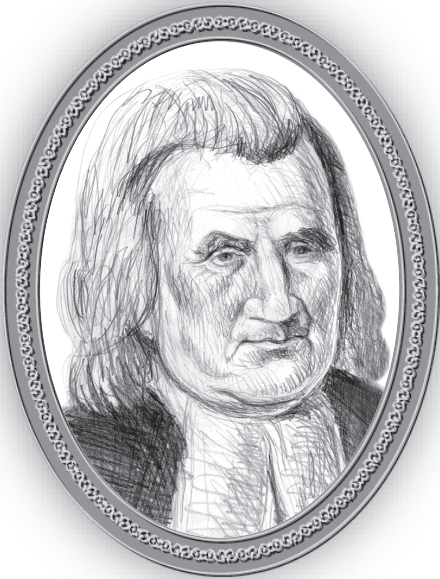


JOHN WITHERSPOON

(1723–1794)



Nothing is more certain than that a general profligacy and corruption of manners make a people ripe for destruction. A good form of government may hold the rotten materials together for some time, but beyond a certain pitch, even the best constitution will be ineffectual, and slavery must ensue.

—John Witherspoon



Introduction

John Witherspoon, a Scottish immigrant to America, was a minister, member of the Continental Congresses, and signer of the Declaration of Independence. He made his most important contribution to the causes of American independence and liberty, however, in his role as an educator. Witherspoon was president of the College of New Jersey (later, Princeton University) for twenty-six years, between 1768 and 1794. His ideas about religion, education, and free enterprise had a significant impact on his contemporaries. Witherspoon himself taught one president (James Madison) and one vice president (Aaron Burr). He also instructed nine cabinet officers, twenty-one senators, thirty-nine congressmen, three justices of the Supreme Court, and twelve state governors. Five of the fifty-five members of the Constitutional Convention were his former students.

Witherspoon's impact on the ministry of the Presbyterian Church was also significant. Of the one hundred seventy-seven ministers in America in 1777, fifty-two of them had been Witherspoon's students. As a clergyman active in public affairs, Witherspoon resented the clause in Georgia's new constitution of 1777 that expressly forbade clergymen of any denomination from sitting in the legislature. He wrote a letter protesting this exclusion, but the clause was not removed until 1798, four years after Witherspoon's death.

Relevant Thematic Essays for John Witherspoon

- Freedom of Religion
- Limited Government (Volume 2)

In His Own Words:

JOHN WITHERSPOON

ON THE CLERGY IN POLITICS

Overview

In this lesson, students will learn about John Witherspoon. They should first read as background homework **Handout A—John Witherspoon (1723–1794)** and answer the **Reading Comprehension Questions**. After discussing the answers to these questions in class, the teacher should have the students answer the **Critical Thinking Questions** as a class. The teacher should then review what the Constitution (in Article VI) says about a religious test for office. Next, the teacher should introduce the students to the primary source activity, **Handout C—In His Own Words: John Witherspoon on the Clergy in Politics**, in which Witherspoon offers his ironic commentary on the role of the clergy in politics. As a preface, there is **Handout B—Vocabulary and Context Questions**, which will help the students understand the document, and, as a follow-up, there is **Handout D—Discussion Questions**.

There are **Follow-Up Homework Options** that ask the students to analyze and reflect upon the role of the clergy in politics today. **Extensions** provides opportunity for thought as students are asked to compare religious liberty in the United States today with the role of religion in other historical or cultural environments.

Objectives

Students will:

- understand the significance of Article VI, Section 3 of the Constitution
- compare and contrast the statements about religion in the Georgia Constitution of 1777 with those in the federal Constitution
- analyze the concept of a “religious test” for public office and apply that concept to contemporary society
- appreciate the ironic humor of John Witherspoon

Standards

CCE (9–12): IIA1, IIC1, IIIA1, IIIA2

NCHS (5–12): Era III, Standards 3A, 3B

NCSS: Strands 2, 5, 6, and 10

Materials

Student Handouts

- Handout A—John Witherspoon (1723–1794)
- Handout B—Vocabulary and Context Questions
- Handout C—In His Own Words: John Witherspoon on the Clergy in Politics
- Handout D—Discussion Questions

Additional Teacher Resource

- Answer Key

Recommended Time

One 45-minute class period.
Additional time as needed for homework.

LESSON PLAN



I. Background Homework

Ask students to read **Handout A—John Witherspoon (1723–1794)** and answer the Reading Comprehension Questions.



II. Warm-Up [10 minutes]

- A. Review answers to homework questions.
- B. Conduct a whole-class discussion to answer the Critical Thinking Questions.
- C. Ask a student to summarize the historical significance of John Witherspoon.

John Witherspoon was a minister, college president, member of the Continental Congresses, and signer of the Declaration of Independence. His ideas about religion, education, and free enterprise had a significant impact on his contemporaries.



III. Context [5 minutes]

- A. Explain to the students that the Constitution explicitly prohibits religious tests for office at the federal level. Write on the board (or distribute copies of) Article VI, Section 3 of the Constitution:

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office of public Trust under the United States.

- B. Point out to the students that many of the Founders did not object to religious tests for office at the state level. Indeed, at the time the Constitution was adopted, several state constitutions included religious tests for office, for voting, or both. The Constitution indirectly acknowledges the validity of such religious tests for voting. Article I, Section 1 declares that each state's voting qualifications for its lower house shall be the voting qualifications for the United States House of Representatives:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the elector in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

- C. Explain to the students that the Founders did not intend for the liberties and rights guaranteed by the first ten amendments to apply to the states. The idea that the amendments to the Constitution should apply to the states came much later, in the “incorporation” decisions issued by the Supreme Court. The establishment clause of the First Amendment, therefore, was binding only on the federal government:

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



IV. In His Own Words [20 minutes]

- A. Distribute **Handout B—Vocabulary and Context Questions**.
- B. Distribute **Handout C—In His Own Words: John Witherspoon on the Clergy in Politics** and **Handout D—Discussion Questions**. Give students a few minutes to review the questions.
- C. Read the letter aloud to students, emphasizing the irony and sarcasm of Witherspoon's writing. (Students sometimes find it difficult to determine the tone of a passage when reading it on their own.)

LESSON PLAN

- D. Ask students to pair up with partners to answer the discussion questions in **Handout D**.
- E. Bring the class back together for large-group sharing.



V. Wrap-Up Discussion [10 minutes]

Ask the students to answer these questions:

- A. What is a “religious test” for office?
A “religious test” for office means that a person must belong to a certain religious domination or adhere to certain religious beliefs in order to serve in elected office. This was a practice in England and in some of the American colonies.
- B. Why does the Constitution prohibit such a test?
Because of the multiplicity of religious sects in America, the Founders determined that the official establishment of a particular religion at the federal level was both impractical and unjust.



VI. Follow-Up Homework Options

Students could answer the following questions in a class discussion or for homework:

- A. Was the Georgia prohibition on ministers in public office a type of religious test?
- B. Should members of the clergy (e.g., rabbis, ministers, priests, imams) be elected to public office? Why or why not?



VII. Extensions

Suggestions:

Students could compare and contrast the constitutional freedom of religion in the United States today with the role of religion in these societies:

- A. seventeenth-century Massachusetts
- B. eighteenth-century Virginia
- C. contemporary Iran or Saudi Arabia
- D. Afghanistan under the Taliban

LESSON PLAN

Resources

Print

Miller, Thomas, ed. *Selected Writings of John Witherspoon*. Carbondale: Southern Illinois University Press, 1990.

Morrison, Jeffrey Hays. "John Witherspoon and 'The Public Interest of Religion.'" *Journal of Church and State* 41 (Summer 1999): 551–574.

Noll, M. *Princeton and the Republic, 1768–1822*. Princeton: Princeton University Press, 1989.

Stohlman, Martha Lou Lemmon. *John Witherspoon: Parson, Politician, Patriot*. Louisville: John Knox Press, 1989.

Trait, L. Gordon. *The Piety of John Witherspoon: Pew, Pulpit, and Public Forum*. Louisville: Geneva Press, 2001.

Internet

"John Witherspoon." U.S. History.org. <<http://www.ushistory.org/declaration/signers/witherspoon.htm>>.

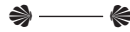
Selected Works by John Witherspoon

- *Lectures on Moral Philosophy*

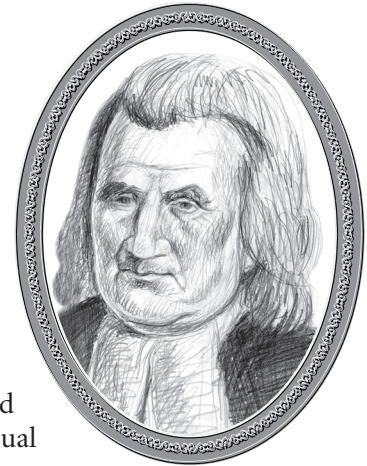
JOHN WITHERSPOON (1723–1794)

I willingly embrace the opportunity of declaring my opinion without any hesitation,
that the cause in which America is now in arms,
is the cause of justice, of liberty, and of human nature.

—John Witherspoon, 1776



He was a father figure to America's Founding Fathers. A renowned theologian from Scotland, John Witherspoon educated many young men who became prominent leaders of the Founding generation. He went on to embrace the revolutionary cause. He signed the Declaration of Independence, participated in the Continental Congress, and served in positions of influence in New Jersey state government. Yet Witherspoon's greatest legacy remains that of educator. Dozens of his students went on to leadership positions in the emerging United States. He had challenged them in their youth to read widely and think deeply about theology, economics, natural science, and political philosophy. By so doing, Witherspoon provided intellectual training in the battle for individual liberty.



Background

John Witherspoon was born in Gifford, Scotland, in 1723. His father served as the Presbyterian minister for the parish, and Witherspoon eventually followed in his footsteps. He received a Master of Arts degree from the University of Edinburgh and attended divinity school. At age twenty, he took a position at a parish in Beith, Scotland. For the next twenty years, he worked diligently and wrote widely admired theological works.

Witherspoon developed a positive reputation and a persuasive speaking style. Six feet tall, with bushy eyebrows, a prominent nose, and large ears, he was a formidable presence in his Scottish parish. Dr. Benjamin Rush, an American living in Scotland at the time, described Witherspoon's sermons as "loaded with good sense and adorned with elegance and beauty." Witherspoon memorized his sermons. He never carried notes to the pulpit, but his delivery did not seem rigid or rehearsed. He refrained from using dramatic gestures or elaborate language. Instead, his well-reasoned arguments conveyed his message and increased his renown.

President of the College of New Jersey

Witherspoon's reputation as a theologian spread. In 1766, the College of New Jersey (later renamed Princeton University) proposed that he leave Scotland and become the college's sixth president. He considered the opportunity. His wife, however, hesitated because of the treacherous transatlantic journey. Dr. Rush, a graduate of the College, convinced Witherspoon and his wife to move. In August of 1768, they arrived in Princeton with their five children and more than three hundred books.

A small colonial college, the College of New Jersey was ailing. It urgently needed funds to keep its doors open. Enrollment was low. The curriculum and instruction needed improvement. Incoming students were poorly prepared for college. As the lead instructor, college president, and fund-raiser, Witherspoon shouldered all of these challenges.

Fund-raising proved difficult. In the 1770s, conflict with Great Britain was intensifying, and many colonists wanted to hold on to their money. But Witherspoon was persuasive. He traveled extensively, preaching and soliciting contributions. Those who heard him speak described him as “a profound theologian . . . a universal scholar acquainted with human nature; a grave, dignified, solemn speaker.” His trips to New York, Boston, and Virginia were successes. Contributions increased.

Enrollment presented a different challenge. To attract students, Witherspoon added to the curriculum. The college changed its exclusive focus on spiritual studies. Under Witherspoon, the college offered more comprehensive courses. He expanded the library to include contemporary philosophical writings. He did not limit students’ exposure to new ideas. Instead, he encouraged them to read various perspectives. He preferred to allow reason and faith to guide their opinions. As a result of these changes, enrollment increased steadily. The graduating class of 1768 had only eleven students, but there were twenty-nine in the class of 1773.

The founders of the college wanted to educate men who would be “ornaments of the State as well as the Church.” Witherspoon himself taught one president (James Madison) and one vice president (Aaron Burr). He also instructed nine cabinet officers, twenty-one senators, thirty-nine congressmen, three justices of the Supreme Court, and twelve state governors. Five of the fifty-five members of the Constitutional Convention were his former students. Witherspoon’s impact on the ministry of the Presbyterian Church was also significant. Of the one hundred seventy-seven ministers in America in 1777, fifty-two of them had been Witherspoon’s students.

With the Revolutionary War unfolding on its doorstep, the College of New Jersey suffered. Most students left to fight. Witherspoon was forced to shut down the school. He assisted in the safe evacuation of the students in November of 1776. During the war, both British and American troops at one time or another used the college’s buildings as barracks and hospital facilities. American troops even fired into the college’s main building, Nassau Hall, during the Battle of Princeton in January 1777. Their hope was to persuade the British troops camped inside to surrender. After the war, Witherspoon worked to restore the college’s appearance, reputation, and finances. He served as its president until his death in 1794.

Service to the Colonies

Over a period of years, Witherspoon gradually became an ardent supporter of revolution. He joined his state’s Committees of Correspondence and Safety in 1774. Once the war began, he represented New Jersey in the Continental Congress from 1776–1782. In 1776, when a fellow delegate questioned whether or not the colonies were ripe for independence, Witherspoon replied, “Sir, in my judgment, the country is not only ripe for the measure, but we are in danger of rotting for want of it.” Witherspoon was the only active clergyman to sign the Declaration of Independence. He was liked for his sense of humor and pleasant personality and respected for his intellect. Witherspoon served on more than one hundred congressional committees during his six years in office. Following the Constitutional Convention in 1787, Witherspoon supported ratification at the New Jersey convention.

Witherspoon was a traditional Christian who was firmly committed to religious liberty. He feared that the Anglican Church would send a resident bishop to America who could then encroach on religious liberties. He also did not hesitate to address

political issues from the pulpit. In his “Dominion of Providence” sermon in the spring of 1776, Witherspoon declared that “the cause in which America is now in arms, is the cause of justice, of liberty, and of human nature.”

Witherspoon signed the Declaration of Independence, shepherded the College of New Jersey for three decades, and championed political and religious liberty. His most significant legacy, however, has been handed down through the work of his students. Witherspoon helped nurture a generation of revolutionary thinkers and religious leaders. Their efforts, in turn, produced the Constitution and the Bill of Rights. John Witherspoon ought to be remembered, in the words of John Adams, “as high a Son of Liberty as any Man in America.”



Reading Comprehension Questions

1. What were the characteristics of Witherspoon’s speaking style?
2. What changes did Witherspoon make in the curriculum of the College of New Jersey?
3. What national and state offices did Witherspoon hold during his career in public service?

Critical Thinking Questions

4. What is the significance of Witherspoon’s role in educating members of the Founding generation?
5. John Adams declared that Witherspoon ought to be remembered “as high a Son of Liberty as any Man in America.” Do you agree?

VOCABULARY AND CONTEXT QUESTIONS

Letter on the Clergy in Politics

1. **Vocabulary:** *Use context clues to determine the meaning or significance of each of these words and write their definitions:*
 - a. denomination
 - b. ascertain
 - c. freeholders
 - d. exclusion
 - e. ecclesiastical
 - f. indelible
 - g. injurious
 - h. wholly
 - i. apprehended
 - j. clerical
 - k. relinquished
 - l. litigation
 - m. ambiguous
 - n. alterations
 - o. deposition

2. **Context:** *Answer the following questions. Note that some of the answers must be inferred.*
 - a. When was this document written?
 - b. Where was this document written?
 - c. Who wrote this document?
 - d. What type of document is this?
 - e. What was the purpose of this document?
 - f. Who was the audience for this document?

IN HIS OWN WORDS: JOHN WITHERSPOON ON THE CLERGY IN POLITICS

Letter on the Clergy in Politics

The 1777 Georgia state constitution included a provision that “No clergyman of any denomination shall be a member of the General Assembly.” John Witherspoon wrote the following letter commenting upon that statement.

Sir,

In your paper of Saturday last, you have given us the new Constitution of Georgia, in which I find the following resolution, “No clergyman of any denomination shall be a member of the General Assembly.” I would be very well satisfied that some of the gentlemen who have made that an essential article of this constitution, or who have inserted and approve it in other constitutions, would be pleased to explain a little the principles, as well as to ascertain the meaning of it.

Perhaps we understand pretty generally, what is meant by a clergyman, viz. [namely] a person regularly called and set apart to the ministry of the gospel, and authorized to preach and administer the sacraments of the Christian religion. Now suffer me to ask this question: Before any man among us was ordained a minister, was he not a citizen of the United States, and if being in Georgia, a citizen of the state of Georgia? Had he not then a right to be elected a member of the assembly, if qualified in point of property? How then has he lost, or why is he deprived of this right? Is it by offence or disqualification? Is it a sin against the public to become a minister? Does it merit that the person, who is guilty of it should be immediately deprived of one of his most important rights as a citizen? Is not this inflicting a penalty which always supposes an offence? Is a minister then disqualified for the office of a senator or representative? Does this calling and profession render him stupid or ignorant? I am inclined to form a very high opinion of the natural understanding of the freemen and freeholders of the state of Georgia, as well as of their improvement and culture by education, and yet I am not able to conceive, but that some of those equally qualified, may enter into the clerical order: and then it must not be unfitness, but some other reason that produces the exclusion. Perhaps it may be thought that they are excluded from civil authority, that they may be more fully and constantly employed in their spiritual functions. If this had been the ground of it, how much more properly would it have appeared, as an order of an ecclesiastical body with respect to their own members. In that case I should not only have forgiven but approved and justified it; but in the way in which it now stands, it is evidently a punishment by loss of privilege, inflicted on those, who go into the office of the ministry; for which, perhaps, the gentlemen of Georgia may have good reasons, though I have not been able to discover them.

But besides the uncertainty of the principle on which this resolution is founded, there seems to me much uncertainty as to the meaning of it. How are we to determine who is or is not a clergyman? Is he only a clergyman who has received ordination from those who have derived the right by an uninterrupted succession from the apostles? Or is he also a clergyman, who is set apart by the imposition of hands of a body of other clergymen, by joint authority? Or is he also a clergyman who is set a part [sic] by the church members of his own society, without any imposition of hands at all? Or is he also a clergyman who has exhorted in a Methodist society, or spoken in a Quaker meeting, or any other religious assembly met for public worship? There are still greater difficulties

behind: Is the clerical character indelible? There are some who have been ordained who occasionally perform some clerical functions, but have no pastoral charge at all. There are some who finding public speaking injurious to health, or from other reasons easily conceived, have resigned their pastoral charge, and wholly discontinued all acts and exercises of that kind; and there are some, particularly in New England, who having exercised the clerical office some time, and finding it less suitable to their talents than they apprehended, have voluntarily relinquished it, and taken to some other profession. . . . Do these all continue clergymen, or do they cease to be clergymen, and by that cessation return to, or recover the honorable privileges of laymen?

I cannot help thinking that these difficulties are very considerable, and may occasion much litigation, if the article of the constitution stands in the loose, ambiguous form in which it now appears; and therefore I would recommend the following alterations, which I think will make every thing definite and unexceptionable.

“No clergyman, of any denomination, shall be capable of being elected a member of the Senate or House of Representatives, because {here insert the grounds of offensive disqualification, which I have not been able to discover} Provided always, and it is the true intent and meaning of this part of the constitution, that if at any time he shall be completely deprived of the clerical character by those by whom he was invested with it, as by deposition for cursing and swearing, drunkenness or uncleanness, he shall then be fully restored to all the privileges of a free citizen; his offence shall no more be remembered against him; but he may be chosen either to the Senate or House of Representatives, and shall be treated with all the respect due to his brethren, the other members of Assembly.”

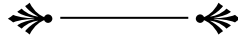
Source: John Witherspoon, *The Works of John Witherspoon* (Edinburgh: J. Ogle, Parliament-Square, 1815), Vol. IX, 220–223.

DISCUSSION QUESTIONS

Letter on the Clergy in Politics

1. Why is Witherspoon writing this letter?
2. Why is Witherspoon concerned about the Georgia constitution's position on clergy in the legislature?
3. Does Witherspoon think that there are valid reasons for excluding the clergy from the legislature?
4. What does Witherspoon mean by the phrase "a punishment by loss of privilege"?
5. What possible definitions does Witherspoon give for the word "clergyman"?
6. What possible problems does Witherspoon foresee about excluding members of the clergy?
7. What specific changes does Witherspoon recommend for the Georgia Constitution?
8. Does Witherspoon want his suggestions taken seriously?

FREEDOM OF RELIGION



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

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."

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

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.

“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.

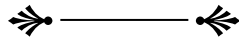
By 1800, then, there was a broad consensus among Americans that religious freedom was essential to political liberty and the well-being of the nation. During the next two centuries, the definition of freedom of religion would be broadened, as states abandoned religious tests and achieved complete disestablishment 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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LIMITED GOVERNMENT



Thomas Jefferson accurately represented the convictions of his fellow colonists when he observed in the Declaration of Independence that a government, to be considered legitimate, must be based on the consent of the people and respect their natural rights to “life, liberty and the pursuit of happiness.” Along with other leading members of the founding generation, Jefferson understood that these principles dictated that the government be given only limited powers that, ideally, are carefully described in written charters or constitutions.

Modern theorists like John Locke and the Baron de Montesquieu had been making the case for limited government and separation of powers during the century prior to the American Revolution. Colonial Americans were quite familiar with Locke’s argument from his *Two Treatises of Government* that “Absolute Arbitrary Power, or Governing without settled standing Laws, can neither of them consist with the ends of Society and Government. . . .” Locke added that the reason people “quit the freedom of the state of Nature [is] to preserve their Lives, Liberties and Fortunes.” Civil society has no higher end than to provide for the safety and happiness of the people, and this is best done under a system of known rules or laws that apply equally to “the Rich and Poor, . . . the Favorite at Court, and the Country Man at plough.” For his part, Montesquieu argued that only where governmental power is limited in scope, and then parceled out among different departments, will people be free from oppression. Constitutional government, for modern natural rights theorists, should be limited government dedicated to the comfortable preservation of the people—that is, to their security, freedom, and prosperity.

John Adams echoed the beliefs of many Americans when he argued that only by creating a balance of forces within the government could the people hope to escape despotism and misery. An unchecked legislature, he observed, would be capable not only of making tyrannical laws, but of

executing them in a tyrannical manner as well. In his famous draft of a constitution for the commonwealth of Massachusetts, Adams declared that the “legislative, executive and judicial power shall be placed in separate departments, to the end that it might be a government of laws, and not of men.”

This document, along with his *Defence of the Constitutions of Government of the United States of America*, containing a strong case for checks and balances in government, were well known to the delegates who attended the Constitutional Convention of 1787.



James Wilson, one of the foremost legal scholars of the founding period and a delegate from Pennsylvania at the Constitutional Convention, agreed with Adams’ insistence that the power of government should be divided to the end of advancing the peace and happiness of the

people. In the words of Wilson, “In government, the perfection of the whole depends on the balance of the parts, and the balance of the parts consists in the independent exercise of their separate powers, and, when their powers are separately exercised, then in their mutual influence and operation on one another. Each part acts and is acted upon, supports and is supported, regulates and is regulated by the rest.”

Both the Articles of Confederation and the Constitution of the United States provided for governments with limited powers. As John Jay had discovered as America’s secretary of foreign affairs, the power of the central government was severely limited under the Articles and, hence, could be trusted to a unitary legislative department. Fear of governmental tyranny and a desire to preserve the power enjoyed by the new states resulted in the creation of a central government that could not effectively oversee interstate commerce or do other things that were critical to ensuring the safety and happiness of the people. In a letter to Edmund Randolph at the end of 1786, George Washington bemoaned the “awful situation of our affairs” which he attributed to “the want of sufficient power

in the foederal head.” Washington quickly joined the movement to create a new governmental system that was equal to “the exigencies of Union,” to quote from the instructions given the delegates to the Constitutional Convention of 1787.

The Constitution of 1787 grew out of a plan drafted largely by James Madison during the winter and spring before the Convention. The “Virginia Plan” proposed a central government that was supreme over the states. Evidence that the national government was to be entrusted with considerable power could be found in the provisions for a bicameral legislature and independent executive and judicial departments.

The delegates who attended the Constitutional Convention were sufficiently versed in modern political theory to understand that they would have to divide the power of the national government if they intended to entrust it with real authority over the lives of the people and the states. They understood the dangers of imparting considerable political power to a unitary sovereign. In this connection, there was never any doubt in their minds that they should create a government of “delegated and enumerated” powers, that is, that the government should only be entrusted with specified (enumerated) powers that derived directly from the people. While they worried about the “turbulence and follies” of democracy, they recognized that government had to be based on the consent of the people to be legitimate.

The Virginia Plan anticipated the bicameral legislature and independent executive and judicial departments found in the United States Constitution today. Building on Madison’s model, the delegates assigned responsibilities to the departments based on their peculiar characteristics. The six-year term of senators, for example, seemed to make this a proper institution to involve in foreign policy (e.g., ratification of treaties) since senators would have more time than members of the House of Representatives to acquaint themselves with international affairs and their longer terms and larger constituencies (entire states) also would give them more freedom to attend to matters other than the immediate interests of constituents back home. The House of Representatives was entrusted with the important power to initiate revenue (taxation) bills precisely because the members of

this chamber are tied so closely to the people by short terms and small districts.

In addition to matching powers and governmental responsibilities, the delegates were careful to position each department to “check and balance” the other departments. Examples are the executive’s veto power, the congressional impeachment power, and the judicial review power entrusted to the Supreme Court, the only national court formally established by the Constitution. Although in good Lockean fashion the legislative department was designed to be the preeminent

department, it was still subjected to checks by the other branches of the government. Separation of powers as well as the system of checks and balances were devices for reducing the threat of governmental tyranny, not excluding legislative tyranny.

There was never any doubt in their minds that they should create a government of “delegated and enumerated” powers . . .

However, the constitutional arrangement, put into its final wording by Gouverneur Morris, was not driven entirely by a desire to eliminate the threat of tyrannical government. The system of separated and divided powers also was intended to promote competence in government. The president can employ his veto not only to check legislative action that he considers irresponsible, but to provoke Congress to improve a legislative enactment. The Senate can use its authority to ratify presidential nominations of cabinet officers or judges to ensure that qualified candidates are named to fill these positions.

Writing in *Federalist No. 9*, Alexander Hamilton identified the principle of separated and divided powers, along with checks and balances, as among the inventions of the new science of politics that had made republican government defensible. Madison described in *Federalist No. 51* the benefits of the governmental arrangement represented in the new Constitution: “In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.” Significantly, Anti-Federalists as well as Federalists agreed that governmental powers should be limited and that these powers should be subject to internal as well as external checks.

It is important to emphasize that the Framers settled on an arrangement that divided yet blended the legislative, executive, and judicial powers. This facilitates interdepartmental checking while promoting mature deliberation. Their aim was to create a decent and competent democracy, something beyond mere non-tyrannical government. They placed the whole of the government, and even the people, under constitutional limitations. The Constitution is the supreme law of the land, not the enactments of Congress or the order of the president or the momentary will of the people. As Chief Justice Marshall declared in *Marbury v. Madison* (1803), “The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation.” Even the

desires of the people are held in check by the Constitution. The political system still meets the criteria of democratic government, however, since the people hold the power, through their representatives, to amend the Constitution.

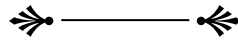
The paradigm of constitutional government embraced by the American people in 1787, that is, limited government based on the consent of the people and committed to the protection of fundamental rights, has become the dominant model throughout the world. The rhetoric of rights, whether couched in the language of natural rights or human rights, is universally appealing. Also universally accepted is the argument that rights are most secure when governmental powers are limited in scope and subject to internal and external checks.

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INTRODUCTORY ESSAY: EXPLAINING THE FOUNDING



In 1760, what was to become the United States of America consisted of a small group of colonies strung out along the eastern seaboard of North America. Although they had experienced significant economic and demographic growth in the eighteenth century and had just helped Britain defeat France and take control of most of North America, they remained politically and economically dependent upon London. Yet, in the next twenty-five years, they would challenge the political control of Britain, declare independence, wage a bloody war, and lay the foundations for a trans-continental, federal republican state. In these crucial years, the colonies would be led by a new generation of politicians, men who combined practical political skills with a firm grasp of political ideas. In order to better understand these extraordinary events, the Founders who made them possible, and the new Constitution that they created, it is necessary first to understand the political ideas that influenced colonial Americans in the crucial years before the Revolution.



THE COMMON LAW AND THE RIGHTS OF ENGLISHMEN

The political theory of the American colonists in the seventeenth and eighteenth centuries was deeply influenced by English common law and its idea of rights. In a guide for religious dissenters written in the late seventeenth century, William Penn, the founder of Pennsylvania, offered one of the best contemporary summaries of this common-law view of rights. According to Penn, all Englishmen had three central rights or privileges by common law: those of life, liberty, and property. For Penn, these English rights meant that every subject was “to be freed in Person & Estate from Arbitrary Violence and Oppression.” In the widely used language of the day, these rights of “Liberty and Property” were an Englishman’s “Birthright.”

In Penn’s view, the English system of government preserved liberty and limited arbitrary power by allowing the subjects to express their *consent* to the laws that bound them through two institutions:

“Parliaments and Juries.” “By the first,” Penn argued, “the subject has a share by his chosen Representatives in the Legislative (or Law making) Power.” Penn felt that the granting of consent through Parliament was important because it ensured that “no new Laws bind the People of England, but such as are by common consent agreed on in that great Council.”

In Penn’s view, juries were an equally important means of limiting arbitrary power. By serving on juries, Penn argued, every freeman “has a share in the *Executive* part of the Law, no Causes being tried, nor

any man adjudged to loose [*sic*] Life, member or Estate, but upon the *Verdict* of his Peers or Equals.” For Penn, “These two grand Pillars of English Liberty” were “the *Fundamental vital Privileges* [*sic*]” of Englishmen.

The other aspect of their government that seventeenth-century Englishmen celebrated was a system that was ruled by laws and not by men. As Penn rather colorfully put it: “In France, and other Nations, the meer [*sic*] Will of the Prince is Law, his Word takes off any mans Head, imposeth Taxes, or seizes a mans Estate, when, how and as often as he lists; and if one be accused [*sic*], or but so much as suspected of any Crime, he may either presently Execute him, or banish, or Imprison him at pleasure.” By contrast, “*In England*,” Penn argued, “the Law is both the measure and the bound of every Subject’s Duty and Allegiance, each man having a fixed Fundamental-Right born with him, as to Freedom of his Person and Property in his Estate, which he cannot be deprived of, but either by his Consent, or some Crime, for which the Law has impos’d such a penalty or forfeiture.”

This common law view of politics understood political power as fundamentally *limited* by Englishmen’s rights and privileges. As a result, it held that English kings were bound to rule according to known laws and by respecting the inherent rights of their subjects. It also enshrined the concept of consent as the major means to the end of protecting these rights. According to Penn and his contemporaries, this system of government—protecting as it did the “unparallel’d

Privilege [*sic*] of Liberty and Property”—had made the English nation “more free and happy than any other People in the World.”

The Founders imbibed this view of English rights through the legal training that was common for elites in the eighteenth-century Anglo-American world. This legal education also made them aware of the history of England in the seventeenth century, a time when the Stuart kings had repeatedly threatened their subjects’ rights. In response, many Englishmen drew on the common law to argue that all political power, even that of a monarch, should be limited by law. Colonial Americans in the eighteenth century viewed the defeat of the Stuarts and the subsequent triumph of Parliament (which was seen as the representative of subjects’ rights) in the Glorious Revolution of 1688 as a key moment in English history. They believed that it had enshrined in England’s unwritten constitution the rule of law and the sanctity of subjects’ rights. This awareness of English history instilled in the Founders a strong fear of arbitrary power and a consequent desire to create a constitutional form of government that limited the possibility of rulers violating the fundamental liberties of the people.

The seriousness with which the colonists took these ideas can be seen in their strong opposition to Parliament’s attempt to tax or legislate for them without their consent in the 1760s and 1770s. After the Revolution, when the colonists formed their own governments, they wrote constitutions that included many of the legal guarantees that Englishmen had fought for in the seventeenth century as a means of limiting governmental power. As a consequence, both the state and federal constitutions typically contained bills of rights that enshrined core English legal rights as fundamental law.

NATURAL RIGHTS

The seventeenth century witnessed a revolution in European political thought, one that was to prove profoundly influential on the political ideas of the American Founders. Beginning with the Dutch writer Hugo Grotius in the early 1600s, several important European thinkers began to construct a new understanding of political theory that argued that all men by *nature* had equal rights, and that governments were formed for the sole purpose of protecting these natural rights.

The leading proponent of this theory in the English-speaking world was John Locke (1632–1704). Deeply involved in the opposition to the Stuart kings in the 1670s and 1680s, Locke wrote a book on political theory to justify armed resistance to Charles II and his brother James. “To understand political power right,” Locke wrote, “and derive it from its original, we must consider, what state all men are naturally in, and that is, 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.” For Locke, the state of nature was “a state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another.”

Although this pregovernmental state of nature was a state of perfect freedom, Locke contended that it also lacked an impartial judge or umpire to regulate disputes among

men. As a result, men in this state of nature gathered together and consented to create a government in order that their natural rights would be better secured. Locke further argued that, because it was the people who had created the government, the people had a right to resist its authority if it violated their rights. They could then join together and exercise their collective or popular sovereignty to create a new government of their own devising. This revolutionary political theory meant that ultimate political authority belonged to the people and not to the king.

This idea of natural rights became a central component of political theory in the American colonies in the eighteenth century, appearing in numerous political pamphlets, newspapers, and sermons. Its emphasis on individual freedom and government by consent combined powerfully with the older idea of common law rights to shape the political theory of the Founders. When faced with the claims of the British Parliament in the 1760s and 1770s to legislate for them without their consent, American patriots invoked both the common law and Lockean natural rights theory to argue that they had a right to resist Britain.

Thomas Jefferson offers the best example of the impact that these political ideas had on the founding. As he so eloquently argued in the Declaration of Independence: “We hold these

The political theory of the American colonists in the seventeenth and eighteenth centuries was deeply influenced by English common law and its idea of rights.

truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute new Government, laying its foundations on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.”

This idea of natural rights also influenced the course of political events in the crucial years after 1776. All the state governments put this new political theory into practice, basing their authority on the people, and establishing written constitutions that protected natural rights. As George Mason, the principal author of the influential Virginia Bill of Rights (1776), stated in the document’s first section: “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.” The radical implications of this insistence on equal natural rights would slowly become apparent in postrevolutionary American society as previously downtrodden groups began to invoke these ideals to challenge slavery, argue for a wider franchise, end female legal inequality, and fully separate church and state.

In 1780, under the influence of John Adams, Massachusetts created a mechanism by which the people themselves could exercise their sovereign power to constitute governments: a special convention convened solely for the purpose of writing a constitution, followed by a process of ratification. This American innovation allowed the ideas of philosophers like Locke to be put into practice. In particular, it made the people’s natural rights secure by enshrining them in a constitution which was not changeable by ordinary legislation. This method was to influence the authors of the new federal Constitution in 1787.

RELIGIOUS TOLERATION AND THE SEPARATION OF CHURCH AND STATE

A related development in seventeenth-century European political theory was the emergence of arguments for religious toleration and the separation of church and state. As a result of the bloody religious wars between Catholics and Protestants that followed the Reformation, a few thinkers in both England and Europe argued that governments should not attempt to force individuals to conform to one form of worship. Rather, they insisted that such coercion was both unjust and dangerous. It was unjust because true faith required voluntary belief; it was dangerous because the attempts to enforce religious beliefs in Europe

had led not to religious uniformity, but to civil war. These thinkers further argued that if governments ceased to enforce religious belief, the result would be civil peace and prosperity.

Once again the English philosopher John Locke

played a major role in the development of these new ideas. Building on the work of earlier writers, Locke published in 1689 *A Letter Concerning Toleration*, in which he contended that there was a natural right of conscience that no government could infringe. As he put it: “The care of Souls cannot belong to the Civil Magistrate, because his Power consists only in outward force; but true and saving Religion consists in the inward perswasion [*sic*] of the Mind, without which nothing can be acceptable to God. And such is the nature of the Understanding, that it cannot be compell’d to the belief of any thing by outward force. Confiscation of Estate, Imprisonment, Torments, nothing of that nature can have any such Efficacy as to make Men change the inward Judgment that they have formed of things.”

These ideas about the rights of conscience and religious toleration resonated powerfully in the English colonies in America. Although the Puritans in the seventeenth century had originally attempted to set up an intolerant commonwealth where unorthodox religious belief would be prohibited, dissenters like Roger Williams challenged them and argued that true faith could not be the product of coercion. Forced to flee by the Puritans, Williams established the colony of Rhode Island, which offered religious toleration to all and had no state-supported church. As the Puritan Cotton Mather sarcastically remarked,

Natural rights became a central component of political theory in the American colonies . . . , appearing in numerous political pamphlets, newspapers, and sermons.

Rhode Island contained “everything in the world but Roman Catholics and real Christians.” In addition, Maryland, founded in the 1630s, and Pennsylvania, founded in the 1680s, both provided an extraordinary degree of religious freedom by the standard of the time.

In the eighteenth century, as these arguments for religious toleration spread throughout the English-speaking Protestant world, the American colonies, becoming ever more religiously pluralistic, proved particularly receptive to them. As a result, the idea that the government should not enforce religious belief had become an important element of American political theory by the late eighteenth century. After the Revolution, it was enshrined as a formal right in many of the state constitutions, as well as most famously in the First Amendment to the federal Constitution.

By reading the classics, the American Founders were introduced to an alternate political vision, one that legitimated republicanism.

COLONIAL SELF-GOVERNMENT

The political thinking of the Founders in the late eighteenth century was also deeply influenced by the long experience of colonial self-government. Since their founding in the early seventeenth century, most of the English colonies in the Americas (unlike the French and Spanish colonies) had governed themselves to a large extent in local assemblies that were modeled on the English Parliament. In these colonial assemblies they exercised their English common law right to consent to all laws that bound them.

The existence of these strong local governments in each colony also explains in part the speed with which the Founders were able to create viable independent republican governments in the years after 1776. This long-standing practice of self-government also helped to create an indigenous political class in the American colonies with the requisite experience for the difficult task of nation building.

In addition to the various charters and royal instructions that governed the English colonies, Americans also wrote their own Founding documents. These settler covenants were an early type of written constitution and they provided an important model for the Founders in the late eighteenth century as they sought to craft a new constitutional system based on popular consent.

CLASSICAL REPUBLICANISM

Not all the intellectual influences on the Founders originated in the seventeenth century. Because many of the Founders received a classical education in colonial colleges in the eighteenth century, they were heavily influenced by the writings of the great political thinkers and historians of ancient Greece and Rome.

Antiquity shaped the Founders’ political thought in several important ways. First, it introduced them to the idea of republicanism, or government by the people. Ancient political thinkers from Aristotle to Cicero had praised republican self-government as the best political system. This classical political thought was important for the Founders as it gave them grounds to dissent from the heavily monarchical political culture of eighteenth-century England, where even the common law jurists who defended subjects’ rights against royal power believed strongly in monarchy. By reading the classics, the American Founders were introduced to an alternate political vision, one that legitimized republicanism.

The second legacy of this classical idea of republicanism was the emphasis that it put on the moral foundations of liberty. Though ancient writers believed that a republic was the best form of government, they were intensely aware of its fragility. In particular, they argued that because the people governed themselves, republics required for their very survival a high degree of civic virtue in their citizenry. Citizens had to be able to put the good of the whole (the *res publica*) ahead of their own private interests. If they failed to do this, the republic would fall prey to men of power and ambition, and liberty would ultimately be lost.

As a result of this need for an exceptionally virtuous citizenry, ancient writers also taught that republics had to be small. Only in a small and relatively homogeneous society, they argued, would the necessary degree of civic virtue be forthcoming. In part, it was this classical teaching about the weakness of large republics that animated the contentious debate over the proposed federal Constitution in the 1780s.

In addition to their reading of ancient authors, the Founders also encountered republican ideas in

the political theory of a group of eighteenth-century English writers called the “radical Whigs.” These writers kept alive the republican legacy of the English Civil War at a time when most Englishmen believed that their constitutional monarchy was the best form of government in the world. Crucially for the Founding, these radical Whigs combined classical republican thought with the newer Lockean ideas of natural rights and popular sovereignty. They thus became an important conduit for a modern type of republicanism to enter American political thought, one that combined the ancient concern with a virtuous citizenry and the modern insistence on the importance of individual rights.

These radical Whigs also provided the Founders with an important critique of the eighteenth-century British constitution. Instead of seeing it as the best form of government possible, the radical Whigs argued that it was both corrupt

and tyrannical. In order to reform it, they called for a written constitution and a formal separation of the executive branch from the legislature. This classically inspired radical Whig constitutionalism was an important influence on the development of American republicanism in the late eighteenth century.

CONCLUSION

Drawing on all these intellectual traditions, the Founders were able to create a new kind of republicanism in America based on equal rights, consent, popular sovereignty, and the separation of church and state. Having set this broad context for the Founding, we now turn to a more detailed examination of important aspects of the Founders’ political theory, followed by detailed biographical studies of the Founders themselves.

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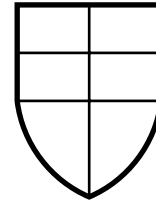
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ADDITIONAL CLASSROOM ACTIVITIES

Visual Assessment

1. **Founders Posters**—Have students create posters for either an individual Founder, a group of Founders, or an event. Ask them to include at least one quotation (different from classroom posters that accompany this volume) and one image.
2. **Coat of Arms**—Draw a coat of arms template and divide into 6 quadrants (see example). Photocopy and hand out to the class. Ask them to create a coat of arms for a particular Founder with a different criterion for each quadrant (e.g., occupation, key contribution, etc.). Include in the assignment an explanation sheet in which they describe why they chose certain colors, images, and symbols.
3. **Individual Illustrated Timeline**—Ask each student to create a visual timeline of at least ten key points in the life of a particular Founder. In class, put the students in groups and have them discuss the intersections and juxtapositions in each of their timelines.
4. **Full Class Illustrated Timeline**—Along a full classroom wall, tape poster paper in one long line. Draw in a middle line and years (i.e., 1760, 1770, 1780, etc.). Put students in pairs and assign each pair one Founder. Ask them to put together ten key points in the life of the Founder. Have each pair draw in the key points on the master timeline.
5. **Political Cartoon**—Provide students with examples of good political cartoons, contemporary or historical. A good resource for finding historical cartoons on the Web is <http://www.boondocksnet.com/gallery/political_cartoons.html>. Ask them to create a political cartoon based on an event or idea in the Founding period.



Performance Assessments

1. **Meeting of the Minds**—Divide the class into five groups and assign a Founder to each group. Ask the group to discuss the Founder's views on a variety of pre-determined topics. Then, have a representative from each group come to the front of the classroom and role-play as the Founder, dialoguing with Founders from other groups. The teacher will act as moderator, reading aloud topic questions (based on the pre-determined topics given to the groups) and encouraging discussion from the students in character. At the teacher's discretion, questioning can be opened up to the class as a whole. For advanced students, do not provide a list of topics—ask them to know their character well enough to present him properly on all topics.
2. **Create a Song or Rap**—Individually or in groups, have students create a song or rap about a Founder based on a familiar song, incorporating at least five key events or ideas of the Founder in their project. Have students perform their song in class. (Optional: Ask the students to bring in a recording of the song for background music.)

Web/Technology Assessments

1. **Founders PowerPoint Presentation**—Divide students into groups. Have each group create a PowerPoint presentation about a Founder or event. Determine the number of slides, and assign a theme to each slide (e.g., basic biographic information, major contributions, political philosophy, quotations, repercussions of the event, participants in the event, etc.). Have them hand out copies of the slides and give the presentation to the class. You may also ask for a copy of the

presentation to give you the opportunity to combine all the presentations into an end-of-semester review.

2. **Evaluate Web sites**—Have students search the Web for three sites related to a Founder or the Founding period (you may provide them with a “start list” from the resource list at the end of each lesson). Create a Web site evaluation sheet that includes such questions as: Are the facts on this site correct in comparison to other sites? What sources does this site draw on to produce its information? Who are the main contributors to this site? When was the site last updated? Ask students to grade the site according to the evaluation sheet and give it a grade for reliability, accuracy, etc. They should write a 2–3 sentence explanation for their grade.
3. **Web Quest**—Choose a Web site(s) on the Constitution, Founders, or Founding period. (See suggestions below.) Go to the Web site(s) and create a list of questions taken from various pages within the site. Provide students with the Web address and list of questions, and ask them to find answers to the questions on the site, documenting on which page they found their answer. Web site suggestions:
 - The Avalon Project <<http://www.yale.edu/lawweb/avalon/avalon.htm>>
 - The Founders’ Constitution <<http://press-pubs.uchicago.edu/founders/>>
 - Founding.com <<http://www.founding.com/>>
 - National Archives Charters of Freedom <http://www.archives.gov/national_archives_experience/charters.html>
 - The Library of Congress American Memory Page <<http://memory.loc.gov/>>
 - Our Documents <<http://www.ourdocuments.gov/>>
 - Teaching American History <<http://www.teachingamericanhistory.org/>>

A good site to help you construct the Web Quest is: <<http://trackstar.hprtec.org>>

Verbal Assessments

1. **Contingency in History**—In a one-to-two page essay, have students answer the question, “How would history have been different if [Founder] had not been born?” They should consider repercussions for later events in the political world.
2. **Letters Between Founders**—Ask students to each choose a “Correspondence Partner” and decide which two Founders they will be representing. Have them read the appropriate Founders essays and primary source activities. Over a period of time, the pair should then write at least three letters back and forth (with a copy being given to the teacher for review and feedback). Instruct them to be mindful of their Founders’ tone and writing style, life experience, and political views in constructing the letters.
3. **Categorize the Founders**—Create five categories for the Founders (e.g., slaveholders vs. non-slaveholders, northern vs. southern, opponents of the Constitution vs. proponents of the Constitution, etc.) and a list of Founders studied. Ask students to place each Founder in the appropriate category. For advanced students, ask them to create the five categories in addition to categorizing the Founders.
4. **Obituaries and Gravestones**—Have students write a short obituary or gravestone engraving that captures the major accomplishments of a Founder (e.g., Thomas Jefferson’s gravestone). Ask them to consider for what the Founder wished to be remembered.
5. **“I Am” Poem**—Instruct students to select a Founder and write a poem that refers to specific historical events in his life (number of lines at the teacher’s discretion).

ADDITIONAL CLASSROOM ACTIVITIES

Each line of the poem must begin with “I” (i.e., “I am...,” “I wonder...,” “I see...” etc.). Have them present their poem with an illustration of the Founder.

6. **Founder’s Journal**—Have students construct a journal of a Founder at a certain period in time. Ask them to pick out at least five important days. In the journal entry, make sure they include the major events of the day, the Founder’s feelings about the events, and any other pertinent facts (e.g., when writing a journal about the winter at Valley Forge, Washington may have included information about the troops’ morale, supplies, etc.).
7. **Résumé for a Founder**—Ask students to create a resume for a particular Founder. Make sure they include standard resume information (e.g., work experience, education, skills, accomplishments/honors, etc.). You can also have them research and bring in a writing sample (primary source) to accompany the resume.
8. **Cast of Characters**—Choose an event in the Founding Period (e.g., the signing of the Declaration of Independence, the debate about the Constitution in a state ratifying convention, etc.) and make a list of individuals related to the incident. Tell students that they are working for a major film studio in Hollywood that has decided to make a movie about this event. They have been hired to cast actors for each part. Have students fill in your list of individuals with actors/actresses (past or present) with an explanation of why that particular actor/actress was chosen for the role. (Ask the students to focus on personality traits, previous roles, etc.)

Review Activities

1. **Founders Jeopardy**—Create a Jeopardy board on an overhead sheet or handout (six columns and five rows). Label the column heads with categories and fill in all other squares with a dollar amount. Make a sheet that corresponds to the Jeopardy board with the answers that you will be revealing to the class. (Be sure to include Daily Doubles.)
 - a. Possible categories may include:
 - Thomas Jefferson (or the name of any Founder)
 - Revolutionary Quirks (fun Founders facts)
 - Potpourri (miscellaneous)
 - Pen is Mightier (writings of the Founders)
 - b. Example answers:
 - This Founder drafted and introduced the first formal proposal for a permanent union of the thirteen colonies. *Question: Who is Benjamin Franklin?*
 - This Founder was the only Roman Catholic to sign the Declaration of Independence. *Question: Who is Charles Carroll?*
2. **Who Am I?**—For homework, give each student a different Founder essay. Ask each student to compile a list of five-to-ten facts about his/her Founder. In class, ask individuals to come to the front of the classroom and read off the facts one at a time, prompting the rest of the class to guess the appropriate Founder.
3. **Around the World**—Develop a list of questions about the Founders and plot a “travel route” around the classroom in preparation for this game. Ask one student to volunteer to go first. The student will get up from his/her desk and “travel” along the route plotted to an adjacent student’s desk, standing next to it. Read a question aloud, and the first student of the two to answer correctly advances to the next stop on the travel route. Have the students keep track of how many places they advance. Whoever advances the furthest wins.

AN EIGHTEENTH-CENTURY GLOSSARY

Common Good: General conditions that are equally to everyone's advantage. In a **republic**, held to be superior to the good of the individual, though its attainment ought never to violate the **natural rights** of any individual.

Democracy: From the Greek, *demos*, meaning "rule of the people." Had a negative connotation among most Founders, who equated the term with mob rule. The Founders considered it to be a form of government into which poorly-governed **republics** degenerated.

English Rights: Considered by Americans to be part of their inheritance as Englishmen; included such rights as property, petition, and trials by jury. Believed to exist from time immemorial and recognized by various English charters as the Magna Carta, the Petition of Right of 1628, and the English Bill of Rights of 1689.

Equality: Believed to be the condition of all people, who possessed an equality of rights. In practical matters, restricted largely to land-owning white men during the Founding Era, but the principle worked to undermine ideas of deference among classes.

Faction: A small group that seeks to benefit its members at the expense of the **common good**. The Founders discouraged the formation of factions, which they equated with political parties.

Federalism: A political system in which power is divided between two levels of government, each supreme in its own sphere. Intended to avoid the concentration of power in the central government and to preserve the power of local government.

Government: Political power fundamentally limited by citizens' rights and privileges. This limiting was accomplished by written charters or constitutions and bills of rights.

Happiness: The ultimate end of government. Attained by living in **liberty** and by practicing **virtue**.

Inalienable Rights: Rights that can never justly be taken away.

Independence: The condition of living in **liberty** without being subject to the unjust rule of another.

Liberty: To live in the enjoyment of one's rights without dependence upon anyone else. Its enjoyment led to **happiness**.

Natural Rights: Rights individuals possess by virtue of their humanity. Were thought to be "**inalienable**." Protected by written constitutions and bills of rights that restrained government.

Property: Referred not only to material possessions, but also to the ownership of one's body and rights. Jealously guarded by Americans as the foundation of liberty during the crisis with Britain.

Reason: Human intellectual capacity and rationality. Believed by the Founders to be the defining characteristic of humans, and the means by which they could understand the world and improve their lives.

Religious Toleration: The indulgence shown to one religion while maintaining a privileged position for another. In pluralistic America, religious uniformity could not be enforced so religious toleration became the norm.

Representation: Believed to be central to republican government and the preservation of **liberty**. Citizens, entitled to vote, elect officials who are responsible to them, and who govern according to the law.

Republic: From the Latin, *res publica*, meaning “the public things.” A government system in which power resides in the people who elect representatives responsible to them and who govern according to the law. A form of government dedicated to promoting the **common good**. Based on the people, but distinct from a **democracy**.

Separation of Church and State: The doctrine that government should not enforce religious belief. Part of the concept of **religious toleration** and freedom of conscience.

Separation of Powers/Checks and Balances: A way to restrain the power of government by balancing the interests of one section of government against the competing interests of another section. A key component of the federal Constitution. A means of slowing down the operation of government, so it did not possess too much energy and thus endanger the rights of the people.

Slavery: Referred both to chattel slavery and political slavery. Politically, the fate that befell those who did not guard their rights against governments. Socially and economically, an institution that challenged the belief of the Founders in **natural rights**.

Taxes: Considered in English tradition to be the free gift of the people to the government. Americans refused to pay them without their consent, which meant actual **representation** in Parliament.

Tyranny: The condition in which **liberty** is lost and one is governed by the arbitrary will of another. Related to the idea of political **slavery**.

Virtue: The animating principle of a **republic** and the quality essential for a republic’s survival. From the Latin, *vir*, meaning “man.” Referred to the display of such “manly” traits as courage and self-sacrifice for the **common good**.

ANSWER KEY

3. Answers will vary. Students could refer to three historical benchmarks that propelled the growth of the federal government:
 - the Civil War, 1861–1865 (The federal government emerged supreme over the states, and the Supreme Court began to apply the Bill of Rights to the states.)
 - the New Deal, 1933–1945 (The federal government took direct responsibility for the economic welfare of individual Americans.)
 - the Great Society, 1960s (The federal government greatly expanded its efforts to help the poor, sick, and elderly.)
4. Witherspoon encouraged his students to be thinkers who could consider a wide range of viewpoints and then use their intellects to choose the best options. The deliberations of the Continental Congresses and at the Constitution Convention reflected this rational approach to decision making.
5. Answers will vary.

Handout B—Vocabulary and Context Questions

JOHN WITHERSPOON

Handout A—John Witherspoon (1723–1794)

1. Witherspoon's speaking style had the following characteristics:
 - a. graceful and elegant
 - b. filled with good sense
 - c. memorized but natural
 - d. no dramatic gestures
 - e. simple language
 - f. thoughtfully reasoned
2. Witherspoon improved the curriculum by offering more comprehensive courses, expanding the library, encouraging students to read a variety of sources, and encouraging students to consider various opinions while using reason and faith.
3. He held the following offices:
 - a. member of Committees of Correspondence and Safety
 - b. delegate to the Continental Congress (1776–1782)
 - c. signer of the Declaration of Independence
 - d. member of the New Jersey state ratifying convention
1. Vocabulary
 - a. religious group
 - b. determine
 - c. property owners
 - d. leaving out
 - e. church-related
 - f. permanent
 - g. harmful
 - h. completely
 - i. anticipated
 - j. relating to clergy
 - k. given up
 - l. controversy
 - m. unclear
 - n. changes
 - o. removal
2. Context
 - a. The document was written in 1777.
 - b. The document is about a provision in the Constitution of Georgia, but there is no indication that the document was written or published in Georgia.
 - c. John Witherspoon wrote the document.
 - d. It is a letter to the editor of a newspaper.
 - e. Witherspoon's purpose was to persuade those who were writing the Georgia state constitution to reconsider their prohibition on clergy serving in the legislature and to entertain his readers

ANSWER KEY

through his ironic commentary on this prohibition.

- f. The audience for this document was the general public, the readers of the newspaper, and the authors of the Georgia state constitution (“some of the gentlemen who have made that an essential article of this constitution”).

Handout D—Discussion Questions

1. Witherspoon says that he is confused by the decision of the resolution in the Georgia Constitution that prohibits clergymen from serving in the state legislature.
2. Witherspoon believes that a person is a citizen before becoming a clergyman and therefore should, like all other citizens, have the right to serve in elected office. He asks the rhetorical question: “Is it a sin against the public to become a minister?” The implied answer is “no.”
3. He believes that the responsibilities of the clergy could prevent them from serving in the legislature. However, he also believes that the churches and the clergy—not the constitution—should make this decision.
4. The proposed constitution punishes members of the clergy by taking away their privilege to serve in the state legislature.
5. Witherspoon gives several possible definitions for “clergyman”:
 - one who has been ordained by a superior (“those who have derived the right by an uninterrupted succession from the apostles”)
 - one who has been ordained by another clergyman
 - one who is not ordained but “set a part [sic]” by members of the congregation
 - one who has spoken at a religious assembly
6. He wonders whether the clerical character is indelible; i.e., if a person is once a member of the clergy, are they always a member and so are always excluded from public office? Or could they be excluded at one point and then included later? He raises the following examples:
 - an ordained minister who performs no religious functions
 - a retired minister
 - an ordained minister who leaves the ministry for another profession
7. Witherspoon suggests several changes for the Georgia Constitution:
 - insert the reasons for the disqualification of clergy (which he has been unable to determine)
 - remove from the ministry those clergymen who are guilty of cursing, swearing, drunkenness, and uncleanness
 - allow such people to be elected to the Georgia Senate or House of Representatives and be treated with the same respect as other members of the legislature
8. No, Witherspoon does *not* want his suggestions taken seriously. He is offering an ironic commentary about prohibiting clergymen from serving in the legislature.