mind was based on the distinction between church and state as two separate powers whose spheres of authority were clearly defined, the former wielding the spiritual sword in the faithful proclamation of the Word of God, and the latter the secular sword in the maintaining of good and just government and the punishment of offenders against the statutory laws; and both being subject to the supreme authority of Almighty God.44

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the language which he employed here: people ought to respond to civil authorities who seek to ride up against God by con-
spire in ipsorum capita, or literally, "spitting on their heads."

Or, in short, Calvin gave the Church and State each a common purpose as well, arguing that both could ultimately justify their existence only insofar as they served and promoted the interests and the will of God, to whom each was ultimately amenable and accountable.

To be sure, it is true that Calvin believed that the whole of the temporal order existed only for the sake of the elect of God anyway, and accordingly he saw secular government as but another of the "outward aids or instruments" which God had given to the Church.45 Yet such did not prevent him from nonetheless representing Church and State relations in terms of a practical division of responsibilities between the two orders, as best exemplified perhaps in the plan of governing which emerged in Geneva itself. For while it is clear that Geneva became the laboratory in which the reformer worked out his theories regarding Church and State, in this regard it should be pointed out that any notion that either Calvin himself or the Church as a whole ruled the civil government in Geneva is not exactly accurate, nor is a similar impression which

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Triumph and Decline", page 58.

45. Institutes, IV.1.1.
is sometimes expressed, namely that of Calvin as a foe of liberty who set up an empire in that Swiss city in which he retained dictatorial powers.

We may note, for example, that if in Calvin's Geneva the Church was the stronger partner of the two estates, that body itself was governed by two councils, both the "Venerable Company of Pastors" and the Consistory or presbytery, composed not just of clergymen but of a stronger majority of lay officials. Even if we allow that Calvin and his associates most often suggested the candidates for such, consistory members were yet named by the civil authorities and it is significant that Calvin himself never occupied political or civil office in the city and opposed, in fact, direct clerical control over its political affairs. Likewise, pastors were not exempt from either the discipline or judgment of the civil jurisdiction and, until 1555 at least, the consistory did not even have the rights that were theirs by the earlier established Ecclesiastical Ordinances of 1541.46

The consolidation of his theological and moral influence over the city in that year did, however, lead inevitably perhaps to a unfortunate mingling of the estates in the last

46. Basically, those ordinances set the standards by which the church was run, including the times and number of church services, the frequency of the meetings of pastors, and other regulations. See Richard Gamble's article, op cit, page 58.
nine years of the reformer's life that followed. Richard Gamble is thus correct in suggesting that "the two separate powers in Geneva were not as separate in reality as they were in theory."\(^{47}\) Still, we may suggest that even if the actualities belied the principles at times, the principles themselves were yet important ones, and especially so as they were picked up and adopted by others. We may even argue that there were at least some seeds of democratic theory itself present in Calvinism from the start. For even while the Genevan preferred the mixed form of government that God had ordained for Israel, i.e., what was in essence an aristocratic republic, he saw merits and vices in each form of polity, monarchy and democracy included. It is in this respect that Robert Knudsen has called Calvin a patron of modern human rights, noting that "in his thought he anticipated the modern republican form of government,"\(^ {48}\) and with that assessment we may largely agree.

How then should we relate Calvin's theological program for the relationship of Church and State to that of Martin Luther? Although similarities between the two are clearly present, as have already been noted, Calvin thus altered

\(^{47}\) Gamble, \textit{ibid}, page 59.

Luther's ideals in one key way. Namely, as the theorists of the *corpus christianum* had done before him, Calvin established an inner point of contact with the culture around him which Luther did not have, and he suggested that all of life, including culture, is theonomous. For if God was indeed the "Grand Architect" of Creation (a phrase Calvin used often), then there could be no relatively autonomous sphere of human activity which preceded the operation of His grace; the idea of divine sovereignty over every aspect of life precluded the allowance of any kind of unlimited human sovereignty, in Church, State or anywhere else. The strict dualism of Luther's Two Kingdoms Calvin accordingly rejected in favor of giving to the State a godly, Christological, and even salvific purpose. As H. Richard Niebuhr thus commented, the Genevan in this regard was a "conversionist", insisting that that State is God's minister "not only in a negative fashion as a restrainer of evil but positively in the promotion of welfare."49 In sum, therefore, Jean Calvin did more than create a state church; indeed, he created

49. See Niebuhr's classic commentary, *Christ and Culture*, (New York: Harper Brothers), 1951, page 217. Niebuhr's distinctions between the five answers which Christian thought has produced in the dialogue between Christ and Culture are helpful and quite pertinent to the subject of the present discussion.
(or re-created) a Church State, and even after the form itself was gone, the theological underpinnings of that notion remained.

For it is clear in this respect that Calvin's influence spread far beyond his corner of Switzerland and even Europe, making its impact upon England and Scotland too, and eventually upon America itself. Standford Reid has observed here that while Lutheranism spread rapidly in the early days of the Reformation, "it soon began to recede like the ebbing of a tide,"\(^{50}\) and when it did so, in all but the Teutonic areas of Germany and Scandinavia, Calvin's ideas generally moved in and supplanted those of Luther. It may be a bit too ambitious to say with Marnell that "nothing less than the creation of a Protestant Church in world-wide opposition to the Catholic Church was the goal of Jean Calvin,"\(^{51}\) but it is true that, intentionally or not, in the years and centuries which followed, Calvinism did become the number one opponent of the Roman church.

In this respect, we may note that the spread of Calvin's ideas was aided, no doubt, by the massive influx of dissident refugees from France, Spain, Italy and England which

\(^{50}\) W. Stanford Reid, "The Transmission of Calvinism in the Sixteenth Century," found in John Calvin: His Influence in the Western World, op. cit, page 33.

\(^{51}\) Marnell, op. cit, pages 29-30.
doubled Geneva's population of nine thousand during the period of Calvin's stay there. This in turn was complemented by the relatively large amount of correspondence which Calvin engaged in with others, including John Foxe, Bishop Coverdale, Bucer, Bullinger, Melanchthon, John Knox, and numerous other men and women all over Europe of every class and station. Taken with the force of his aforementioned formal writings, and the strength of his character itself, it is sufficient to say then that the impact of his efforts was an impressive one, indeed. The outworking of his thought most relevant to the American experience was to be, of course, expressed in the varied forms of Puritanism and Calvinism which found expression on these shores. And some measure of his broad influence here may be noted in the fact that even before the Puritan exodus to New England was underway, some fourteen English translations of Calvin's catechisms had already been made.

In summation, therefore, we will suggest that Calvin clearly produced--as had Luther before him--a corpus of thinking that not only redefined the previous parameters of the discussion over Church and State, but provided both theological foundations and concrete illustrations for the direction in which, some two centuries later, the American experiment was to go. And although it is beyond the scope of the present work to comment upon all of the reformers who emerged in the second generation of that movement's leader-
ship, it is enough to say that in the main, each of them followed the outlines of thought on Church and State which Luther and Calvin had (carefully or not) laid out before them, if differing from those doing so largely only in matters of degree. To cite but one example, for instance, on the Lutheran side of the movement, Philip Melanchthon clearly believed that government was a divine insitution and obedience to it a religious duty. But even more markedly than Luther, Melanchthon came down on the side of increased power for the State, even while advocating that the right to property was a sacred one, and its protection a sacred duty of the prince.\(^52\)

Before leaving the period of the reformers and considering the contribution of both Enlightenment thinkers and the English Puritans to the building of the American doctrine, one further notation should be made, however. For within the ideological undercurrents of the Reformation movement there ran a third stream as well, and therein the contribution of Anabaptist groups such as the Hutterites and Mennonites should also be cited. With a fervency that caused both Catholics and Protestants alarm, those within the "radical" left-wing of the movement argued that the most damaging element in fact in the fall of the church was to be

\(^{52}\) Marnell has accordingly suggested that Melanchthon's influence, like that of Luther, "radiates in contradictory directions." See Marnell, op cit, page 19.
found in its alliance with the state, and that by introducing the *Landeskirchen*, the mainstream Reformers only remained within that fallen church themselves. In short, when Church and State were joined, for Anabaptists the Church ceased to be the Church.\(^{53}\)

William R. Estep has aptly summarized the Anabaptist position in noting that in their attempt at a restitution of the apostolic church, Anabaptists did not deny the right of the state to exist. But they did deny it "any jurisdiction in religious affairs,"\(^{54}\) thus breaking completely with the medieval synthesis of Christendom. The Bern Disputation of 1538, for example, reflects one of the earliest systematic statements on the Anabaptist idea of the state:

> We grant that in the non-Christian world state authorities have a legitimate place, to keep order, to punish the evil, and to protect the good. But we as Christians live according to the Gospel and our only

\(^{53}\) The exception to this, of course, was the brief experiment in theocracy at Munster under Jan Matthys in 1534. The arrangement failed the following year and Anabaptists became what they had been before, an exclusively religious movement with a traditional attitude of quietism. See Marnell, *op cit*, page 20 and following.

authority and Lord is Jesus Christ. Christians consequently do not use the sword, which is worldly, but they use the Christian ban.\footnote{55}

Anabaptists— as would Roger Williams later— thus saw the separation of Church and State as necessary because of the very nature of the Church. Accordingly, the disestablishment of the state churches became for those within this movement the "minimum requirement in a guarantee of religious freedom" as Anabaptists themselves became "the first advocates in the modern era of the disestablishment of the church."\footnote{56}

The influence which they might have had in this regard was, however, unfortunately greatly diminished by their small numbers and even moreso by the general disdain and even horror with which the outside world—including Luther, Calvin, Zwingli, and other of the reformers—viewed Anabaptists. For sectarians such as the Anabaptists, along with latitudinarian thinkers such as the Socinians and other groups such as the Politiques in France, were almost universally regarded as subversive and dangerous.\footnote{57} In that

\footnote{55. Quoted by Estep, \textit{op cit.}, page 195.}

\footnote{56. \textit{ibid}, page 196.}

\footnote{57. Socinians, we may note, sought to minimize the importance of most traditional dogmas, labeling them nonessential, and favoring toleration and liberty for all whose teachings did not directly disturb the peace and safety of the community. The Politiques similarly tried to keep}
respect, then, we will suggest that their impact upon the later development of American separationism was minimalized, even if many of the features of their thought came to be embodied in the eventual American dogma. Within the emerging American colonies themselves, for example, Mennonites found refuge only in William Penn's haven for all, and even there we may adjudge that their real impact was slight as compared to that of other of the dissenting societies. Still, we may overall remember them as one small stream in the change in thinking about Church and State which flooded the centuries before the American solution was derived.

That change in perspective found expression not only on the continent of Europe, however, but within both the emerging political and theological thought of England, as well. For therein we may say that the problem of Church and State came to a head in a way that was manifestly to impact upon the later American solution. Before considering the actual conditions within the English colonies which were to become the United States thus, we may turn first to review the events in their homeland which produced the further crucible out of which they were largely to be forged.

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religious differences out of politics altogether, even while accepting the preferred status of the Catholic Church. See Evarts Greene, _op cit_, pages nine and ten.
Chapter Three

THE ENGLISH EXPERIENCE: ABSORPTION AND DISSENSION

"Imperator bonus intra ecclesiam, non supra ecclesiam est" -- Ambrose

THE ROYAL ANSCHLUSS OF THE CHURCH

With only a few early and mostly fleeting exceptions, immigration to the American colonies up until the time of the Revolution was obviously and predominately English. It will come as no surprise therefore to observe further that when those colonists came, they brought with them also—in one form or another—many of the religious and political ideas of their motherland. And included within that was a heritage of the Reformation which was greatly different from those who might have experienced it on the continent or even Scotland. For if the Reformation in Europe was generally a theologians' affair, in England it was the clear business of its rulers, and most especially Henry VIII, Elizabeth I, and James I. In this respect we may cite the observation of William Marnell that

1. Or, as translated by Richard Hooker and cited in support of his view, "kings have dominion to exercise in ecclesiastical cases, but according to the laws of the Church."
Viewed from the vantage point of four hundred years, the continental Princes are dwarfed by the Reformers; from the same vantage point the English Reformers are dwarfed by the Princes.2

The ideological foundations for such ideas as separation of Church and State had, of course, clearly been laid in the centuries beforehand, and as we have already implied and will further demonstrate, a theological thread binding such thinkers as Luther and Calvin to their eventual Protestant and Puritan successors in England and then America can likewise be traced. But on the whole, it is true that the impact of events often overshadowed that of mere ideas in the English experience; personalities were equally important to principles, and often even moreso.

The great doctrinal manifestos on which Luther and Calvin staked their revolutions, for instance, were secondary always in England to the more pressing problems of national unity and political advantage. We may recall in this respect that the great question which faced Henry VIII (1509-1547) was not justification by faith or the predestination of believers, but rather how to woo the Church in England away from the Papacy yet leave it as little changed

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2. See Marnell, op cit, page 35.
otherwise as possible. Beginning with a tentative proclamation in 1529 that papal dispensations were not valid against lay statutes even in purely ecclesiastical affairs, by five years later Henry was ready to prohibit appeals to the papal court, stop the forwarding of funds to Rome, and fill the vacuum which was left by declaring himself, the King, to be the Supreme Head of the Church in England. In one sense, thus, the issue between Church and State that had "run athwart the whole of the Middle Ages" was now settled in favor of the latter side: the Church in England became the Church of England and Henry VIII its final authority on doctrine and on practice. As we have seen that Calvin created the Church State in Geneva, so in England we may say therefore that the opposite ideal of the State Church once again found an important patron in the person of Henry VIII.

What is more, the dissolution and sale of the monasteries which followed in England in 1535 and 1536 gave the monarch not only an impressive new source of wealth, but a new political base too among the landed gentry with whom he shared the spoils. For it is clear that concerns such as those were of much more interest to Henry VIII than the new

3. The specific issue dealt with the monarch's prohibition of non-resident clergy, and the Pope's resulting dispensation to ignore that prohibition.

Protestant theology itself. We may cite the irritation of one Lutheran envoy, Myconius, in this respect who afterwards complained of the English monarch that "King Henry's sole concern was the income of the Church. He stripped the gold and silver from the tombs of the saints... and robbed the Church of its estates... That was the Gospel that Henry wanted." And indeed it is fair to say that the theological and ecclesiastical reforms themselves, in fact, Henry largely resisted, even to the point of putting his chief minister, Thomas Cromwell, to death for his supposed favoring of Protestant doctrines.

The minority of his only male heir, Edward VI, at the time of Henry's death, however, left effective control of the sovereignty in the hands of more pronounced Protestant regents, under whom the first Act of Uniformity requiring the use of the new prayer book which had been produced by Cranmer was passed in 1549; a second edition with even more Protestant leanings was endorsed just three years later.

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5. See Chadwick, op. cit, pages 384-385.

6. The charge, we may say, was largely an excuse as Cromwell's execution appears to have been occasioned more by Henry VIII's frustration over his fourth marriage, the unhappy political match with Anne of Cleaves, which his vicar-general had helped to arrange. The one exception to the king's general disinterest in Protestant goals was in his allowance of two publications of the Bible in English, the second, unbeknowst to the king, largely the work of the Lutheran Tyndale whose theological preferences can be seen in several places of the translation.
The subsequent ascension of Edward's Catholic half-sister, Mary, upon the throne following his early death shifted the pendulum back once more, though. For under her prodding, Parliament in 1553 restored Catholic doctrine and services to the English Church, followed soon thereafter by Queen "Bloody Mary's" shocking persecution of "heretics" and the resulting death of almost three hundred Protestants who were burned at the stake.8

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7. The regents were first Edward VI's uncle, the Duke of Somerset who was the brother of his mother, Jane Seymour, and subsequently the Duke of Northumberland who, anticipating Edward's early death from tuberculosis, attempted to maneuver his own son's wife, Lady Jane Grey, onto the throne in his step-sister Mary's place.

Cranmer's first Prayer Book provided not only an English liturgy alongside that of the Latin service, but it attempted to integrate the medieval offices with the German Protestant church orders and particularly that of Martin Bucer. We may note that in common with many such efforts which have followed, in Chadwick's words, "from the moment of its publication, the 1549 Book was disliked by both sides; by the conservative because it was too radical, by the reformer because it was too conservative." (The Reformation, page 120.) Responding to some of the critiques from the latter side, Cranmer simplified the ritual within the revision which followed in 1552, but it remained an object of controversy for many.

8. Those so martyred included Thomas Cranmer, who had at first recanted of his Protestant beliefs and then revoked his recantation, and Hugh Latimer, whose last words to a fellow victim, were prophetic indeed: "Be of good comfort, [for] we shall this day light such a candle, by God's grace, in England, as I trust shall never be put out." See Lunt's History of England, op cit., page 333.
When after five long years on the throne Mary died and the dust had settled once more over the House of Tudor, a third child of Henry VIII's, this one the Protestant daughter of the ill-fated Anne Boleyn, stepped to the forefront. And Elizabeth, we may say, proved to be the true heir to her father in more ways than one. For with both cautious moderation and shrewd political instincts, Elizabeth seized upon the increasing sentiment among her countrymen towards the Protestant faith and the even more important inclination of most to regard religion as a matter for the State to settle. A year after her coronation in 1558, thus, the monarch proposed to Parliament two major laws relating to the question of Church and State affairs within her realm: the Act of Supremacy, which repealed all Catholic jurisdiction within England and overturned the legal basis for Mary's persecution of Protestants, and the Act of Uniformity, reestablishing the largely Protestant-flavored Prayer Book of 1552, with certain modifications. These actions, along with the subsequent adoption of the Thirty-Nine Articles of Faith, placed the English Church squarely on the broad middle ground of the theological reforms9 while leaving it solidly under the control of the

9. We may note, for example, that the Thirty-Nine Articles were largely a revision of the previous Forty-Two Articles compiled under Edward VI, but revised to be less extreme in their Protestant expressions.
sovereign as its ultimate fountainhead of authority.

Religion within Elizabethan England (1558-1603) thus came to be characterized in terms of its moderation, even with the gradual abandonment of such Catholic doctrines as purgatory, transubstantiation, communion of saints, and the "blasphemous fable and dangerous deceit" of the Mass (Article 31). To be sure, Chadwick has suggested that the religious arrangement which she preferred was that of "a Catholicism without the Pope; the royal supremacy; a preferably celibate clergy; [and] the Real Presence in the eucharist,"\(^\text{10}\) and he may in part be right. But with the obvious exception of the Romanists, in fact, it seems more clear that what Elizabeth really sought to encourage within England was actually a kind of religious modus vivendi, expressed through a national church where Anglo-Calvinists and Anglo-Catholics could worship together as a part of an united state. If her efforts did not completely satisfy either of the extremist communities under her rule— that is, Roman Catholics who chaffed under the restrictive anti-Catholic measures\(^\text{11}\), and Independents such as Thomas

\(^{10}\) Chadwick, \textit{op cit}, page 131.

\(^{11}\) The perceived threat by many of a Catholic plot to reclaim England, suggested by such happenings as the Ridolfi plot and the continuing presence of Mary Stuart as a Catholic claimant to the throne, are largely to blame for acts such as those in 1571 and 1581 which respectively made it illegal to bring into England a papal bull and to try and convert even peacefully any subject of the Queen to the Roman Catholic faith.
Cartwright and Robert Browne who protested that the English Church was not yet Protestant enough\textsuperscript{12}-- the skillful tact and diplomacy of Elizabeth most often won the day, at least insofar as the rest of her countrymen were involved. For in the end, it was her good fortune that public opinion largely came to agree with her preferences. The ultimate authority for the church and even the interpretation of the Scriptures in turn thus fell upon the Queen and her Parliament, and, as her father had done before her, Elizabeth governed such not principally in the interests of the true Church itself but rather of the peaceful State.

Her successor to the throne, James I (1603-1625), was unfortunately not nearly so adept at maintaining the fragile national consensus on religion which Elizabeth had forged, nor may we say was he tactful enough to even try to do so. A firm believer in the divine right of kings, James revolted against his Presbyterian tutors in Scotland whose predilec-

\textsuperscript{12} Cartwright opposed the episcopal organization of the Church as too Catholic, while Browne (1553-1633) and his followers pushed for complete congregational autonomy, denying to the magistrate all authority of an ecclesiastical nature except the duty to suppress false religion. In such incidents as the Vestiarian Controversy of 1563 over the continued use of such "popish relics" as the surplice, marriage rings, feast days, and organs in public worship, dissenters continued to press their cause, objecting that the Queen could not order their use without contravening the Word of God. Such may largely be the reason why ten years later Elizabeth banned all conventicles or assemblies which had served as the hotbed for stirring up that which were in her judgment rabid and divisive controversies.
tions for a Church State ran headlong into James' monarchial philosophy. In addition, James quickly came to regard the English Puritans as simply more of the same and concluded that, whatever the source, it was his duty "to protect his absolute God-given religious leadership against ecclesiastical usurpation." It is perhaps one of the small ironies of history thus that the project with which his name was to be remembered most in later generations, the publication of the King James Bible in 1611, was by and large an exception to the monarch's general disapproval of Puritans and their causes. For it is plain that the overall thrust of James' religious program was to reinforce the principle of Anglican uniformity in his land.

And the result was not simply increasing problems with Catholics (as exemplified in the infamous Gunpowder Plot of 1605), but the forcing of many sincere Puritans out of Anglicanism and into the ranks of the Separatists, as well. It is here, in fact, that we may say that the eventual split within Puritan ranks found its impetus, as James sided with the conservatives who wished to retain church doctrine, ritual, and hierarchy from the "popish" days, the more fervent reformers pushed for changes along the lines of Calvin's church body, and neither side was willing much to

compromise. The significance of all of this for the latter American experience will be recognized in the fact that it was the legacy of Calvin's Church State in Geneva which the Puritans of New England were eventually to inherit, via their predecessors in England. But, as Marnell has pointed out, for the bulk of Englishmen, "the final, logical conclusion of the thought of Henry VIII, Elizabeth, and James I was reached at the royal court, where the State absorbed the Church and the State Church came into being."14 And it is that tradition which, as we shall see, ultimately produced the Anglo-Catholicism of England, later transferred to the southern colonies. That the two viewpoints were nearly irreconcilable is clear; how they came to be accommodated was thus the principle issue on which the Stuart dynasty was to hang, and with which the latter American experiment was to forced to likewise struggle.

For upon James I's death in 1625 and the ascension of his son, Charles I, the religious controversy increasingly moved to the forefront within English affairs. We may agree that it was the appointment of the rather intolerant William Laud as Archbishop of Canterbury in 1633 which brought the split within the Anglican church into the open. For the strong Roman tendencies of Laud and his suppressive religious measures inflamed not only Puritan opinion in the decade

14. Marnell, op.cit, page 42.
which followed, but an already alienated Parliament, as well. The observation made long ago by Henry Gwatkin bears repeating once more here: the key to understanding the English Civil War which ensued is that the "quarrel of the nation was not with monarchy, but with Charles; not with the church, but with Laud." 15 For as a small minority, the Laudian party plainly found a close alliance between church and state was necessary; Charles likewise found that he needed the Church's support not to prop up the idea of monarchy, but more specifically, the acceptance of his particular monarchy.

And at least one overall effect of their rule was not only to precipitate a war, but to drive as well a sizable number of Englishmen to immigrate. We may cite in this respect the removal of the Catholic Lord Baltimore to Maryland in 1632 and the similar exodus of thousands of Puritans to New England in that same decade, to whom the Anglo-Catholicism of Laud was simply unacceptable. 16 The Civil War which followed in the land which they had left was

15. Quoted by Beth, *op. cit.*, page 7, and found in Gwatkin's *Church and State in England to the Death of Queen Anne*, (London, 1917), page 266.

16. It has been estimated that the total of one thousand Puritans who immigrated to Massachusetts in 1630 had swelled to over 20,000 just ten years later. Trevlyn was perhaps correct in long ago suggesting that Laud was in truth "the founder of Anglo-Saxon supremacy in the New World." See Beth, page 8.
thus unavoidably both a religious and political struggle, and the division between parties made along the basis of both principle and personalities. The Anglo-Catholics, Latitudinarians, Erastians\textsuperscript{17}, Roman Catholics (who had nowhere else to go), and in general all those who favored the episcopacy lined up behind the King, for example. Puritans, sectarians, radical religious groups, and those opposed in theory to any form of episcopacy joined with Cromwell and the Parliament, whose ranks were also supported by the Scots.

Given the rather eclectic nature of the parliamentary forces, therefore, it is perhaps not surprising that when the war had ended and the Interregnum begun, the popular front eventually collapsed as well, thus opening up the way for both the end of Cromwell’s experiment in governing and the restoration of the monarchy itself. In the interim, however, we may note that a religious condition was created which had theretofore been unknown in Christian history--

\textsuperscript{17} The so-called "Latitudinarians" believed that allowing a wider latitude of faith within the Church might prevent the widening schism within Anglicanism. They accordingly suggested that there were only a few real fundamentals of Christianity requiring assent by all and the rest could be determined best by reason. Likewise, the Erastians (named for the Swiss divine Thomas Erastus) were lay politicians who went even to the point of religious skepticism, believing that the State should control religion to ensure both unity and balance in society. Overall, they would have agreed with the sentiment of Francis Bacon that no religious principle is fundamental enough to justify intolerance. See footnote 29 in this chapter.
the essential military rule of a great state by a man who himself preferred Independency and believed in liberty of worship. The Commonwealth which was proclaimed accordingly offered religious toleration for all except Catholics and Episcopalians, and the Instrument of Government which it produced became—if not as influential in later English thinking—a prototype of sorts for the eventual United States Constitution, including its embryonic but yet distinctive Bill of Rights guaranteeing religious liberty to (Catholics and Anglicans excluded) all of its citizens. What is more, even after the experiment itself collapsed, the emergence of Congregationalists and Baptists in both New England and Old was already sufficient enough to become a permanent feature of the religious life in those realms.

When the Interregnum and Protectorate of Oliver Cromwell ended soon after his death in 1658, it was the Presbyterian faction which, in fact, joined with the Anglicans in inviting back to the throne Charles II, the son of the monarch whom they had earlier desposed. It will be of interest to political theorists, of course, that the arrangements between Parliament and King for the sharing of power in 1660 were markedly more balanced than previous sovereigns had agreed to before. But with respect to the religious question, for Parliament and Crown, the matter of the Church yet remained a means and not an end; in Loren Beth's words,
"Parliament still acted on the idea—no longer practicable—that religious uniformity was both desirable and possible."\textsuperscript{18} Between the years of 1660–1672, accordingly, the royalist Parliament thus began to lean heavily once more towards the side of radical Anglicanism, ending toleration with the passage of acts to eject all dissenting clergymen from posts within the Church, making dissenters’ meeting illegal, and imposing heavy penalties upon any who chose to worship outside of the established Anglican setting.

Largely out of spite towards the legislature which restricted him, Charles II, it may be said, enforced such measures only partially, and eventually Parliament too began to court the dissenting groups in order to increase their power. But a Declaration of Indulgence suspending the penal laws against Catholics and Dissenters proposed by Charles in 1672 went too far in this regard; Parliament fusses and the monarch was forced to withdraw his measure. In its place, Parliament proposed in fact a Test Act which required all office holders to take part in the Anglican communion and to refute the idea of transubstantiation. When Charles II’s death in 1685 propelled his Catholic brother, James II, into the monarchy, the conflict between Crown and Parliament again accelerated. James II’s attempts to force Catholicism

\textsuperscript{18} Beth, \textit{op cit}, page 23.
on England and his disregard for the Test Act, for instance, may be said to be the principle reason why his reign was so short-lived. For the subsequent alliance between Anglicans and Dissenters, Tories and Whigs against James II, fueled by a common dread of Catholicism, spelled the handwriting on the wall for the last Catholic monarch in an increasingly Protestant state.

Forced to abdicate, James thus fled to France in 1688 and the invitation to William and Mary of Orange (she being the Protestant daughter of James II) to jointly assume the throne in England was made the following year. Along with their rule came a new Act of Toleration, promising freedom of conscience and worship to Anglicans and Dissenters alike, barring only Catholics and Unitarians from the protection of their beliefs. William and Mary in turn carefully appointed latitudinarians to high church posts in an attempt to keep the Church's intolerant majority out of control. Toleration thus came to England "as a part of a politico-religious struggle to prevent the return of Catholicism and of royal absolutism," and though the measures of Queen Anne (1702-1714) who followed their reign resulted in a brief revival of attacks on nonconformity, her death and the subsequent

passing of the Crown to the Hanovers removed any real dangers to the repeal of the Toleration Act itself from that time forward.

The idea of toleration became a largely settled issue within England thereafter, especially as the general interests of many began to turn away from the theological arena of disputation and increasingly towards the political one in the emerging eighteenth century. With respect to this important notion, in fact, we may largely agree with the summation offered by Loren Beth that

In 1776 when the American colonies broke away from the mother country, the problem of church and state had reached substantially its present status in England. There was a state church, more or less latitudinarian in concept, with toleration for dissent...The American colonists had thus imbibed by 1775 all that England could give in the way of a theory and practice of Church-State relationships.20

Two further points should be considered, however. For if we allow Beth’s argument that the American theory of Church and State which was to be agreed upon was, in the end, thus distinctively American, we may do so only with the notation that there were yet some genuine ideological expressions as well as pragmatic understandings which stemmed out of that

20. ibid, page 32.
English experience and contributed to the later American doctrine. Those that bear further mention in this respect, in fact, are the arguments of the aforementioned Puritan and Anglican theorists themselves, as well as the Enlightenment ideas of John Locke and his companions. To those ideas, therefore, we now may turn.

THE "NARROW MARROW" OF THE PURITANS

The example of the Lollards and John Wycliffe (1329–84), that "morning-star of the Reformation," will be adequate enough to suggest that, the previously cited political maneuverings of the Tudors and Stuarts notwithstanding, the English Reformation could claim in the end that it was not merely a matter of nationalism, however, which fueled those impulses for reform and resulted in some significant changes within the life of the English Church and State. For even if the secularized dimensions of the movement often overshadowed the purely sacred ones, and the representatives of that first order generally dominated those of the second (as we have already suggested), theological and philosophical arguments both for and against the prevailing order continued to be constructed throughout the sixteenth and seventeenth centuries. Moreover, one could not even say that the notion of Reformation itself was just an ideological import
from Germany or Geneva either. For rather, as Philip Edgcumbe Hughes has reminded us, the English movement could "boast its own indigenous line of communication" back to the fourteenth century", as well, making the protest against the errors and abuses of the papal church commonly attributed to the continental reformers of the sixteenth century in some ways "no new thing in England."\textsuperscript{21}

Still, it is abundantly clear that the influence of Jean Calvin was a strong one within England, both in the impact he had upon the English exiles who fled to Geneva during the persecutions of Mary Tudor, and in the contacts he afterwards established with many of those who remained within the Church of England at home. It was, for example, in Calvin’s Swiss stronghold that both John Knox found the inspiration for the Scottish Reformation he was to lead, and English Protestants such as William Whittingham (later to become the Dean of York) labored on the production of the immensely popular, if decidedly Protestant, Geneva Bible of 1560.\textsuperscript{22}

\textsuperscript{21} See his article, "Calvin and the Church of England," contained in \textit{John Calvin: His Influence in the Western World, op cit.}, page 173.

\textsuperscript{22} The favorable reception to this revision of the Great Bible which had been earlier issued by Cromwell in 1539 was largely due to both its scholarship and its style. The attached notes rather plainly reflected the views of Calvin and Beza and drew the later ire of King James I who found them "very partial, untrue, seditious, and savouring too much of dangerous and traitorous concepts." (Chadwick, \textit{op cit}, page 224.) Of equal attraction to most, however, were the innovations in presentation, including maps, tables, and the first use of verse numbers in any English translation.
Likewise, Hughes has ably documented the correspondence between Calvin and the Duke of Somerset, young Edward VI’s uncle and, as we have seen, the Protector of England during his regency. The dedicatory epistle of Calvin’s commentary on the Pastoral Epistles, in fact, was addressed to Somerset and in it we may see again the genuine theocracy which everywhere Calvin hoped to encourage: “kingdoms enjoy secure prosperity and faithful guardianship when he, on whom they are founded and through whom they are preserved, the Son of God, presides over them.”

In the main, though, the principle impact of Calvin’s thought was to be filtered through the Puritan theorists who followed in the century after him. And herein the distinction between Calvin and Calvinism should be frankly acknowledged, along with the confession that before the return of the English exiles at the death of Mary in 1558, the influence of other reformers such as Peter Martyr, Martin Bucer, and Henry Bullinger was probably as much, or more, as that of Calvin himself. It was Calvin’s successor at Geneva, Theodore Beza (1519-1605), in fact, who most likely became the “architectural mind for English Calvinism,” in

23. Quoted by Hughes, ibid, page 176

24. The phrase is that of R.T. Kendall in his article on "The Puritan Modification of Calvin’s Theology, contained in John Calvin: His Influence in the Western World, op cit, page 201.
spite of the fact that his theological formulations often went beyond Calvin in several ways. In the common understanding of things, however, such distinctions were insignificant, and the increasing popularity in England of both Calvin's and Beza's works fed into each other, forging an almost symbiotic tie between the two and creating the synthesis known as Calvinism. To quote R.T. Kendall at this point, "in a word, Calvin handed Beza to England on a silver platter... [and] Beza's writings made the name of Calvin more popular than ever in England." 25

By the end of the sixteenth century, the interpreter and successor to both men within England became William Perkins (1558-1602), a Puritan divine who along with one of his own successors, William Ames, was to be greatly revered and read within both New England and Old. Perkins' treatises were primarily soteriological in content, however, with an almost studied avoidance of ecclesiastical concerns and the ongoing controversies over Presbyterianism and Independency. At the most, Perkins suggested that all men should remember that the final cause or end of every calling must be for the common good, "that is, for the benefit and good estate of mankind." 26 A mighty preacher, Perkins was thus not a

25. ibid, page 202.

26. See his classical explanation of the subject in "A Treatise on the Vocations, Or Callings of Men, with the Sorts and Kinds of Them and the Right Use Thereof," The Workes of That Famous and Worthy Minister of Christ in the
Separatist as many later Puritans would become, but a first-generation reformer who yet "cast his mite into the treasure of the Church of England." 27

In comparison, however, his decidedly non-Puritan contemporary, Richard Hooker (1554?–1600) showed little hesitation for diving into the questions of ecclesiastical matters and the national accommodation of Church and State. Appointed as Master of the Temple in London in 1584, Hooker retreated to the countryside seven years later in order to write an important eight-part defense of the Elizabethan Establishment of the Church, Of the Lawes of Ecclesiastical Politie. 28 Of interest here may be that in the construction of his treatises Hooker went beyond the customary practice of his day of arguing from the scriptures alone and chose to anchor

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28. Five of the eight books were published prior to his death in 1600, but the remaining three not until almost half a century later, prompting many to doubt their authenticity. Most modern scholars are now agreed, however, that all eight of the volumes were Hooker’s handiwork; see David Wootton’s introduction to Hooker in his anthology of political writing in Stuart England, Divine Right and Democracy, (Middlesex, England: Penguin Books), 1986, page 214.
his disputation on an appeal to reason and natural law, as well. In this, Hooker clearly borrowed from the ideas of Thomas Erastus, suggesting that since the same people who composed the political community were also members of the church, thus the church and community ought to be conceived of as "personally one Society, which society being termed a commonwealth as it liveth under whatsoever form of secular law and regiment, [and] a Church as it hath the spiritual law of Jesus Christ." 29 Although this could hardly have been said to be the case in England, even in Richard Hooker's time, it was justification enough to the Anglican divine to underscore the Crown's right to appoint bishops and even Parliament's similar privilege of determining the very articles of faith and worship.

29. Hooker, Works, III, 330, cited by Evarts B. Greene in Religion and the State: The Making and Testing of an American Tradition, (Itacha, New York: Great Seal Books), 1941, reprinted 1959, page 12. Hooker's continental contemporary Erastus (1524-1583), a professor at Heidelberg, presupposed that first, all members of civil society were likewise members of the church and, second, that the doctrine of priesthood of all believers erased any real distinctions between Christians, especially those of lay and clergy. Accordingly, Erastus argued that the lay officials of the State had the right to determine the Church's doctrine, forms and ministries so that the Church might reflect the structure of the society into which it was to be found. See Glenn T. Miller, Religious Liberty in America, (Philadelphia: Westminster Press), 1979, pages 20 and following.
What is more, perhaps to convince his Puritan critics on their own terms, Hooker even suggested that such an arrangement bore divine sanction, as seen in the example of the Hebrews' assimilation of Church and Community in the Old Testament:

Unto the Jews [God] so revealed the truth of religion that he gave them in special consideration laws, not only for the administration of things spiritual, but also temporal. The Lord himself appointing both the one and the other in that commonwealth did not thereby distract it into several independent communities, but instituted several functions of one and the same community. Some reason therefore must be alleged, why it should be otherwise in the church of Christ.30

To be sure, Hooker allowed that the dominion which Kings might have over the Church was limited in some respects, embracing the previously quoted principle of Ambrose with which we began this chapter. Wootton has suggested herein that the role which Hooker assigned to consent in general even made him an attractive authority to whom later thinker such as John Locke could also appeal. But in the end, Hooker found it a "gross error" to think that regal power should serve only for the good of the body and not the soul, "as if

30. Hooker, Of the Lawes of Ecclesiasticall Politie; The Sixth and Eighth Books (1648), reprinted in the Wootton anthology, op cit., page 221.
God had ordained kings for no other end and purpose but only to fat up men like hogs, and see that they have their mash." The defense which he created not only expanded the traditional parameters of the argument over Church and State thus, but it shored up the Anglican ideals of a national church establishment, as well.

Hooker's unswerving consistency to principles was not, of course, shared by all in the years that followed. For some movement back and forth between the various religious positions continued to take place, as best seen perhaps in the example of Richard Baxter (1615-91). Ordained within the Church of England in 1638, yet with a Puritan background, Baxter soon found himself in opposition to both the structure of the episcopal authority and the lack of discipline which he saw within the Church itself. Supporting Parliament in the early fights with Charles II, he nonetheless disagreed with both orthodox Presbyterians and with the Independents. And when in 1660 he backed the monarchial Restoration, he refused however to take a bishopric, becoming instead, in the words of one interepreter, "the conscience and spokesperson of the Dissenters."  

31. Ibid, page 228

32. Wootton, op cit, page 215. The title might also go to the Baptist Thomas Helwys (1550-1616), however who, among other concerns, made in 1612 an almost outright call for toleration in his "Declaration of the Mystery of the Iniquity," declaring that "our lord the King is but an earthly King, and he has no authority as a King but in
More germane to the question of Church and State, however, is the fact that though he hardly would have agreed with Hooker’s warm embrace of the establishment of unrefined Anglicanism, the Calvinistic ideal of theocracy yet remained Baxter’s vision of what the "true principles of government" should produce. Of the more than one hundred and fifty works which Baxter produced, his Holy Commonwealth of 1659 most clearly outlines the kind of government which he hoped might emerge from the English Civil War. As an illustration of the thinking shared by many within his day, Puritans, Dissenters, and satisfied Anglicans alike, it bears repeating here at some length:

Thesis 190: The happiest commonwealth is that which most attains the ends of government and society, which are the public good, especially in matters of everlasting concernment, and the pleasing of God, the absolute Lord and King of all... An atheistical infidel politician, that makes not these heavenly glorious things the ends of his policy, does set kings, and commonwelaths, and laws as far below a Christian king, commonwealth and law as earth is below heaven, and almost as a dog is below a man...

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earthly causes...man’s religion to God is between God and themselves; the King shall not answer for it, neither may the King be judge between God and man."
Thesis 192: The more theocratical or truly divine a government is, the better it is. None can deny this that denies not God...

Thesis 195: In a divine commonwealth it is supposed that the subjects are all God's subjects, not only by obligation (as every man is), but also by consent. Others may possibly be permitted as incolae, on the terms as catechumens in our churches. But only the voluntary subjects of God should be the proper cives or free subjects of a divine commonwealth...

Thesis 197: In a divine commonwealth the prince or other human sovereign does hold his power as from God, and under him, and the people consent and subject themselves to him principally as God's officer. Though God choose not his officers now in the same manner as in Moses' and the following judges' days (as to the extraordinary call) yet are they now as truly his officers as then.

Thesis 203: In a divine commonwealth the sins against God must be accounted the most heinous crimes. The denying or blaspheming God, or his essential attributes or sovereignty, is to be judged the highest treason; and the drawing men to other gods, and seeking the ruin of the commonwealth in spirituals, is to be accounted the chiefest enmity to it...
Thesis 205: By this it appears that in a true theocracy, or divine commonwealth, the matter of the church and the commonwealth should be altogether or almost the same, though the form of them and administrations are different...

In sum, what Baxter and many of the Dissenters appear to have opposed then was not the idea of establishment itself, but the simple choice of the Anglicans as the favored recipients of that arrangement over their own purer and more untainted versions of the Church. For a Calvinistic theocracy lay squarely at the base of almost every "holy commonwealth" ideal which was to be proposed.

One more figure deserves our attention, however, before concluding this brief discussion of the English Puritans whose influences extended to America. For, as we have already alluded, there was no other individual born into that middle generation of Puritans who was so successful in furthering and defining the Puritan ideals as William Ames.

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33. Richard Baxter, A Holy Commonwealth, or Political Aphorisms, Opening the True Principles of Government: For the Healing of Mistakes, and Resolving the Doubts, that Most Endanger and Trouble England at this Time (If Yet There May be Hope) and directing the Desires of Sober Christians that Long to See the Kingdoms of This World Become the Kingdoms of the Lord, and of His Christ, 1659, reprinted in Wooton's anthology, op cit, pages 229-238. The influence of Perkins on the first thesis herein will be an obvious one. Baxter, as well, in several places of the work seems to be writing against the influence of his more secular contemporary, Thomas Hobbes.
(1576-1633). His story bears comment not simply because he so clearly left his mark upon the intellectual life of New England, but also because unlike most of Perkins' other students who followed their mentor's lead and carefully avoided ecclesiastical confrontations, Ames got into trouble himself with the hierarchy, fleeing to Holland for refuge. His encounter with the Remonstrants there is significant primarily for the recalibration of Calvinism which he produced in order to respond to the thinking of Arminius. It did not, however, cause him to become a Separatist himself for, like Perkins, Ames continued to hold a moderate

[34. Perry Miller has suggested herein that Ames' influence was felt in America for more than a century; his summary of Christian theology, *The Marrow of Sacred Divinity*, remained, for example, the standard text at both Harvard and Yale for a hundred years, making Ames the "Father of American Theology" in the eyes of many. See Miller's *Orthodoxy in Massachusetts, 1630-1650* and his volume on *The New England Mind: The Seventeenth Century* for a discussion of the theological influences upon colonial America. Also note Keith Sprunger's excellent study, *The Learned Doctor William Ames* who notes that through the students who came to study with him at Franeker that Ames' views were spread to many parts of Europe, as well, including Hungary where at least one scholar has credited him for sparking a Hungarian form of Puritanism, *op cit*, page 253 and following.

35. "The heavenly Doctor" Richard Sibbes, for instance, continued in the largely pastoral mode which he had learned from Perkins and his successor, Paul Baynes. Sibbes' principle contribution to the American experience came, in fact, in converting John Cotton, and channelling him into the Calvinistic tradition.]
view which affirmed the Anglican communion to be a "true church" even while admitting the need for much and occasionally even drastic reform.

Within and beyond his Calvinism, however, Ames was particularly drawn to the idea of covenant and he used such to formulate a theology of the Church whose hallmarks included the independence of each congregation, the calling of ministers by individual churches, and government and decision-making which was invested in the congregation itself, and not within the episcopacy. Complementary to this, we will suggest that Ames' theory of natural law provided a foundational basis upon which many of the latter democratic institutions were to be raised: the duties and inalienable rights of citizens, the social contract or government by the consent of the people, even the right of resistance when government exceeds the boundaries of its authority.

What is more, there was in Ames' thought the kernel of an essential pragmatism which came to typify and largely predominate much of American theology in the three centuries which followed him. For Ames viewed dogmatics and ethics as a single unit, and he contended that theology was not so much the science about God as it was "the knowledge of how to live for him."36 In the words of Martin Prozensky, Ames

36. See his address to the students at Franker, "Paraenesis ad studiosos theologiae, habita Franekerae, Aug 22, anno 1623", translated by Douglas Horton and cited in Sprunger, page 78.
thus wished to steer theology "away from the arid intellectualism of most of his professional colleagues and towards a practical and redemptive emphasis," an emphasis which was quickly adopted by the American divines and one which remained useful long after much of the biblical apparatus surrounding the Amesian theological system had been abandoned. If there was no direct contribution to make on the subject of Church and State, the net result of William Ames' work, however, was yet to influence many towards a pragmatic polity of the Church based upon consent and covenant, and a theological "marrow" which neatly divided obedience between religion (man's duty to God), and justice (man's duty to man).

Summing up then, in the two centuries before the American solution to Church and State was formulated, both Puritan and Anglican divines within England largely continued to defend the single society notion. Whether expressed within the purer theocratic models which the linear inheritors of Calvin wished to pursue, or in what we have labeled as the anschluss, or forced absorption of the English Church by both Crown and Parliament, the consensus largely held that sceptre and mitre ought reasonably and scripturally to go

together. Within the theological program of the Church, however, we may contend that the seeds for the notion of separationism were yet present, as the particular circumstances in the colonies, and some of its leaders both theological and political, were shortly to suggest. In the absence of any such explicit and compelling argumentation by the clergy, in England itself though that task then fell primarily to the more philosophical thinkers of the Enlightenment. Yet even there, as we will see, while the new thinking came to challenge many of the previously held understandings of society, still many of the overtly "secular" political principles which emerged in the seventeenth century (and which have been credited often with forming the foundation for American constitutional theory) had theological and religious components within them, too.

THE INFLUENCES OF THE ENGLISH ENLIGHTENMENT

As was proposed in the opening chapter, one of the more enduring features of most historical reflection upon the American experience has been to assume that the foundations for American political theory were solidly rooted in the progressive thinking of John Locke and his companions within that movement which has been labeled the Enlightenment. Three decades ago, for example, John W. Shepherd merely
echoed the thinking of many when he conceded that the liberal Enlightenment shaped the American tradition of freedom and its institutions far more than the Reformation did. For if the latter movement taught men to rely upon faith, revelation, and the authority of the scriptures, the former proclaimed that truth could be had by all through the faculty of human reason. Or, to wit, "the Reformation insisted that freedom was dependent on God, and as such only truly accessible to the Christian... [whereas] the Enlightenment made freedom an inherent right of human nature."38

But the shift in political thinking which Shepherd suggested occurred in the seventeenth and eighteenth centuries away from a theological foundation (which as we have seen characterized political reflections in the West for a thousand years) to a more philosophical base of human reason and "natural rights" was never an absolute one. For the Enlightenment which American colonial leaders largely assimilated was, after all, a moderate English version. In contrast to some of the more "radical" expressions of the Enlightenment on the continent, the English movement was indeed one, as Henry May has noted, which combined the political observations of such men as Locke and Sidney along

with the pragmatic epistemology of Scottish common sense realism, and even a healthy dose of the aforementioned Puritan theology.  

"Such, we may say, was not at all a unlikely synthesis to make, for at several points Puritanism and the Enlightenment ideals shared a fairly deep common bond, such as in their mutual respect for the individual. Within the doctrine of liberty espoused by John Milton, for example, one may see such a conjoining of the strands of both Puritanism and the "natural rights" philosophy which was dominant in the following century, and in those tendencies Milton was not alone."

39. See James E. Moseley, A Cultural History of Religion in America (Westport, Connecticut: Greenwood Press), 1981, pages 41 and following. The "Age of Enlightenment", beginning with the scientific discoveries of men such as the Polish astronomer Copernicus (1473-1543), the Italian physicist Galileo (1564-1642), and the English mathematician Isaac Newton (1642-1727), indeed made its impact throughout the world and in a variety of fields. Within the seventeenth and eighteenth centuries its leaders outside of England included Descartes (1596-1650), Montesquieu (1689-1755), Quesnay (1694-1774), Voltaire (1694-1778), Diderot (1713-84), and Condorcet (1743-94) in France; Leibnitz (1646-1716), Lessing (1729-81), Kant (1724-1804), and Goethe (1749-1832) in Germany; Comenius (Komensky), (1592-1670) in Moravia, Spinoza (1632-77) in Holland, and David Hume (1711-76) in Scotland.

40. The poet Milton (1608-74), whom Shepherd called the "Spokesman of the Puritan Revolution," began as an Anglican, moved to Puritanism, but eventually drifted even further to the left, becoming an Independent but one with only tenuous ties to any organized group. His Areopagitica voiced his plea for a free press along with religious liberty, and by 1659 he was a firm advocate of separation, even if still restricting religious freedom to "true" Christians, i.e., Protestants. Milton's influence was, however, only slight in the United States and seems not to have affected the development of separationism within the new republic.
For, indeed as Loren Beth has reminded us, since most educated men of the era were also religious leaders, few genuinely "secular" thinkers-- at least in the modern sense of that term-- can be said to have appeared at all before around 1760. Rather, the multiple roles which most such men played in their society were often mingled, and much of the Enlightenment thinking simply provided a convenient way of uniting religious commitments and public responsibilities. To return to the example of Milton, we should remember in this respect that he not only wrote what some will say was the classic Puritan epic of the age, Paradise Lost (1667), but that within the political realm he served as one of the secretaries to Oliver Cromwell during the Interregnum, as well. Similarly, Locke's political thought too was as much the reflection of his religious views as it was his philosophical presuppositions and even Hobbes, the son of a clergyman, had a religious frame of reference in his thinking that was not wholly as negative as many have assumed that it was, as we shall briefly suggest. It is therefore not correct to say that the Enlightenment proponents as a whole were either completely irreligious, uniformly antagonistic, or even just casually indifferent to Christianity.

In point of fact, it is perhaps ill-founded to speak about the Enlightenment proponents as a whole in any sort of generalized or sweeping way. For no less than the Puritan
and Anglican divines, the Enlightenment ideologues varied among themselves at several significant points and depending upon under which arrangement of government they happened to live. Whether it was a reflection of the rather drastic differences in the political landscape in England between the first and second halves of the seventeenth century or not, for instance, it is instructive nonetheless that those theorists who were active in the latter period which followed the Protectorate and Restoration seem to have reflected a greater integration of faith within their political program than those who came before them.

One within that earlier time, for example, was Francis Bacon, the younger son of a well-placed Elizabethan politician who in turn himself served in the governments of both that queen and her successor, James I. As Attorney-General and later Lord Chancellor in the Stuart regime, Bacon faithfully supported the extreme claims of James I for the monarchy’s inherent power. Known for the terse pithiness of his writings, Bacon’s Essays display many of the characteristics of what would be called republican writings as David Wootton has listed them:

- a preoccupation with self-interest, a love of Machiavelli and a respect for republican governments.
- But they also serve as a warning that these features do not always imply a commitment to republicanism, or a distaste for unchecked authority, in practice.\textsuperscript{41}
Bacon's eventual impeachment by Parliament in 1621 accordingly came largely as the result of the disapprobation of many which his political persuasions afforded to him.42

Among those who did call him their friend, however, was his more prominent successor in the advocacy of absolutism, Thomas Hobbes (1588-1679). A friend as well of Galileo and other new thinkers on the continent, Hobbes was widely attacked as an atheist in England following the publication of his Leviathan in 1651. For therein Hobbes suggested that the law of nature was not the command of God, but merely a set of precepts which found their true authority in the person and will of a people's sovereign. Hobbes accordingly

41. Wootton, Divine Right and Democracy, op cit., page 390.

42. The charge against Bacon was actually that of accepting bribes in his capacity against a judge. Bacon did not deny the accusation but he did claim not to have been affected by the inducements; he was found guilty and stripped of all of his offices. Beyond the technical charges, however, Bacon had clearly offended many with his continued support for James I's divine right theories, including his argument that the courts ought to defer to the opinions of the executive; "Let the judges be lions, but yet lions under the throne, being circumspect that they do not check or oppose any points of sovereignty" was Bacon's dictum on the subject. See Lunt's History of England, op cit., page 395.

An ardent advocate of the inductive method in science, Bacon died five years after his impeachment, according to some accounts, as a victim of the new science which he promulgated. In Wootton's telling of the story, "he is said to have caught a chill after stuffing a chicken with snow in order to see if the cold would delay putrefaction." (Wootton, op cit., page 390.)
invested the sovereign with absolute authority in order to maintain peace and order as the conditions which are most conducive to all within any society. In this concern Hobbes was most likely reacting to the clearly chaotic conditions which he had observed in the English Civil War, leading him to conclude that even despotism was preferable to anarchy in the end. As such seemed to be the natural conclusion to more democratic polities, Hobbes therefore suggested that only an unlimited power over mankind could control men's passions sufficiently to keep them in check, and that largely by instilling fear.

Whether or not Hobbes was truly endorsing atheism within his program, however, is not so clear. Loren Beth suggested three decades ago that religion for Hobbes sprang from a simple fear of the future, that is, a superstition played on by the cunning of priests and preachers, quoting Hobbes himself that the natural seed of religion consists of four things: "opinion of ghosts, ignorance of second causes, devotion towards what men fear, and taking of things casual for prognostics." But in a 1986 dissertation undertaken

43. Hobbes' history of that war was published in 1679 until the title of Behemoth.

44. The quote may be found on page 18 of Beth's work and comes from the Leviathan, found in The English Works of Thomas Hobbes, III, edited by William Molesworth, (London, 1841), page 98.
at the Florida State University on "Hobbes' Vision of the Kingdom of God and the Leviathan," Mason Kilworth argued that in concentrating principally on his "civil philosophy," Hobbes' critics have ignored the religious ideas which are expressed in the later part of that work. In brief, Kilworth proposed that the "Leviathlon," or the rule of the State in this interim age, is central to Hobbes' vision of the future Kingdom of God, concluding that "if so important a text as Leviathan can be proven to have a vigorous intellectual basis," then other seminal ideas of the "secular" modern world may owe allegiance to Christian ideas as well. 45 In turn, theologically, one could argue that in proposing the need for restraints upon man's natural selfishness and sense of rebellion, Hobbes was simply extrapolating the Biblical and Calvinistic doctrines of original sin and total depravity and applying them to a society as a whole (since it is not societies which God saves, after all, but only individuals.)

In either interpretation of Hobbes, though, with regard to Church and State it is plain that the type of authority which Hobbes advocated that a sovereign ought to have should extend as well over religious beliefs and practices, particularly since that authority is derived from God in the

45. The summary of Kilworth's thesis may be found in Dissertation Abstracts, Volume 46, Number 8 (February 1986).
first place. We may quote from his *Philosophicall Rudiments Concerning Government and Society* (1651) that because "there are no wars so sharply waged as between sects of the same religion, and factions of the same commonwealth, where the contestation is either concerning doctrines or politic prudence," it therefore "pertainst to temporal right to define what is spiritual and what temporal."\(^{46}\) Because he saw Church and State as but two heads of the same coin, Hobbes could suggest that national unity in religion is essential, but such was not to say that within his views religious toleration was not desirable if and when conditions would allow its practice. In short, whether he continued to personally believe in the faith in which he had been raised or not, we may say that Thomas Hobbes at least allowed a place for the expression of such within his theoretical order. If it was one which-- like every other aspect of life for a man who rather pessimistically saw the human race as not "naturally fit for society" without education and restraints-- was clearly subsevient to the sovereign, then we can well understand perhaps why it was that Hobbes, though widely known, seems to have been as much

cussed as discussed by his contemporaries, and his subsequent influence upon the Americans was far less than that of other thinkers of his day.

For in comparison, no doubt largely because of a moderating spirit far more representative of the bulk of English opinion in the Enlightenment, James Harrington (1611-77) seems to have been much more warmly accepted than Hobbes by such later colonial leaders as James Otis, John Adams, and Thomas Jefferson (the latter of whose copy of Harrington's works now may be found in the Library of Congress.) As it had been a century before during the Parliamentary debates of 1659 over the nature and features of the government-to-be in England, in fact, Harrington's authority appears to have been rather freely appealed to in the American discussions over its eventual Constitution, too. For Harrington was perhaps the first English thinker to suggest that there is a vital connection between liberty and the forms of government. He accordingly opposed the Restoration, arguing that the institution of a monarchy was ideologically incompatible with civil liberty, and he pushed to see a republican regime emerge in its place following the collapse of the Protectorate.

The main features of such a democratic program were outlined both in his so-called "utopian" essay of 1656, Oceana, and in a second major work, The Art of Lawgiving, published three years afterwards. The assessment of Loren Beth that
Harrington was, like Hobbes, interested mainly in the political implications of religious belief more than in its purely spiritual beneficience would seem to be an inaccurate one here, and an example of an undeserved guilt by association. For that Harrington clearly had a religious perspective too will be seen in the latter of those two writings, both in the abundance of Biblical references and allusions which are sprinkled within its pages, and in his conclusion to the second of the three parts in which he observes "that the principles of human prudence, being good without proof out of Scripture, are nevertheless such as are provable out of Scripture," and then quite methodically proceeds to do so. And the principle features of Harrington’s republic will be familiar ones indeed to Americans who later embodied many of his ideas, including a multi-structured government with a balance between its various interests.

Of equal if sometimes unrecognized significance, however, is that Harrington proposed further that religious liberty and civil liberty are integrally related and neither can live alone. It is for this reason, in fact, that he opposed not only the Restoration but also those such as Milton.

47. Harrington, The Art of Lawgiving in Three Books, excerpted in Wootton’s anthology, page 408. Harrington allows that the Romans, for instance, quite obviously were governed not by a conscious appeal to scripture, but their principles were, recognized or not, in accordance with those of scripture and the frames of the commonwealths of Israel and of the Jews.
and Baxter who wished to restrict political power to the godly. If he was not yet ready to extend full religious liberty to Jews (since "they never mixed with nations that gave them protection"), or to Papists (since they owed allegiance to "a foreign potentate"), or to idolators (since religion itself was necessary to secure social order), we may say that Harrington still went far beyond the tenor of his times in advocating that it be given to all others, and in leaving open the door at least a crack that the beliefs themselves of even Catholics and Jews might be tolerated.\footnote{48}

To be sure, personally and politically, Harrington believed in a national religion and church, and thought it was necessary because

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a Commonwealth is nothing else but the National Conscience. And if the conviction of a man's privat conscience produces his privat Religion, the conviction of the national Conscience must produce a National Religion.\footnote{49}
\end{quote}

\footnote{48. See Hugh F. Russell Smith, Harrington and His Oceana, (Cambridge, 1914), page 58, and quoted by Beth on page 21.}

\footnote{49. Harrington, "Valerius and Publicola, or the True Form of a Popular Commonwealth," from The Oceana of James Harrington, and His Other Works, edited by John Toland (London, 1700), page 58, and quoted by Beth, page 21.}
But critical to the issue at hand, Harrington saw such a national church as a purely voluntary institution, with no coercive powers whatsoever. And though his full proposals for an ideal commonwealth— in which the care of such matters was vested in a National Council on Religion elected annually by the Senate— were never adopted, it is surely some measure of his impact that when the Toleration Act of 1689 was passed under the watchful guidance of William and Mary that what emerged in England was in fact a Harringtonian solution: that is, a state church without coercive power and with a provision for freedom of Protestant dissent.50

Moving still further in this direction— and yet another example of the kind of multiple roles in society which many played within this era— was the Parliamentary political leader and Puritan, Henry Vane (1613-62). More concretely than many others, Vane’s perspective and influence was rooted on both sides of the Atlantic, having migrated to the Massachusetts Bay Colony to become its governor from 1636-37. A liberal with "a firm belief in freedom of conscience,"51 Vane argued that he, as a magistrate, could

50. Harrington, unfortunately, did not live long enough to see his ideas win vindication, dying in 1677 under the reign of Charles II. His continued opposition to the Restoration and argument for a republic led to his eventual arrest in 1661. Wootton notes that during his brief imprisonment, he "lapsed into an insanity which never entirely left him thereafter." (Divine Right and Democracy, page 391)
not base his rule upon hostility to any religious opinions. He accordingly returned to England over a disagreement with colonial leaders and their handling of the Anne Hutchinson affair, and thereafter he used his influence to promote a largely Erastian solution to the problem of Church and State. Opposing the Cromwellian government because it was not adequately based upon common consent, Vane proposed that a restriction on state power over religious matters should be written into a constitution, and that a freely elected Parliament was the truest safeguard of religious liberty which could be had. In the implications of his views, we will agree with the assessment that

Vane was therefore one of the first to develop the idea of popular consent and of a limited constitutional government based on a written constitution. This idea was echoed by Locke and the framers of the American Constitution, and it can be considered a direct forerunner of the First Amendment to that Constitution, if not the pattern for it.\(^5\)

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\(^{51}\) Stokes, *Church and State in the United States*, I, page 175.

\(^{52}\) Loren Beth, *op cit.*, page 22.
Similarly opposed to the Protectorate of Oliver Cromwell was Harrington's contemporary, Algernon Sidney (1622-83). Returning to England in 1677 after his boycott of the Restoration, Sidney joined in the efforts of the Whigs to exclude James II from succession to the throne by parliamentary means. His involvement in the conspiracies against the government led to his arrest in 1683 in which he was subsequently tried and executed for treason. Although he did not express any views directly on the Church and State issue, his questioning of the "universal and undistinguished rights of all kings" and his advocacy that the best governments in the world were mixed ones\textsuperscript{53} lent overall support to the direction in which Harrington, Vane, and Locke were moving. Sidney's death for his beliefs and the later publication of his \textit{Discourses Concerning Government} in 1698 made him therefore a hero of the eighteenth century revolutionaries, and a major contributor to the political theory which emerged in the new republic in America.\textsuperscript{54}

\textsuperscript{53} Algernon Sidney, \textit{Discourses Concerning Government}, (London, 1704). Quotations cited may be found in Wootton's volume, pages 417 and 426.

\textsuperscript{54} The treason charge stemming from the Ryehouse Plot was later declared to have been illegal in the first parliament of William and Mary.
Far and away, however, the principle source within the English Enlightenment to which most Americans were later to look was John Locke (1632-1704), the widely acknowledged political theorist and spokesman for the Glorious Revolution which brought constitutional government to England. His influence in the colonies cannot be underestimated for it is clear that not only Jefferson and Madison looked to Locke for inspiration in laying out the framework of the eventual American polity, but that the patriots and even preachers as a whole paid him the greatest deference, too. Joseph Montgomery has noted that the first great speech of Otis was wholly based upon Locke's ideas; we may say further that almost all American writers of the era openly referred to him, and it was even a common jest that the distinction between the upper and lower classes in America at the time was that the lower classes had only two books—the Bible and the Almanac—whereas the upper classes had John Locke, too.\(^{55}\)

The simple fact that several of his publications were printed in the United States prior to the Revolution may, in fact, be one of reasons why his influence was greater than

that of others here. For although his philosophical views on liberty were, in Stokes' estimation, "clearly and simply expressed," we may agree with Loren Beth that in his writings there was not very much which was all that original or radical. Rather, Locke simply synthesized the thinking that had come before him, making "orthodox and respectable a theory which had already gained wide currency." And in that respect, we should acknowledge that John Locke himself went through a metamorphosis of sorts in his thinking on religious toleration that was not uncommon to many within his generation.

Philip Abrams has noted, for example, that Locke's earliest writing on politics, the "Two Tracts on Government" of 1660, were much more conservative in their viewpoints than the far more famous Two Treatises on Government and Letters On Toleration which appeared some three decades later. For the great question of the earlier time was over whether or not freedom of practice should be allowed in matters of religious indifference. An Oxford pamphleteer, Edward Bagshaw, argued on moral and scriptural grounds that it should be; Locke scrutinized his thesis sentence by sentence and suggested in a rather heavy-handed defense of authoritarian

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56. Stokes, op cit., page 141.

government that it should not. Although Locke soon thereafter appears to have changed his opinions and moved in fact to squelch the publication of the second tract in 1661, Abrams' point is well-taken that the existence of these tracts should be sufficient enough to encourage "a thorough reappraisal of Locke in his familiar role as the great English liberal." Or, at the very least, a recognition that even the great Locke was not always the consistent advocate of religious toleration for which he later was to become so well known.

Likewise, we may say that the evidence with respect to Locke's own religious views is not entirely clear either. John Shepherd proposed that much of Locke's political thought was in fact based upon his theological beliefs which placed an emphasis upon the validity of human reason and discounted the importance of revelation. In a somewhat different reading, Montgomery cited the remembrance of one early American interpreter in 1806 that Locke placed a high value on the scriptures, was a friend of William Penn, and in his 1695 tract on The Reasonableness of Christianity allowed that the Christian religion, as delivered in the scriptures and free from corrupt influences, was the most reasonable institution in the world. But if such was the

case, it is problematic indeed to fathom why the opponents to that tract, along with his Essay Concerning Human Understanding published five years earlier, saw each of these writings as an assault upon orthodox religion.

The reality is probably that while Locke's own commitment to Christianity appears to have been genuine, it is true as well that theologically he was likely almost a Socinian (or as they were later styled, an Unitarian), and especially so in his belief that the immortality of the soul could be apprehended only through revelation. In Wootton's judgment

It followed from this that Locke agreed with Hobbes in thinking that there could be no adequate knowledge of natural law without revelation. While he felt that the state should require belief in such a law, he also felt that most societies in history had been deprived of a knowledge that could only be obtained through Christianity. In this respect his views are comparable to those expressed by the Renaissance humanist Lorenzo Valla in On Pleasure. 59

Educated among the English Dissenters during their short reign of political ascendancy, Locke thus may have "early imbibed the deep piety and ardent spirit of liberty which actuated that body of men." 60 Like many who would come

59. Wootton, in his introduction to Locke in Divine Right and Democracy, page 448.
after him, however, we may suggest that John Locke's personal sense of piety may not have consistently translated over into what would pass for some-- then and now-- as solidly evangelical views.

With respect to the separation of Church and State, Locke's principle persuasions will be easier to discern. For by 1669 it will be clear that Locke had done a virtual volte face from his earlier intolerance. Insightful here will be Locke's work in helping to shape the "Fundamental Constitutions of Carolina" which required, among other things, that all freemen acknowledge a God, and that the Church of England be established in that colony of which Locke shared proprietorship. The last stipulation Locke probably, in fact, opposed, for we may see that he was ready to permit dissenting churches within the colony, provided they would register the terms of their admittance and communion. Indeed, the overall declaration of that document that "no person shall be molested on account of his 'speculative opinions' in religion" made Carolina-- on paper at least-- second only to Rhode Island among the colonies for its liberal conditions.

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60. The words are those of a mid-nineteenth century interpreter, James Mackintosh, quoted by Montgomery in his anthology, page 244.
We should not however conclude from this that Locke was ready to accord full toleration to all. For as Loren Beth has argued, implicit in all his thought was the idea that "though no Church should be established, Protestant Christianity should."61 Indeed, Locke argued that other religious groups might even be menaces to human and political society. Within the foundational Letters Concerning Toleration (1689-1706), for example, Locke allowed that three exceptions to the religious toleration that a society owes to its citizens should be made: namely, for those, first, who hold "opinions contrary to human society, or to those moral rules which are necessary to the preservation of civil society"; those, second, who at the bottom "deliver themselves up to the protection and service of another prince" (or Roman Catholics); and those, third, "who deny the being of a God", since "promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist."62

And herein lie the great problem in the separation of Church and State which Locke found himself forced to only side-step. For while it was clear to him that some moral rules are necessary for the preservation of civil society,


62. John Locke, _Letters Concerning Toleration_, (1765), pages 59-60; found also in Stokes, _op cit_, page 145.
Locke wished to assume without discussion that those rules are fixed and immutable, rather than struggle with both how to determine them and how to define the proper line between the religious and political spheres in that area. In the end, Locke insisted that the State must be the arbiter whenever conflicts of any nature arose anyway, thus laying the groundwork not merely for separation but for the ultimate supremacy of the political interests within society, as well. But such is still not to suggest that Locke would ever have wished to banish religion from public life, nor could one say that he in any holistic sense was an embodiment of the pure antecedent of the supposed "secular humanism" which has at times attempted to appropriate him.

In essence, therefore, we may discern the contours of his mature thinking on the relationship of Church and State as Stokes has outlined them:

He taught that the magistrate had no authority to rule over souls; that religion must depend on inward conviction, not on external compulsion; that the rights of conscience in matters of personal religious faith must be treated with respect... [basing] this last conclusion not on the natural tolerance of the English people, but on a study of the intolerance of various groups, including Anglicans and Scotch Presbyterians.63

63. Stokes, _op cit._, page 141.
Accordingly, Locke suggested that a commonwealth is simply "a society of men constituted only for the procuring, preserving, and advancing their own civil interests," and he provided what has become a standard definition of the Church within American political theory: "A church then I take to be a voluntary society of men, joining themselves together of their own accord, in order to the public worshipping of God, in such a manner as they judge acceptable to him, and effectual to the salvation of their souls." 64 A Church so understood, Locke reasoned, must be not only voluntary therefore but a self-governing institution independent of State control, as well. All of which may allow us to assert that separation for Locke-- as we will argue that it was for the later framers of the American doctrine-- was never simply a matter of political expediency, but a means of protecting both the wider interests of the State and the integrity of the Church, too.

In summation, thus, we may conclude by returning to the point which was earlier proposed, namely, that the principle legacy of John Locke and his contemporaries within the English Enlightenment 65 to the theory of Church and State

64. Locke, Letters Concerning Toleration, pages 35-38; found also in Stokes, op cit., page 143.

65. One further mention may be made of those thinkers generally considered to be within the Enlightenment who were outside of the English setting. At least five French philosophers-- Bayle, Montesquieu, Rousseau, Condorcet, and Voltaire-- influenced the political and social ideas of
was not one, despite the popular misconceptions of it, which was wholly without its religious and theological dimensions. For even if it was sometimes only "nature's God" who granted an almost infinite capacity to human reasons to whom many of the social and political theorists of the seventeenth

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Thomas Jefferson and a few of the other more liberal American framers, for example. Montesquieu, the historical successor to Locke, likewise argued for a written constitution which featured a division of branches and a limited but representative government amenable directly to the people as the best guarantee of freedom in all of its manifestations. Rousseau's *Contrat social* appeared in 1762, making a strong case for the idea of consent of the governed, either direct or implied. His opposition to intolerance without a clear advocacy for religious freedom, along with his proposal for a natural religion which he called *religion civile* (thus coining the descriptive phrase that would later gain a wide currency in describing the contemporary American situation), was largely interpreted as a sign of his unbelief and reduced his acceptance in many places accordingly.

Voltaire wrote perhaps the most on Church and State, favoring toleration and arguing against any State Church which had exclusive rights and privileges. Benjamin Franklin in particular seemed to have admired him, but others, such as Timothy Dwight, thought he was anathema, as suggested by Dwight's dedication to him of his 1788 work, *Triumph of Infidelity*.

Two others whom we have previously cited-- the German philosopher Immanuel Kant and the Scottish skeptic David Hume-- though roughly contemporaneous with many of the principles, yet had little impact upon their own centuries. Hume's *Dialogues Concerning Natural Religion* appeared only after he died in 1777, and likewise, Kant's critical philosophy contained in the *Critique of Pure Reason* (1781) and the *Critique of Practical Reason* (1788), although much in the same spirit as the thinking of many of the American deists, in the main influenced the following century much more than it did the eighteenth in which it first appeared. As a whole, thus, the impact of such continental theorists' views upon most Americans was only indirectly mediated through such individuals as Jefferson and Franklin, and we may conclude that their eventual influence was far less than that of the English thinkers whom we have discussed.
century wished to appeal, there was yet a certain reliance upon "divine guidance" which remained in any formulation of a government. Taken together with the aforementioned influences of a Calvinistic Puritanism-- and the pragmatic example of a Church in England which, for two centuries at least, found itself most often caught up in the convulsions of a changing national order-- the English experience thus plainly awaited a synthesis of sorts between its varied insights and components. And who was better then to address that task than the American colonists who were engaged in their "errand in the wilderness" and the eventual building of a new political order?
Chapter Four

"TO BE OR NOT TO BE":
THE COLONIAL CONTROVERSY OVER ESTABLISHMENT

"When they have opened a gap in the hedge or wall of separation between
the garden of the church and the wilderness of the world, God hath ever
broke down the wall itself, removed the candlestick, and made His
garden a wilderness, as at this day" -- Roger Williams

"THE RADICAL OF RHODE ISLAND"

Notwithstanding all of the many other differences between
them, thus far we have suggested that both Puritan and
Anglican divines yet largely shared a common consensus--
indeed, almost a presumption--that whatever the religious
particulars involved, still Church and State belonged yoked
together in a single and unified English society. We
should not assume from this, however, that the task of
promoting separation between the two estates therefore fell
by default only to the more "secular" philosophers of the
day whom we have noted, such as John Locke and company. For
within the American colonies, there was at least one rather
early and splendid exception (and to whom, in turn, a great
many took great exception themselves) to the majority way of
thinking among the religious principals of the seventeenth
century, namely, that "radical of Rhode Island," Roger Wil-
liams.
To be sure, it is true that compared to most Protestants of his day, Williams (1603? - 1683) was viewed not simply as a separationist, but as an extreme Separatist, as well, whose doctrines represented to many nothing less than "anarchy, the collapse of the social order, [and] a final attack on the Reformation." Indeed, even since his time, many historians have continued to portray Williams as "a modern radical, a democrat, a prophet, or-- as the Puritans saw him-- a man with an overheated brain." It would be misleading, thus, to say of Williams that he was every inch a seventeenth century Puritan, for in several rather significant respects, he was not.

In fact, as Edmund Morgan has observed, almost no one who lived in what Williams called his "wonderful, searching, disputing and dissenting times" agreed with him. For in pushing for his belief that freedom of conscience was a natural right which could not be surrendered to the state,


Williams thus ran head up against a strong colonial inheritance from England in which genuine religious freedom was plainly not a concern; persecutor and persecuted alike were looking rather to simply achieve predominance, and not to pave the way for full liberty of worship for all.⁴ In the words of Perry Miller, thus, Williams fought the fight for freedom "by his own lights and not by anybody else's."⁵

But if he was not exactly typical in all of the outworkings of his thought, it is nonetheless clear that the fodder for Williams' views remained yet Puritanism. Even throughout his later ecclesiastical wanderings, for instance, we may note that his preference for Calvinism was unwavering, and he embraced such doctrines as predestination, irresistible grace, and perseverance of the saints to the end. Accordingly, the point must be made that Williams likewise approached the question of Church and State from the perspective of religious principle and not merely political expediency. For if each individual was indeed

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⁴ It is, in fact, even somewhat anachronistic to refer to any of those early English colonists who came to the western hemisphere in the seventeenth century as "Americans." For clearly, as Irwin Polishook has reminded us, even with all of their dreams, the average colonist looked not ahead but to a past civilization in order to reconstruct his life in the New World in almost every area, including the stated relationship between the political and religious spheres of life. See Polishook, op cit., pages 1 and following.

responsible for his or her own salvation, such could be attained only through the exercise of his or her own free judgment, as well. The theological orthodoxy of his orientation which Williams brought to the issue, thus, is that which differentiated his views from others of his century such as Locke, Milton, Henry Vane, and even the Anabaptists, and partially accounts for why it is that his eventual influence in America was far ahead of all but one or two of the other theorists of the time, secular or religious.

The pertinent details of his life, such as are known, have been ably rehearsed by others and need not be belabored here.  

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6. It is sufficient to note in this respect that Williams, the Cambridge-educated son of a London shopkeeper, early on became a Puritan and, like so many others of that persuasion, found it easier to leave his homeland, arriving in Boston in 1631. Invited to become the pastor of the rather prestigious congregation there, Williams refused because its members had not separated from the tainted Church of England sufficiently enough to suit him. In Plymouth, he found a church that was more to his standards, but left that Pilgrim outpost two years later in order to pastor the congregation at Salem. Therein, however, his unwillingness to compromise—some would say his obstinacy—plunged him back into controversy, principally over his insistence that the royal charter gave no valid title to the land and that a magistrate could tender no oath of civil obedience to an individual who was unregenerate.

Williams was subsequently banished by the General Court of Massachusetts on October 9, 1635, and fled to the south where he shortly founded the settlement which he named Providence. Eight years later, he was sent by the inhabitants of that colony to London in order to secure a charter for Rhode Island; the following year he did so, managing to unite the several towns, establish boundaries and guarantee its independence from the encroaching interests of Massachusetts and Connecticut. While in England, Williams also published three works relating to his troubles in Massachusetts and his conflict with John Cotton.
We may, however, explain his continuing slide away from Anglicanism and even past most forms of Separatism as the reflection of what was to be an unceasing (and unsuccessful) search for the "true church" throughout his life. Morgan

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In 1651, Williams returned to England once more in order to save the colony's charter from internal dissension; therein he became involved in the shifting politics of the Interregnum, becoming a friend of Milton, discussing political theory with Cromwell, and publishing three more books. Returning to Rhode Island in 1654, Williams became its "president" or governor for three years, thereafter serving in various capacities until, in Perry Miller's words, he "wore himself out, subsiding at last into a venerable but lonely old age," _op. cit._, page 21. He died impoverished in the spring of 1683 and was buried with military honors, stemming from his service as soldier and negotiator with the Indians in King Philip's War. In Miller's estimation, no figure of the American past enjoys so much esteem "based on so little familiarity with his deeds or so comprehensive an ignorance of his words," page v.

Both Morgan and Miller provide excellent biographical summaries of Williams' career in their aforementioned volumes. Morgan quite helpfully notes, for example, that Williams' positions were a reflection of the three major influences which largely shaped and defined his thinking—his Englishness, Puritanism, and Separatism—and that the true greatness of the man is simply that he dared to think and then put his thinking into actions.

Miller's work is no less analytical but he recounts the facts with his customary (if enjoyable) effrontery, letting us know, for instance, that when Williams was rejected as an unfit suitor for one of the young ladies within the household which he served as chaplain, that he subsequently married one of the maids instead, and suggesting that in the end, Williams was like an Old Testament prophet— at best he was insane, at worse, conceited. Still, Miller notes, his contemporaries had to like to him, even if they must have also wearied of his self-pity, cloudiness, and exasperating spirit.

7. Most Separatists of the time, as Morgan has outlined their beliefs, contended that the Church of England was no true church of Christ at all, because it had never really repented for its years of service to the anti-Christ (the Roman Church) during the earlier reign of Mary. Likewise,
is correct in suggesting that the sometimes petulant Puritan became, in fact, the first of those who were to be known simply as "Seekers", though Williams would clearly have dis-

Separatists argued that the lack of discipline within most Anglican parishes made for a promiscuous membership at best, and they looked upon the worldly success of the church—particularly its clergy—as suspect indeed. These mistakes they sought to avoid in forming congregations of their own, adopting as their watchword St. Paul's advice in 2 Corinthians 6.17: "come out from among them and be ye separate."

The obvious blind spot which resulted was that in not only separating from the Anglicans, but from the world itself, Separatists also largely abdicated their responsibility for the evangelization of that world. This they justified theologically by arguing that the preaching of the Word to unbelievers was not necessarily a requirement for a true church anyway, for such was, by definition in their viewpoint at least, only an association of men already converted. The rather curious, if not circuitous, solution for how then to reach the unsaved at which they thus arrived was to suggest that the government should hire speakers who could preach appropriate sermons to the unconverted!

The response from other Puritans to the Separatists was predictably sharp, as the moderates were not slow to point out that, believing thus, Separatists thus depended for its converts upon the very other churches which it pronounced to be anti-Christian. In turn, a few Separatist leaders, such as John Robinson of Leyden, conceded that some English "parish assemblies", if not quite true churches by Separatist standards, might at least not be totally outside of the fellowship of Christ. Separatists so inclined could therefore feel free to join in with them in hearing the Word preached, but not in the taking of Communion.

Non-separating Puritans, of course, faced their own doctrinal dilemma, for if they affirmed that the English churches were true churches, they had yet to explain why wicked men could freely take the sacraments in them. Morgan adroitly observes that the New World thus provided both groups with a convenient solution to their difficulties—Separatists, because here they could "come out from among them" all they liked and not have neighbors to worry about (other than the Indians), and nonseparating Puritans because likewise here "they could affirm their loyalty to the church that bred them and at the same time form churches of their own in which all comers might hear the Word but only the godly would take the sacraments." See Morgan, op. cit., page 24.
tanced himself from the antinomianism and socianism which later came to characterize many within that company. More to the point, the uncomfortable conclusion respecting the church at which Williams finally arrived was that since the ministerial office could only be properly bestowed by God Himself, acting through an appointed agent, and since God did not now choose to so operate, that the Christians of his day had thus lost their church, and there was no present way to recover it. To be certain, Williams allowed that the New England churches—those which had thoroughly separated and even denounced the compromised and anti-Christian Church of England, that is—might be close copies of the real thing, and that pastors such as himself, if not bearing apostolic authority might at least be considered "prophets in sackcloth," but in the end, at least, he even found that he could not conscientiously join with any group of worshippers who took upon themselves the name of a church.  

8. The eventual upshot of the whole process, in fact, was to successively lead Williams out of every church which he entered and, at least so his adversary John Winthrop claimed, reduce the congregation of which he was a part to only himself and his wife. Such may have been an exaggeration on Winthrop's part, but it is clear that until Williams finally suspended his search for a pure church that he did indeed push the principle of separatism far beyond where almost anyone else was willing to go. His absolute insistence upon a full repudiation for someone with a past involvement in any anti-Christian church meant indeed that for Williams even Martin Luther would not have been worthy of membership in a "true church" had one existed in his lifetime, since the reformer had himself been a monk, celebrated mass, and participated in like Catholic rituals.
All of which may help to explain why it is that, in the context of his society, Williams thus saw the Church as a purely voluntary association with absolutely no dependence upon the State. Indeed, Williams said, one could compare the Church to other associations of the day, like unto a body or college of physicians... like unto a corporation, society, or company... which may hold their courts, keep their records, hold disputations, and in matters concerning their society may dissent, divide, break into schisms and factions, sue and implead each other at law, yea, wholly break up and dissolve into pieces and nothing, and yet the peace of the city not be in the least measure impaired or disturbed, because the essence or being of the city... is essentially different from these particular societies.9

What is more, as a Separatist, Williams further argued that a true church of Christ could be no larger than a single congregation itself, for such was the only kind of church which Christ and his apostles had recognized. A national hierarchy of bishops and other clerics was thus not only su-

perfluous but anti-Christian, and a national church-- such as the Anglican communion out of which the Puritans had come-- not only improper but a virtual contradiction in terms, as well.

Correspondingly, while Williams agreed with the standard Puritan view that government has its origins in a covenant between rulers and people, he differed sharply over the role of God in the process. Despite his general approval of Calvinism, in fact, his religious sensitivities were deeply offended by those who would follow the reformers’ views that government was an ordinance of God and that civil rulers were God’s vice-regents on earth, even if appointed by the rather indirect means of their acceptance by the people over whom they ruled. For to read the presence of God into human transactions such as those was nothing less than blasphemous to Roger Williams, and to claim a divine origin for any secular government was likewise just as presumptuous as, say, for Quakers to call their inner light the voice of God. Citizens could indeed make a government and choose rulers, argued Williams, but the distance between God and Man should make it plain that they could never endow their leaders with any type of divine sanction.

How then did God look upon human governments? In the same general manner in which He approved of marriage, for example, and disapproved of adultery, replied Williams. For endorsing the idea that an universal standard of morality
existed which might be useful to governments in lifting men out of the confines of barbarity, Williams, in turn, could not see any particular religious skills which were necessary for those who would seek to participate in the practice of good government. Indeed, both the Puritan and Catholic views of government misunderstood its purpose in Williams' way of thinking, for government had nothing to do with eternal salvation; its function instead was simply to protect the bodies and goods of its subjects.

Parenthetically, here it may be said that such a view reduced all governments to a basic level of equality in Williams' thought, thus denying even the possibility in his mind of any kind of holy or religious war between nations. More concretely, however, it meant for Williams that while the establishment of morality might be a legitimate function of civil government, the establishment of religion was not.

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10. The former was improper since no people since the time of Israel could legitimately claim to fight for God. Likewise, although Williams personally disdained the Indians' religion, he treated them as equals and even saw their governments as equally valid as those of the English colonists. His position on this became, in fact, much of a nuisance to others, as he rather undiplomatically warned settlers in New England that their claims upon the land were invalid so long as they were based upon dealing with the Crown and not with the right owners, the Indians. The strength of Williams' feelings on the matter can be gauged in the words of one caution he extended to his fellow Englishmen: "Boast not proud English of thy birth and blood, Thy brother Indian is by birth as good. Of one blood God made Him, and thee and all, As wise, as fair, as strong, as personal." See Polishook, op cit., page 8.
of the Two Tables of the Decalogue, which many have suggested may have been the real reason why Williams was actually banished from the Bay Colony. For while Puritanism itself did indeed distinguish sharply between the two, as between special revelation and the law of nature, Williams extrapolated the notion even further, presupposing a division between religion and moral truth and defending the idea that moral law is thus natural to all and could even by itself provide a sufficient foundation for any civil society. Not only were civil magistrates not responsible for enforcing the first four Commandments which pertain to the private spiritual life therefore, but even to allow them to do so was to run the risk of them being spoiled.

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11. Such is the view of Evarts Greene, for example, in his Religion and the State: The Making and Testing of an American Tradition, (Ithaca, New York: Great Seal Books), 1941, pages 45 and following. We may also note that, according to the diary of John Winthrop, among the charges against Williams were indeed his views "that the magistrate ought not to punish the breach of the first table, otherwise than in such cases as did disturb the civil peace", and that "he ought not to tender an oath to an unregenerate man." Likewise, John Cotton recorded that two things caused Williams' banishment from Massachusetts: "his violent and tumultuous carriage against the patent" (or charter), and his opposition to the oath. See Polishook, op cit, page 42. While such clearly contributed to the decision to oust Williams, we may say that other factors also came to bear, not the least of which was simply the fact that Williams was a nuisance and a gadfly who was constitutionally unable to keep his opinions (and, some thought, his mischief) to himself.
Thus, while every secular authority was entitled to impose a rigorous standard of human behaviour in matters that impacted the morality, safety, and civility of the state, none were rightfully empowered to lay down a standard of religion at all. Again we may quote from Williams’ own words, expressed in his 1644 tract on The Bloudy Tenet of Persecution,

...all Civil States with their officers of justice in their respective constitutions and administrations are proved essentially Civil, and therefore not Judges, Governors or Defenders of the Spiritual or Christian State and Worship... a believing Magistrate is no more a magistrate than an unbelieving one; true religion does not need the support of carnal weapons; seducing teachers, either pagan, Jewish, or anti-Christian may yet be obedience subjects to civil laws; forcing men to worship constitutes the greatest breach of civil peace; civil magistrates owe false worshippers both permission to exist and protection as well.12

In reply, it should be noted that Williams’ principle antagonist in the colonies, John Cotton, argued that an incumbency for magistrates’ involvement in spiritual affairs did indeed exist, for if a church and people of God were to fall

away from their faith, then God would visit the city and country as a whole with "public calamity, if not captivity," just for the church's sake. Consequently, declared Cotton, it is a carnal, worldly, and indeed, an ungodly imagination to confine the magistrate's charge to the bodies and goods of the subject and to exclude them from the care of their souls... it cannot be truly said that the Lord Jesus never appointed the civil sword... for he did expressly appoint it in the Old Testament, nor did he ever abrogate it in the New." 13

The size of the gap between these two positions will make it plain, thus, that Roger Williams not only stepped beyond the history and understandings of the Puritan tradition, but that he ventured out to a position that was essentially incomprehensible to most Separatists and many of his secular

13. See Cotton's 1647 rebuttal to Williams' Bloudy Tenet, The Bloudy Tenet Washed, and Made White in the Bloude of the Lambe: being discussed and discharged of Bloud-guiltiness by Just Defence, found in Polishook's collection of materials, _op cit._, pages 74-75 and 85. Williams' counter-reply to Cotton escalated even further the disputatious one-up-manship common to the day, bearing the title, The Bloudy Tenet yet more bloudy: by Mr. Cotton's Endeavour to Wash It White in the Blood of the Lamb. Filled with even more rhetoric, but covering essentially the same ground as "Bloudy Tenet I" (to use more modern parlance), we may note Perry Miller's comment that Williams' formidable structure has frightened away all but the most patient student, and that "the book has been honored more by citation of the title than by actual perusal." See Miller, _Op cit._, page 166. All three works, as Miller has also commented, were very much the product of their age when "no controversialist dared to rest until he had refuted every most minute point of his antagonist," page vi.
contemporaries, as well. Even Robert Browne, for example, believed that the State ought to control religion and require everybody to worship as he himself wanted them to do so. Yet in this respect Williams was clearly unyielding: government had no business with the Church at all. For the danger Williams saw in such intervention was nothing less than the (perhaps already realized) risk of God removing His presence from the Church and abandoning it to the world.

We may note, for example, his words in the reply to John Cotton with which we began this chapter, quoted herein at some length for their particular insight into Williams' horror of worldly corruptions in the church:

The faithful labors of many witnesses of Jesus Christ, extant to the world, abundantly prov[e] that the church of the Jews under the Old Testament in the type and the church of the Christians under the New Testament in the anti-type were both separate from the world... [and that] when they have opened a gap in the hedge or wall of separation between the garden of the church and the wilderness of the world, God hath ever broke down the wall itself, removed the candlestick, and made his garden a wilderness, as at this day. And that therefore if He will ever please to restore His garden and paradise again, it must of necessity be walled in peculiarly unto Himself from the world; and that all that shall be saved
out of the world are to be transplanted out of the wilderness of the world, and added unto His church or garden.

Likewise, Williams argued that all the grounds and principles leading to oppose bishops, ceremonies, Common Prayer, prostitution of the ordinances of Christ to the ungodly and to the true practice of Christ’s own ordinances, do necessarily... conclude a separation of holy from unholy, penitent from unpenitent, godly from ungodly; and that to frame any other building upon such grounds and foundations is no other than to raise the form of a square house upon the keel of a ship, which will never prove a soul-saving true ark or church of Jesus Christ...\textsuperscript{14}

It should thus be manifestly clear once more that Williams’ thinking on the subject was always theological and never merely social; it was his religious passion which drove him to his views and not the sort of religious indifference of, for instance, a later philosopher such as Jefferson, who employed the same principle and even the same metaphor, but with a far more patently political purpose.

In this respect, much of Williams' distinctiveness from his religious contemporaries may be traced back to his views on the exegetical method of his day, typology. For proponents of the popular practice saw, for example, such Old Testament events as Jonah's experience in the whale as primarily a prefiguring of something more important, specifically in that instance, Christ's descent into Hell. Likewise, the drunkenness of Noah could be allegorically interpreted as a figure of the passion and death of Christ, and the Temple a type of the Church, making Christ and the Church, in turn, the "anti-types" of Jonah and Noah, and the Temple respectively. Much of the Old Testament thus obviously lost its literal significance in such an interpretation. Still, the goal of most typologists, it should be noted, was not to eliminate the significance of the Old Testament at all, but to enhance it, by more clearly showing the continuity between it and the more important New Testament.\(^{15}\)

For Williams, however, the allegorical method meant something altogether different. Indeed, insisting on an even more rigorous division, typology thus became the tool in his hands not for reconciling the testaments but for further

\(^{15}\) Such an approach had been early on promoted by such thinkers as Origen, Augustine, Bonaventura, and Aquinas within the Church. The principle reformers, however, including those of the English church, found this allegorical approach unsatisfactory and had largely broken away from it.
differentiating between them. For while Williams would concede that some of the precepts of the Old Testament might retain an universal validity, he insisted in general that—since the Age of Revelation had passed— the meaning of Israel's history as recorded in the older covenant was purely typological, having no literal significance for those who now lived in the Christian era. Indeed, argued Williams, it was futile and wrong for the civil rulers of his time to try and model themselves after Israel, for example, because on the day of the Resurrection, Israel ceased to be either a chosen people or the single nation in history which had ever been in a genuine covenant with God. Or, in short, there was no modern counterpart to Israel, nor could there ever be, for with the coming of Christ, nations became nothing more than civil arrangements for ordering societies under a mutually agreed upon rule of law.

And herein it is clear that Williams struck deep into the heart of most of his contemporaries' beliefs. For few myths of the day enjoyed such a popular currency as the understanding in both Old England and New that theirs was indeed an elect nation of God, after the order of ancient Israel. Governor John Winthrop, for example, plainly saw himself to be another Joshua, and he subsequently proposed to govern Massachusetts in Israel's image. But such was not only to attempt the unattainable in Williams' thinking— since Israel had never been more than a mere type, imperfect and
physical, of a more ephemeral ideal— to do so was nothing less than to haul down Christ and put up Moses once more. Governments like that of Massachusetts, he argued, which pretended to follow the example of Israel were "behind the times," for a break had occurred in history and "the model was no model" at all.\textsuperscript{16} In short, as Morgan has summarized Williams' feelings, "Winthrop and his fellow magistrates, in trying to reproduce the land of Canaan in New England, were ignoring the whole significance of Christ's incarnation."\textsuperscript{17} Early on, thus, we should recognize that Roger Williams clearly attacked the theological underpinnings of what was later to become an almost perennial feature of much American self-reflection, the "redeemer nation" ideology founded in a supposed uniqueness among the nations and a special election by the God of them all.

Indeed, Christ's holy Church and faith should never be so subjected to the mere whims and wishes of men, argued Williams, and his own treatment in Massachusetts proved the point. For Christ surely did not choose to uphold his Church by temporal means— had He not said that His Kingdom was not

\textsuperscript{16} Williams' words here are quoted in Miller, \textit{op cit.}, pages 44-45. The prophet of Rhode Island repeated the same essential arguments in his subsequent rejoinder to Cotton's reply, calling the pattern of the national church of Israel a "none-such, unimitable by any civil state in all or any of the nations of the world," see page 169.

\textsuperscript{17} Morgan, \textit{op cit.}, page 103.
of this world and that the one who would live by the sword
would die by it?— and if the New England churches had truly
been Christ's, they likewise would not have needed or wanted
that kind of protection of the temporal sword in his in-
stance. "It was no ordinance," cried Williams, "for any
disciple of Jesus to prosecute the Pharisees at Caesar's
bar." Indeed, Williams asserted,

The unknowing zeal of Constantine and other emperors did
more hurt to Christ Jesus, His crown, and kingdom, than
the raging fury of the most bloody Neros. In the per-
secutions of the latter, Christians were sweet and
fragrant, like spice pounded and beaten in mortars; but
those good emperors, persecuting some erroneous
persons... and maintaining their religion by the
material sword— I say by this means Christianity was
eclipsed and the professors of it fell asleep. Babel or
confusion was ushered in, and by degrees the garden of
the churches of saints were turned into the wildernesses
of whole nations, until the whole world became Christian
or Christendom.18

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18. Williams, The Bloudy Tenet, quoted in Miller, op cit,
pages 126, 136-137. The term "Christendom" was a par-
ticularly opprobrious one for Williams, for it implied that
the inhabitants of a land which professed belief in Chris-
tianity were themselves truly Christians. His comment on
the subject was simply thus: "christenings make not
Christians."
John Cotton, in reply, proposed that one could draw a line of distinction between those heretics outside of the church and those within it (i.e., hypocrites), suggesting that only the latter represented the Biblical "tares" of which Christ had spoken, and that the former could and ought to be pounced upon and uprooted. What is more, Cotton argued that if indeed the sound doctrine of the Church had been explained to a man in the former category, that it was simple and obvious enough that any reasonable individual must be convinced. Those who continued to persist in their errors such as Williams thus merited punishment not for the cause of conscience in general, but for sinning against "their own conscience." In the end, however, though he did not prevail, the argument clearly belonged to Williams, who perhaps summed it up best in the closing words of his Bloudy Tenet:

I desire Mr. Cotton and every soul to whom these lines may come seriously to consider, in this controversy, if the Lord Jesus were himself in person in old or New England, what church, what ministry, what government He would set up, and what persecution He would practice toward them that would not receive Him.\(^{19}\)

\(^{19}\) Williams, Bloudy Tenet, found in Miller, op cit., page 100. Note Miller's analysis that in the end, Williams saw Cotton as a traitor: "like Mrs. Hutchinson, Williams expected Cotton to live up to the vision he imparted to his followers. Cotton failed Williams, as the next year he also failed Anne Hutchinson; henceforth the very existence of these two was for him a standing rebuke."
And given then the opportunity to put his beliefs into practice in a colony of his own making, it is no exaggeration to say that Williams accordingly created in his "livelie experiment" at Providence the first American government--and perhaps the first in the world--to establish the principle of complete separation of Church and State from its very inception, legislatively mandating full liberty of religious belief and practice for all within its boundaries. We may note a 1647 enactment in Rhode Island, for example, which prescribed that "all men may walk as their consciences persuade them, every one in the name of his God," 20 limited only at the point of threatening the civil peace of others. Ten years later, that principle was

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It is significant, as well, that Williams kept the principle documents of the controversy long after Cotton and his other opponents had forgotten them. With what we may term to be a single-minded self-interest, in fact, Williams waited for some seven years until the opportunity came to publicly reply to Cotton while in London securing Rhode Island's charter. While insisting that he "knew not" how a copy of Cotton's seven-year old letter to Williams had mysteriously appeared on London bookstalls, we may observe that Williams could hardly have re-raised the issues addressed in his Bloudy Tenet without Cotton's arguments preceding his own. The tract itself was released anonymously (but all England knew its author), just as Williams was leaving the country with a safe-conduct pass in hand requiring the Massachusetts authorities to let him ashore in Boston and transit through back to Rhode Island.

to be strongly tested when the Massachusetts, Plymouth, Connecticut, and New Haven colonies asked Rhode Island to follow their example in excluding Quakers, then the most hated and feared sect of the day. Such was the depth of Williams' convictions, however, that even despite his own personal opposition to their doctrines, his colony would not do so. Quakers might have their "incivilities" suppressed, asserted Williams, but not their worship. In a like way, though Catholics might pose a danger to public safety because of their allegiance to a foreign potentate, such could be disarmed and even required to wear distinctive clothing if necessary, but otherwise left to worship as they pleased. And as a further demonstration, it is of no little significance that the first Hebrew congregation in English America was established in 1658 at Newport.

21. Williams' allowance of Quakers within his community was in no way a signal of his personal liking for the group, members of whom were not at all quiet and soberly citizens but "a mob of crassly assertive, ignorance and reckless fanatics" who preached "an absolute authority of the inner light, of a direct inward communication from on high." See Miller, op cit., pages 241 and following. Williams, in fact, vigorously attacked their doctrines as disrespectful of the Word and self-righteous, writing polemics against George Fox and seeking to debate the Quaker leader when he came to Rhode Island in 1672. The irony of the situation was certainly not lost on others that the door which Williams had opened in Rhode Island soon became a floodgate for all manner of ideas and individuals whom he personally found to be incompatible with his essentially orthodox Calvinism.
In sum, as Williams had long argued for, his colony restricted the attention of civil authorities to purely secular matters, and likewise no functions at all beyond that of legitimate religious concerns were delegated to the church in Rhode Island, including even the establishment of parochial schools there. Indeed, the religious liberty clause which was included in Williams' charter for the colony of 1663 remained in the constitution of Rhode Island for almost 180 years afterwards, specifying that any and everye person and persons may, from tyme to tyme, and at all tymes hereafter, freelye and fullye, have and enjoye his and their owne judgments and consciences, in matters of religious concernments... 22

In a matter still debated today, Williams even implied that public schools could not teach any religion at all, and by 1716--just 33 years after his death--his colony had gone so far as to advance the truly epoch-making notion that ministers should be paid only on the basis of the voluntary contributions of their members. The experiment in Rhode Is-

22. See the Records of Rhode Island, II, 1, quoted by Loren Beth, _op cit._, page 54. A 1744 revision of the Rhode Island code which included disenfranchisement of Catholics and non-Christians was purported to have been enacted in the same year, 1663. But, as Beth has noted, colonial records show no such enactment, leading to the assumption that the law was probably interpolated between 1668 and 1744, probably in 1705, by an overzealous committee or individual, but never acted upon legislatively. Moreover, the stipulation was officially expunged from the records in 1783.
land thus became a convincing demonstration to others that civil government is possible without a religious foundation, and without any pretense that uniformity of religious belief is required. For the universal right to freedom of conscience necessitated that persuasion alone could be used in public affairs and that a magistrate, if of any religion, might owe personal submission and approbation to it, but he similarly owed both permission and protection to all other groups, including even "Turks, Jews, and Pagans."

In all of this, then, it will be manifest that Williams, and those who came to Rhode Island to follow him, drove a sharp wedge indeed between church and state, one more thoroughgoing than that which many would advocate even today. We should observe, for instance, that parochial schools have continued to be a feature of American society, and even such nations as Great Britain and Germany still maintain an officially sanctioned "state church." More to the point, however, in his own time it would be difficult to overstate just how radical Roger Williams really was. Despite the fact that Oliver Cromwell and the Independents had fanned the flames of freedom in England far beyond that which any other state in Europe had even imagined, for example, Williams did not hesitate to push the issues even further during his visit to London in 1652. For in the opinion of the Rhode Island founder, the real crux of the issue of religious liberty lay in the abolition of the
tithes which left even a tolerant and tolerable church duly "established." No person, he wrote in a pamphlet addressed to Parliament, should be forced to "pray or pay" against his soul.  

Once more, the point will be plain therefore that the wall of separation which Williams wished to build between Church and State affirmed belief and not doubt, and it was grounded not in the foundation of mere political theory but of deeply-held theological convictions. One may clearly hear the echoes of Augustine and Luther, in fact, in Williams' assertion that

there being two states, the civil or corporal and the ecclesiastical or spiritual, there are consequently two sorts of laws, two sorts of transgressions, two sorts of punishments, to wit, civil and spiritual.  

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23. The tract, entitled "The Fourth Paper, Presented by Major Butler, to the Honourable Committee of Parliament," repeated the familiar Williams refrain that civil magistrates should be concerned with civil matters only. It was followed up by a second pamphlet, "The Hireling Ministry None of Christ's," which was widely received, no doubt in part due to the eloquence of Williams' words: "He that makes a trade of preaching, that makes the cure of souls and the charge of men's eternal welfare a trade, a maintenance and a living, and that explicitly makes a covenant or bargain--and therefore: no longer penny, no longer patronster; no longer pay, no longer pray; no longer preach, no longer fast, &c-- I am humbly confident to maintain that the Son of God never sent such a one to be a laborer in his vineyard." See Miller, op cit., page 200.

Indeed, the tyranny which he had known in Massachusetts was explained in Williams' eyes simply because therein these two things had been manifestly confused.

How then shall we adjudge Roger Williams with respect to his contribution to the development of American Church and State separationism? Returning to the assessment of perhaps his most engaging biographer once more, we may note the observation of Perry Miller that Williams possesses at least one incontrovertible importance in American history, namely, that "he stands at the beginning of it." Likewise, it is perhaps significant, as Miller reports, that in the sculptured pantheon of Protestantism in Geneva where Cromwell stands for England, it is Roger Williams--and not Winthrop or Cotton--who represents America and her democracy to others of the world. As both a figure and a reputation, therefore, we will agree with Miller that Williams has always been there,

to remind Americans that no other conclusion than absolute religious freedom was feasible in this society...

as a symbol, Williams has become an integral element in the meaning of American democracy, along with Jefferson and Lincoln.\textsuperscript{25}
But there is surely much more to the man than just his chronological significance or symbolic value. In this respect, Miller was incorrect, in fact, in asserting that Williams exerted "little or no direct influence" upon the later theorists of the Revolution and Constitution who drew, in his viewpoint, from "quite different sources" in their formulation of the American system. Rather, as Mark DeWolfe Howe has commented, we may suggest that there is indeed a "theological theory of disestablishment, traceable to Roger Williams"\(^26\) which then became a political reality through the nurturing and sustaining efforts of many within the American context who followed him.

For ultimately, the dream of Roger Williams won acceptance by others who saw in it a convergence of ideas with their own political program, and who likewise recognized in Rhode Island evidence of both the workability and desirability of full separationism. To be sure, they admittedly did not all share with Williams the deeply entrenched spiritual principles which provided the impetus for his "experiment", but they were surely all yet the beneficiaries of his theological pragmatism which, in the words of one observer, sensed "the impossibility of Protestants ever again achieving unanimity of opinion even in a broad sense,"\(^27\) and

did not try to do so. With an insight rare to his time, Williams thus gave up the idea of comprehension and turned instead to true separationism as the only answer. In that respect, the opinion of Edmund Morgan expressed earlier bears repeating once more: the greatness of Roger Williams is simply that he dared to think. Unfortunately, the experience in other areas of the emerging American society was not always to be so forward, though even in Massachusetts there were yet to be surprising developments as we shall see.

WEIGHING THE "NEW ENGLAND WAY"

The lingering power of the Puritan tradition in the remainder of New England assured that at least until the latter half of the eighteenth century, Rhode Island stood largely alone there in its implementation of true separationism. For indeed, the establishment of the Congregational Church in the rest of the region was not only a widespread practice, it was an almost unchallenged dogma, as well. Intrinsic to the development of these circumstances, of course, was the fact that most Puritans and Pilgrims had come to New England in the first place in order to set up

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their own kind of church. And that, in turn, generally necessitated their own kind of state, as well, one in which the godly could live free of exposure to all of the crass and secular influences found in the motherland and elsewhere.

For admittedly, though many within their fellowship (while clearly not the majority of those who came, the popular myths notwithstanding) did indeed emigrate to America seeking the kind of religious freedom that was not available to them in England, such is not to imply at all that the principle of religious liberty per se was ever really the issue for the vast number of those religiously motivated colonists. Indeed, as Glenn T. Miller has expressed it, "The Puritans had not desired toleration in England-- they had played to win-- nor did they desire toleration in the New World."  

Rather, we should remember that the Pilgrims, for instance, were by and large the extreme leftists of the Reformation who believed that the movement had not gone far enough, subsequently forming their own communion in 1608 be-

28. The aforementioned elevation of William Laud and his subsequent hostility to Puritanism was, for example, most likely the reason for John Cotton's decision to leave England in 1733. See pages 116-117 in the preceding chapter.

cause they insisted that nowhere else in England was there a true church to be found. And likewise, for their more moderate brethren, the Puritans, the only way to comfortably put into practice their professed loyalty to magisterial authority without having to actually betray their beliefs was to make sure that the magistrates themselves shared their viewpoints. Since that could not be done in Laudian England, they looked to the colonies. Or in Loren Beth's assessment, "If they could not make the Anglican Church Congregational in England, [maybe] they could do so in America."\textsuperscript{30} Perhaps more impatient than actually harried, thus, and unwilling to wait for any further reformation in doctrine, ritual, and ethics, both groups eventually chose to come to New England for the simple reason that therein they could more easily implement their ideals, without being forced to wait or secede.

To be certain, in the very beginning, formal church membership was not a requirement for those who wished to vote in Plymouth, for instance, and even religious contributions themselves were viewed as a voluntary matter. But soon afterwards it is clear that the Pilgrim leaders in that colony began to bring into being their own version of a Church State in which, though the Church was not identical with the whole community perhaps, it nonetheless governed and dis-

\textsuperscript{30} See Beth, \textit{op.cit.}, page 38.
ciplined all those who lived there, including those individuals in all three levels of citizenship— the "freemen", or the electorate composed almost exclusively of church members; "inhabitants", or those who were potential freeman; and "sojourners," those with no legal rights or civil equality at all. Voters were thereafter required to be certified as "orthodox in fundamentals of religion", and magistrates duly enjoined to put all who might be delinquent in their tithes "upon their duty." 31 We may agree thus with William Marnell's observation that even if Plymouth was "another of those fertile seedbeds of democracy which Calvinism planted," the settlement was still certainly not "the democracy which it has often been proclaimed." 32

Farther north in the larger Massachusetts Bay Colony, the move towards religious establishment was likewise a fairly quick process, if a somewhat more involved one. It is clear

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32. Marnell, op cit., page 53. By 1691, Plymouth had been absorbed by its expanding neighbor, Massachusetts Bay, and thereafter ceased to be an uniquely Pilgrim community. The older view that the polity of Massachusetts was derived from the Plymouth model has now been largely abandoned, particularly in light of Puritanism's comparison with its English Presbyterian counterparts. We may say, however, that Winthrop and the other leaders in Boston were obviously aware of what was going on just to their south, and that it would have been unusual indeed if at least some of the Pilgrim's ideas had not fertilized the Puritans' way of thinking, as well.
that Puritan leaders there came to America with both a fairly well defined philosophy of Church and State relations already, and a clear design to build their "city on a hill" upon consciously Christian moorings. We may note that the Cambridge Agreement of 1629, for example, concentrated most of the powers of government into the hands of John Winthrop and a few others, who shrewdly took advantage of a loophole within the commercial charter of the colony in order to make that document the "constitution" of an almost self-governing state. And Winthrop's discourse, "A Model of Christian Charity" will make it clear, in turn that at least in one of the principal's eyes, the new colony was not to be just an asylum for all who chose to come, but a "carefully selected company of persons fit for the work at hand and sympathetic to its aims."³³

The problem was, however, that when Winthrop and his company arrived in Boston in the following year, they found that there were already others there who had little or no interest in sharing the religious overtures of the newcomers. Thereafter, armed with the charter itself-- and thus the powers that were delineated therein-- in order to maintain the vision which had inspired their decision to emigrate in the first place, Winthrop and his fellow Puritan leaders found themselves forced to limit further settlement

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³³. See Evarts Greene, op cit., page 38.
in the colony to persons "allowed by some of the Magistrates" and even to restrict current suffrage to those who were church members only. To be certain, the important distinction should be made that such was not to formally pass control of the colony to the decisions of the ministers per se, but to the prominent Puritan laymen who themselves reserved the power to call and dismiss even their pastors. But that the interests of the Church were thereby to be served by the powers of the State is indisputable.

By 1635, for example, all persons within the colony were compelled to attend church services even if they had not been able or willing to pass the rather exacting Puritan tests for formal church membership. In the following year, statutes were enacted which prohibited the "setting up" of any congregation without the approval of both Church and State (granted only if the members were orthodox in judgment and neighboring clergy approved), and state tax support of the recognized Church was granted in 1638. By a decade later, the Westminster Confession of Faith was adopted as the official state creed, along with the important Cambridge Platform which set out even more explicitly the Puritans' view on Church and State. And again, we may say that what resulted in Massachusetts Bay was, if not quite a complete Church State, at least a very close (while admittedly at some points, inconsistent and confused) approximation of the same.
In general accord with the thought of John Calvin on the subject, for instance, both ecclesiastical and secular authorities were seen to have their own special fields of concern, within which each were to act in accordance with the sacred law of the Scriptures. Consequently, church officers should not meddle with the "sword of the magistrate", nor should the secular authorities "meddle with the work proper to church officers,"\(^\text{34}\) such as actually making church membership compulsory within the colony. It was, however, yet the duty of magistrates "to take care of matters of religion,"\(^\text{35}\) which in practice meant simply promoting godliness in whatever way possible, including using the coercive power of the state to punish idolatry, contempt of the Word preached, and even "schismatical" behaviour. In addition to the aforementioend privileges of tax support and compulsory attendance by all, the Puritan Church thus received out of its "partnership" with the commonwealth nothing less than a virtual monopoly of public worship, to be carried out only in approved congregational settings, and even the capacity to penalize any and all who might dissent or make disparaging remarks against the prevailing order.

\(^{34}\) ibid., page 40

\(^{35}\) See Conrad Henry Moehlman, The Wall of Separation Between Church and State, (Boston: Beacon Press, 1951), page 68.
What, in turn, did the state get out of the arrangement? Outwardly at least, Puritans reiterated their belief that the Church should not directly interfere with the State, even when the latter's attentions might be focused towards explicitly spiritual ends. And most would have at least given lip service to the sentiments expressed a generation or more earlier by one of the more venerable theorists of their movement, William Bradford, that the church must not do the state's work, even at the state's request. As cited by Edmund Morgan, Bradford's words in 1605 left little room for compromise, namely:

No ecclesiasticall Minister ought to exercise or accept of any Civill publique jurisdiction and authoritie, but ought to be wholly imploied in spirituall Offices and duties to that Congregation over which he is set. And... civill Magistrats weaken their owne Supremacy that shall suffer any Ecclesiasticall Pastor to exercise any civill jurisdiction within their Realmes, Dominions, or Seignories. 36

36. See Morgan, op cit., page 66. Bradford's fear was that allowing pastors to do the work of princes was to set them on the road to Roman Catholicism. Morgan's point does not follow, however, that the founders of New England were subsequently determined not to fall into many of the same errors. His assertion that "it was of first importance...that the clergy be denied any part in the civil government and that church discipline be conducted entirely by spiritual methods, without fines, fees, or imprisonment" (page 68), does not seem to reflect the reality of the Puritan colonies, even if it might describe their earlier theories of government formulated in the untested atmosphere of the motherland.
Specifically, however, two other functions in the community were assigned to the secular interests by the Puritan theorists. First, marriage was regarded as a civil contract rather than a sacrament, and ceremonies were accordingly performed by magistrates and not ministers. And second, the area of education was likewise assumed by the state, making the General Court responsible for the establishment of all elementary and grammar schools within Massachusetts, and each town assigned the duty of maintaining them. Even Harvard College, we may note, was thus founded by the state, although its governing body did include six ministers, along with the Governor, Deputy Governor, and all of the colony’s magistrates.

Far and away, however, the most important consideration which the state received for its part was the help of the clergy against any and all who were thought to be radical or subversive elements within the community. It is in this light that we may better judge the previously discussed treatment of such individualists as Roger Williams and Anne Hutchinson, for indeed in their dissent was nothing less than an implicit challenge to the whole Church-State system which had been so carefully constructed within the Bay Colony. Accordingly, while it was the General Court which ordered Williams banished, for example, its members did so only after calling in all of the clergy of the colony for consultation; Williams thereafter regarded both Winthrop and
Cotton as his enemies, as we have seen. Likewise, the views of Anne Hutchinson which resulted in her condemnation by the synod of the Church led not only to her excommunication by that ecclesiastical body, but her trial and banishment by civil authorities, too.\footnote{37} And indeed, even the legislation against Quakers, which included the death penalty for those within that hated sect who returned to Massachusetts after having been banished from its boundaries, depended not merely upon the magistrates to carry out the penalty, but Puritan clergymen as well, to help lead the charge and personally promote their persecution.\footnote{38}

In all of this, then, it will be manifestly clear once more that intolerance of dissent, sometimes falsely cited as the reason for the Puritan migration to America, thus became an inherent feature in their congregational polity. It may be argued that Puritans, in fact, came to the new world in

\footnote{37. Mrs. Hutchinson, it will be remembered, was ironically a devoted follower of John Cotton, whose admiration for her pastor's Calvinistic orthodoxy is perhaps what led her into criticizing other preachers of the Bay Colony for preaching a "covenant of works." She was then enticed into making further injudicious remarks, was found to be theologically errant, and banished in 1637, one year after the same punishment was given to Roger Williams.}

\footnote{38. The Quakers of that day, it should be repeated, were seen by most not merely as religious sectarians, but as disturbers of the peace and dangerous revolutionaries. The death sentence was sometimes overlooked, however, but not always. At least four—William Robinson, Marmaduke Stephenson, Mary Dyer, and Williams Leddra—were so executed, in fact, between 1659-1661.}
order to avoid religious toleration, and that their subsequent sense of mission, combined with their peculiar ordering of society, made seventeenth century New England an intolerant environment indeed.\textsuperscript{39} The assessment in this regard of Perry Miller is perhaps thus a harsh one, but one with enough truth that it bears peating at some length herein. For in Miller's judgment

The government of Massachusetts [and of Connecticut as well] was a dictatorship, and never pretended to be anything else; it was a dictatorship, not of a single tyrant, or of an economic class, or of a political faction, but of the holy and regenerate. Those who did not hold with the ideals entertained by the righteous, or who believed God had preached other principles, or who desired that in religious belief, morality, and ecclesiastical preferences all men should be left at liberty to do as they wished—such persons had every liberty, as Nathaniel Ward said, to stay away from New England. If they did come, they were expected to keep their opinions to themselves; if they discussed them in public or attempted to act upon them, they were exiled; if they persisted in returning, they were cast out

\textsuperscript{39} See Glenn T. Miller, \textit{op cit.}, page 39 and following.
again; if they still came back, as did four Quakers, they were hanged on Boston Common. And from the Puritan point of view, it was good riddance.  

But how was such a system to be justified? Herein we may suggest that philosophically Puritanism rested upon both the doctrine of original sin and a literal acceptance of the Biblical witness as the rule of conduct in both civil and religious life. Yet, as the leaders of New England were soon to find out, the practice and the theory did not always completely gel. For although, for instance, congregationalist theory suggested that fellowships of believers formed and maintained independently of each other—yet each along Biblical lines—should therefore agree completely (since the revealed Word of God was obvious and self-evident to all who read and believe it), the actual experience of laymen and ministers alike who often arrived at very different conclusions soon required a modification

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40. See Miller's classic treatment of Puritanism, *Errand in the Wilderness*, (Cambridge, Mass.: Belknap Press of Harvard, 1956, 27. It may help a little to note, as did Miller, that such views were not exclusive just to the Puritans of the day but indeed had been in the public domain of most people's thinking for centuries. The observation of Winthrop Hudson may also be relevant here, that the later downfall of the Christian Cromwellian commonwealth—which favored persuasion over coercion—may have been indicative that the vast majority of Englishmen had not yet mastered the techniques necessary for a democratic government to truly work. See his volume on *The Great Tradition of the American Churches*, (New York: Harper and Brothers, 1953), pages 45-47.
in at least the implementation of that theory. To promote the success of the Puritan commonwealth, thus, New England leaders early on came to evade two of what had been the basic tenets of congregational thinking: fully independent congregations and the free judgment of each individual.

What evolved instead was a systematized body of belief, an informal but effective church hierarchy, and an equally informal but effective union of ecclesiastical and civil authorities. As Loren Beth has commented, the union of Church and State in Massachusetts began therefore based not upon the supremacy of one or the other, but rather upon an "identity of viewpoint."\textsuperscript{41} That is to say, both magistrate and minister were alike Puritan and church member; they thought and believed alike on most matters, and both submitted their actions over to the guidance of the Bible. For, in fact,

the Puritan philosophy demanded that in society all men, at least all regenerate men, be marshalled into one united array. The lone horseman, the single trapper, the solitary hunter was not a figure of the Puritan frontier; Puritans moved in groups and towns, settled in whole communities, and maintained firm government over all units...Puritan opinion was at the opposite pole from Jefferson’s feeling that the best government

\textsuperscript{41} Beth, \textit{op cit}., page 40
governs as little as possible. The theorists of New England thought of society as a unit, bound together by inviolable ties; they thought of it not as an aggregation of individuals but as an organism, functioning for a definite purpose, with all parts subordinate to the whole, all members contributing a definite share, every person occupying a particular status..."  

Accordingly, we may say that the Puritan Church-State was not only built for religious reasons, but for sociological ones as well, and the institutions of the new colony were likewise built to embody these fundamental understandings. Governments were seen as necessary to curb the power and influence of original sin, and thus so empowered. Townships were largely defined in the same terms as congregations, and the magistrates and clergymen largely constituted a single oligarchy over both. And the view of most Puritan leaders was plainly that expressed by John Cotton, namely, that the fusion of Church and State, with the Church predominate, was not only Biblical, it was the only justifiable and sensible way of government to be found.  

To be sure, theirs was not a total theocracy, at least in the popular sense of that term which implies actual rule by priests. For clergymen themselves not only avoided public  

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office, but they transferred many of the temporal matters which had been assumed by ecclesiastical courts in England (such as probating of wills, marriages and divorce) over to the civil magistrates in Massachusetts. The power of the clergy was, in fact, at least limited *de jure* to whatever influence over others which they might exert, however considerable that might be. For in the end, they acted yet as individuals and not the Church. Thus, in analyzing the Puritan state we would do well to remember the observation of Edmund Morgan that even with all of the extensive co-mingling of ecclesiastical and secular interests which characterized the Puritan colonies of New England, still before Roger Williams founded Rhode Island, there was probably no place in the western world where clergymen were as carefully cut off from political power as in Massachusetts Bay.43

Nonetheless, it is clear that what the founders of that colony hoped to establish was nothing less than a genuine theocracy, or a government ruled by God Himself, through agents who submitted themselves to His Word and sought faithfully to be guided by it in every situation. That, in turn, clearly required that the State be crafted to meet the needs of the Church, rather than the reverse. Or, in the words of that paradigmatic Puritan, John Cotton,

43. Morgan, *op cit.*, page 79
It is better that the commonwealth be fashioned to the setting forth of God's house, which is his church, than to accommodate the church to the civil state.\textsuperscript{44}

Such was thus the settlement of Church and State reached in the largest and most influential of the northern colonies during its formative years, and its pattern was largely to be duplicated in the other New England settlements save, of course, Rhode Island. In Connecticut, for example, a 1698 law required all who lived within that colony to be taxed in order to provide for the support of its clergy, and even a decade later it was decreed that all of the churches of the settlement should be united in doctrine, worship, and discipline under the set of principles which had been adopted by a Congregational synod meeting at Saybrook.\textsuperscript{45}

In most places, however, by the final third of the seventeenth century, the hold of the Puritan oligarchy upon New England had begun to weaken some, brought about by several causes, including the rising forces of dissent which continued to press the uncomfortable issue for Puritans of

\textsuperscript{44}. Cotton's sentiments were expressed in a letter to Lord Say, cited by Winthrop Hudson, \textit{op cit.}, page 49.

\textsuperscript{45}. The statute remained in effect until 1777, when an act was passed allowing those congregations which dissented from the Saybrook Platform to be exempted from paying taxes upon their willingness to file a certificate stating such. Even then we may note that deists, Jews, and Catholics were not indulged in the certificate law.
fully respecting the rights of others. Even the persecution of the Quakers, for instance, produced eventually a sense of revulsion among all but the staunchest of Puritans, leading in the end to an obvious detriment of the state church which had encouraged it. Consequently by 1673 the governor of Massachusetts finally allowed the right of most sects to meet unmolested in private, and just five years later, Baptists had already secured approval for the construction of the first official dissenting church in the Bay Colony.

In this respect, we may say that ultimately the power of Puritanism declined because it was thus unable to stop all of the splits within its own ranks, much less stem the tide of dissent from other quarters. And ironically, perhaps in some ways the strict Puritans may have been the victims of some of their own successes. For along with the increased trade and material prosperity which their tight controls and industrious work ethic produced, there came also a weakening of the religious fervor which had earlier allowed and even promulgated an intolerance for others. What is more, to make matters even worse for Puritanism, when New Englanders' "religious affections" were finally once again stirred up in the form of the Great Awakening which shook the region to its core in the following century, the primary offshoot of the whole experience was, in fact, not to revive a calcified
Calvinism but to strengthen instead the appeal of such revivalistic sects as the Baptists. Indeed, as Marnell has commented,

The great importance of the Great Awakening as it affected New England is to be found in the fact that it was the first serious and even successful challenge to New England Calvinism."46

Moreover, changes in the Massachusetts charter by the Crown, along with the implementation of a new imperial policy which required the Church to follow the flag, revoked not only the original governing ordinance of the colony, but the Puritan ecclesiastical monopoly which had depended upon it. Anglicanism and royal government both came to Boston in 1686, with Anglican services held in the South Meeting House under Governor Edmund Andrus the following year and construction of King's Chapel begun in 1688. Thereafter, continued secular reinforcement of the tolerationist provisions of the new charter imposed upon the colony assured that, even if the Crown could not force a full-fledged Anglican establishment on the Puritans and their descendents, it could at least require a reasonable accommodation to Anglican worship.

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46. Marnell, op. cit., page 97.
And this, in turn, led naturally to at least a measure of more toleration for others, too. As Glenn Miller has argued, in many ways therefore, it was the "Glorious Revolution" in England of 1688-89, resulting in the expulsion of James II and the conferring of sovereignty on William and Mary, which finally producing toleration in Massachusetts in 1691, while at the same time somewhat paradoxically spawning that persistent American myth that the New England colonies had been founded in order to achieve both civil and religious liberty.

By 1729, for instance, three Anglican churches stood in Boston and in that decade over ten percent of Yale's graduates chose to enter the Anglican priesthood. Puritans yet succeeded in blocking what was perhaps the gravest threat to their hegemony, the appointment of an establishment bishop for America, and some measure of their continuing strength may be seen in the fact that as late as 1740 there were still only twenty-two Baptist churches in all of New England, half of those in Rhode Island. The rapidly changing conditions of the political landscape dictated, however, that the overall direction for Church and State relations in New England was nonetheless moving away from the earlier Puritan model.
The memorial of a Separatist congregation in Preston, Connecticut, sent to the Legislature in 1751 seeking exemption from the required support of Congregationalism is indicative of the growing convictions of many, for example:

Our Religious Sentiments and way of worship No ways affect the State...And we Suppose there is (In the nature of Things) no Reason we Should maintain and Support any Religion or way of worship but what we our Selves Embrace and Propose to receive the advantage of and that No body has the right to impede or Hinder us In that way of worship which in our Consciences we think to Right for us. In all matters Civil we are accountable to the State So in all Matters of worship we are accountable to him who Is the object of It, to whom alone we must stand or fall and on these Principles are founded all acts of Toleration.47

It is therefore fair to say that by the closing third of New England's second century, the established church which remained in those parts in many respects was but a shell of its former self, buoyed up not by the deeply held convictions of many, but moreso by a conservative attachment to the Puritan traditions of the past by a beleaguered few. Unlike its neighbor to the south, Rhode Island, and ironically perhaps, even more unlike the role it was to play in

47. Quoted in Perry Miller's *Errand, op cit.*, pages 37-38.
advancing the cause of national freedom, Massachusetts itself was largely just a follower then, and not a leader in the concurrent struggle for religious freedom for all. Glenn T. Miller was correct, in fact, in suggesting that "the combination of sectarian and established elements in the New England Way produced a tension that was never completely resolved until after the denominations emerged in the nineteenth century."48

We cannot completely agree with Loren Beth, however, in his conclusion that "thus in America as in England the great contributions to religious liberty, in theory or practice, did not come from an established church or from the conservative wing of Calvinism."49 For before closing this analysis of the "New England Way", it should be allowed that there was at least one further exception, a century beyond Roger Williams, to the general unresponsiveness of most colonial Puritans to the new currents of the day, namely, that last great Puritan himself, Jonathan Edwards.

More than anyone else of his time, in fact, Edwards (1703-1758) clearly interacted with the ideological expressions of the Enlightenment and, although he often modified

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49. Beth, _op cit._, page 49.
them, he was instrumental in propagating them to others, as well. Indeed, as Edward Davidson has claimed, in Edwards converged the two master designs of his age,

one, the Puritan conviction that man lives a parlous life in a world ruined by centuries of Satan's craft and man's unfeeling abandonment of God, yet lives with his senses and his mind awake to the grace which God holds out betimes even to the chief of sinners; the other, the rationalist-empirical heritage, quite new it was, which derived from Bacon and was invigorated by Newton and Locke. 50

It may be going a bit too far to insist with Perry Miller that Edwards was the "first modern American," 51 yet it is clear that Edwards indeed both recognized and acknowledged the direct challenges to traditional Christianity posed by the physical discoveries of Newton, the psychological insights of Locke, and the popular acceptance of a "God more kind and man more worthy." While the extent of Edwards'


51. The phrase comes from Miller's 1949 intellectual biography, Jonathan Edwards, excerpted and quoted by John Opie in Jonathan Edwards and the Enlightenment, (Lexington, Massachusetts: D.C. Heath and Company, 1969), page viii. The honor, at least so far as Church and State relations is concerned, would rather seem to belong to another of Miller's favorite subjects for study, Roger Williams.
full appropriation of those Enlightenment notions may be debated, the fact that Edwards seemed to understand the movement—particularly the thinking of John Locke—as well as any other man of his day cannot be. What is more, it is sometimes also forgotten that with the possible exception of Benjamin Franklin, no other man was more widely read or influential in all of colonial America during the eighteenth century than was Jonathan Edwards, including John Locke himself.52 It may well be the case, thus, that for many colonists at least, it was not so much John Locke’s theories—pure and unprocessed—which they were imbibing in those heady years of the eighteenth century, but often rather Jonathan Edwards’ interpretations and even reformulations of the same.

In this respect, we may express a general lament that Edwards—at least in the popular remembrance of many—has frequently since his time suffered undeservedly from a rather inaccurate, one-dimensional characterization of his thought. For it is clearly safe to say that his intellect ran in far more profound directions than one might judge from simply reading one of the more sensational jeremiads

52. We may note the comment made more than a century ago by the historian Bancroft in this respect: "He that would know the workings of the New England mind in the middle of the last century, and the throbblings of its heart, must give his days and nights to the study of Jonathan Edwards." Quoted by John Opie, op cit., page viii.
(such as the famed sermon, "Sinners in the Hands of an Angry God") while not perusing through his far more prolific philosophical essays.53

To be certain, we must concede here that at least overtly Edwards may well have been largely apolitical, as most of his commentators have agreed.54 But such is not to allow that, as the primary leader of the Great Awakening, Edwards was in any way oblivious to the relation which some were drawing between personal religious experience ("the new birth") and emerging shifts within the political and social order ("the new age"), as well. For, in fact, in the philosophical-religious system which he created, he actually reinforced many of the essential assumptions about men and society which he shared with the empiricists of his day, and which were later to be used in formulating the foundations for democratic theory in America.

53. Even out of the many sermons which he wrote, in fact, it is significant that no more than a handful of them reflected the same kind of tenor as did the aforementioned sermon with which, probably because of its very vividness, he has been popularly associated.

Suggesting that "identity of person consisted of identity of consciousness," Edwards gladly adopted such Lockean notions as individualism and equality, for example, coupling them with a new epistemology which cued in on the exercise of a spiritual sense. Such could, in Edwards' views, thereafter convert men's affections by an act of grace, which was in itself open and equally accessible to all. While the ideological implications of this rising view of man may have translated somewhat differently between the philosopher and the theologian--Locke into his doctrine of property, for instance, and Edwards into his emphasis upon the equal moral worth of every man--it should be plain that both notions were mutually reinforcing to a common assumption about men which was to emerge and indeed lay at the very basis of the emerging way of thinking.

55. See Edwards' essay, "Notes on the Mind," contained in The Works of Jonathan Edwards, Volume I, (Edinburgh: Banner of Truth Trust, 1834, reprinted 1974), page ccxxii. From his student days at Yale on, it is clear that Edwards was substantially influenced by Locke, and especially Locke's famous "Essay Concerning Human Understanding." David Laurence is correct as well, however, in arguing that Edwards often appropriated Locke "in ways so unexpected they seemed not to make sense," since "what Locke thought did not matter so much as what Locke allowed [Edwards] to think." (See his essay on "Jonathan Edwards, John Locke, and the Canon of Experience," found in Early American Literature, Volume 15, No. 2, (Fall 1980), pages 107-108.) Note also the comment of Perry Miller quoted by John Opie (op cit, page 33) that "Edwards read more deeply into Locke than did Locke himself."
Accordingly, if there were indeed such incipient seeds of democratic theory in Edwards thus, then the strain of colonial Puritanism which he represented may not have been quite as devoid of significant contributions to the later development of American separationism after all, its otherwise acknowledged paucity in this respect notwithstanding. Without question, like Calvin, Edwards viewed civil authority as not only a necessity because of a fallen world, but as a positive reality which could provide both structure and needed order for life. Yet since God was both the source and the end of such civil rule, this necessitated as well that no power or group, however representative or symbolic of that authority or the Law, could stand beyond it. Indeed, the Puritan notion of consent meant for Edwards that "God treats men as reasonable creatures, capable of act and choice." Consequently, implied the Puritan, just as men must consent to God's judgments in order to be one with Him, so the consent of men must be required at all other key junctures in their lives, as well.

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57. Edwards, of course, rarely spoke directly to the civil implications of this theological belief, but we may see it almost in passing in a few lines of his "Miscellaneous Observations on Important Theological Subjects," found in his Works, Volume 13, pages 215-16: "It is needful in a moral kingdom, not in a ruined and deserted state—the union between the head and members remaining—that there should be conversation between the governors and the governed...The design and ends of government shall be made known; it should
In this respect, the experiential expression of the Edwardsean synthesis should also be remembered. Unfortunately, here again serious consideration of his true impact upon the social and political development of America has often been hampered by another of the long-held fictions within popular history, however, namely that it was the liberal party within the church (or those clerics such as Charles Chauncy who opposed the revival of the 1740's) and not the evangelical wing who gave primary impetus and support to the revolutionary mindset in the concluding decades of the colonial period. Yet as Suzanne Geissler has

be visible what is aimed at, and what grand ends or events are in view, and the minds of the rulers should be declared as to the rules, measures, and methods to be observed by the society. Thus, it is requisite that it should be declared what is the end for which God has made us, and made the world, supports it, provides for it, and orders its events."

58. The theme that liberal religion in the eighteenth century was both humane and progressive has been advanced by many but, as Alan Reimart pointed out in his study on Religion and the American Mind, it reflects much more the perspective of a later generation of post-Revolutionary (and frequently Unitarian) churchmen than it does the reality of the situation as it actually existed during the critical years between the Great Awakening (ca. 1725-1770) and the outbreak of the American Rebellion. In fact, notes Heimart, a strong case may be made from the evidence that liberalism was actually "profoundly elitist and conservative" both politically and socially, whereas it was the evangelical religion as expounded by Edwards which "provided pre-Revolutionary America with a radical, even democratic social and political ideology and [which] embodied and inspired a thrust towards American nationalism." See Heimart's engaging 1966 study, published by Harvard University Press, page viii.
shown, for instance, while the alumni of Harvard and Yale split over the later issue of the American Revolution, the graduates of Edwards' institution, Princeton, "almost to a man" supported the rebel side,59 and such a fact is telling indeed insofar as Edwards' true and lasting influence on American thought was felt. The point may be made therefore that both theoretically within the philosophical-theological fusion which Jonathan Edwards produced, and pragmatically, within many of the outworkings of the Great Awakening which he helped to direct, the seed for new understandings, political as well as ethical, within the American experience was planted. What is more, these Edwardsean elements left, in Martin Marty's words, "a sediment that did not disappear."60

For in this respect it should further be noted that, as an intensely deliberative Puritan in an age of the Puritans' decline, Edwards was not even completely alone in the direction in which his reflections upon the rapidly changing order within his society were moving. Rather, as Philip Chapman's contribution to an excellent collection of essays


entitled *The Non-Lockean Roots of American Democratic Thought* has shown, there may be said to have been a broad based "sympathy" for democracy, fully separate from John Locke's later influences, among several New England churchmen as early as 1713. Citing the case of John Wise as an illustration of such, Chapman concludes that it is not too much to say that, in fact,

There existed in America from the beginnings of the eighteenth century, a vigorous stream of democratic thought that was not only independent of, but more radical than the Lockean paradigm.61

61. See Chapman's "John Wise and the Democratic Impulse in American Thought," in the aforementioned volume edited by Joyot Paul Chaudhuri, (Tucson: University of Arizona Press, 1977), page 6. In the opinion of his biographer, George Allan Cook, Wise was "for the times, a democrat both in action and in thought. Not only did he champion the right of the colonists to impose their own taxes but he also wrote two forceful and witty books in support of congregational autonomy in the New England churches." See Cook's *John Wise: Early American Democrat*, (New York: Columbia University/King's Crown Press, 1952), page 1. We may note, however, that Cook's rather high estimation of Wise's significance in America has been disputed by many.

The tracts, each of which were occasioned by his ecclesiastical disputes with Increase and Cotton Mather over the institution of ministerial associations in 1713 and 1717, argue from the superiority of democracy in the secular state, to the superiority of true congregational polity in the churches, which Chapman suggests would seem to presuppose a wide acceptance already among Wise's Puritan contemporaries of the thesis that democracy is the best form of government.
In summary, we may assert therefore that—despite what we have earlier suggested were serious limitations and "blind spots" within many of the earlier expressions of the "New England Way" towards supporting separationism—there were yet at least some positive undercurrents moving towards that direction within later Puritanism, particularly as its thinking came to be re-expressed by its last and most able defender, Jonathan Edwards. To be sure, the connection of his "democratic impulses" in general with the later implementation of full Church and State separation might, at first glance, seem to be an only tenuous one. But a genuine linkage between the two can be established in noting that real democracy in the civil sphere plainly demanded a basic equality between sects in the religious arena as well. Likewise, though the "language of revolution" in Edwards may sometimes be admittedly "difficult to catch across the centuries," still it is there.

Thus in the end, we will submit that Edwards offered in his theological program a formula which— if not exactly coincident with the Enlightenment principles of reason, human goodness, and natural benevolency—nonetheless supported the later revolutionary ideals of democracy, liberty, and justice, along with the notions of voluntaryism and

62. The words are those of Perry Miller in his contribution to the Opie volume, *op. cit.*, page 29.
separation which were shortly to emerge. In moving on from our assessment of the "New England Way" as it pertained to the ultimate development of American Church and State relations, we may accordingly note the final judgment made upon Jonathan Edwards by two of the field's most able scholars, Anson Stokes and Leo Pfeffer:

Edwards, perhaps far beyond all men of his time, smote the staggering blow which made ecclesiastical establishments impossible in America, although it is unlikely that he meant to do anything of the kind."63

Even if his intentions have been questioned by some, thus, his eventual influence should not be. For in the opinion of at least one other analyst, shared by the present writer, the American principle of disestablishment, outlined in the life and thought of Roger Williams, became, in fact, a political reality "only because it was sustained by the fervor of Jonathan Edwards and the Great Awakening."64 But how were men of faith in New England yet to reconcile their particular notions of democracy and toleration with the sub-

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64. The view is that of Mark DeWolfe Howe, op cit., page 9.
stantially different patterns of Church and State which likewise were developing in the other parts of the emerging republic?
Chapter Five

THE BIRTH OF THE BILL

"I am for the most liberal toleration of all denominations of religionists, but I hope that that Congress will never meddle with religion further than to say their own prayers, and to fast and to give thanks once a year." -- John Adams

THE STRUGGLE IN THE SOUTH

The continuing homogenization of the American experience and mindset--a process which has accelerated significantly over even just the past few decades--has often led us to forget just how widely divergent indeed were the circumstances and outlook of those who lived in the decidedly non-united colonies which sprang up along these shores. For if the religious patterns of New England were, with the significant exceptions we have noted, de facto those of a Church State, the models which emerged within the major settlements of the South reflected, at least in theory, the very mirror opposite, that is, a formally established State Church. Technically, in fact, the Anglican Bishop of London counted within his diocese the colonies of Maryland, Virginia, South Carolina and, to some extent, parts of North Carolina and New York. Nowhere, however, would one suggest that any of the "established churches" in those areas existed as more than just a pale reflection of the state
church of Elizabeth's or James I's England or even, in a different vein, the Puritan and Pilgrim theocracies of the northern outposts.

The relative remoteness of many of the lower regions may be a partial explanation for this, along with the fact that, as Bernard Bailyn has commented, the patterns of establishment in religion were "like that of so many other areas of life in the colonies," i.e., the result of "unsystematic, incomplete, pragmatic modifications of a traditional model."¹ Moreso perhaps, we may point to the observation of William Marnell and others, however, that insofar as religious matters were concerned, Anglican adherents on the whole were far less zealous than their counterparts in other places. Or, to wit, "no Anglican ever left England to secure freedom of worship; no Virginia Episcopalian had the fervent motivation of a Massachusetts Puritan."² While formally and structurally the Church was a part of the State in the South, therefore, we may say that it was seldom, if ever, a part that loomed large in most Southern minds.

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The earliest charter of the Carolinas, for instance, acknowledged in 1663 that the Church of England would be the principle religion of the colony and that the churches and chapels therein would be "dedicated and consecrated according to the ecclesiastical laws of our Kingdom of England", but it allowed as well that if any of settlers could not "for conscience sake" conform to the practices and articles of Anglicanism, so long as they yet did not interfere with its work and remained loyal citizens, they might enjoy a substantial measure of toleration. Six years later, the "Fundamental Constitutions" or "Grand Model" for governing the colony--drawn up as we have already observed by none other than John Locke on behalf of his patron, the Earl of Shaftesbury, who was one of the proprietors--went even further in providing religious accomodation for all but Catholics and non-Christians.

We may note, for example, that though the appropriate sections of that document denied citizenship to anyone who would not "acknowledge a God; and that God is publicly and solemnly to be worshipped," still they asserted that within such limits, "no person of any other church or profession shall disturb or molest any religious assembly," nor use any "reproachful, reviling, or abusive language against any

religion of any church or profession," or in anyway whatsoever likewise "molest or persecute another for his speculative opinions in religion, or his way of worship." Indeed, asserted Locke, how else might the "Jew, Heathens, and other dissenters from the purity of the Christian religion" be won over to embrace and "unfeignedly receive the truth" except by the "peaceableness and inoffensiveness

4. ibid., pages 399-400. The document, as Stokes notes, was written by Locke after his 1666 Essay Concerning Toleration but prior to the publishing of his letters on the same topic and the even more influential Two Treatises on Government of 1690. Locke's stipulations in terms of the communion for a church were three: first, that there is a God; second, that God is publicly to be worshipped, and third, that every man should bear witness to the truth and every church or profession shall "set down the external way whereby they witness a truth as in the presence of God, whether it be by laying hands on or kissing the bible, as in the Church of England, or by holding up the hand, or any other sensible way." In this respect, each church or profession was thereafter required to write down their terms in a book to be kept by the public register of the precinct in which they reside. Assemblies which would not observe the rules were accordingly "not esteemed as churches, but unlawful meetings," liable for civil punishment "as other riots."

It is insightful to note Stokes' further observation, as well, that the one paragraph of the "Constitutions" which seems to be incongruous with the rest is such because it was not drawn up by Locke and its inclusion was against his judgment. The words in question are found in Section Ninety-Six and provide that: "it shall belong to the parliament to take care for the building of churches, and the public maintenance of divines, to be employed in the exercise of religion, according to the Church of England; which being the only true and orthodox, and the national religion of all the King's dominions, is so also of Carolina; and, therefore, it alone shall be allowed to receive public maintenance, by grant of parliament," page 398.
of its professors," using not arms but persuasion and "all those convincing methods of gentleness and meekness suitable to the rules and design of the gospel?" Though the constitutions were never fully implemented and, in fact, were replaced altogether by 1693, the general tenor towards religious liberty which they thus evoked was significant, and the Anglican establishment which followed was accordingly a rather weak and incomplete one. For not only were non-Anglicans in the majority within the populace, but the absence of any seaport in the colony (and thus its general isolation) clearly diluted in turn whatever influences the motherland might yet have had towards influencing its far-away settlers to favor the official faith.

Somewhat in contrast, South Carolina, separated from its northern counterpart in 1729, offered at least more receptive geographical conditions under which Anglicanism could prosper, for its port of Charleston quickly became an important bridge between the colonies and England, even as its fewer mountains meant fewer frontiersmen-- and thus, fewer "free spirits"-- in turn. We may say, however, that while the establishment of the Church of England there did not

create any notable opposition, neither did it command any great enthusiasm either, as clearly the development of other aspects of colonial life was more pressing to most.

Likewise, even further south in Georgia, it is safe to say that the Established Church, though legally recognized by the state, never held more than a partial hold upon the loyalty of the majority there. For the population of Georgia included a good number of varied Protestants who had been earlier persecuted in Europe, and who had been perhaps attracted to the colony in the first place both by Olgethorpe’s general spirit of toleration, and by the original charter which he brought to the new land in 1733 which offered "Liberty of Conscience for all except Papists." The most telling sign in this respect, in fact, may well have been the establishment in 1750 of the Union Society in Georgia for the furtherance of charitable aims. For true to its name, as Stokes has noted, its founders were a Roman Catholic, a Jew, an Anglican, and two others whose religious affiliations are not known. In a very real sense thus, at least in a few small ways such as these, Georgia

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7. ibid.
may indeed have moved beyond toleration to even actual cooperation, yet all the while maintaining its official tie-up with the State Church headquarterd back in England.

As Rhode Island soon became in New England, however, it was the colony of Maryland which was to develop into the most visible early haven in the South for many who were oppressed and looking for a religious refuge. Its liberal outlook was, of course, largely a reflection of its founders and proprietary family, the Calverts, and particularly Cecil (ca. 1605-1675) or the fourth Lord Baltimore, whose sometimes rather tenuous personal position as a Roman Catholic should not be allowed to detract in our estimation of him from what was the genuine broadness of his views. For although his role as proprietor virtually amounted to absolute control over all that went on within his colony-- making him the unquestioned head of both Church and State within Maryland-- Calvert yet attempted to not only provide an asylum for Catholics in his new land, but to build a settlement which would be attractive to Protestant colonists and

8. The originator of the Maryland project was, in fact, Cecil's father, George Calvert, from whom it may be said the son imbibed many of his progressive views. It was George Calvert's wish to make Maryland a haven for those who shared his Catholic faith; Cecil, as well as his brother, Leonard, who served as Deputy Governor of the Province, simply enlarged the dream of their father, even while being cognizant as well of the very real need to attract non-Catholics in order to make the colony successful.
even other Christians, as well. Accordingly, his charter was largely bereft of any explicit sectarianism, referring only to "God's holy and true Christian religion," and he likewise laid out as early as 1636 a rather remarkable oath to be taken by Maryland governors, reading in part:

I will not myself or any other, directly or indirectly, trouble, molest, or countenance any person professing to believe in Jesus Christ, for or in respect to religion: I will make no difference of persons in conferring offices, favors or rewards, for or in respect of religion: but merely as they shall be found faithful and well deserving, and endued with moral virtues and abilities: my aim shall be public unity, and if any person or officer shall molest any person professing belief in Jesus Christ, on account of his religion, I will protect the person molested, and punish the offender.10

9. Stokes, op cit., page 149. Calvert's concern not to initially drive away potential Protestants, or even offend such who might become the neighbors of his proprietorship, can be seen in the instructions which he gave to the leaders of his colony in 1633: "His Lordship requires his said Governor and Commissioners that in their voyage to Mary Land they be very careful to preserve unity and peace among all the passengers on shipboard, and that they suffer no scandal nor offense to be given to any of the Protestants, whereby any just complaint may hereafter be made, by them, in Virginia, or in England, and that for that end, they cause all acts of Roman Catholic religion to be done as privately as may be, and that they instruct all the Roman Catholics to be silent upon all occasions of discourse concerning matters of religion." See Curran, op cit., page 19.

10. Quoted by Stokes, op cit., page 190, from William Warren Sweet's earlier volume, Story of Religion in America, page
Until external pressures came to bear on its proprietors, in fact, the Christian Church in Maryland thus emerged in a variety of forms, but each of them largely independent of the State and likewise independent of each other.

Symbolic of this relative openmindedness was the legislation enacted by the colonial assembly in 1649 entitled "An Act Concerning Religion" and popularly known as the "Toleration Act." The decree has been variously hailed by some as a genuine breakthrough in granting full religious liberty in America, and dismissed by others as a desperate, last ditch effort to head off the growing attacks of the Puritans against the Catholic inhabitants of the colony. In truth, of course, it was probably something in-between, for though it did not actually initiate the policy of religious freedom in Maryland, as we have seen, it is significant that it came not just as a decision of the colony's proprietor, but from a public assembly of sixteen members, almost equally divided between Catholics and Protestants.\(^{11}\) In

\(^{11}\) The numerical edge probably belonged to the Catholics, but not by very much. That Calvert supported the motion and urged its passage is, however, true, and the influx of Virginia Puritans around 1648, following their exile from that adjoining commonwealth, may indeed be seen as one of the principle reasons why the Act was perhaps needed, i.e., to spell out more concretely the "understanding" which had prevailed in the colony since its founding. Other motives for the passage of the act which have been suggested include the desire to keep the Jesuits out of control in the colony and to maintain the proprietary authority in the region.
turn, we will suggest that the act roughly assigned to Catholic, Episcopalian, and Presybterian factions alike a common favorable position within Maryland, resolving that no person or persons... professing to believe in Jesus Christ shall from henceforth be anyways troubled, molested, or discountenanced, for or in respect of his or her religion, nor in the free exercise thereof within this province... nor any way compelled to the belief or exercise of any other religion against his or her consent.¹²

There was, however, an opposite side of the coin in this respect, namely, that alongside the prescribed toleration for the above named groups came yet further disapprobation for any whose faith did not fit into even those general dimensions, such as Jews and Unitarians. In evaluating the Act, William Marnell's observation is thus worth repeating here that

Nothing could be further from secularism than the spirit of the Toleration Act. One's Christianity had to be Trinitarian. To speak with disrespect of the Virgin Mary, the apostles, or the evangelists called for a

¹² Cited by Francis X. Curran in Catholics in Colonial Law, page 28. Curran, himself a Jesuit, has provided a very helpful treatment of the subject at hand, whose insights will be drawn upon in the subsequent discussion. See also Stokes, _op. cit._, pages 191-193, who has also excerpted the pertinent passages of the act with his customary eye for volume.
fine, or for a public whipping and imprisonment. To refer to another's religion in a "reproachful manner" called for the same. 13

To be certain, toleration under the act reflected not merely the somewhat more liberal religious opinions of those who attempted to lead Maryland, but their political astuteness, as well, in knowing just how far they could go within their haven of dissent and still maintain control. Still, we may say that the result was to give to Maryland a more progressive religious policy than any other government in America, excepting those in Rhode Island and that other haven in the north, Pennsylvania.

Unfortunately, even as finely "balanced" as the 1649 Toleration Act may have been, it was to be replaced only a few years later when the political currents within both England and the colony abruptly shifted, sweeping the Calverts out and the Puritans in. For with the end of the Civil War and the execution of Charles I in the homeland came also the temporary overthrow of Lord Baltimore and the disenfranchisement, in fact, of all Catholics living within

13. See Marnell, op. cit., page 68. Specifically, the act imposed a fine of ten shillings or a whipping, if unable to pay such, on anyone who called "an heretick, Scismatick, Idolator, puritan, Independent, Prespiterian, popish priest, Jesuite, Jesuited papist, Lutheran, Calvenist, Anabaptist, Brownist, Antinomian, Barrowist, Roundhead, Sepatist, or any other name or term in a reproachful manner relating to the matter of Religion..." See Stokes, op. cit., page 192.
Maryland in 1654. Subsequently, under the leadership of William Claiborne, a pronounced anti-Catholic and a bitter opponent of the Maryland refuge, a new "Act concerning Religion" was passed, not only suspending the previous legislation, but going so far as to ban popery (Catholics) and prelacy (Episcopalians) and even "licentiousness of opinion," by which was meant the non-Calvinist creeds of those such as Baptists and Quakers.

At least for all those concerned with religious toleration, we may say that the situation fortuitously reversed itself four years hence, when Calvert was finally able to convince the Interregnum government that he was not disloyal and, regaining control of the colony, the Toleration Act was again put into force. More than ever, Maryland thereafter resumed its strong attractiveness to all manner of settlers, including Quakers and Hugenots, Dutchmen and Germans. This second wind of toleration was likewise not to last, though, for with the eventual imposed establishment of the Church of England in 1715 came too a second withdrawal of toleration for Catholics in the colony which had been founded for them. Sensing defeat, thus, and numbering less than ten percent of the population of Maryland by that time anyway, many Catholics (including the son of Cecil Calvert himself) simply gave in and became Episcopalians, not coincidentally
enabling some of them, in turn, to remain in control of the colony even as late as the outbreak of the American Revolution.

In all of this, however, some further word as to the general treatment of Catholics within early America should be made. For as we have already seen, not just in Maryland but all across the continent in fact, Catholics came to be customarily viewed as the common enemy of every freedom-loving colonist. Why this was so may be traced to several factors, including the ubiquitous question over a Catholic's ultimate loyalty (since he was pledged by his faith to a foreign potentate),¹⁴ and their extremely small numbers within those who came in the first century and a half of colonization to British North America. Coupled with the often severe pressure on those who did come to convert, as had the Calverts, such may explain why as late as 1776, for example, there were only fifty-six small Roman Catholic congregations in all of the colonies, representing only about one per cent of all churches in the emerging nation while in contrast, nine out of ten churches belonged within the Puritan, Calvinistic, and Reformed traditions. Even in Maryland, thus, the Catholic Church was just barely alive

¹⁴. Such remained an open question for many indeed well into the last half of the present century, as seen in the suspicion with which many greeted the candidacy of Catholic John F. Kennedy in 1960.
and indeed, it is conceivable as some have argued that had it not been for the Revolution itself, Roman Catholicism might eventually all but have disappeared there.\(^{15}\)

Yet there was clearly more to it than just these factors, though. For indeed at the root of much of the virulent anti-Catholicism within America was clearly the residue of the earlier controversies which had surrounded the English Crown and, more specifically, the need of Protestant rulers such as Elizabeth to depict the preceding ecclesiastical arrangements as reprehensible in order to more easily justify their new order.\(^{16}\) From early on, thus, the popular image of Catholics as traitors, perjurers, and even murderers was encouraged from the highest levels in England and subsequently, as Francis Curran has noted, "the British settlers in America carried in their baggage the [same] animus against Catholics so prevalent in their native land."\(^{17}\)

\(^{15}\) See the research of Winthrop Hudson, \textit{op cit.}, page 48. For further perspective, the total number of those within the Catholic community in America by the time of the eventual First Amendment's passage has been estimated by Joseph P. Chinnici as between just twenty five and forty thousand, disproportionately concentrated in Maryland (60%), Pennsylvania (30%) and parts of Virginia and New York. See his article on "Religious Liberty in the Roman Catholic Community in the United States, 1774-1815", found in \textit{Freedom of Religion in America}, (New Brunswick, New Jersey: Transaction Books, 1982), edited by Henry B. Clark, II.

\(^{16}\) See the discussion in Chapter Three.

\(^{17}\) See Curran, \textit{op cit.}, page 3.
this becomes all the more evident when it is seen that even while toleration for other dissident groups gradually increased between the seventeenth and eighteenth centuries, the legal standing of Catholics in contrast deteriorated sharply, passing from fear to actual contempt.

The "Glorious Revolution" of 1688, for instance, resulting in the deposition of the last Catholic monarch in England, James II, was not quite so glorious at all for those who happened to share in his religious preference. For the "toleration" acts proclaimed by his Protestant successors, William and Mary, actually removed such protection from Catholics, Unitarians, Jews, and unbelievers. And the result was that, whereas Catholics had largely gained the freedom to practice their faith in almost all of the colonies in 1688 (and in many places they even possessed equal rights with non-Catholics), by 1776 there was not a colony on the continent in which Catholics were not in some way saddled with legal disabilities of sometimes severe dimensions. Thus we may say that with the downfall of James

18. From Curran's viewpoint, the fact that such commentators as Stokes have said that matters improved following the passage of those acts is merely confirmation that the total perspective on the issue has often been overlooked. Such opinions as those of Stokes verify indeed the "successful imposition of the Whig history, a tendentious interpretation of the past which has been pounded into generations of English and American students." (Curran, op cit., page 5.) Or in short, to "justify" the Glorious Revolution, it has been necessary to make the Stuart kings look like tyrants.
II came too the end of an experiment in religious freedom within the British colonies, as one by one they each took substantial steps backwards in this respect. Even in Rhode Island, for example, Catholics were soon deprived of the franchise which they had earlier enjoyed, and when news of the accession of William and Mary reached the proprietary governor of Pennsylvania, he and his council too, knowing of the new monarchs' strong anti-Catholicism, swiftly enacted legislation in 1689 excluding Catholics from any public office. 19

Most alarmingly, perhaps, it was in Maryland itself that the most complete set of penal laws against Catholics outside of the British Isles was soon adopted, beginning with the disbarring of Catholic lawyers in 1692 and their ban

19. Ten years later, when William Penn returned to the colony bearing his name, he set about to restore the measure of religious liberty which had earlier marked his efforts there. A 1700 Pennsylvania Law concerning Liberty of Conscience and a 1701 Charter of Privileges for Pennsylvania and Delaware both accordingly proclaimed religious toleration, but Catholics continued to suffer some indignities even at the hands of the Quakers, including extra taxation and their disarming in 1757.

Curran has ably documented the rise of the new anti-Catholic laws in the colonies following the overthrow of the Stuarts, noting that they continued indeed right up until the eve of the American Revolution itself with the disenfranchisement of Catholics in Georgia (1754) and South Carolina (1759), and their virtual banishment from public office everywhere. Even in Virginia, long-heard rumors that Catholics, plotting with Indians or the French, planned to kill all Protestants, led to an anti-Catholic law in 1756 which required all Catholics to surrender both their firearms and any horses above a value of five pounds.
from holding office shortly afterwards. The closing of a well-known Catholic church in St. Mary's City in 1704 meant that subsequently all Catholic services of worship had to be performed not in churches but in private homes within the dominion, and the Maryland Act Against Popery passed in the same year even called for the heavy punishment of any priest or bishop who said Mass or baptized children. Though the statute was suspended by Queen Anne two years later as being even too extreme for the monarch's liking, it is significant to note that it was not actually repealed until 1717, by which time several Catholic widows in the colony had already had their children removed from them, the tax on Irish papists had doubled, and all Catholic citizens within Maryland faced imminent disenfranchisement.

The point will be tragically clear, thus, that despite its somewhat brighter beginnings, in eighteenth century Maryland, genuine religious toleration, a necessary prerequisite for true separationism, was not the order of the day. For there-- as almost everywhere in pre-revolutionary America-- Catholics seemed to consistently remain outside of the acceptable circle of the colonial religious community. And the unfortunate footnote within the history of the American experience is that they did so, in fact, long after even others who were likewise "unorthodox", or of minority status with respect to their beliefs or practices, somehow managed to break into it. 20
Given the imposed Anglicanization of Maryland and the relative religious indifference of Georgia and the Carolinas, within the South it remained therefore for the commonwealth of Virginia to lead the way towards a more lasting notion of separationism. But there too we may note that the struggle, if ultimately more successful, was still not to be a simple one. For indeed from the very beginning, even if most of the settlers' religious fervor was never to match that of the Puritans to their north, still the

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20. The further irony of the Catholics' situation within the colonies, as has been pointed out by Chinnici, is that because of their general social standing, within the Catholic elite of the day at least, a basic acceptance of religious liberty prevailed. The reason for this was not simply that their own status clearly required such, but also because educated on the continent, many were thus familiar with the thinking of such advocates for toleration as Grotius, Newton, Locke, and Montesquieu, and had come philosophically to share such views.

Despite all of this, the animus against Catholics unfortunately continued even after the Revolution. Almost a full century after the adoption of the Constitution, for example, members of the American Protective Association swore in 1887 not to employ Catholics or vote for one, and even as late as 1922, anti-Catholic bigotry produced an initiative in Oregon which made public school compulsory for all children until it was struck down three years later by the Supreme Court. See Richard V. Pierard's article, "Radicalism of the Right and Religious Freedom," included in the anthology of Rutyna and Kuehl, op cit., page 33.
colony's conventional Christian moorings were stated rather explicitly within the "Articles, Instructions, and Orders" which established the first permanent settlement in 1606:

...And wee doe specially ordaine, charge, and require, the said presidents and counsell...that they, with all diligence, care, and respect, and doe provide, that the true word, and service of God and Christian faith be preached, planted and used not only within every of the said several colonies, and plantations, but alsoe as much as they may amongst the savage people...according to the doctrine, rights, and religion now professed and established within our realme of England...

Accordingly, it is noteworthy that early on at Jamestown the Anglican-Protestant tradition received an official endorsement from the State which not only recognized its special standing, but by 1619 had taken formal measures to insure its support, as well. Subsequent resolutions by the colonial legislature in 1659, 1662, and 1663, made it likewise penal respectively for parents to refuse to have their children baptized, for Quakers to assemble, and even for ship captains to bring such dissenters into the colony in the first place. As Anson Phelps Stokes has commented

21. See Stokes, op cit., page 163, who considers this the "most significant pre-Puritan reference to the Christian purpose of American colonization that we have from any English source."
thus, "in a word, the Anglican Church became a State-Church in Virginia, much as the Puritan Church was somewhat later established in Massachusetts."\textsuperscript{23}

The difference was, though, that while in New England the Church tended to control the State, in Virginia it was clearly the other way around. In this respect, we may observe indeed that therein

the Governor within his limited sphere executed the ecclesiastical prerogatives of the Crown, and in the absence of a resident Bishop, assumed a quasi-episcopal direction of the clergy.\textsuperscript{24}

Even so, it would not be correct to imply that Anglicanism as the established church in Virginia was ever either truly strong or particularly zealous there, however. Despite the fact that persistent Quakers, for example, risked death sen-

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23. \textit{Ibid.}, page 164. In Stokes' reading of history, the communion service held at Jamestown on June 21, 1607, by a Church of England minister, Robert Hunt, began what some have called "the Protestant Age" on this continent. Likewise symbolic of this spirit was the fact that the first representative body of legislators to meet in North America did so in their place of worship.
\end{quote}

\begin{quote}
24. The words are those of W.A. Brown, as quoted by Stokes, \textit{ibid.}
\end{quote}
tences in both Virginia and Massachusetts for daring to return to those colonies after having been exiled from them, unlike in the Puritan outposts of the north, no actual executions ever took place within Virginia. Whether such was truly owing to a more moderate spirit within Anglicanism itself or, as Thomas Jefferson later interpreted the facts, merely to the "historical circumstances" which had been handed down in the South is perhaps yet open to debate. But either way, even as it was so in the other lower colonies, it is clear that one of the greatest impediments which Anglicanism in Virginia faced—despite all of the advantages of its official establishment—is that it lacked both high quality leadership and clearly enunciated principles.

Indeed, while the Puritans of New England more or less controlled their own church, for instance—defining its morays as they wished and developing a strong indigenous leadership of their own—Anglicans in the South remained largely dependent upon episcopal supervision elsewhere that, in fact, very often was not forthcoming. And the result was in many ways predictable. For not only were many Anglican clergymen accordingly "frequently disloyal to their trust as spiritual and moral leaders,"25 (thus paving the way for the later problem of anticlericalism within Virginia) but the

overall situation in the South with respect to Church and State came pretty much to simply mirror that which existed in England itself where, as we have previously seen, the political leadership largely overshadowed the religious.

Consequently, despite the aforementioned earlier attempt to do so, a consistent policy of religious intolerance became far less frequent in Virginia than in Puritan strongholds elsewhere, for within the southern colony new sects were in general harassed only as long as their political weakness made it feasible. The installation of a new governor in 1679, for instance, was accompanied by an order of Charles II mandating religious freedom for Catholics within the colony, and such lasted in fact for twenty years until the "papists" were again disenfranchised. The Quakers, however, achieved a more lasting toleration therein beginning in 1692, and the passage of legislation some seven years later allowed dissident assemblies of Presbyterians to likewise legally hold public worship. To be sure, all dissenters in Virginia still had to pay their tithes to the established church, and for a while at least, Baptists simply replaced Presbyterians as the new focus of persecution within the colony. But as each group grew in numbers, so too did their political influence which eventually yielded their recognition.
For corresponding to the rise in influence of dissenting groups came the diminishing respect of many within Virginia for Anglicanism in general and its kept and sometimes corrupt clergy in particular. It is clear, for example, that Anglican pastors lost much more than just compensation in the colonial controversy known as the Parsons' Cause which followed the Two-Penny Act of 1759. In fact, as the young attorney--himself an Anglican by the name of Patrick Henry--who defended a vestry in 1763 against a suit by its pastor for payment of lost wages quite plainly understood, the real issues involved nothing less than pastoral prestige and the proper role of the established church within its society. To that end, argued Henry,

the only use of an established church and clergy in society is to enforce obedience to civil sanctions, and...when a clergy cease to answer these ends, the community have no further need of their ministry, and must justly strip them of their appointments.26

26. See Bernard Bailyn, The Ideological Origins of the American Revolution, op cit., page 253. The specific case was that of the Reverend James Maury in Hanover County, who objected as did many clergymen, to the Act which treated clerical wages as every other debt and made them payable at the rate of only twopence to the pound of tobacco, much less than the market rate of six cents per pound. (The payment of clerical salaries had long been made in that commodity which was used much as currency in several parts of the South.) The clergy not only then resisted the change, but they induced the English authorities to declare it invalid, prompting the colonials in turn to claim that the Crown by vetoing the law was guilty of tyranny.

Henry's hour long summation may be said to have carried the day for the parish over its priest and it is noteworthy
From such a position, we may adjudge that it was not far indeed therefore to what was to become a full espousal of both democracy and separationism. Accordingly, the proactive stage of the battle for Church and State separation within the colony may be said to have begun in Virginia in 1763, especially within the thinking of a small group of political and philosophical leaders who increasingly joined forces with the dissenting bodies in that commonwealth to do precisely that.

In this regard, it is worth reiterating the point made in the initial chapter that while the rationalistic influences upon this group of leaders have been well-rehearsed, less often noted is that even for Jefferson and Madison, such were never completely to the exclusion of their religious concerns, either. To be sure, it is correct to assert that at least these principle spokesmen of the movement may indeed have shared with others of their day in a general disliking of both the idea and the practice of "establishment religion," as Clyde Manschreck has reminded

not merely for its harsh characterization of Anglican pastors as rapacious harpies (who would, "were their powers equal to their will, snatch from the hearth of their honest parishioner his last hoecake, from the widow and her orphan children their last milch cow"), but also for Henry's rather bold assertion that the King who would disallow such an Act in fact "from being the father of his people degenerates into a tyrant, and forfeits all rights to his subjects' obedience."

27. See The American Religious Experiment: Piety and Practicality, edited by Clyde Manschreck and Barbara Brown Zik-
us. Yet even if we concede that they were in consequence largely latitudinarian, skeptical or deistic in religion, with few ties to any formal creed or dogma, we may say still with Loren Beth that in the best "liberal sense" of that term, even Jefferson was clearly one with yet "profound religious convictions."28

The assessment by David Little which notes the somewhat condescending attitude of Thomas Jefferson towards much of the religious beliefs of his day, for example, must be balanced out with the recognition that the role of reason and free inquiry for Jefferson was not only to overturn falsehood but, more positively, to establish truth as well. "Give a loose to them," wrote the Virginian, and "they will support true religion by bringing every false one to their tribunal, to the test of their investigation."29 To be certain, Jefferson may indeed have too summarily dismissed the conventional theological disputes of his time as mere


29. The quotation is found in Jefferson's "Notes on Virginia", and cited by Norman Cousins, In God We Trust, (New York: Harper and Row, 1958), page 123. We may note in this respect also Jefferson's later words as quoted by Daniel Boorstin, The Lost World of Thomas Jefferson, (Boston: Beacon Press, 1960), page 81: "difference of opinion leads to inquiry, and inquiry to truth."
"charlatry of the mind," and the essential Unitarianism of his own later beliefs was a far cry perhaps from the more traditional Anglicanism of his parents' faith. But his personal predilection for natural religion over its revealed counterpart should not lead us to conclude that Jefferson was consequently either benignly indifferent or outright hostile to the role that religion might assume in the outward affairs of men.

Rather, in the words of Daniel Boorstein, the proper test for one such as Jefferson was "not what a man believed, but how accurately and honestly he avowed whatever the Creator had destined him to believe. The ideas which a

30. See Little's provocative essay on "The Origins of Perplexity: Civil Religion and Moral Belief in the Thought of Thomas Jefferson", found in American Civil Religion, edited by Russell E. Richey and Donald G. Jones, (New York: Harper and Row, 1974), page 193. Little asserts that Jefferson was largely unresponsive to the three basic disparities inherent in any notion of civil religion, as Rousseau first defined it, namely the tensions between (1) religious beliefs and civic responsibility, (2) moral beliefs and civic responsibility, and (3) religious and moral beliefs themselves. Rather, so Little asserts, Jefferson "manifested a spirit of supreme self-confidence, particularly in practical matters, that was quite misplaced. He was living in a time when he should have had an eye for critical disparities and tensions, for what we called the stress points, among the claims of religious, moral, and political action, and he should have led the way in enabling people to face up to the stress points and to deal with them," (page 189), but instead he avoided doing such, appearing not even to perceive the potential strain between serving God and serving the state.
man professed were less important than whether these ideas were the characteristic expression of the mind which the Creator had given him. 31

In the end, thus, freedom of religion for Jefferson not only implied, but it required freedom of the mind. Or as he wrote to his nephew, Peter Carr, "your own reason is the only oracle given you by heaven and you are answerable not for the rightness, but uprightness of the decision." 32 All of which will be adequate to suggest therefore that— even while he was clearly no Roger Williams, for instance, or even a Patrick Henry— still Thomas Jefferson was not quite the unyielding adversary of Christianity as he has sometimes been depicted either. In his own estimation, his religious beliefs were simply the result of "a life of inquiry and reflection," representing not at all "the anti-Christian system attributed to me by those who know nothing of my opinions." To the "corruptions of Christianity" he was indeed opposed, but "not to the genuine precepts of Jesus himself." Or, in short, as he told Benjamin Rush,


32. *ibid.*
I am a Christian, but I am a Christian in the only sense in which I believe Jesus wished anyone to be, sincerely attached to his doctrine in preference to all others; ascribing to him all human excellence, and believing that he never claimed any other.\textsuperscript{33}

While some might fairly question therefore whether such a view could be accounted as true Christianity or not, what will be clear nonetheless, is that, Trinitarian or not, Jefferson was assuredly more than just a "secularist," especially in the customary sense of that term as used in the present time. For, in short, unlike many of the philosophes of his acquaintance, Jefferson was still no atheist, "no Voltaire, no Thomas Paine...He believed in one God, not no God, not twenty gods."\textsuperscript{34}

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\textsuperscript{33} See Cousins, \textit{op cit.}, page 117. The latitudinarianism of Jefferson's beliefs made him yet an unbeliever for many, however. As late as 1830, for example, the Philadelphia Public Library refused to allow his works upon their shelves, plainly calling the third president of the republic an infidel. Jefferson in turn, we might note, seemed to view more orthodox Christians, as the ones who were deluded. We may note not only his well-known Bible project, but a letter to John Adams of 1823 in which he argued that "I can never join Calvin in addressing his God. He was indeed an atheist, which I can never be; or rather his religion was daemonism. If ever a man worshipped a false God, he did." See Cousins, page 289.

\textsuperscript{34} Dumas Malone, \textit{Jefferson and the Rights of Man}, (Boston: Little, Brown, and Company, 1951), pages 110-111. Malone's further comments in this respect are worth repeating: "If [Jefferson] was ever drawn into an attack on any Church it was not because it was a religious organization, but because it had assumed a political character, or because it limited, in one way or another, the freedom of the mind—on which, as he never ceased to believe, the progress of the human
Likewise, it should be recognized that the other principle players in the struggle in Virginia had even more connections to traditional Christianity. Like Patrick Henry, for example, George Mason was not only a Christian believer, but an active participant in the Anglican church as well, serving on the vestry of the Truro parish from 1748 to 1785 and supervising the building of the Pohick Church in that state. And it is not without some significance that his contemporary, James Madison, began his public career by studying for the ministry at Princeton. Whether it was that experience which contributed to his latter spirit of anticlericalism, reflected in his eventual decision to belong to no church, cannot be said, though it would certainly not have been the first or last time such a thing might have occurred. What is plain, however, is that even after he turned his considerable energies away from the ministry and towards instead the difficult tasks of securing independence and of building a nation, Madison yet retained his theological interests. Norman Cousins is right then in suggesting that the knowledge of the area possessed by the eventual prime

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species towards happiness depends."

framer of the Constitution was accordingly "as wide as that possessed by any of the other Founding Fathers," if not even more so. 36

To be certain, the rationalistic currents of the continental Enlightenment clearly flowed through these men's thinking, even as their political beliefs were manifestly refracted in the light of the unique circumstances of the American situation. Dumas Malone has noted, for example, that Madison's later constitutional studies were vastly impacted by the almost two hundred books sent to him by Jefferson from Europe while the latter was abroad as Minister of France. 37 But it is true as well that when they eventually turned to the thorny question of Church and State in the new republics, that they did not do so in any kind of theological or even ecclesiastical vacuum. Even while he may have seldom commented on his personal faith, thus, it is clear that such a man as James Madison yet possessed such, and we may indeed suggest that his thinking on religious

36. See Cousins, op cit., page 296. Madison's studies at Princeton, under the venerable John Witherspoon, clearly influenced him towards a more liberal view on dissent than he had seen in Anglican Virginia.

37. Ibid., page 87. The selections included works by Pascal, Voltaire, and Diderot, giving Madison access to authorities on ancient and modern confederacies which he had not had before. Malone thus notes that Jefferson yet made at least a significant if indirect contribution to the American Constitution, even if he was abroad while it was being formulated.
liberty was influenced more than just a little both by his own religious background and by observing the experience, for example, of his persecuted Baptist neighbors in Orange County.

How then did the struggle in the Old Dominion unfold? Although the aforementioned controversy in 1763 over pastoral salaries had already begun to air some of the issues involved, making an increasing number of individuals uncomfortable with the idea of a state church, as late as 1774 Virginia yet remained largely bound to the formal trappings of Establishment. Writing to William Bradford with regard to an upcoming round of dissenters' petitions to the Assembly, for example, James Madison gloomily predicted that they would not succeed since the liberal, catholic, and equitable way of thinking, as to the rights of conscience, which is one of the characteristics of a free people...is little known among the zealous adherents to our hierarchy.

And the reason for this was, Madison observed, that religious bondage shackles and debilitates the mind, and unfits it for every noble enterprise, every expanded prospect.38

38. The letter was dated April 1, 1774. See Cousins, op cit., page 300.
Yet "debilitated" or not, however, events far beyond the control of the Anglican establishment were rapidly to change the situation in Virginia, as eventually elsewhere in the colonies, too. For with the outbreak of the Revolution and the collapse of the royal governments, each of the colonies were then urged by the Continental Congress to make adequate provisions for their replacement. Accordingly, after several years of battering, we may argue that the door to genuine separationism was thus finally opened in Virginia with the convening of that state's Constitutional Convention in Williamsburg during May of 1776. For in contrast to the other colonies which simply set up governments based on charters, or settled upon stop-gap compacts, the Vir-

39. Massachusetts, Connecticut, and Rhode Island each followed the first route in replacing the royal authorities, whereas eight of the colonies wrote actual constitutions. The majority of those, such as the ones adopted first by each of the Carolinas, made no mention of religion at all and were soon thereafter replaced.

The further impact of the Revolution upon the American outlook has been observed by Evarts Greene, who suggests that the inconsistency of religious discrimination with the natural rights doctrines of freedom and equality soon became obvious to many within the emerging nation. Likewise, the exigencies of the war itself necessitated the cooperation of all Americans, including those within the so-called "popular churches" and even the Catholics. The real turning point for the latter group may be said to have come, in fact, as the Congress began to consider the possibility of Canadian cooperation in their effort and found itself needing to respect both French and American Catholics accordingly. Note the 1774 letter from the Congress to the "Inhabitants of Quebec", for example, which commended the successful association of Protestant and Catholic canons within the Swiss confederation. See Greene, op cit., page 77.
ginians not only adopted a full Constitution but they declared a Bill of Rights, as well. And the significance of that document (formulated just three weeks before the national Declaration of Independence was proclaimed) cannot be overstated herein, for it was plainly this work which laid the foundation for religious freedom throughout all of the new republics and in the eventual national government, as well.

Authored by George Mason and James Madison— in the absence of Thomas Jefferson who was distracted with more pressing duties in Philadelphia at the time— its words, in fact, nonetheless appear to have inspired both Jefferson himself, who drew upon it for the first part of his own opus summa, the national Declaration of Independence, as well as the latter federal Bill of Rights which Madison was to largely compose. We may note, for example, the clause regarding religious liberty as it was originally drafted by Mason:

That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore, that all men should enjoy the fullest toleration in the exercise of religion, according to the dictates of conscience, unpunished and unrestrained by the magistrate, unless, under color of religion, any man disturb the peace, the happiness, or
the safety of society. And that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other.\textsuperscript{40}

Even the term "toleration" within the clause, however, did not go far enough in Madison's way of thinking. For the twenty-five year old delegate to the Convention argued that such a usage implied a system in which "the free exercise of religion was permissive, instead of an unquestioned natural right."\textsuperscript{41} In its place, thus, Madison proposed that religion, "or the duty we owe to our Creator," should be under the direction of reason or conviction only (and not of violence or compulsion), and that, in turn, all men should be "equally entitled to the full and free exercise of it, according to the dictates of conscience."\textsuperscript{42} Though the clause was to be further modified slightly by the committee of the whole, in essence Madison's substitutions held and the Declaration as amended was subsequently adopted by the convention on June 12, 1776.\textsuperscript{43}

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40. Cited by Stokes, \emph{op cit.}, page 303, who also notes the similarity of this clause to the statements concerning rights of conscience issued by the English Independents at the Westminster Assembly of Divines, called by Parliament in 1643.

41. \textit{ibid.}

42. \textit{ibid.}. See also Moelhman, \textit{The Wall of Separation Between Church and State, op cit.}, pages 75 and following.
Moreover, not coincidentally perhaps, when the new state Constitution itself was adopted just seventeen days later, we may note that no mention of God or religion was included therein, and among the first laws passed by the new Virginia Assembly was, accordingly, an act authored by Mason specifically exempting dissenters-- who comprised roughly two thirds of the state's population-- from "all levies, taxes, and impositions whatever, towards supporting and maintaining the [established] church, as it now is or hereafter may be established, and its ministers."\(^{44}\) To be sure, the measures did not rule out a state church in Virginia, nor specifically disestablish the existing one. Nor did they even deny the right of the State to control religious affairs or to tax all citizens alike for the general support of religion.

\(^{43}\) The analytical abilities of Madison which contributed to his political successes have been noted by Cousins, to wit, "when Madison argued a point he generally scored it." (op cit., page 297. The final version of the clause deleted the word "full" from Madison's proposal, however, and combined his wording with that of Mason's original draft to read: "That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other." See Stokes, op cit., page 303. Mason's commentary on the changes was that his Bill of Rights received few alterations, "some of them I think not for the better."

\(^{44}\) Stokes, op cit., page 304.
But clearly the die for separationism was already cast in Virginia, as one by one the pillars of full establishment then began to crumble.

Beginning in December of 1776, for example, acts were passed which not only repealed the laws which made it an offense to hold views contrary to the established church and for dissenting ministers to perform marriages, but which actually suspended the maintenance of Anglican ministers, as well. Though the latter measure was only temporary and had to be renewed each year until its final adoption in 1779, the fact that no tax monies for the support of religious purposes were ever again paid in Virginia after January 1, 1777, is a clearly significant one and some, in fact, have even argued that the practice of Establishment was consequently in effect destroyed in Virginia on that date.\textsuperscript{45} We must note that the question of a "general assessment" for the support of the Christian faith as a whole still remained, however, and when the war was concluded, the energies of many were once again turned towards discussing the retention of even that broadened vestige of establishment from the colonial past.

\textsuperscript{45} The opinion is that of Eckenrode, cited by Stokes, \textit{op cit.}, page 382.
In this respect it was the introduction in 1784 of a bill establishing a provision for "Teachers of the Christian Religion" which finally brought the matter to a head, along with the somewhat coy decision of the Virginia Assembly to ask for memorials and petitions regarding the "propriety" of such a general assessment from the public. For echoing the views of many, including both a large number of dissidents and Episcopalians, Patrick Henry and others argued that both the cause of Christianity and even basic morality itself would suffer within Virginia if no support whatsoever was forthcoming from the state in their behalf. To avert such a fate therefore, what Henry proposed-- with the support of not just the majority of Protestants, but also such political heavyweights as John Marshall, Richard Henry Lee, and George Washington-- was to simply shift the encouragement of the State from Anglicanism _per se_ to Protestantism in general. The mechanism in turn for this _de facto_ establishment of denominational Christianity was Henry's "great assessment" plan, according to which each taxpayer could

46. The request of the Episcopal Church to the Legislature that same year for formal incorporation also agitated many. The changed status of the church following the break with England clearly necessitated enormous readjustments, however, and even Madison recognized the need for some sort of legislation which would allow the Episcopalians continued control of their property, even while heading off the greater threat of encouraging assessment. The request was therefore granted in December of 1784, though the bill remained in force for only a few years.
designate where his tax might go, i.e., either to the church of his choice or to the general support of education within the state. For specifically, the resolution provided that

The people of this Commonwealth, according to their respective abilities, ought to pay a moderate tax or contribution annually, for the support of the Christian religion, or of some Christian church, denomination or communion of Christians, or of some form of Christian worship.47

With such a broad basis of support as indicated, the measure accordingly was adopted by a healthy majority of the legislators on November 11, and easily sailed through its first two readings. Before the final reading which would have enacted it, however, two further developments occurred, propitiously so at least for those concerned with the development of true voluntarism in Virginia. For first, the leading proponent of the act, Patrick Henry, was elected governor just six days later, effectively removing him from the debate. And second, in the absence of Thomas Jefferson from Virginia, James Madison stepped forward to argue against the measure, managing to secure its postponement un-

47. See Stokes, op cit., page 389. That the bill would require "Turks, Jews, and infidels" to thereby support a religion "whose truths they did not acknowledge" was apparently recognized by its proponents, for the word "Christian" was specifically added to the word "religion" in changes made to the proposal by the Committee on the Whole.
til the fall in order to allow for further reflection upon the notion. The "Memorial and Remonstrance Against Religious Assessments" which Madison then produced decrying the act may be said to have almost singlehandedly turned the question around, prompting many to agree with Stokes that it must be considered "one of the truly epoch-making documents in the history of American Church-State separation."48

For against Patrick Henry's argument for the close relation of religion to the prosperity and overall interests of the State, Madison asserted that the true question involved was not "Is Religion necessary within a society?" but "Are Religious Establishments necessary for Religion?" Indeed, wrote Madison, every man possesses an inborn right to follow his own conscience in matters of his beliefs, and religion ought always accordingly to be exempt from any kind of civil jurisdiction over it. For who could not see that the same authority which could force a citizen to contribute "three pence only of his property" for the support of any one establishment, might not "force him to conform to any other establishment in all cases whatsoever"?49 Similarly, he pressed, a just government


49. *ibid.*
will be best supported by protecting every citizen in the enjoyment of his religion with the same equal hand which protects his person and property; by neither invading the equal rights of any sect, to invade those of another.\textsuperscript{50}

Madison's "Remonstrance" not only became a classic statement of early democratic theory, therefore, but it did so by making the case rather plainly for both the identification of religion and conscience and for the need to safeguard such from any unnecessary intrusion by the State. Furthermore, we may say that within the document that Madison in essence defined that which he would later express in the First Amendment phrase "respecting an establishment of religion," suggesting that it meant to him any legislative action whose logical result would be the encouragement, however faint, of an union between Church and State within society.

To be certain, implicit within this argument was the assertion that true religion did not have to be taught-- as Patrick Henry had argued-- but that it could be learned by any individual with common sense. Likewise, Madison proposed in his memorial a kind of domino theory of human rights which intimated that other inalienable guarantees

\textsuperscript{50.} See Moehlman's analysis of the Remonstrance, \textit{op. cit.}, page 82.
such as freedom of the press were similarly at risk if religious liberty itself was allowed to be circumscribed. But he argued his case as well from the nature of the Christian faith which had flourished, he noted, in the very ages in which it had been persecuted. As Stokes has said, then, "the logic was irresistible, the argument irrefutable; and both were to have a profound influence on American thought and practice."\textsuperscript{51} Dissenters in Virginia, for example, some of whom had earlier supported a "comprehensive assessment" within the commonwealth, quickly began to come out against the bill, joining political liberals in what Bernard Bailyn has called an "unstable union of sectarian particularism and political idealism."\textsuperscript{52}

In this respect, the Presbyterians of Hanover County largely led the charge, noting in its general assembly held in August, 1785, that the measure would be specifically unfair to Jews, since it provided only for the Christian religion. And the Baptists, in turn, argued the case even more forcefully, adopting a remonstrance in the following month that not only asserted that the civil power had no

\textbf{\textsuperscript{51}}. ibid. Some measure of Madison's own consistency on the matter can be seen in the fact that decades later as President, Madison vetoed acts both incorporating a local Protestant Episcopal Church with the District of Columbia, and giving land to a local Baptist Church in Mississippi.

\textbf{\textsuperscript{52}}. See Bailyn, \textit{op cit.}, page 260.
right to establish a religious tax, but that the fear that true religion would die without state support was founded neither in scripture, reason, or sound policy, and was, in fact, "repugnant to each of them."\(^{53}\) In a stunning reversal of its earlier intent, therefore, and bowing to the masterful leadership of James Madison, the Virginia legislature consequently killed the assessment plan completely when it was finally brought back to the floor in October of that same year, thus derailing the possibility for even the kind of mild and generic religious establishment for which Patrick Henry and the others had pushed.

What is more, clearly pressing the advantage, Madison then moved to reintroduce an act guaranteeing religious liberty which had earlier been penned by Jefferson but tabled, in fact, for some six years by the Virginia Assembly. And the resulting "Bill for Establishing Religious Freedom" in Virginia became, as is well known, not merely the pro forma clarification of the situation in that state, but a virtual manifesto of sorts of the struggle for

\(^{53}\) Stokes, *op cit.*, page 391. The Baptists argued in addition that in order for the Assembly to determine the recipients of the tax that it would consequently have to become a judge of religious principles and, in words which were to be repeated in the latter debate over the First Amendment, that any Assembly which established all sects had likewise the power to establish just one.
separationism everywhere. Following a rather lengthy preamble, for instance, the bill plainly maintained that

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

Clearly, of course, interwoven all throughout the bill was Thomas Jefferson's own personal philosophy regarding the absurdity of religious coercion. For as he similarly argued in his essay of 1781, "Notes on Virginia," Jefferson manifestly believed that the legitimate powers of

54. The bill not only became formative in the eventual establishment of religious freedom in the federal compact, but was translated into French and Italian with a wide influence abroad as well.

55. Stokes, op cit., page 393-394. Efforts to alter the preamble in one regard, namely, to insert the words "Jesus Christ" with reference to the plan of the "holy author of our religion," were rebuffed by the majority proving, at least according to Jefferson that those who adopted it "meant to comprehend, within the mantle of its protection, the Jew and the Gentile, the Christian and Mahometan, the Hindoo, and infidel of every denomination."
government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty Gods or no God. It neither picks my pocket nor breaks my leg.\textsuperscript{56}

It is undeniable, thus, that Jefferson's opinions ran strongly on the subject, and it is telling indeed that the authorship of this statute was one of the three accomplishments of his life which the Virginian wished to be commemorated on his tombstone at Monticello. Again in his absence, however, it was once more James Madison upon whom the passage of the measure depended. Yet herein we may opine that even Madison advanced the bill not simply on the strength of his own political leadership, but on that of a rising sentiment within the commonwealth which sensed that new political conditions within America called for a new arrangement in Church and State relations, as well.

For in summary, when the landmark bill became a law therefore in Virginia on January 16, 1786, it was but the consummation of a long process in that state which had begun decades before. Indeed, it was almost a mere formality when the final step was taken in the following year, with the repealing of a law which had earlier incorporated the Episcopal Church. For clearly, the real break had already been

\textsuperscript{56} See Jefferson's section on religion in the "Notes", as reprinted by Moehlman, \textit{op.cit.}, pages 77-78.
made in Virginia. With the struggle in the South ended thus, all that remained was for the new nation as a whole to implement the lessons which had been learned hard in its largest state. And for a third time, with Jefferson again largely out of the picture, that task was to fall once more to none other than James Madison, as we shall shortly see.

FINDING MIDDLE GROUND

Both physically and philosophically, between the Puritan theocracies of New England and the Anglican establishments of the South there lay one further pattern in American Church and State relations which should be noted before moving on to the account of how full separationism eventually emerged within the new republic. For as in Calvert’s Catholic Maryland before its imposed charter changes, the governmental policies with respect to religion in the middle proprietary colonies, and particularly in New York and Pennsylvania, were likewise substantially different from that within the two other principle colonies of America, Massachusetts and Virginia. In part, such was clearly because the early leaders of these settlements were essentially part feudal lords and part real-estate promoters on a grand scale. For while their land ownership gave them a sometimes
amazing authority over conditions within their personal feifdoms indeed, yet their prosperity in turn plainly depended upon a steady flow of new settlers. Accordingly, as Evarts Greene has noted,

concessions, political and economic, had to be made to prospective tenants...it was obviously not good business to set up religious tests to exclude otherwise desirable immigrants. 57

As a whole thus, the proprietors in general early on came to encourage within their colonies a kind of practical liberalism and religious toleration, welcoming newcomers of almost every type. And their loosened policies in consequence helped to create an atmosphere in which religious accommodation was not only acceptable but even desirable.

Often noted in this respect is the example of the town of Flushing, Long Island, whose 1645 charter guaranteed the right to have and enjoy liberty of conscience. When the colony’s Dutch governor, Peter Stuyvesant, moved to ban Quakers some twelve years later, the freemen of Long Island responded in turn with the "Flushing Remonstrance" which proclaimed that they would welcome not only Quakers to their community, but any and all "sons of Adam who came in love among us." 58 Even after the Dutch control of the province

57. Greene, op cit., page 53.

58. See Krinsky, op cit., page 22.
ended, therefore, it is significant that within the accords by which New Netherlands was ceded to the English in 1664 that Dutch inhabitants of the colony were guaranteed to be given continued freedom of worship. Stokes has noted in this regard that even the sometimes intolerant James II in 1682 instructed his appointed governor of New York accordingly to

permit all persons of what Religion soever quietly to inhabit within your Government without giving them any disturbance or disquiet whatsoever for or by reason of their differing Opinions in matters of Religion, Provided they give no disturbance to ye public peace, nor do molest or disquiet others in ye free Exercise of their Religion.59

And such became then the watchword for subsequent governments within New York— as well as in New Jersey where conditions were strongly similar— even when Anglicanism sought

59. Stokes, op cit., pages 166-67. A report on conditions within the colony five years later by the governor suggests that the royal instructions were followed indeed. For a picture of the relative diversity can be seen in his words that "New York has first a chaplain belonging to the Fort, of the Church of England; secondly, a Dutch Calvinist; thirdly a French Calvinist; fourthly, a Dutch Lutheran. Here be not many of the Church of England; few Roman Catholics; abundance of Quaker preachers, men, and women especially, Singing Quakers; Ranting Quakers; Sabbatarians; Anti-Sabbatarians; some Ana-baptists; some Jews; in short of all sorts of opinions there are some, and the most part none at all." See William Warren Sweet's Religion in Colonial America, (New York: Charles Scribner's Sons, 1942), pages 322-324.
later to achieve a mastery there. Thus by the middle of the eighteenth century, while leaders on both sides of the question struggled hard to carve out an understanding on the matter of an ecclesiastical establishment elsewhere, we may say that within some of the middle colonies at least that religious toleration—encouraged if not by purely ideological reasons by the perhaps even stronger motivation of economic gain—was already largely in place, even if establishment churches may have theoretically in places been likewise so.

Yet of course such is not to suggest that there were no religious currents also flowing within the middle lands however, for plainly there were. Especially in Pennsylvania, for example, the religious intentions of its proprietor were clearly as important to him as the material return on his investment therein. For active as both a leader among the Friends and as an advocate of toleration, William Penn founded his colony not just as another business venture, but as a "holy experiment" and a "free colony for all mankind that will come hither," as well. His "Frame of Government", published in 1682, thus promised haven for all who confessed and acknowledged "One Almighty and Eternal God... the Creator, Upholder and Ruler of the World"60-- a

60. See Loren Beth, op cit., page 25. Penn stressed the economic benefits to the state from toleration, not only in increased immigration, but in that the State could well lose capable public servants if men were denied office on strictly religious grounds.
prescription presumably broad enough to include Catholics and Protestants of all persuasions— and the Charter of Privileges which followed in 1701 likewise guaranteed freedom of worship and even the right to hold office to all who believed in Jesus Christ. Completely rejecting the theory of an Established Church or any manner of religious compulsion, Penn thereby led his colony to a position that was surpassed only by Rhode Island with respect to its Church and State arrangements.

To be certain, it would not be correct to call William Penn a secularist in this respect, for he not only believed that the State might demand the proper observance of the Sabbath, but he was willing to yet prescribe penalties for such offenses as profanity within his colony. What is more, even in Pennsylvania, eventually Catholics could not hold public office, conduct school, or even vote, as has been earlier noted. In Greene's words, thus, "Penn's commonwealth was meant to be a Christian society, but without enforced conformity." 61 Yet his contribution to the eventual American consensus on Church and State was nonetheless a substantial one. For despite the somewhat impressive volume of his writings, we may suggest that the real significance of William Penn lay not in the originality of his ideas themselves, or even in the forcefulness of their written ex-

61. Greene, op cit., page 58.
pression, but rather in the actual implementation of those ideas in his colony. Indeed Pennsylvania not only became rather celebrated as an example of religious diversity, but in consequence it rapidly continued to draw a variety of immigrants, growing faster in fact than any of the other colonies within America. In Marnell’s words, "the doors of Pennsylvania were open to the world of men and ideas, and the eighteenth century entered America through the port of Philadelphia."  

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62. We may note the observation of George Whitefield, for example, recorded in his journal for November 27, 1739: "One great reason, I believe, why Pennsylvania flourishes above other Provinces, is the Liberty of Conscience which is given all to worship God in their own Way; by this means, it is as it were an Asylum or Place of Refuge for all persecuted Christians; and methinks they live here as so many Guardian Angels." (See the volume edited by Milton Powell on The Voluntary Church: American Religious Life Seen Through the Eyes of European Visitors, New York: MacMillan Company, 1967, page 8.

Among the writings of Penn which Stokes cites are those entitled Christian Liberty, Considerations Moving to a Toleration and Liberty of Conscience, The Great Case of Liberty of Conscience, A Persuasive to Moderation to Dissenting Christians, and The Reasonableness of Toleration and the Unreasonableness of Penal Laws and Tests. Penn’s perspective was to consistently argue that church governments had no part in political governments, that those who persecuted were never in the right, and that the spirit of toleration was nothing less than a form of respect for the individual, an assertion which was of the very essence of the Christian affirmations. See Stokes, op. cit., page 208.

63. William Marnell, op. cit., page 84.
And in this regard, it is clear too that Penn's eventual influence as a Christian statesman extended far beyond his colony's borders, touching not only another great man from within Pennsylvania, Benjamin Franklin, for instance, but his junior colleagues from elsewhere too, including that pivotal statesman from Virginia, Thomas Jefferson. Even in Massachusetts the example of Pennsylvania was enough to challenge the older models. For as late as 1774, Bailyn records that the Bay Colony delegates to the Continental Congress were invited to Carpenter's Hall in Philadelphia to do "a little business." When they arrived, what they found however was a room full of Quakers, Baptists, and local public officials, all of whom confronted the Massachusetts delegates with the manner in which Baptists, the "most radical of the despised and illegal Separates," were treated in that state. And thereafter, in the testimony of John Adams, he and his fellow delegates were for some five hours charged with not only repealing the offensive laws which existed within Massachusetts, but with emulating the accommodation which had been made in Pennsylvania, as well.  

64. Adams saw the confronters as a "self-created tribunal" and argued in response that the establishment of religion within Massachusetts was so mild that it could hardly be called thus at all. (See Bailyn, op.cit., pages 268 and following.) The meeting, however, shook up many from Massachusetts who had already been alarmed by the growing unrest of the Baptist minority there, led by Isaac Backus, who had declared that to force some to support the worship which they conscientiously dissented from was not liberty, but hypocrisy. In fact, as Bailyn notes, in town after town in Massachusetts in the 1770's "emmbattled Baptists fortified
In more ways than one, therefore, the middle colonies came to stand for a kind of *tertium quid* in the question of how the religious and political spheres of life ought to be related in the emerging national life. In fact, when the dust had finally settled from the Revolution and attention was turned once more to the question of a religious establishment in the new nation or not, what existed therein was a mixed bag indeed: three states which granted full religious freedom (Rhode Island, New York, and now Virginia), three which had maintained their Established Church (New Hampshire, Massachusetts, and Connecticut), and the remaining seven which demanded in varying degrees adherence to either Christianity in general (Pennsylvania, Delaware, and Maryland) or even Protestantism in particular (New Jersey, Georgia, and North and South Carolina). In terms of their numbers, the four largest groups within the country were, respectively, Congregationalists, Presbyterians, Baptists, and Episcopalians, followed in turn by Mennonites, Quakers, Dutch Reformed, Methodists, Lutherans, and others. Given such a variety, therefore, clearly the

their pleas for full freedom of religion with language borrowed from the larger controversy" of the time (page 265). When Presbyterian voices such as that of Jonathan Parsons were likewise added to the arguments of the Baptists, it soon became clear that the two campaigns for liberty being waged had, at least in the claims of their proponents, become morally one.

65. Studies have suggested, in fact, that at the close of the colonial period there were over three thousand religious
possibilities for any kind of federal church did not exist, and many of those who gathered together in the national Constitutional Convention of 1787 must also have sensed that even in the various states such a connection would gradually disappear if left alone to do so.

Those who came to form a nation thus faced the somewhat daunting task of not only recognizing various religious traditions, but of reconciling opposing religious opinions with regard to separationism, as well. And what became manifestly evident to them all is that the only basis on which each of the various interests could unite was on the foundation of religious freedom. Herein we may suggest—in support of a central assertion with which we began this inquiry—that the understanding of Church and State which consequently emerged within the American experience did so not by fiat of king or council, or even just as the product of enlightened political thinking, but that it was largely borne out of the shared and collective experiences of the great majority, especially those who had discovered that if they wanted religious liberty for themselves, they would likewise have to extend it to other groups. In fact, given the practical exigencies of the situation thus, along with

organizations or congregations in America, counting each church or assembly separately, distributed about equally between New England, the Middle Atlantic States, and the South.
the rising tide of disestablishment which had already worked through its opposition in Virginia, we may suggest that the accommodation which developed was accordingly-- like so many other aspects of the federal compact-- essentially a matter of compromise, not only between those who favored Puritanism and Anglicanism, for example, and those living in the northern colonies and those in the Southlands, but also between both of those traditions and that of the middle colonies where there was in large part already a religious admixture of sorts.

How then did the federal measure prescribing separation itself come to be? Again we may suggest that it was the necessity of forming new state constitutions with the outbreak of the war which specifically opened the door in many places for a new understanding of the place of religion within American society. For even as Virginia had done, many of the other states too began to re-examine more critically their own policies with regard to Church and State, understandably often borrowing from the example of their larger neighbor when they did so. The subsequent bills of rights adopted in Pennsylvania, Delaware, Maryland, North Carolina, Vermont and even Massachusetts all contained provisions thus reflecting either the meaning or even the actual language of the earlier Virginia Declaration. Admittedly, of course, some did not go so far as the Virginians had done. Despite the boast of Ezra Stiles, for example,
that New Jersey's 1776 constitution "surpassed" that of Virginia, it yet confined full religious freedom to Protestants and likewise when South Carolinians replaced their "temporary" constitution of that year with a more permanent one in 1778, they continued to uphold an established church in that state and still spoke of toleration rather than religious liberty.\textsuperscript{66}. In New Hampshire, even as late as 1784 legislators continued to require a Protestant profession of faith for any seeking public office under the provisions of a new constitution adopted in that year. And in Massachusetts, it took two conventions just to arrive at what many felt to be an article which was yet "unconstitutional to human nature."\textsuperscript{67}

\textsuperscript{66} The Carolinians' intent was to foster Protestantism in general within the state, requiring its profession for any who desired public office, and declaring toleration for any who would but acknowledge that "there is one God, and a future state of rewards and punishments, and that God is to publicly be worshipped." All denominations of Protestant who demeaned themselves "peaceably and faithfully" were accordingly guaranteed equal civil and religious privileges under Article Thirty-Eight. The constitution lasted only twelve years, however, and was replaced in 1790 by one more in accord with the other states which disestablished Protestantism and abolished all remaining religious tests.

See Curran, \textit{op cit.}, pages 115-120, for an excellent review of the exact constitutional prescriptions in each state during and after the Revolutionary War.

\textsuperscript{67} The opinion was that of residents of Ashfield, Massachusetts, regarding the third article in that state's Bill of Rights which made legal participation in religious affairs mandatory "in all cases where such provision [for financing the established church] shall not be made voluntarily" by the town, parishes or precincts. The measure further permitted secular authorities to "enjoin upon all subjects an attendance" at public worship, though congregations
In other places, however, greater progress in moving towards both full toleration and actual separation could be seen. Robert Rutland records that radicals in Pennsylvania, for instance, quickly seized the initiative in the constitutional movement, led by Benjamin Rush, Thomas Paine, and Timothy Matlock. Within a month of the convention's calling in that state therefore, a Pennyslvania Declaration of Rights was ready, "taken almost verbatim" (as John Adams observed) from the earlier effort in Virginia, but with one notable difference, namely the affirmation that "all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience and understanding." similarly, we may observe that Catholics largely recovered their full civil and religious rights both could still choose their own pastor and taxpayers could earmark their tithes. Ambiguously, however, the article concluded with the words that "no subordination of any one sect or denomination to another shall ever be established by law." See Rutland, op cit., pages 69-70. The bill was finally approved in 1780 "by a very great majority", though the outcome remained questionable to many. Massachusetts, in turn, largely lagged behind the other states in promoting religious toleration, retaining the establishment of its congregational churches well into the third decade of the nineteenth century.

in the 1776 constitutions of Delaware and Maryland as well as in those which emerged the following year in New York and Vermont. 69

On the national level, however, the resolution of Church and State yet remained an open question. For among the often-cited weaknesses of the Articles of Confederation was the conspicuous absence therein of any reference whatsoever to the rights of conscience. Largely this was so, of course, because citizen's rights in general were almost universally understood to be a matter within the proper domain of the states, and not the concern of an only piece-meal federal government. Yet even when the inherent ineffectiveness of the Articles prompted the calling of a national Constitutional Convention in 1787, not all believed that a federal bill of rights was likewise necessary. Again in Jefferson's absence from the convention, we may note that it was another Virginian, George Mason, who then led the charge for such a bill. But a sense of general satisfaction

69. Invaded by the British, New York was the last of the thirteen colonies to write a constitution; Vermont, facing the competing claims of both New York and New Hampshire over its territory, rejected the jurisdiction of both, creating its own government to become the fourteenth state in the federal compact. We may note that the attempts of John Jay in New York to write his own anti-Catholic prejudices into the constitution were thus largely checked. In both Vermont and New York, however, even while religious liberty was guaranteed to Catholics, some nagging restrictions on their immigration and full civil rights yet remained up until 1793 and 1806, respectively.
among the public with regard to their current personal rights undercut Mason’s push and his efforts were accordingly rebuffed by the other delegates. Even Thomas Pinckney’s suggestion for prohibiting religious tests for officeholders seemed a bit superfluous to some, though it passed unanimously and became the only significant reference to religion which was written into the original document. 70

If, however, the delegates to that convention meant to protect Americans’ liberties by establishing a federal government which could only act where it had an explicit mandate to do so, the ensuing debate over the ratification of the Constitution showed that a certain uneasiness remained over the effectiveness of only indirect assurances. Allied with the anti-Federalists in this regard, in fact, were various Protestant elements which feared that, upon closer examination, the proposed compact did not afford adequate safeguards for religious freedom at all. Presbyterians, for example, opposed the new Constitution almost to a man because they feared the possibility of established churches in several states, and Baptists likewise railed

70. Roger Sherman, among others, thought the measure unnecessary since the prevailing liberalism of the day seemed to be an adequate guarantee of the same end. Others, however, more prudently sought a more permanent assurance. The inability of Mason to secure the inclusion of a bill of rights with the initial Constitution led him, along with Randolph and Gerry, to refuse to sign the engrossed copy which the majority of the convention eventually produced.
loudly against any hint of potential Church and State connections. In this we may see once again the curious alliance which arose between such Christians and the more liberal politicians such as Thomas Jefferson who, even from France, advised that he would not support ratification of the Constitution unless at least nine states demanded that a bill of rights be annexed to it before completely signalling their acceptance of it.71

In the interests of speeding ratification, thus-- and realizing that they could give on this issue without any great loss to themselves-- Federalists then offered to accept such a bill. And as it had so often before, the matter then fell largely to Virginia to lead the way. It was Patrick Henry, for example, who placed before his state's convention considering ratification a resolution calling on the delegates to refer a declaration of rights to the "other states in the confederacy, for their consideration, previous to ratification."72 And some measure of the Federalists'  

71. Jefferson's views were expressed in a letter to Madison of March 15, 1789, regarding the need for a Bill of Rights: "Experience proves the inefficacy of a bill of rights. True. But though it is not absolutely efficacious under all circumstances, it is of great potency always, and rarely ineffectual. A brace the more will often keep up the building which would have fallen with the brace the less." See The Papers of Thomas Jefferson, XIV, pages 659-61, edited by Boyd, and cited by Alfred Young in The Debate Over the Constitution, (Chicago: Rand McNally, 1965), page 52.

72. Rutland, op cit., page 173. One state which did such was New York, proposing in its convention of July 26, 1789, that the following be added to the federal agreement: "that
position may be seen in the promise of Madison that he, in turn, would recommend for adoption those amendments which Henry favored and which were reasonable, "not because they are necessary, but because they can produce no possible danger, and may gratify some gentlemen's wishes." 73

When the Constitution was eventually ratified, therefore, and the new Congress opened in the spring of 1789, Madison accordingly set out to fulfill his campaign pledge, announcing his intentions to introduce amendments as early as May 25. At first, it appears that Madison envisioned simply enacting a national version of the Virginia Declaration of Rights and Act for Religious Freedom, along with a provision against state violation of religious liberties. A less liberal spirit forced the elimination of the latter measure.

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the people have an equal, natural, and unalienable right, freely and peaceably to Exercise their Religion according to the dictates of Conscience, and that no Religious Sect or Society ought to be favored or established by Law in preference of others." See Young, op cit., page 37.

73. ibid. Perhaps reflecting old suspicions, Henry quite plainly voiced his doubts about the sincerity of Madison's promise, working hard for his defeat as a candidate for the new Senate. It is a curious irony thus that one of the ablest politicians on the continent, James Madison, trailed both Richard Henry Lee and William Grayson in the balloting for that office and almost, in fact, lost even his race against James Monroe for a seat in the federal House of Representatives. We may say, however, that the country was ably served by his presence in the lower chamber and historians may be glad he was there, making notes all of the while for the benefit of generations yet to come.
however, much to Madison's regret who noted that "if there were any reason to restrain the Government of the United States [in the matter of religious freedoms]...it was equally necessary that they should be secured against the state governments." And the continuing opposition of the anti-Federalists even in the new Congress made Madison's vow to hurry the amendments through even more difficult to maintain. For few of his fellow congressmen seemed so certain of the urgency as did Madison; William Smith of South Carolina, for instance, is reported to have told the Virginian that in merely introducing the proposals he had "done his duty" and he could now sit down.

Once again, however, the political acumen of James Madison in arriving at an acceptable compromise was to carry the day. Rutland's assessment at this point is insightful and worth repeating herein:

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74. See Beth, op.cit., page 163.

75. In Smith's views, it was "extremely impolitic to go into consideration of amending the Government before it is organized, before it has begun to operate." Likewise, Jackson of Georgia argued that "our constitution is like a vessel just loaded and lying at the wharf; she is untried, you can hardly discover any one of her properties." See the full account of the debate in the House contained in The Annals of Congress, 1789-1795, Volume I (March 3, 1789 - March 3, 1791), Washington: Gales and Seaton, 1884, pages 441-449, and 731-758.
[Madison] played off Scylla against Charybdis instead of trying to go between them. He had to apologize to his home constituents because more could not be gained. To the anti-amendment group in the House he was forced to defend the lengths he had gone in safeguarding the personal rights of citizens. To his neighbors and his colleagues Madison counseled the need for compromise. His task called for political tight-rope walking and he performed the feat with the skill of a veteran.\textsuperscript{76}

On July 21, 1789, some six weeks after the first discussion of the amendments therefore, Madison reintroduced the subject to the House which, after further delays, finally survived debate and was sent to the Senate on August 24 in the form of seventeen amendments to the recently agreed upon Constitution. Though they were apparently treated with disdain by many within that upper chamber-- whose proceedings during its early years went unrecorded behind their locked doors-- eventually there too Virginians carried the day in the person of Richard Henry Lee who argued that, despite his own sense of their insufficiency, "if we cannot gain the whole loaf, we shall at least have some bread."\textsuperscript{77}

\textsuperscript{76} Rutland, \textit{op cit.}, page 206.

\textsuperscript{77} \textit{ibid.}, page 212.
Exercising its prerogative, then, the Senate rejected a portion of the measures, including that guarantee which Madison had prized the most, prohibiting the states from infringing on the personal rights and consciences of their citizens. Yet when the work of both houses was completed, twelve amendments remained to be forwarded on to the states in September of 1789, including one which specified that Congress should make no law respecting the establishment of religion, or prohibiting the free exercise thereof. To be sure, this which was to become the First Amendment thus was clearly not so comprehensive as Jefferson's "Act for Religious Freedom" had been, nor was it even as explicit as an earlier committee version, which suggested that the federal government could make no law "establishing articles of faith, or a mode of worship, or prohibiting the free exercise of religion." But that it was intended to secure the same ends is clear, and so James Madison accepted it willingly, indeed, in Loren Beth's estimation, perhaps even feeling that "the very ambiguity of the amendment would make [its] liberal interpretation possible" by later generations.78

78. Beth, op. cit., page 71. We may observe that Madison's original amendment was even more explicit, however: "the civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or in any pretext, infringed."
And in that respect, Madison was surely correct, though he may little have guessed just how much confusion that ambiguity was likewise to produce in the two centuries that followed its eventual ratification and adoption. Yet in a sense, even that might well have been expected. For indeed, when the First Amendment passed finally into the legal framework of the United States, nothing less than a new era began in the history of Church and State relations, too—not only within America, in fact, but also, as we have seen, within the experience of all of Christendom as well.
Chapter Six

EPILOGUE: INTERPRETING THE INTENTIONS

"A rule of law should not be drawn from
a figure of speech" -- Justice Reed

Thus far we have advanced the thesis that the notion of
religious freedom in America-- despite what has often been
argued as to the essentially "secular" nature of its
origins-- sprang instead from a wide variety of sources,
representing a fusion of both the insights of the Enlighten-
ment and the lingering heritage of the Christian Reforma-
tion. For as we have shown, clearly both theological and
practical considerations lay behind the idea of
separationism, making it far more than just a matter of mere
philosophical speculation or political expediency in the
late eighteenth century. Indeed it bears repeating once
more in this respect that with only a few notable excep-
tions, American churches of the time did not so much have
disestablishment and separation foisted upon them as they
simply claimed such an arrangement for themselves. Further-
more, in the forensic framing of that principle in American
life it is plain that-- as was so for the rest of the Con-
stitution and subsequent Bill of Rights-- the end result was
largely the result of compromises which were made between
all of the varying parties involved, each of whose traditions and experiences manifestly pointed them in different directions from the others.

Yet what emerged from all of the above process was a remarkable equation indeed. For the American solution to the centuries-old problem of Church and State bore a genuine genius in its simplicity, as many of the day clearly recognized. James Madison himself, for example, suggested in a later letter to Edward Livingstone that the American example proved that all Sects might be safely and advantageously put on a footing of equal and entire freedom... We are teaching the world the great truth that Governments do better without Kings and Nobles with them. [And] the merit will be doubled by the other lesson that Religion flourishes in greater purity, without than with the aid of Government.¹

If the prevailing opinion in Europe was that religion could not be preserved without the support of government, nor the State supported without an established religion of some sort then, "it remained for North America" therefore, as Madison told another of his correspondents, "to bring the great and

interesting subject to a fair, and finally to a decisive test."² Or, in the words of a later observer, Philip Schaff,

America seems destined to be the Phoenix-grave not only of all European nationalities...but also of all European churches and sects, of Protestantism and Romanism. I cannot think that any one of the present confessions and sects...will ever become exclusively dominant there; but rather, that out of the mutual conflict of all something wholly new will gradually arise"³

And for Thomas Jefferson, what the amendment proposed was likewise a fairly radical departure from most of the continental and colonial Church and State models of the past, implying not only a functional division but the well-known "wall of separation" between the two institutions as well. His interpretation--though perhaps somewhat inaccurate and far more stringent than that of most of his contemporaries--is one that is worth noting at some length, as it has plainly passed down through the years to color the perceptions of even the present:

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I consider the government of the United States as interdicted by the Constitution from intermeddling with religious instructions, their doctrines, discipline, or exercises. This results not only from the provision that no law shall be made respecting the establishment or free exercise of religion, but from that also which reserves to the States the powers not delegated to the United States. Certainly no power to prescribe any religious exercise, or to assume authority in religious discipline, had been delegated to the General Government... Fasting and prayer are religious exercise; the enjoining them an act of discipline... civil powers alone have been given to the President of the United States, and no authority to direct the religious exercises of his constituents.¹

Yet Jefferson notwithstanding, plainly not all continuity with the past was abandoned in the American experiment in Church and State either. For most Americans would yet have agreed with the sentiments expressed by John Adams that "our

¹ The remarks were made in context of Jefferson's refusal as President to designate a day of thanksgiving and prayer for the nation. See Beth, op cit., page 71-72. The matter of reconciling national to state powers was noted as well by John Marshall who suggested that "had the people of the several states... required additional safeguards to liberty from the apprehended encroachments of their particular governments, the remedy was in their own hands, and would have been applied by themselves." See George Goldberg, Reconsecrating America, (Grand Rapids, Michigan: William B. Eerdmans, 1984), page 3.
constitution was made only for a moral and a religious people. It is wholly inadequate to the government of any other."5 Likewise, as the eventual first president under that constitution, the testimony of George Washington in a letter to some Baptists in 1789 also bears repeating at this point:

If I could have entertained the slightest apprehension that the Constitution framed in the Convention where I had the honor to preside might possibly endanger the religious right of any ecclesiastical society, certainly I would never have placed my signature to it... I beg you will be persuaded that no one could be more zealous than myself to establish effectual barriers against the horros of spiritual tyranny and every species of religious persecution."6

As Robert Bellah has argued thus, we will agree that none of the founding fathers-- not even Thomas Jefferson-- believed accordingly that he was establishing a completely secular republic in which religious belief no longer had any public meaning. Rather,


though they wanted to get government out of the business of enforcing religious uniformity, [they] continued to believe that religion was a matter of great public concern, and even that certain religious beliefs are probably essential for "government and order", to use Roger Williams' terms.  

Even with the changes in the American Church and State matrix, therefore, at least some minimum beliefs continued to be seen by most as necessary for the maintenance of public order. To be certain, the right to believe otherwise— or not to believe at all— was one which the advocates of separationism would zealously have defended. But that there remained, pragmatically speaking at least, virtually no public sympathy whatsoever for atheists (or those even so considered) could clearly be said as well, as seen, for instance, in most post-Revolutionary Americans' rather low opinion of Thomas Paine.  

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8. The relative religious latitudinarianism of the day did extend as far as Deism, however, as seen in both Franklin and Jefferson's high positions within the emerging nation. For though many may have disagreed with the sometimes peculiar religious views of the third president, still voters turned out to elect him to office at virtually every chance. Likewise we may note the enthusiastic reception for Dr. Joseph Priestly, the celebrated revolutionary and Unitarian who, like Paine, had been mobbed in Europe. With the introduction of Thomas Jefferson in hand, Priestly fled to America where he was met with church bells pealing in his honor in New York harbor, the offer of a chair in chemistry at the University of Pennsylvania, and the invitation of three states to take up residence within their borders.
of the formalization of Church and State separation was to advance the idea that religion is ultimately a purely private matter thus, still only a very few were to consequently reach that conclusion, even for a very long time.

 Instead, what the proponents and even adversaries of the First Amendment were willing to do was to simply live with certain inconsistencies. For again we should bear in mind that the guarantees of that plank did not so much represent "a triumph of one particular party or specific viewpoint over a clear and entrenched opposition" as they did a simple "consensus of Congress and the nation." Accordingly, before the new Constitution was even well broken in, chaplains had already been appointed to the Congress and their salaries requisitioned from the public treasury. The

9. The opinion is that of Thomas Curry, The First Freedoms, op cit., page 193.

10. The awkwardness of this arrangement has been acknowledged by many, including Chief Justice Burger who noted in his opinion on one Church and State case that "some who trouble to read the opinions in this case will find it ironic--perhaps even bizarre--that on the very day we heard arguments in this case, the Court's session opened with an invocation for Divine protection. Against the park a few hundred yards away, the House of Representatives and the Senate regularly open each session with prayer. These legislative prayers are not just one minute in duration, but are extended, thoughtful invocations and prayers for Divine Guidance. They are given, as they have been since 1789, by clergy appointed as official Chaplains and paid from the Treasury of the United States. Congress has also provided chapels in the Capitol, at public expense, where members and others may pause for prayer, meditation--or a moment of silence. See William Jennings Smith, God In our Government, (Little Rock, Arkansas: Pioneer Press, 1985), page ix.
explanation for such was that in dealing with an individual there, that the state makes no contract or agreement with any specific religious group. We should see it instead, however, as but another indication of the way in which the founders of the nation saw their accommodation of Church and State in terms of a fragile compromise, not to be pushed too far in either direction lest it break.

For, in sum, we may assert that the principle intention which the framers of the First Amendment had in mind was not to prostrate Christianity at all, but simply to rule out the possibility of any rivalry among Christian sects. And as the legal language of the measure will suggest, the unfailling bulwark which it meant to erect was not so much a solid wall between Church and State as it was actually one between freedom of conscience and any attempts by others to control such. Indeed, we should observe that the word "Church" was not even used in the measure, though a common-sense understanding of the act clearly would have implied such. For ultimately, as Rutland has observed, the "surest sanctuary of freedom for the citizen" then as now was still not in the Constitution or the Bill of Rights per se, but "in the minds of the people."\textsuperscript{11} The unadorned language of the amendment thus expressed ideas which were universals to such men as Madison and Jefferson and their contemporaries.

\textsuperscript{11} Rutland, \textit{op cit.}, page 229.
Why then has so much confusion arisen over the years in settling upon an interpretation of the First Amendment with which all might agreed? Simply because, we may say, that not all of those universal ideas have weathered the years well, as the original context of those words has now been largely lost. It is an obvious fact therefore, as one has said, that you cannot make sense of an answer until you know to what question it is a reply.\textsuperscript{12} And the questions demanded of our national polity today are vastly different indeed from those which pressed the framers of that system two centuries ago. The comments of William Marnell seem pertinent here in explaining that

Sometimes the reconciliation of opposites is best effected by a flat prohibition. Later, when the opposites have ceased to exist and the prohibition remains, time blurs the reasons for existence and men change the foundation on which it rests. Such has been the fate of the First Amendment. It was passed, not because a majority of the delegates were necessarily opposed to an established church as a matter of principle, but because a ban on the principle of Establishment was part of the price for federal Union.\textsuperscript{13}

\textsuperscript{12} David Wooton, \textit{op cit.}, page 12. Wooton’s words are a paraphrase of an earlier observation made by Collingwood.

\textsuperscript{13} See Marnell, \textit{op cit.}, page xi.
And indeed, we may suggest that at least three key factors in the American situation have emerged in recent years, further widening the gap which exists between the setting out of which the measure was originally produced and that which it attempts to address still today. For first, the massive influx of non-English immigrants over the past century has transformed the United States into a far more heterogenous society than ever, both socially and religiously. It is perhaps a symbolic sign that there are now more Muslims than either Presbyterians or Episcopalians in America, for example, as pluralism has come to mean not only acceptance of other denominations but other world religions, as well. Likewise, the growth of secularism as a quasi-religious value system may be counted as the second factor which has transformed the original milieu out of which the First Amendment stemmed. For as the recent cases cited in the opening chapter will demonstrate, the question has now been raised as to whether or not "secular humanism" is, in fact, a religious point of view in competition with Christianity, and not just a philosophical or pedagogical approach which is largely indifferent to the faith.

14. In recent years Muslims have become a force of between three and four million people in the United States, as compared to the three-million Presbyterian Church (USA) and the two and a half million members of the American Anglican communion. See "Moslems Seek role, acceptance in U.S.", by Diane Winston, Dallas Times Herald, March 18, 1989, pages 1 and 21.
Far and away, however, the biggest factor which has impacted upon the contemporary understanding of American Church and State relations has been the shift in the Supreme Court's view, and its willingness to promote at times a somewhat more rigid interpretation of the statute. Though it is far beyond the scope of the present discussion to review the pertinent cases through which the Court's own agenda for Church and State has been pursued through the years, it is sufficient to agree with Paul Kauper that in the end,

the Supreme Court is free to give this language the meaning it chooses, whether guided by the court's interpretation of historical purpose or by the court's use of this ambiguous language in accommodating constitutional interpretation to the felt needs of the day.\textsuperscript{15}

\textsuperscript{15} Kauper, \textit{op cit.}, page 47. See the bibliography for those works which have detailed the historical progression of the Supreme Court's actions, beginning with the extension of the Fourteenth Amendment to cover the First and, more recently, the rekindling of judicial interest in the area with the Jehovah Witness cases of the mid-century.

In essence, the Court has developed a three-fold test for determining the constitutionality of a Church and State issue as follows: (1) a legislation or governmental activity is invalid if it lacks a secular legislative purpose incidental to serving religious goals (as, e.g., Sunday blue laws provide an uniform day of rest); (2) a government action is impermissible if it has, even in the absence of any ostensible religious purpose, the primary or principle effect of advancing or inhibiting religion; and (3) a government action is invalid if it fosters excessive entanglement between government and religion.
And in the last half-century in particular, the Court has more often than not chosen to authenticate its interpretations by looking to the views of Madison and Jefferson, even while unfortunately overlooking the equally valid role of Roger Williams and the religionists.

In spite of it all, however, we may suggest that the basic principle of separationism--as embodied in both the American experience and the First Amendment which such eventually produced--has largely worked. For not only have no religious wars broken out in America (aside from the natural rivalry between Baptist and Methodist churches in small towns everywhere), but the Bill of Rights and its application has ably accomplished its purpose, by preventing any one sect from monopolizing the public domain of faith. Likewise, the emergence of voluntaryism in lieu of establishment has produced a far stronger Church in this country than almost anywhere else in the world. Indeed, the observations of Alexis DeToqueville made over a century and half ago, and later confirmed by both Hudson and Beth, still ring largely true: "there is no country in the whole world in which the Christian religion retains a greater influence over the souls of men than in America."16 And with the continuing rise in religious diversity within the United

States, it is plain that these reasons for the maintenance of separation are as valid and important today as they were in 1789.

Admittedly, there are tensions below the surface within the American doctrine, for as Leonard Rubinstein has expressed it, the separation of Church and State here has often been not so much a wall as a hedge with numerous holes to pass through.\textsuperscript{17} The inconsistencies which quickly developed with regard to the interpretation of the principle have continued to the present, for instance, as seen not only in the governmental support of chaplains in the armed forces, prisons, and the Congress itself, but in such "semi-establishment" practices as well as tax exemption for churches and other exceptions to the general rule of excessive entanglement between the two estates. Paul Blanshard is probably correct in suggesting in this respect that all of these "somewhat questionable borderline practices" have passed into public acceptance simply because they have endured so long without a successful challenge; "the reasoning behind them partakes more of sentiment than logic."\textsuperscript{18}

\textsuperscript{17} In Rubinstein’s words, "the establishment clause is not Jefferson’s wall, but a bushy hedge, which can be crawled through, around, and under." See his article on "The Holy Hedge: Mutual Co-Existence under the First Amendment", found in Rutyna and Kuehl’s volume, Conceived in Conscience, \textit{op cit.}, page 70.

\textsuperscript{18} See the article entitled "God, Man, and the Supreme Court", included in the Krinsky collection on The Politics of Religion in America, (Beverly Hills: Glencoe Press,
In like manner, the "zones of disagreement" where such an accommodation between the interests of Church and State has not been reached are significant ones indeed, centered around not only the question of public money spent for sectarian causes (as in nativity scenes set up on courthouse lawns), but also the basic question of whether or not public institutions, including schools and universities, may be utilized to any extent for the so-called promotion of religious ideas. When added to the questions raised by such ethical dilemmas as abortion, prayer in schools, and the emergence of both civil religion and the religious right, it is evident that a serious discussion over the matter of Church and State relations should be an ongoing feature of American life in the future, and not just in its past.

Two hundred years later, therefore, is it perhaps the case that the solution worked out in the context of the American beginnings is now outmoded, that its language too tied to the milieu of its time to speak yet unto our own? Not, we may say, if we but remember the limitations which are inherent in any such product of compromise, and accordingly do not attempt to force it too far in one direction or the other. For indeed, it is precisely the arguing of the

1968), pages 70-72. In point of fact, as Blanshard makes note, the courts have largely let such measure stand by means of a judicial maneuver known as stare decisis, or to simply "stand by its former decisions."
two historical myths mentioned in the initial chapter which has often pushed the notion beyond the parameters for which it was designed. If the sense of Madison's amendment—embedded as it was with not only political and philosophical but genuinely theological principles, too—is not plain to us today then, our true problem with the idea of separationism may in fact be one of translation and not interpretation—that is to say, we may not yet have genuinely recognized the full sources and context of the American solution before attempting to arrive at its application for today.  

For in closing we may return once more to the assertion that the American experiment in Church and State relations—as formally expressed within the relative simplicity of the First Amendment—did indeed come as the co-mingling of a variety of traditions. Its development thus was not only a great accomplishment for the political ideologues who carefully crafted it out and won its support, but it was yet the reflection of a general Christian consensus which then existed within America as well. Behind the idea thus stood not only Locke but also Luther, and in its expression were

19. To this end, the First Amendment might indeed be made a little clearer by such a simple means as inserting the word "otherwise" within the second clause of that measure, to read thus: "Congress shall make no law respecting an establishment of religion, or otherwise prohibiting the free exercise thereof."
not only the words of Thomas Jefferson but those of Roger Williams, too. Indeed therein was reflected nothing less than centuries of both theological expressions and practical concerns over ecclesiastical and temporal relations, ready to brace the bold new American doctrine of separation, and even to help give it birth.
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