In all our associations; in all our agreements let us never lose sight of this fundamental maxim—that all power was originally lodged in, and consequently is derived from, the people. We should wear it as a breastplate, and buckle it on as our armour.

—George Mason, 1775

Dressed in black clothes, the elder statesman from Fairfax rose once again to speak to the members of the Virginia Ratifying Convention. George Mason was widely respected by his fellow delegates as the author of the state constitution and Declaration of Rights. But his staunch opposition to the U.S. Constitution had made him many enemies. Some even questioned his sanity. Mason feared that the new federal government would be too strong and would “annihilate totally the State Governments.” As the sixty-two-year-old champion of liberty began to speak, all eyes were upon him.

Background

George Mason was born to a wealthy landowner in northern Virginia. His father died when George was ten. As a youth, Mason eagerly read many of the books in his uncle’s large library. He became one of the most educated men in Virginia. Mason married at the age of twenty-five, and he eventually had nine children. His family lived on the great Virginia plantation he called Gunston Hall. About three hundred slaves also lived there. As Mason’s reputation grew, Gunston Hall became a stopping place for political and business leaders.

Defender of American Liberty

George Mason took his place in local politics as a judge and town trustee. He did not like politics, but he believed it was his duty to protect the people’s liberty. This, in his view, was the main role of government. When Virginia’s liberty was threatened, Mason left home to join the battle. As George Washington’s supply officer in the French and Indian War, he fought to protect his state against a foreign power. As a member of the Virginia House of Burgesses, Mason opposed attempts by Parliament to restrict American rights. When these threats passed, he returned to Gunston Hall, content to run his plantation.

In the 1770s, Parliament continued to pass laws attacking American liberty, and Mason responded. He joined the Virginia Committee of Correspondence. This body worked with other colonies to oppose Parliament’s actions through “nonimportation agreements”—boycotts of British goods. Mason helped write the rules for the boycotts in Virginia. But Parliament refused to repeal the acts, instead passing more restrictions. George Mason then joined George Washington in writing the Fairfax Resolves in 1774. This document condemned Parliament’s acts as illegal and a violation of American liberty. Mason gave Virginians a reason to resist British interference in their lives.

The Virginia Constitution and Declaration of Rights

When it became obvious that America would separate from Great Britain, Mason supported the cause. He also wanted to make sure that the new government of Virginia...
would guarantee the rights of individuals. Mason was elected to represent Fairfax County at the Virginia Convention, where the new government would be formed.

James Madison was also a delegate to that convention. Madison named Mason the “master builder”—the primary author—of the Virginia Declaration of Rights and the Virginia Constitution. The Declaration of Rights argued that mankind is “by nature equally free and independent, and has certain inherent rights,” such as the rights to life, liberty, and happiness. It insisted that “a majority of the community” has the right to “reform, alter, or abolish” any government that endangers the liberty of the people. These rights were clearly not intended to apply to Virginia’s slaves. Though Mason believed that “every master of slaves is a petty tyrant,” he never freed any of his own slaves.

Mason’s ideas about natural rights and liberty were based on the ideas of the English philosophers John Locke and Algernon Sidney. The Declaration of Rights in turn influenced Jefferson’s Declaration of Independence, which was written shortly afterward. Mason listed several liberties in his Declaration, including freedom of the press, freedom of religion, and the right to a speedy trial by jury, which appeared later in the Bill of Rights. The Virginia Constitution influenced the U.S. Constitution in defining the separation of powers among the executive, legislative, and judicial branches. Virginia adopted both documents in June 1776.

Critic of the Constitution

After helping to create the new state government, Mason joined the House of Delegates and supported the war effort. He retired in 1781 due to illness and returned home. During the 1780s, many statesmen came to believe that the Articles of Confederation were a failure. At the age of sixty-two, George Mason was called on and agreed to serve Virginia once more at the Constitutional Convention in Philadelphia. James Madison admired Mason’s dedication to his country and its people: “It could not be more inconvenient to any gentleman to remain absent from his private affairs, than it was for him.”

Soon, however, Madison and Mason would become enemies. Though Mason agreed that the Articles of Confederation needed to be changed, he feared making the central government too strong. As the convention wore on, he became alarmed by several proposals aimed at reducing the power of the states. Mason believed that the states represented the people better than any national government ever could.

Mason also thought the new Constitution did not go far enough in protecting individual rights and local interests. He feared that the presidency was too powerful. His calls for a bill of rights and for an end to the importation of slaves were rejected. Mason therefore refused to sign the Constitution and spoke out against its approval. This opposition brought to an end his long friendship with George Washington. It also inspired attacks on his mental powers. One supporter of the Constitution accused him of having lost his wits in his old age. To this Mason responded: “Sir, when yours fail, nobody will ever discover it.”

Ratification and the Bill of Rights

Immediately after the convention approved the Constitution, Mason wrote his Objections to This Constitution of Government, which was published by newspapers and in pamphlet form. In this essay, Mason warned that the new federal government would destroy the states. He argued that the Constitution gave “no security” to the “Declarations of Rights in the separate States.”

George Mason
Mason was elected to the Virginia Ratifying Convention that met in June 1788. There he joined Patrick Henry in the fight against ratification of the Constitution. Mason warned the members of the ratifying convention that all three branches of the federal government had been given too much power. The “necessary and proper” and “general welfare” clauses would give Congress unlimited power over the states. Mason demanded that the Constitution be changed so as to protect the people’s rights.

Madison, who was also a member of the convention, tried to reassure Mason and his allies. Madison promised that a list of amendments would be introduced in the first Congress. Based on this pledge, Virginia approved the Constitution. Madison’s twelve amendments were based on Mason’s ideas. Ten of these, known as the Bill of Rights, would be ratified in 1791. But the ten amendments were not enough to satisfy Mason, who wished to see “two or three” more added. Mason retired from public life and returned to his beloved Gunston Hall to live out his few remaining days. Mason died less than a year after the Bill of Rights went into effect.

Reading Comprehension Questions
1. What did Mason believe to be the main role of government?
2. What two founding documents of Virginia did Mason author?
3. Why did Mason object to the Constitution?

Critical Thinking Questions
4. Why do you think Mason wore black clothes at the Virginia Ratifying Convention?
5. Mason hated politics, but he entered public life because he believed it to be his duty. Have you ever done something you did not like because of a sense of duty?
The Virginia Declaration of Rights

Answer the following questions.

1. When was this document written?
2. Where was this document written?
3. Who wrote this document?
4. What type of document is this?
5. What was the purpose of this document?
6. Who was the audience for this document?
The Virginia Declaration of Rights

The Virginia Declaration of Rights, which was drafted by George Mason, was adopted unanimously on June 12, 1776, by the Virginia Convention of Delegates. The sixteen clauses in the Virginia Declaration of Rights are shown below.

Directions:
1. Working in a group, paraphrase the clause assigned to your group in one or two sentences. Be sure to refer to the vocabulary words and their definitions below the clause for better understanding.

2. Match each clause with similar sections in the first two paragraphs of the Declaration of Independence, the U.S. Constitution, and/or the first ten amendments to the U.S. Constitution. Note that sections of these documents may match more than one clause. In some cases, there may not be an appropriate match.

1

That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Vocabulary:
inherent = natural
deprive/divest = take away from

2

That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Vocabulary:
vested = placed in
magistrates = government officials
amenable = answerable

3

That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation or community; of all the various modes and forms of government that is best, which is capable of producing the greatest degree of happiness and safety and is most effectually secured against the danger of maladministration; and that, whenever any government shall be found inadequate or contrary to these purposes, a majority of
the community hath [has] an indubitable, unalienable, and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

Vocabulary:
maladministration = poor operation
indubitable = undoubted
unalienable/indefeasible = not capable of being taken away/undone
public weal = general good

4

That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge be hereditary.

Vocabulary:
emoluments = payments for holding an office
descendible/hereditary = passed from one generation to the next

5

That the legislative and executive powers of the state should be separate and distinct from the judicative; and, that the members of the two first may be restrained from oppression by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

Vocabulary:
oppression = tyranny, misrule
eligible = qualified

6

That elections of members to serve as representatives of the people in assembly ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community have the right of suffrage and cannot be taxed or deprived of their property for public uses without their own consent or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

Vocabulary:
suffrage = the ability to vote
assented = agreed to

George Mason
7

That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people is injurious to their rights and ought not to be exercised.

**Vocabulary:**
- *injurious = harmful*
- *exercised = carried out*

8

That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land or the judgement of his peers.

**Vocabulary:**
- *capital = punishable by death (crime)*
- *vicinage = vicinity*
- *unanimous = having the agreement and consent of all*
- *peers = people of the same social rank*

9

That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

**Vocabulary:**
- *excessive = extreme/too much*
- *inflicted = imposed*

10

That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offense is not particularly described and supported by evidence, are grievous and oppressive and ought not to be granted.

**Vocabulary:**
- *grievous = serious*
11

That in controversies respecting property and in suits between man and man, the ancient trial by jury is preferable to any other and ought to be held sacred.

12

That the freedom of the press is one of the greatest bulwarks of liberty and can never be restrained but by despotic governments.

**Vocabulary:**
bulwarks = defenses
despotic = tyrannical, cruel

13

That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state; that standing [permanent] armies, in time of peace, should be avoided as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and be governed by, the civil power.

**Vocabulary:**
regulated = organized
subordination = subservience

14

That the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

**Vocabulary:**
uniform = consistent

George Mason
That no free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue and by frequent recurrence to fundamental principles.

Vocabulary:
adherence = devotion
temperance = moderation
frugality = care in spending money
recurrence = repetition
fundamental = basic

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

Vocabulary:
discharging = fulfilling
dictates = orders
forbearance = patience

You may use this answer bank with Handout C. The following is a list of specific paragraphs, clauses, and amendments that are similar to the clauses in the Virginia Declaration of Rights. Match your assigned clause to the documents below.

- Declaration of Independence (Paragraphs 1 and 2)
- The Constitution: Articles I, II, III, and IV
- The Constitution: Article I, Section 2, Clause 1
- The Constitution: Article I, Section 9, Clause 2
- The Constitution: Article I, Section 9, Clause 8
- The Constitution: Article II, Section 2, Clause 1
- The Constitution: Article II, Section 3
- The Constitution: Article IV, Section 3
- First Amendment
- Second Amendment
- Fourth Amendment
- Fifth Amendment
- Sixth Amendment
- Seventh Amendment
- Eighth Amendment
For nearly 250 years, the existence of slavery deprived African Americans of independent lives and individual liberty. It also compromised the republican dreams of white Americans, who otherwise achieved unprecedented success in the creation of political institutions and social relationships based on citizens’ equal rights and ever-expanding opportunity. Thomas Jefferson, who in 1787 described slavery as an “abomination” and predicted that it “must have an end,” had faith that “there is a superior bench reserved in heaven for those who hasten it.” He later avowed that “there is not a man on earth who would sacrifice more than I would to relieve us from this heavy reproach in any practicable way.” Although Jefferson made several proposals to curb slavery’s growth or reduce its political or economic influence, a workable plan to eradicate slavery eluded him. Others also failed to end slavery until finally, after the loss of more than 600,000 American lives in the Civil War, the United States abolished it through the 1865 ratification of the Thirteenth Amendment to the Constitution.

American slavery and American freedom took root at the same place and at the same time. In 1619—the same year that colonial Virginia’s House of Burgesses convened in Jamestown and became the New World’s first representative assembly—about 20 enslaved Africans arrived at Jamestown and were sold by Dutch slave traders. The number of slaves in Virginia remained small for several decades, however, until the first dominant labor system—indentured servitude—fell out of favor after 1670. Until then indentured servants, typically young and landless white Englishmen and Englishwomen in search of opportunity, arrived by the thousands. In exchange for passage to Virginia, they agreed to labor in planters’ tobacco fields for terms usually ranging from four to seven years. Planters normally agreed to give them, after their indentures expired, land on which they could establish their own tobacco farms. In the first few decades of settlement, as demand for the crop boomed, such arrangements usually worked in the planters’ favor. Life expectancy in Virginia was short and few servants outlasted their terms of indenture. By the mid-1600s, however, as the survival rate of indentured servants increased, more earned their freedom and began to compete with their former masters. The supply of tobacco rose more quickly than demand and, as prices decreased, tensions between planters and former servants grew.

These tensions exploded in 1676, when Nathaniel Bacon led a group composed primarily of former indentured servants in a rebellion against Virginia’s government. The rebels, upset by the reluctance of Governor William Berkeley and the gentry-dominated House of Burgesses to aid their efforts to expand onto American Indians’ lands, lashed out at both the Indians and the government. After several months the rebellion dissipated, but so, at about the same time, did the practice of voluntary servitude.

In its place developed a system of race-based slavery. With both black and white Virginians living longer, it made better economic sense to own slaves, who would never gain their freedom and compete with masters, than to rent the labor of indentured servants, who would. A few early slaves had gained their freedom, established plantations, acquired servants, and enjoyed liberties shared by white freemen, but beginning in the 1660s Virginia’s legislature passed laws banning interracial marriage; it also stripped African Americans of the rights to own property and carry guns, and it curtailed their freedom of movement. In 1650 only about 300 blacks worked Virginia’s tobacco fields, yet by 1680 there were 3,000 and, by the start of the eighteenth century, nearly 10,000.

Slavery surged not only in Virginia but also in Pennsylvania, where people abducted from Africa and their descendants harvested wheat and oats, and in South Carolina, where by the 1730s rice planters had imported slaves in such quantity that they accounted for two-thirds of the population.
The sugar-based economies of Britain’s Caribbean colonies required so much labor that, on some islands, enslaved individuals outnumbered freemen by more than ten to one. Even in the New England colonies, where staple-crop agriculture never took root, the presence of slaves was common and considered unremarkable by most.

Historian Edmund S. Morgan has suggested that the prevalence of slavery in these colonies may have, paradoxically, heightened the sensitivity of white Americans to attacks against their own freedom. Thus, during the crisis preceding the War for Independence Americans frequently cast unpopular British legislation—which taxed them without the consent of their assemblies, curtailed the expansion of their settlements, deprived them of the right to jury trials, and placed them under the watchful eyes of red-coated soldiers—as evidence of an imperial conspiracy to “enslave” them. American patriots who spoke in such terms did not imagine that they would be forced to toil in tobacco fields; instead, they feared that British officials would deny to them some of the same individual and civil rights that they had denied to enslaved African Americans. George Mason, collaborating with George Washington, warned in the Fairfax Resolves of 1774 that the British Parliament pursued a “regular, systematic plan” to “fix the shackles of slavery upon us.”

As American revolutionaries reflected on the injustice of British usurpations of their freedom and began to universalize the individual rights that they had previously tied to their status as Englishmen, they grew increasingly conscious of the inherent injustice of African-American slavery. Many remained skeptical that blacks possessed the same intellectual capabilities as whites, but few refused to count Africans as members of the human family or possessors of individual rights. When Jefferson affirmed in the Declaration of Independence “that all men are created equal,” he did not mean all white men. In fact, he attempted to turn the Declaration into a platform from which Americans would denounce the trans-Atlantic slave trade. This he blamed on Britain and its king who, Jefferson wrote, “has waged cruel war against human nature itself, violating it’s [sic] most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere.”

The king was wrong, he asserted, “to keep open a market where MEN should be bought & sold.” Delegates to the Continental Congress from South Carolina and Georgia, however, vehemently opposed the inclusion of these lines in the Declaration of Independence. Representatives of other states agreed to delete them. Thus began, at the moment of America’s birth, the practice of prioritizing American unity over black Americans’ liberty.

Pragmatism confronted principle not only on the floor of Congress but also on the plantations of many prominent revolutionaries. When Jefferson penned his stirring defense of individual liberty, he owned 200 enslaved individuals. Washington, the commander-in-chief of the Continental Army and future first president, was one of the largest slaveholders in Virginia. James Madison—who, like Jefferson and Washington, considered himself an opponent of slavery—was also a slaveholder. So was Mason, whose Virginia Declaration of Rights stands as one of the revolutionary era’s most resounding statements on behalf of human freedom. Had these revolutionaries attempted to free their slaves, they would have courted financial ruin. Alongside their landholdings, slaves constituted the principal asset against which they borrowed. The existence of slavery, moreover, precluded a free market of agricultural labor; they could never afford to pay free people—who could always move west to obtain their own farms, anyway—to till their fields.

Perhaps the most powerful objection to emancipation, however, emerged from the same set of principles that compelled the American revolutionaries to question the justice of slavery. Although Jefferson, Washington, Madison, and Mason considered human bondage a clear violation of individual rights, they trembled when they considered the ways in which emancipation might thwart their republican experiments. Not unlike many nonslaveholders, they considered especially fragile the society that they had helped to create. In the absence of aristocratic selfishness and force, revolutionary American governments relied on virtue and voluntarism. Virtue they understood as a manly trait; the word, in fact, derives from the Latin noun vir, which means “man.” They considered men to be independent and self-sufficient, made free and responsible by
habits borne of necessity. Virtuous citizens made good citizens, the Founders thought. The use of political power for the purpose of exploitation promised the virtuous little and possessed the potential to cost them much. Voluntarism was virtue unleashed: the civic-minded, selfless desire to ask little of one’s community but, because of one’s sense of permanence within it, to give much to it. The Founders, conscious of the degree to which involuntary servitude had rendered slaves dependent and given them cause to resent white society, questioned their qualifications for citizenship. It was dangerous to continue to enslave them, but perilous to emancipate them. Jefferson compared it to holding a wolf by the ears.

These conundrums seemed to preclude an easy fix. Too aware of the injustice of slavery to expect much forgiveness from slaves, in the first decades of the nineteenth century a number of Founders embarked on impractical schemes to purchase the freedom of slaves and “repatriate” them from America to Africa. In the interim, debate about the continued importation of slaves from Africa stirred delegates to the Constitutional Convention. South Carolina’s Charles Pinckney vehemently opposed prohibitions on the slave trade, arguing that the matter was best decided by individual states. The delegates compromised, agreeing that the Constitution would prohibit for twenty years any restrictions on the arrival of newly enslaved Africans. As president, Jefferson availed himself of the opportunity afforded by the Constitution when he prohibited the continued importation of Africans into America in 1808. Yet he had already failed in a 1784 attempt to halt the spread of slavery into the U.S. government’s western territory, which stretched from the Great Lakes south toward the Gulf of Mexico (the compromise Northwest Ordinance of 1787 drew the line at the Ohio River), and in his efforts to institute in Virginia a plan for gradual emancipation (similar to those that passed in Northern states, except that it provided for the education and subsequent deportation of freed African Americans). Of all the Founders, Benjamin Franklin probably took the most unequivocal public stand against involuntary servitude when, in 1790, he signed a strongly worded antislavery petition submitted to Congress by the Pennsylvania Abolition Society. This, too, accomplished little.

The revolutionary spirit of the postwar decade, combined with the desire of many Upper South plantation owners to shift from labor-intensive tobacco to wheat, created opportunities to reduce the prevalence of slavery in America—especially in the North. Those opportunities not seized upon—especially in the South—would not soon return.

Eli Whitney’s invention of the cotton gin in 1793 widened the regional divide. By rendering more efficient the processing of cotton fiber—which in the first half of the nineteenth century possessed a greater value than all other U.S. exports combined—Whitney’s machine triggered a resurgence of Southern slavery. Meanwhile, the wealth that cotton exports brought to America fueled a booming Northern industrial economy that relied on free labor and created a well-educated middle class of urban professionals and social activists. These individuals kept alive the Founders’ desire to rid America of slavery, but they also provoked the development of Southern proslavery thought. At best, Southerners of the revolutionary generation had viewed slavery as a necessary evil; by the 1830s, however, slaveholders began to describe it as a positive good. African Americans were civilized Christians, they argued, but their African ancestors were not. In addition, the argument continued, slaves benefited from the paternalistic care of masters who, unlike the Northern employers of “wage slaves,” cared for their subordinates from the cradle to the grave. This new view combined with an older critique of calls for emancipation: since slaves were the property of their masters, any attempt to force their release would be a violation of masters’ property rights.

Regional positions grew more intractable as the North and South vied for control of the West. Proposals to admit into statehood Missouri, Texas, California, Kansas, and Nebraska resulted in controversy as Northerners and Southerners sparred to maintain parity in the Senate. The 1860 election to the presidency of Abraham Lincoln, a Republican who opposed the inclusion of additional slave states, sparked secession and the Civil War.

“I tremble for my country when I reflect that God is just,” Jefferson had prophetically remarked, for “his justice cannot sleep for ever.” Americans paid dearly for the sin of slavery. Efforts by
members of the founding generation failed to identify moderate means to abolish the practice, and hundreds of thousands died because millions had been deprived of the ability to truly live.

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Suggestions for Further Reading


A sound understanding of the United States requires an appreciation of the historical commitment of the American people to certain fundamental liberties. High on the list of these liberties is freedom of religion. The image of brave seventeenth-century English Puritans making the difficult journey across the Atlantic to American shores in pursuit of the freedom to live according to their faith is a powerful part of the American myth. Less remembered, however, is the fact that the commonwealth established by the Puritans was as intolerant as Anglican England, from which they had fled. Indeed, the road to achieving full religious liberty in the United States was long and arduous. By the time of the writing of the United States Constitution in 1787, Americans were committed to the principle of religious tolerance (or, to use the term of the time, “toleration”) and the idea of separation of church and state, but only to a limited degree. It would be another five decades before all states granted broad religious liberty to their citizens and provided for the complete separation of church and state.

Modern ideas about freedom of religion were developed in the wake of the Protestant Reformation of the sixteenth century, which shattered the unity of Christendom and plunged Europe into political and religious conflict. Though some European states remained religiously homogeneous, either retaining the traditional faith of Roman Catholicism or adopting some brand of Protestantism, religious division within many countries led to discord and bloodshed. In England, the church established in the mid-sixteenth century by King Henry VIII (who reigned from 1509 to 1547) faced stiff resistance, first from the many Catholics who refused to abandon the faith of their ancestors, and then from the Puritans who opposed the rule of bishops and wanted to purify the church so that it included only the elect.

Henry VIII’s successors, Elizabeth I (1558–1603) and James I (1603–1625), successfully quelled opposition to the Church of England (the Anglican Church), largely through harsh persecution of dissenters. In 1642, however, England was engulfed by religious civil war, from which the Puritans emerged victorious. The Puritan Commonwealth established by Oliver Cromwell ruthlessly persecuted Anglicans and Catholics. But Puritan rule was short-lived. An Anglican monarch, Charles II, was restored to the throne in 1660. This “settlement” of the religious crisis, however, was threatened by the accession of a Catholic, James II, to the throne in 1685. Anxious Protestants conspired and invited a foreigner, William of Orange, to assume the kingship of England. William invaded England, drove James into exile, assumed the throne, and reestablished the Church of England as the national church.

In this contentious atmosphere some English political thinkers, such as John Locke, began to advocate a policy of religious toleration. Locke’s ideas reflected a key assumption of Enlightenment thought—that religious belief, like political theory, is a matter of opinion, not absolute truth. “The business of laws,” Locke wrote in his Letter on Toleration (1689), “is not to provide for the truth of opinions, but for the safety and security of the commonwealth and of every particular man’s goods and person.” Public security was in no way dependent on a uniformity of religious belief among the citizenry. “If a Jew do not believe the New Testament to be the Word of God,” Locke stated, “he does not thereby alter anything in men’s civil rights.” Rather, intolerance led to “discord and war,” and Locke warned that “no peace and security” could be “preserved amongst men so long as this opinion prevails . . . that religion is to be propagated by force of arms.” Religious belief, in Locke’s view, was a matter of individual choice, a matter for society, not for government.

Locke’s views on religious liberty had a profound influence on American thinking in the next century. Other writings, however, particularly the Bible, had at least as great an impact on American political theory. Indeed, the American experiment in religious toleration began years before the publication of...
Locke’s treatise, though the early history of Puritan Massachusetts Bay was hardly indicative of the course that toleration would take in America. Established by John Winthrop in 1630, Massachusetts was a repressive place where church and state were one and where religious dissent was ruthlessly stamped out. Dissenters had few options: they could be silent, suffer persecution, or leave the colony. Roger Williams, a freethinking preacher, was forced to choose this last option, leaving Massachusetts in 1636 to establish the colony of Rhode Island.

In Rhode Island, Williams instituted toleration for all people, and his new colony quickly became a refuge for persecuted groups like Quakers and Baptists. Williams’s case for toleration was at least as radical as Locke’s. Basing his arguments on the Bible, Williams insisted that the Jews, Muslims, and atheists were also deserving of religious liberty. The only “sword” to be used in fighting their opinions was scripture itself. Intolerance was an offense to God. “An enforced uniformity of religion throughout a nation or civil state,” Williams wrote in The Bloudy Tenent of Persecution (1644), “denies the principles of Christianity.” Williams argued that forced belief was not only a violation of God’s law but also an unwise policy. “Enforced uniformity (sooner or later) is the greatest occasion of civil war, ravishing of conscience, persecution of Christ Jesus in his servants, and of the hypocrisy and destruction of millions of souls.”

Two years before the founding of Rhode Island, Cecil Calvert founded the colony of Maryland and proclaimed toleration for all Christians. Calvert himself was a Catholic, but he knew that the viability of his colony depended on luring enough Protestant settlers to make it an economic success. A policy of toleration, he hoped, would serve this purpose. In setting up Pennsylvania in the 1680s, William Penn, a Quaker, followed a similar course, making his colony a haven not only for his fellow coreligionists, but, like Rhode Island, a refuge for people of all religious sects.

Pennsylvania and Rhode Island would preserve uninterrupted their traditions of religious liberty, but in Maryland, freedom of religion would be curtailed for Catholics once Protestants came to power in the last decade of the seventeenth century. Still, the idea that some degree of religious liberty was a healthful policy for government became firmly rooted in America by the eighteenth century. Americans learned from the example of seventeenth-century England that religious persecution was ultimately detrimental to the political, social, and economic welfare of the nation. In America, where the Christian sects were more numerous than in England, the repercussions of religious intolerance would be especially adverse to the nation’s prospects. Americans’ devotion to religious freedom, then, was a product of necessity and experience as well as reason.

The crisis of empire during the 1760s and 1770s served to strengthen the American commitment to religious liberty. It was not only the intrusive economic measures passed by Parliament during these years that alarmed Americans. Patriot leaders also warned of the danger of the Anglican Church’s interference in American religious affairs. There was much talk that the British government would install a bishop in America who would become the instrument of tyranny. This idea that political and religious liberty went hand in hand was reflected in the New York Constitution of 1776, which explicitly connected “civil tyranny” with “spiritual oppression and intolerance.”

Nearly all the state constitutions written during the American independence movement reflected a commitment to some degree of religious liberty. The Massachusetts Constitution of 1780 promised that “no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience.” The Virginia Declaration of Rights of 1776, authored by George Mason, proclaimed “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.” Mason’s ideas mirrored Locke’s belief that government should not intrude upon the concerns of society.

But many states limited religious liberty to Christians in general, or to Protestants in particular. The North Carolina Constitution of 1776 decreed “That no person, who shall deny the being of God or the truth of the Protestant religion . . . shall be capable of holding any office or place of trust or profit in the civil department within this State.” Similarly, the New Jersey Constitution of the same year declared that “there
shall be no establishment of any one religious sect in this Province, in preference to another,” but promised Protestants alone full civil rights. Thanks largely to the efforts of Charles Carroll of Carrollton, a Roman Catholic, Maryland’s Revolutionary Constitution was more liberal in its guarantee of religious liberty to “all persons, professing the Christian religion.”

The Protestant majority in America was indeed particularly concerned about the Catholic minority in its midst. Catholics constituted the largest non-Protestant creed in the country, and it was believed that Catholicism demanded loyalty to the pope above devotion to country. The connection between Catholicism and absolutism was deeply ingrained in the American Protestant mind and was a legacy of the Reformation, which Protestants saw as a period of liberation from the ignorance, superstition, and tyranny of the Roman Catholic Church. During the crisis with England, a wave of religious hysteria swept over American Protestants, who worried that the pope would personally lead the Catholics of Canada in a military assault on American forces. “Much more is to be dreaded from the growth of Popery in America,” patriot leader Samuel Adams asserted in 1768, “than from Stamp-Acts or any other acts destructive of men’s civil rights.” This bigotry caused Roman Catholics to become outspoken proponents of religious toleration and the separation of church and state. In a country dominated by Protestants, this was the only realistic course for them.

All thirteen states at the time of American independence, then, acknowledged to some degree in their constitutions the principle of religious liberty. Most also provided for some degree of separation of church and state. Several states went so far as to prohibit clergymen from holding state office, a restriction in the Georgia Constitution of 1777 that the Reverend John Witherspoon of New Jersey would famously protest. But few states provided for a complete separation of church and state, for it was believed that the government should give some support to religion in general. Though a substantial number of American elites in the late eighteenth century were not church-going Christians, nearly all believed in the God of the Old Testament, and all recognized the practical value of Christianity as a check on antisocial behavior. Many of the state constitutions written in the era of independence, therefore, required that government give some support to Christianity. Though the Massachusetts Constitution guaranteed that “no subordination of any one sect or denomination to another shall ever be established by law,” it also permitted the legislature to levy taxes “for the support and maintenance of public protestant teachers of piety, religion and morality.” Similarly, the Maryland Constitution of 1776 permitted the legislature to “lay a general and equal tax for the support of the Christian religion.”

There were, however, calls for complete religious disestablishment at the state level. In Virginia, James Madison and Thomas Jefferson were two of the most prominent advocates of a strict separation of church and state. Their ideas about religious liberty were clearly influenced by John Locke and fellow Virginian George Mason. In 1785, the Virginia legislature considered a bill that would provide for public funding of Christian instruction. The measure was backed by several prominent statesmen, including Patrick Henry. But James Madison, then a member of the legislature, took the lead in opposing the bill, reminding Virginians that “torrents of blood have been spilt in the old world, by vain attempts of the secular arm, to extinguish Religious discord, by proscribing all difference in Religious opinion.” The bill was defeated, and the following year, Jefferson introduced “A Bill for Establishing Religious Freedom,” which attempted to enshrine in law the idea “that no man shall be compelled to frequent or support any religious Worship place or Ministry whatsoever.” The bill passed with minor changes.

By the time of the Constitutional Convention of 1787, there was a broad consensus regarding the proper relationship between the national government and religion: first, that the government ought not to give support to any religious sect; second, that the government ought not to require a religious test for office; third, that the government ought not to interfere with private religious practice; and fourth, that the government ought not to interfere with the right of the states to do as they wished in regard to religious establishment and religious liberty. These points of consensus were reflected in both the body of the United States Constitution and in the First Amendment, which was ratified in 1791 as part of the Bill of Rights. Article VI of the Constitution explicitly stated that...
“no religious test shall ever be required as a qualification to any office or public trust under the United States.” The First Amendment declared that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

The right of the states to set their own policy in regard to religion was implicitly acknowledged in Article I of the Constitution, which stipulated that to be eligible to vote in elections for the United States House of Representatives, “the elector in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.” Several states at the time mandated a religious test as a requirement for the franchise, and the Constitution therefore tacitly approved such tests. In addition, the First Amendment’s prohibition against religious establishment applied explicitly to the national Congress alone. Indeed, it was not until after the American Civil War, in the incorporation cases, that the United States Supreme Court ruled that some of the restrictions placed on the federal government by the amendments also applied to the state governments.

By 1800, then, there was a broad consensus among Americans that religious freedom was essential to political liberty and the well-being of the nation. During the next two centuries, the definition of freedom of religion would be broadened, as states abandoned religious tests and achieved complete disestablishment and as state and federal courts ruled that various subtle forms of government encouragement of religion were unconstitutional. Shortly after the dawn of the nineteenth century, in a letter to a Baptist congregation in Danbury, Connecticut, Thomas Jefferson asserted that the First Amendment created “a wall of separation between church and state.” What Jefferson meant by this term is a subject of great debate. But there is no doubt that his words have become part of the American political creed and a rallying cry for those who seek to expand the definition of religious liberty, even to mean that religion should be removed from public life altogether.

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Suggestions for Further Reading


Liberty was the central political principle of the American Revolution. As Patrick Henry, one of its staunchest supporters, famously intoned, “Give me liberty or give me death.” Henry was not alone in his rhetorical fervor. Indeed, no ideal was proclaimed more often in the eighteenth-century Anglo-American world than liberty.

The idea of liberty defended by the American Founders came from several sources. The most venerable was English common law. Beginning in the late medieval period, writers in the common law tradition developed an understanding of liberty which held that English subjects were free because they lived under a system of laws which even the Crown was bound to respect. Leading English jurists argued that these legal limits on royal power protected the subject’s liberty by limiting the arbitrary use of political power.

Under English common law, liberty also consisted in the subject enjoying certain fundamental rights to life, liberty and property. William Blackstone (1723–1780), the leading common lawyer of the eighteenth century, argued that these rights allowed an English subject to be the “entire master of his own conduct, except in those points wherein the public good requires some direction or restraint . . .” For Blackstone, these English rights further protected the subjects’ liberty by making them secure in their persons from arbitrary search and seizure, and by ensuring that their property could not be taken from them without due process of law.

In order to preserve these fundamental rights, the English common law allowed the subject the right to consent to the laws that bound him by electing representatives to Parliament whose consent the monarch had to obtain before acting.

Common lawyers in the seventeenth and eighteenth centuries did not view these rights and the liberty they protected as the gift or grant of the monarch; rather, they believed that they were an Englishmen’s “birthright,” something that inhered in each subject and that therefore could not be taken away by royal prerogative.

This common law understanding of liberty was central to the seventeenth-century struggles against the Stuart monarchy. Prominent jurists and Parliamentarians such as Edward Coke (1552–1634) took the lead in the attempt to limit what they saw as the illegal and arbitrary nature of the Stuarts’ rule. This struggle culminated in the Glorious Revolution of 1689 and the triumph of Parliamentary authority over the Crown. For champions of English liberty, the result of this century-long struggle was the achievement of political liberty. They further argued that, as a result of this struggle, Britain in the eighteenth century had the freest constitution in the world. According to the French writer Montesquieu (1689–1755), Britain was “the only nation in the world, where political and civil liberty” was “the direct end of the constitution.”

This seventeenth century struggle between royal power and the subject’s liberties made a great impression on the American Founders. They absorbed its lessons about the nature and importance of liberty through their reading of English history as well as through their instruction in English law.

A second and equally influential understanding of liberty was also forged in the constitutional battles of the seventeenth century: the idea that liberty was a natural right pertaining to all. The foremost exponent of this understanding of liberty in the English-speaking world was John Locke (1632–1704). Locke’s political ideas were part of a wider European political and legal movement which argued that there were certain rights that all men were entitled to irrespective of social class or creed.

Like the common lawyers, Locke saw liberty as centrally about the enjoyment of certain rights. However, he universalized the older English understanding of liberty, arguing that it applied to all persons, and not just to English subjects. Locke also expanded the contemporary understanding of liberty by arguing that it included other rights—in particular a right to religious toleration (or liberty of conscience), as well as a right to resist governments that violated liberty. In addition, Locke argued that the traditional English common
law right to property was also a natural right, and was an important part of the subject’s liberty.

Locke began his political theory by arguing that liberty was the natural state of mankind. According to Locke, all men are “naturally” in a “State of perfect Freedom to order” their “Actions, and dispose of their Possessions, and Persons as they think fit, within the bounds of the Law of Nature, without asking leave, or depending upon the Will of any other Man.”

However, Locke did not argue that this natural liberty was a license to do whatever we want. “Freedom is not,” he argued, “A Liberty for every Man to do what he lists (For who could be free, when every other Man’s humour might domineer over him?).” Rather, Locke held that since all men are “equal and independent, no one ought to harm another in his Life, health, Liberty, or Possessions.” According to Locke, each of us has “an uncontroulable Liberty to dispose of our persons and possession,” but we do not have the right to interfere with the equal liberty of others to do the same.

In Locke’s political theory, men enter into society and form governments to better preserve this natural liberty. When they do so, they create a political system where the natural law limits on liberty in the state of nature are translated into a legal regime of rights. In such a system, Locke argued, each person retains his “Liberty to dispose, and order, as he lists, his Person, Actions, Possession, and his whole Property, within the Allowance of those Laws under which he is; and therein not to be subject to the arbitrary Will of another, but freely follow his own.”

For Locke, as for the common lawyers, the rule of law was necessary for liberty. In Locke’s view, “the end of law is not to abolish or restrain, but to preserve and enlarge Freedom.” According to Locke, “Where there is no Law, there is no Freedom. For Liberty is to be free from restraint and violence from others which cannot be, where there is no law.”

Building on both the English common law and on Locke’s ideas, the eighteenth-century English writer Cato argued “that liberty is the unalienable right of mankind.” It is “the power which every Man has over his own Actions, and his Right to enjoy the Fruit of his Labour, Art, and Industry, as far as by it he hurts not the Society, or any members of it, by taking from any Member or by

hinderering him from enjoying what he himself enjoys.” Cato was the pseudonym for two British writers, John Trenchard and Thomas Gordon. Their co-authored Cato’s Letters (1720–1723) were widely read in the American colonies.

On the eve of the American Revolution, then, the received understanding of liberty in the Anglo-American world was a powerful amalgam of both the English common law and the liberal ideas of writers like Locke and Cato. On this view, liberty meant being able to act freely, secure in your basic rights, unhindered by the coercive actions of others, and subject only to the limitation of such laws as you have consented to. Central to this idea of liberty was the right to hold property and to have it secure from arbitrary seizure. In addition, under the influence of Locke, liberty was increasingly being seen on both sides of the Atlantic as a universal right, one not limited to English subjects. Equally influential was Locke’s argument that if a government violated its citizens’ liberty the people could resist the government’s edicts and create a new political authority. However, despite the gains that had been made since the seventeenth century, many Englishmen in the eighteenth century still worried that liberty was fragile and would always be endangered by the ambitions of powerful men.

Since the first settlements were established in the early seventeenth century, the American colonists shared in this English understanding of liberty. In particular, they believed that they had taken their English rights with them when they crossed the Atlantic. It was on the basis of these rights that they made a case for their freedom as colonists under the Crown. In addition, in the eighteenth century, the colonists were increasingly influenced by the Lockeian idea that liberty was a natural right. As a result, when they were confronted with the policies of the British Crown and Parliament in the 1760s and 1770s to tax and legislate for them without their consent, the colonists viewed them as an attack on their liberty.

In response, the colonists argued that these British taxes and regulations were illegal because they violated fundamental rights. They were particularly resistant to the claims of the British Parliament, as expressed in the Declaratory Act of 1766, to legislate for the colonies “in all cases whatsoever.” By 1774, following the Boston Tea Party organized by Samuel Adams and John Hancock, and the subsequent
Coercive Acts, many leading colonists such as Thomas Paine and James Otis argued that they had a natural right to govern themselves, and that such a right was the only protection for their liberty. In addition to several essays in defense of rights, including *Letters from a Farmer in Pennsylvania*, John Dickinson wrote the first patriotic song, “The Liberty Song.”

This colonial thinking about liberty and rights culminated in the Declaration of Independence issued by the Continental Congress in 1776, which proclaimed that, because their liberty was endangered, the colonists had a natural right to resist the English King and Parliament.

Having made a revolution in the name of liberty, the American challenge was to create a form of government that preserved liberty better than the vaunted British constitution had done. In doing so, the founders turned to the ancient ideal of republican self-government, arguing that it alone could preserve the people’s liberty. They further argued that the modern understanding of liberty as the possession of rights needed to be a central part of any proper republican government. Beginning in 1776, in the midst of the Revolutionary War, all of the former colonies began to construct republican governments which rested on the people’s consent and which included bills of rights to protect the people’s liberty.

Since there was widespread consensus among the Founders that liberty required the protection of rights and the rule of law, much of the political debate in the crucial decades following the American Revolution revolved around the question of which institutional arrangements best supported liberty. Was liberty best protected by strong state governments jealously guarding the people’s liberties from excessive federal authority, as leading Anti-Federalists like George Mason contended; or, was an extended federal republic best able to preserve the freedom of all, as leading Federalists like James Madison and Alexander Hamilton argued?

The era of the American Revolution also gave birth to a further series of important debates about liberty. Was slavery, as some Americans in the eighteenth century were beginning to recognize, an unjust infringement upon the liberty of African Americans? Were women, long deprived of basic legal rights, also entitled to have equal liberty with their male fellow citizens? By making a Revolution in its name, the Founders ensured that debates about the nature and extent of liberty would remain at the center of the American experiment in self-government.

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Suggestions for Further Reading


Liberty