

Basis of our Religious Freedom:

“As early as 1777, [Thomas] Jefferson composed a Bill for Establishing Religious Freedom. When Jefferson became governor in 1779, he promptly introduced his bill to the legislators, only to see them quickly table the measure for an indefinite period.”

“After the Treaty of Paris was signed [concluding the American Revolution], the Virginia legislature could safely turn its attention again to domestic matters, including the appropriate legal status for religion. Returning from three years of service in the Continental Congress in Philadelphia, [James] Madison was elected to Virginia’s legislative assembly in 1784. There, with or without Jefferson, he stood ready to enlist as many citizens as possible in the sacred cause of religious freedom.”

“... [A]t last, in January 1786, Jefferson's bill became Virginia law. Madison wrote to Jefferson, still in Paris [as the U.S. minister to France], the happy news that the most populous state in the nation had firmly and unequivocally endorsed religious liberty. Jefferson, with pride and joy, responded that 'it is honorable for us to have produced the first legislature who has had the courage to declare that the reason of man may be trusted with the formation of his own opinions.' He requested that on his tombstone, he be remembered for the writing of only two documents: the Declaration of Independence and the Statute for Establishing Religious Freedom.

“A year and a half after the passage of Jefferson's statute, delegates met in Philadelphia to draw up a new frame of government for the whole nation. George Washington, the most trusted person in the country, presided over this Constitutional Convention, while the aged patriarch of 81 years, Benjamin Franklin, lent his wit and gentle wisdom to the assembly. As the delegates struggled to find some consensus, Franklin urged that prayers be offered as they had been during the revolution. 'I have lived, Sir, a long time,' said Franklin in addressing the chair, 'and the longer I live, the more convincing proofs I see of this truth – that God governs in the affairs of men.’”

“When the Constitution was finally ratified by a sufficient number of states (9 out of 13) and George Washington assumed the office of President, many religious minorities were clearly nervous about what a stronger central government might mean to their freedom. Jews in Newport, Rhode Island, for example, seized the opportunity of Washington's visit to Newport in 1790 to praise a new government 'which gives no sanction to bigotry and no assistance to persecution, but generously

afford[s] to all liberties of conscience and immunities of citizenship.' When Washington returned to New York (the national capital at the time), he wrote to the Newport congregation, expressing his assurances concerning liberty of conscience. He also noted that the United States had moved beyond an age of mere 'toleration' to a full recognition of the natural rights of all humankind. 'The Government of the United States,' he concluded, 'which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens in giving it on all occasions their effectual support.' Roman Catholics, Baptists, Quakers, and others received similar reassurances from the President concerning their religious freedoms. But something more than private guarantees was required.

“In June 1789 Madison introduced a Bill of Rights, as he had promised his fellow Virginians that he would do. ... At the end of September both House and Senate agreed on a final version. And so the First Amendment, as ratified by the states in 1791, begins with these words: 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.'”

“Because these crucial words would occupy the Supreme Court and other courts for the next 200 years and beyond, it is important to understand their meaning. The first of the two clauses, 'Congress shall make no law respecting an establishment of religion,' is for obvious reasons regularly referred to, in a kind of legal shorthand, as 'the establishment clause.' It prohibits Congress from favoring or advancing religion, certainly from elevating any one religion above another. The second clause, 'the free exercise clause,' places another kind of limit on the national government: it may do nothing to interfere with or suppress one's religious devotion or belief. Religious freedom has, therefore, a double guarantee – the only constitutional liberty of which this is true. Congress can render no aid; Congress can do no harm.”

“The Fourteenth Amendment [adopted in 1868] was drafted to protect the civil rights of former slaves, but it has had a great effect on religious freedom as well. It enables the Supreme Court to apply the First Amendment guarantees concerning religion to the states themselves. ... That amendment reads as follows: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.”