
Religious Liberty in the English and American Nonconformist Traditions

From the Seventeenth Century to the Declaration
of Human Rights of 1948

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“it is God’s way to have religion free”

Samuel Richardson, *The Necessity of Toleration in Matters of Religion*, 1647

1. The Reformation: liberty of conscience as obedience to the Word of God

The Protestant Reformation created a new historical and theological scenery in which medieval concepts of freedom, conscience, and rights were re-evaluated in the light of new understandings of Christian teaching, but the changes that came about in relation to religious liberty and freedom of conscience were not the direct result of the particular teachings of the first reformers, who accepted the conventional view of their time that heretics should be suppressed, as did their Catholic contemporaries.

However, some of the Reformation’s principles played an essential role in preparing the ground for religious liberty and freedom of conscience. The affirmation of the “priesthood of all believers,” a theological principle that emphasized the equal dignity of all believers and their common mission in the world, was intended by Luther to demolish the hierarchical structure of the entire medieval ecclesiastical building.¹ From this principle it follows that every person had equal access to the Scriptures and had the right to interpret it,² under the guidance of the Holy Spirit (“testimonium spiritus sancti internum”).³ A modern Baptist version of this principle affirms: “no

¹ *Martin Luther*, An den christlichen Adel deutscher Nation [1520], WA 6, 407: “wir alle sampt eyn Corper seynn, doch ein yglich glid sein eygen werck hat, damit es den andern dienet, das macht allis, das wir eine tauff, ein Evangelium, eynen glauben haben, unnd sein gleyche Christen, den die tauff, Evangelium und glauben, die machen allein geistlich und Christen volck.” Cf. *Jean Calvin*, *Institution de la religion chrétienne* [1560], (Genève: Labor et Fides, 1958), 439: “C’est lui [le Christ] qui a une fois pour toutes offert l’hostie [le sacrifice] de purification et réconciliation éternelles, et qui maintenant étant entré au sanctuaire du ciel, prie pour nous. Nous sommes bien tous prêtres en lui [...]”

² Luther stated that every believer had “unserm gleubigen versta(n)d der schrift” (Luther, WA 6, 412).

³ Art. 4 of the French Confession of Faith (1559), that reflects the teachings of Calvin, stated: “We acknowledge these books as canonical, the most certain rule of our faith. Our recognition comes less from the common agreement and consent of the church than through the witness and inner persuasion of the Holy Spirit.” [“Nous connaissons ces livres être

authority can force or presume to compel submission to his or her interpretation or belief by another believer.”⁴

Luther, Melanchthon, and Calvin still perceived liberty of conscience essentially as obedience to the divine word. When, on April 18, 1521, at the Diet of Worms Luther was confronted with his works and told to recant, he refused to follow the request of renunciation, declaring that “unless I am convinced by the testimony of the Scriptures or by clear reason [...], I am bound by the Scriptures I have quoted and my conscience is captive to the Word of God. I cannot and will not recant anything, since it is neither safe nor right to go against conscience. I cannot do otherwise, here I stand, may God help me. Amen.”⁵ His conscience was uniquely bound to the word of God. From this point forward, Luther would remain consistent on the point that temporal authority cannot coerce the conscience.⁶ However, he conceived secular authority as firmly rooted in natural law, which is an expression of the divine will. Although the 1523 tract *Temporal Authority: To What Extent It Should Be Obeyed* placed definite limits on the power of rulers, it strongly emphasized the divinely ordered nature of worldly government. Luther was concerned to “provide a sound basis for the civil law and sword, so no one will doubt that it is in the world by God’s will and ordinance.”⁷

Princes had been given the sword in order to curb evil, punish the wicked, and protect the good. The health of civil society demanded that they exercise it, but Luther did not want to extend the equality of the priesthood of all believers into civil society. He made it clear that the worldly kingdom cannot exist without inequality.

Luther’s consistent position during the peasant revolt was that rebellion against divinely constituted civil authority is rebellion against God. He believed that Christian freedom was not physical freedom, freedom from serfdom: “*Did not Abraham and other patriarchs have slaves? ... For a slave can be a Christian, and have Christian freedom, in the same way that a prisoner or a sick man is a Christian, and yet not free.*”⁸ He saw it as freedom of the spirit, which makes the Christian patient under suffering or coercion.

canoniques et règle très certaine de notre foi [...], non tant par le commun accord et consentement de l’Eglise, que par le témoignage et persuasion intérieure du Saint-Esprit.”]

⁴ Baptist General Association of Virginia, “On These Truths We Stand” (First printed in *The Religious Herald*, May 11, 1989) <http://bgav.org/wp-content/uploads/2014/01/On-These-Truths-We-Stand.pdf> (accessed 20 September 2015).

⁵ LW 32, 112–113.

⁶ Cf. Gerhard Ebeling, “Das Gewissen in Luthers Verständnis,” in: *Lutherstudien*, t. III (Tübingen: Mohr, 1985), 126–153.

⁷ Martin Luther, *Temporal Authority: To What Extent It Should Be Obeyed* [Von weltlicher Obrigkeit, wie weit man ihr Gehorsam schuldig sei (1523)], WA 11, 246–280], in *Luther’s Works*, Walther I. Brandt ed., (Philadelphia: Muhlenberg, 1962), XLV, 85.

⁸ Martin Luther, *Admonition to Peace, A Reply to the Twelve Articles of the Peasants in Swabia* [Ermahnung zum Frieden auf die zwölf Artikel der Bauernschaft in Schwaben (1525)], WA, XVIII, 291–334], *Luther’s Works*, H. T. Lehmann and R. C. Schultz, eds. (Philadelphia: Fortress Press, 1967), XLVI, 39.

2. Religious liberty in the Anabaptist tradition

The new theological scenery created by the Reformation, combined with the wars of religion, the growth of national states, and a variety of religious beliefs gave rise to the rejection of established religious institutions by religious groups who were being persecuted and sought toleration of their own beliefs. Their pleas were not at first based on any devotion to religious liberty as such, but from the middle of the sixteenth century onward a few voices were raised in defense of a true religious freedom.

In the 1688 *Supplement* to his *Commentaire Philosophique*, Pierre Bayle observed that the Arminians and the Socinians had been the only sects in contemporary Christianity who defended “*le Dogme de la Tolérance*” against “*le Dogme de la Contrainte*.” And, in a footnote, Bayle added: “*On y pourroit joindre la très petite Secte des Quakers, et celle des Anabaptistes*.”⁹ In reconstructing the genealogy of unrestricted religious toleration, modern historiography has confirmed his observation, and several scholars have underlined the direct or indirect influence of Anabaptist arguments in the debate on religious freedom and liberty of conscience.¹⁰

The large majority of English religious tolerationists belonged to the “non-conformist” branch of Protestant Christianity, formed by the Dissenters who did not “conform” to the established Church of England and refused to use the Book of Common Prayer in church services. In seventeenth-century England, controversies were not only theoretical but had much to do with society and politics and addressed directly the relation between individual conscience and community.

In this context, well before Locke and with exclusively theological motivations, early Baptist authors such as John Smyth (1554–1612), Thomas Helwys (c. 1575–c. 1614), John Murton (1585–c. 1626), and Leonard Busher (?–?) presented their demands for religious toleration in works published during the second decade of the century.¹¹ All of them had spent some time in Holland, where they became acquainted with arguments and opinions in favor of tolerance and religious freedom. These ideas were also made available in *Liberty of religion*,¹² an historical compilation by the Mennonite Pieter

⁹ Pierre Bayle, *Commentaire philosophique sur ces paroles de Jésus-Christ: “Contrain-les d’entrer” ou Traité de la tolérance universelle*, vol. II (Rotterdam: chez Fritsch et Böhm, 1713), 423.

¹⁰ Stephen Wright, *The Early English Baptists, 1603–1649* (Wodbridge, Suffolk: Boydell, 2006); Jason K. Lee, *The Theology of John Smyth: Puritan, Separatist, Baptist, Mennonite* (Macon, GA: Mercer University Press, 2003); Evan Haefeli, *New Netherland and the Dutch Origins of American Religious Liberty* (Philadelphia: University of Pennsylvania Press, 2012).

¹¹ See *Tracts on Liberty of Conscience and Persecution, 1614–1661*, E. B. Underhill, ed., (London: J. Haddon, 1846). For an overview on “Baptists and Religious Liberty,” see David W. Babbington, *Baptists Through the Centuries. A History of a Global People* (Waco, TX: Baylor University Press, 2010), 197–214.

¹² P. J. Twisck, *Religions Vryheyt. Een korte Cronijcsche beschryvinghe van die Vryheyt der Religien, tegen die dwang der Conscientien ... tot den Jare 1609 toe*, s. n., Hoorn 1609. On the

Jansz Twisck (1565–1636) published at the beginning of the Twelve Years' Truce (1609–21), who claimed that no civil authority had the right to interfere in religious matters. Twisck's theological argument was a logical consequence of his interpretation of the Fall and the expulsion from Paradise: if every human thing must be considered fallen and imperfect, it follows that also every theological statement is necessarily imperfect; moreover, one's judgment that another person's opinion is wrong is imperfect, as well as everyone's ability to understand God's word. Therefore, it is necessary to consider others' opinions with toleration and moderation.

It is well known that the progress of toleration in England was quite arduous, being partly conditioned by the politics of the reigning monarch, who was the head of the Church of England: Edward VI (1547–53) promoted the Swiss reformed model; Mary Tudor (1553–58) reintroduced Roman Catholicism, and Elizabeth I (1558–1603) reinforced royal supremacy on the Anglican Church. While under Mary many Protestants were sentenced to death or forced into exile, Elizabeth continued with the executions of heretics, including two Dutch Mennonites – Jan Pieters and Hendrick Terwoort – and three Separatists – Henry Barrow, John Greenwood, and John Penry.¹³

During Elizabeth's reign, many Dissenters sought refuge in the Dutch Republic. One of them, Thomas Helwys, who had escaped to Holland in 1608, published in 1612 an urgent plea addressed to Elizabeth's successor, James I (1603–1625), who had continued the policy of repression of nonconformism, so that he would cease to persecute religious minorities, Christian and non-Christian, that dissented from the Church of England. Helwys believed that the magistrate should exercise exclusively the civil power, and that obedience to the king was due only in secular questions and not in spiritual matters:

“[...] we do freely profess that our lord the king has no more power over their consciences [...]. For our lord the king is but an earthly king, and he has no authority as a king but in earthly causes. And if the king's people be obedient and true subjects, obeying all human laws made by the king, our lord the king can require no more. men's religion to God is between God and themselves. Neither may the king be judge between God and man. Let them be heretics, Turks, Jews, or whatsoever, it appertains not to the earthly power to punish them in the least measure.”¹⁴

For expressing these views Helwys was taken to Newgate prison in London, where he died two years later (the exact date is unknown, but documents dated 1614 refer to his widow). Helwys could have limited himself to de-

cultural and religious context, see R. Po-Chia Hsia e H. van Nierop, eds., *Calvinism and Religious Toleration in the Dutch Golden Age* (Cambridge: CUP, 2002); A. den Hollander, M. van Veen/A. Voolstra/A. Noord, eds., *Religious Minorities and Cultural Diversity in the Dutch Republic* (Leiden: Brill, 2014).

¹³ J. D. Tracy, *Europe's Reformations* (Lanham, MD: Rowman & Littlefield, 1999), 186–195.

¹⁴ *Thomas Helwys, A Short Declaration of the Mystery of Iniquity* (Macon, GA: Mercer University Press, 1998), 53.

fending the rights of Christian minorities, as other supporters of religious liberty of his time. However, maybe because of his own suffering from religious persecution, he opted for a broader concept of toleration, with no exceptions to the refusal of every form of violent coercion of conscience.

Helwys developed his own concepts of liberty and of separation between church and state: what prevented the interference of the magistrates into religious matters was not the supposed autonomy of conscience or a demand for individual liberty, but Christ's lordship over conscience. The exercise of conscience had to be free from every human control, because conscience – in the relationship between the human being and God – represented the setting where the Spirit made God's voice heard through the Scriptures.

John Murton, another important advocate of religious toleration, submitted a "*humble supplication*"¹⁵ to the king in favor of victims of persecution for religious cause, published anonymously in 1620. Murton had been arrested in England after a stay in Amsterdam for the publication of an apology of toleration that summarized Twisck's work.¹⁶ Moving from the consideration of "*how heinous it is in the sight of the Lord to force men and women by cruel persecution, to bring their bodies to a worship whereunto they cannot bring their spirits*", Murton concluded that "*the kings of the earth have not power from God, to compel by persecution any of their subjects to believe as they believe*" and "*that no man ought to be persecuted for his religion, be it true or false*".¹⁷

A year before the publication of Murton's book, Leonard Busher had published, probably in Amsterdam, *Religion's Peace* – most likely the first Baptist text entirely devoted to religious liberty. In this tract, "presented to King James, and the High Court of Parliament," Busher declared that not only "*no king nor bishop can, or is able to command faith*", but "*persecution for difference in religion is a monstrous and cruel beast*" and, in capital letters, added: "*IT IS NOT ONLY UNMERCIFUL, BUT UNNATURAL AND ABOMINABLE; YEA, MONSTROUS FOR ONE CHRISTIAN TO VEX AND DESTROY ANOTHER FOR DIFFERENCE AND QUESTIONS OF RELIGION.*"¹⁸ "*It is not the gallows, nor the prisons, nor burning, nor banishing that can defend the apostolic faith*, concluded Busher, [*but only*] *the word and Spirit of God*".¹⁹

¹⁵ [John Murton], *A Most Humble Supplication of Many of the King's Majesty's Loyal Subjects, Ready to Testify All Civil Obedience, by the Oath of Allegiance, or Otherwise, and that of Conscience; Who Are Persecuted (only for Differing in Religion) Contrary to Divine and Human Testimonies*, London 1620, reprinted in *Tracts on Liberty of Conscience*, 183–231.

¹⁶ J. D. Bangs, "Dutch Contributions to Religious Toleration," in: *Church History* 79 (2010), 586.

¹⁷ John Murton, *Persecution for Religion Judg'd and Condemn'd in a Discourse between an Antichristian and a Christian* (1615) cited in H. L. McBeth, *A Sourcebook for Baptist Heritage* (Nashville: Broadman Press, 1990), 75.

¹⁸ Leonard Busher, *Religion's Peace: or a Plea for Liberty of Conscience* (1614), in: *Tracts on Liberty of Conscience*, 17, 41, 24.

¹⁹ *Ibid.*, 54.

For the first generation of English Baptists, conscience did not concern the liberty of individual choice but rather a question of judgment and responsibility: conscience was a vehicle for recognizing God's will, not for validating one's own ideas. Conscience was not autonomous but subdued to God's authority, as revealed in the Scriptures, and "liberty of conscience" was not a natural right, as John Locke would affirm later in his *Letter Concerning Tolerance* (1689), but a religious obligation. Their thinking was influenced by a long tradition that can be traced back to Augustine, for whom conscience was not an innate personal moral sense nor an ethical awareness, but rather a means used by the eternal or natural law – to which every man must obey in every circumstance – to exercise its control on individual behavior. This tradition was taken up by the Puritan theologian William Perkins (1558–1602), for whom "*conscience is of a diuine nature, and is a thing placed by God in the middest betweene him and man, as an arbitratour to giue sentence,*"²⁰ that is the means by which God judges the actions of a person who defies the decrees of conscience at his own risk. And William Ames (1576–1633), in his tract on conscience published during his voluntary exile in Holland, distinguished between a "natural" and an "enlightened" conscience: the first "recognizes as law the principles of nature as their logical conclusion;" the second, "in addition to this, recognizes all that is prescribed in the Scriptures". For Ames, "the adequate norm of conscience is God's revealed will that prescribes man's duty and reveals it to him. Therefore it is only God's law that constrains man's conscience."²¹

In this cultural milieu, that did not include modern notions of natural human rights nor of individual liberty, Helwys developed his concepts of liberty and of separation between church and state. What prevented the interference of the magistrates into religious matters was not the supposed autonomy of conscience or a demand for individual liberty, but Christ's lordship over conscience. The exercise of conscience had to be free from every human control, because conscience – in the relationship between the human being and God – represented the setting where the Spirit made God's voice heard through the Scriptures. Later, in the *Second London Confession of Faith* (1677 and 1689), a group of Particular Baptists reaffirmed that liberty was a gift from God, made possible by Christ's sacrifice on the cross and his resurrection: "*God alone is Lord of the Conscience, and hath*

²⁰ William Perkins, *A Discourse of Conscience: Wherein is set downe the nature, properties, and differences thereof: as also the way to Get and keepe good Conscience* (Cambridge, John Legate, 1596), 6.

²¹ Guiljelmi Amesij [Wilkiam Ames], *De conscientia, et eius iure, vel casibus* (Amstelodami 1630), liber primus, cap. II, 3–4: "*Hinc oritur distinctio conscientiae in naturalem & illuminatam. naturalis est, quae agnoscit pro lege principia naturalia & conclusiones ex iis deductas: illuminata est quae insuper agnoscit quicquid in scripturis praescribitur [...]. Hinc adaequata regula conscientiae, est voluntas Dei revelata qua homini praescribitur & indicatur suum officium, constat enim [...]. Hinc lex Dei sola obligat conscientiam hominis*".

left it free from the Doctrines and Commandments of men which are in any thing contrary to his Word, or not contained in it."²²

A positive evaluation of natural human rights was expressed by Richard Overton, a Baptist who was also involved with the Levellers.²³ Overton advocated human rights first in his satire *The Arraignment of Mr. Persecution* (1645). He based his arguments on Scripture as authoritative but also on human reason, "identified with the spirit of God working in the human soul."²⁴ His comprehensive view of human rights as belonging to all persons was fully developed in "An Appeal from the Commons to the Free People" (1647).²⁵ For Overton, human rights included religious liberty as well as civil liberty: civil magistrates had no authority in spiritual matters, and only God could govern the spiritual lives of people. Therefore, he and other three Leveller leaders affirmed that authorities could not "compel by penalties or otherwise any person to anything in or about matters of faith, religion, or God's worship, or to restrain any person from the profession of his faith, or exercise of religion according to his conscience – nothing having caused more distractions and heart-burnings in all ages than persecution and molestation for matters of conscience in and about religion."²⁶

After the restoration of the monarchy and of the Church of England as state church in 1660, dissenters experienced more difficulties. When the Parliament passed the Act of Uniformity (1662), the large majority of dissenters did not "conform" to the Church of England. As a result, nearly 2,000 ministers, including twenty-six Baptists, lost their livings.²⁷

3. The principle of religious freedom and liberty of conscience in New England

For most seventeenth-century authors, "toleration" and "liberty of conscience" were equivalent and interchangeable terms, and this was true also for Roger Williams (1603–84), the Puritan pastor and theologian who co-founded with John Clarke (1609–76) the first Baptist church on American soil in the small colony of Rhode Island.²⁸ Being forced to escape from

²² *Second London Confession of Faith*, art. XXI, 2.

²³ On Overton's association with the Levellers, see Brian J. Gibbons, "Richard Overton and the Secularism of the Interregnum Radicals," *Seventeenth Century*, 10/1 (Spring 1995), 63–75.

²⁴ B. J. Gibbons, 'Overton, Richard (fl. 1640–1663),' *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004); online ed., May 2010 [<http://www.oxforddnb.com/view/article/20974> (accessed 10 August 2015)].

²⁵ Ricard. Overton, "An Appeal from the Commons to the Free People" (1647).

²⁶ John Lilburne/William Walwyn/Thomas Prince, and Richard Overton, *An Agreement of the Free People of England* ([London:] n. p., 1646), cited in Andrew Sharp, *The English Levellers* (Cambridge: Cambridge University Press, 1998), 173.

²⁷ B. R. White, *The English Baptists of the Seventeenth Century* (London: Baptist Historical Society, 1983), 102.

²⁸ Edwin Gaustad/Roger Williams (New York: Oxford University Press, 2005).

Massachusetts Bay Colony in 1636, Williams initially took refuge with the Narragansett Indians; thereafter, with a few other dissenters, he founded a new settlement and called it 'Providence.' As he later explained, "[H]aving made covenant of peaceable neighborhood with the sachems and natives round about us, and having, in a sense of God's merciful providence unto me in my distress, called the place PROVIDENCE, I desired it might be for a shelter for persons distressed for conscience".²⁹

Williams was the first North American to defend religious toleration and liberty of conscience in his book *The Bloody Tenent of Persecution, for cause of Conscience* (1644).³⁰ The safeguard of religious liberty deeply concerned him because of his personal experience, since he had been forced to escape from Massachusetts, where believers were not allowed "to worship God after their consciences."³¹ The forcing of a person's conscience was compared by Williams to physical violence, "a spirituall and soule rape."³²

The historiography on religious liberty in the Massachusetts Bay Colony is divided into two main currents: the first has presented repression of dissent as indispensable for the conservation and strengthening of the colony,³³ whereas the second had tended to portray the Puritan colony as an intolerant theocracy that persecuted and punished all those who longed for religious liberty and freedom of conscience.³⁴

²⁹ *The Correspondence of Roger Williams*, G. W. LaFantasie, ed. (Hanover, NH: Brown University Press, 1988), vol. 2, 526.

³⁰ Roger Williams, *The Bloody Tenent of Persecution, for Cause of Conscience, discussed in a Conference between Truth and Peace* [1644], in *The Complete Writings of Roger Williams*, vol. III, S. L. Caldwell, ed. (New York: Russell & Russell, 1963). In the same year, an anonymous author published in London a pamphlet against "universall libertie of conscience," affirming that "A universal liberty of conscience is a universal liberty to sin, to maintain heresy, to practice idolatry, to vent blasphemy", *Against Universall Libertie of Conscience* (London: printed for Thomas Underhill, 1644), 2; cited in Keith E. Durso, *No Armor for the Back: Baptist Prison Writings, 1600s-1700s* (Macon, GA: Mercer University Press, 2007), 60.

³¹ Roger Williams, *The Bloody Tenent*, 283.

³² *Ibid.*, 219.

³³ To the hagiographic literature of the founders of the colony belong works like S. E. Morison, *Builders of the Bay Colony* (New York – Boston: Houghton Mifflin, 1930); E. S. Morgan, *The Puritan Dilemma: The Story of John Winthrop* (Boston: Little, Brown & Co., 1958); John Adair, *Founding Fathers: The Puritans in England and America* (London: J. M. Dent, 1982), and Larzer Ziff, *The Career of John Cotton: Puritanism and the American Experience* (Princeton, NJ: Princeton University Press, 1962).

³⁴ In this hagiographic current of dissent are Brooks Adams, *The Emancipation of Massachusetts* (New York: Houghton, Mifflin, 1887); J. T. Adams, *The Founding of New England* (Boston: Atlantic Monthly Press, 1921); V. L. Parrington, *Main Currents in American Thought*, vol. I (New York: Harcourt Brace & Company, 1927), and Darren Staloff, *The Making of an American Thinking Class: Intellectuals and Intelligentsia in Puritan Massachusetts* (New York: Oxford University Press, 1998). For a more balanced perspective, see William McLoughlin, *New England Dissent, 1630–1833: The Baptists and the Separation of Church and State*, 2 vols. (Cambridge, MA: Harvard University Press, 1971), Janice Knight, *Orthodoxies in Massachusetts: Rereading American Puritanism* (Cambridge, Mass.: Harvard University Press, 1994) and A. R. Murphy, *Conscience and Community: Revisiting Tolera-*

The Puritans fled from England to build in America a rigorous theocracy free from dissent. And yet a Protestant theocracy must always suffer from a grave inner contradiction: for one significant tenet of Protestantism is the individual's ability to interpret the Bible free of ecclesiastical dictates. Although particular Protestant creeds may have no intention of countenancing or permitting dissent, the Protestant stimulus to individual interpretation must inevitably provoke that very dissent.

The Puritan view on freedom of religion was expressed well by John Norton (1606–63) in *The heart of N-England rent at the blasphemies of the present generation*. As for liberty of conscience, Norton claimed to be upholding it, but not the “*liberty of the error of conscience*”:

“Liberty of Conscience, (as relating to the question under dispute) is a freedom from all impediment in respect of man, as to the following of the dictate of Conscience, in acting according to Rule. But liberty of Errour, or liberty of the error of conscience, is falsly called liberty of Conscience: being indeed opposite thereunto. It is a liberty in respect of man, to answer the dictate of the error of Conscience, in walking contrary to Rule. It is a liberty to blaspheme, a liberty to seduce others from the true God. A liberty to tell lies in the name of the Lord. It is a liberty ... to answer to the dictate of error of conscience in walking contrary to rule. It is indeed a liberty unto bondage: The exercise very bondage. Restraint from it is a restraint from bondage. They shall put you out of their Synagogues, yea the time cometh, that whosoever killeth you will thinke that he doth God service. John. 16:2. To thinke the murder of the Saints was service unto God, was not from their Conscience, but from the errour of their Conscience, and the practice of it a fearefull liberty.”³⁵

In brief, people were to be “free” to believe what Norton wanted them to, but were not to be free to differ.

Another eminent Puritan, Increase Mather (1639–1723), affirmed that “*sinful Toleration is an evil of exceeding dangerous consequence*,” complained against “*Hideous clamours for liberty of Conscience*,” and declared “*I do believe that Antichrist hath not at this day a more probable way to advance his Kingdom of Darkness, than by a Tolleration of all Religions and Perswasions*.”³⁶

As early as 1631, the Puritan authorities made clear their position on dissenters. In that year Phillip Ratcliffe was whipped, fined 40 shillings, had his ears cut off, and was banished for the high crime of “*uttering malicious and scandalous speeches against the government and the Church*.”

tion and Religious Dissent in Early Modern England and America (University Park, PA: Pennsylvania State University Press, 1996).

³⁵ John Norton, *The heart of N-England rent at the blasphemies of the present generation. Or A brief tractate, concerning the doctrine of the Quakers*, Printed by Samuel Green, at Cambridge in New-England, 1659, 52 [https://quod.lib.umich.edu/e/evans/N00027.0001.001?rgn=main;view=fulltext (accessed 20 August 2015)].

³⁶ Increase Mather, *A call from heaven, to the present and succeeding generations ...* (1685), 105, 106, quoted in David B. Ford, *New England's struggles for religious liberty* (Philadelphia: American Baptist publication society, 1896), 20.

3.1. Toleration “as the first-born of all abominations”

It is undeniable that, at least initially, New England’s religious and civil authorities succeeded in imposing and “maintaining a uniform public religious practice and [a] close relationship between church and state”.³⁷ Even if it was not a complete theocracy, the authorities had a very strict position toward those who deviated from the official doctrinal line of the colony, banishing them.³⁸

The most famous cases of banishment were those of Williams and of Anne Hutchinson, but many others were banished or invited to stay away from New England due to a narrow idea of religious liberty, well-illustrated by the words of the pastor and theologian Nathaniel Ward: “[...] *all Familists, Antinomians, Anabaptists, and other Enthusiasts shall have free Liberty to keep away from us, and such as will come to be gone as fast as they can, the sooner the better [...] I take Liberty of Conscience to be nothing but a freedome from sin, and error*”.³⁹

Dissent from the established Congregational church was considered as sedition and a “sin against God.”⁴⁰ In 1673, Uriah Oakes of Harvard College declared “I look upon unbounded Toleration as the first-born of all abominations.”⁴¹

3.2. A “dangerous and damnable infection”

The pastor and theologian John Davenport, reaffirming the original vision of New Haven, one of New England’s colonies, stated that a real Christian society must have “*a Form of Government as best serveth to Establish their Religion*”.⁴² Williams rejected this coercive religion, supported by the government, that allowed only members of Congregationalist churches to enter public offices, and he declared to be in favour of a formal separation from the Church of England.

Williams contended against infringements on religious liberty by adopting the arguments of the early seventeenth-century Baptists who attributed different objects and weapons to Christ’s kingdom and to civil

³⁷ A. R. Murphy, *Conscience and Community*, 30.

³⁸ Nevertheless, religious dissent had been always present and, as Janice Knight has suggested, instead of talking of a “*New England Way*”, it would be more appropriate to talk about “*New England Ways*” (Knight, *Orthodoxies in Massachusetts*, cap. I).

³⁹ Nathaniel Ward, *The Simple Cobler of Aggavvam in America* (London: Stephen Bowtell, 1647), A3.

⁴⁰ Sanford Cobb, *The Rise of Religious Liberty in America: A History* (New York and London: Macmillan, 1902), 68.

⁴¹ Joseph B. Felt, *Ecclesiastical History of New England*, vol. 2: *Comprising not only Religious, but also Moral, and other Relations* (Boston: Congregational Library Association, 1855), 506.

⁴² John Davenport, *A Discourse about Civil Government in a New Plantation Whose Design is Religion*, Cambridge 1663, 24.

government.⁴³ In explaining the limits of civil jurisdiction, Williams drew also upon the parable of the Wheat and the Tares (Mt 13: 24–44).⁴⁴ Arguing against Davenport’s paradigm, Williams claimed that only God and not an earthly government can decide about the final uprooting of the tares from the garden. Only with the imminent Second Coming the heretical Christians and the non-Christian tares would be separated from the “wheat”, i. e., the faithful Christians, “*Because Christ commandeth to let alone the Tares and Wheat to grow together unto the Harvest, Mat. 13: 30, 38.*”⁴⁵ From this, Williams concluded that, “as the *civill State* keeps it selfe with a *civill guard*, in case these *Tares* shall attempt ought against the *peace* and *welfare* of it, let such *civill offences* be punished, and yet, as *Tares* opposite to *Christs Kingdome*, let their *Worship* and *Consciencs* be tolerated.”⁴⁶ The civil state could apply its civil penalties to civil offenses, as these were opposed to the state, but it could not apply such punishments to consciences or worship, as these related to Christ’s kingdom. Conversely, Christ’s kingdom had complete jurisdiction over conscience and worship but none over civil offenses. Thus, in contrast to John Cotton (1584–1652), his most tenacious opponent, and the other Massachusetts Puritans who held that there, as in Israel, the magistrate possessed both civil and spiritual power, Williams believed that civil governments had not been given authority over spiritual matters.

Cotton replied with an accurate exegesis of the parable’s original text.⁴⁷ While for Williams the harvesting meant the “Day of Judgment,” Cotton followed Augustine’s interpretation that the tares and the wheat should be allowed to grow together until the harvesting, but this only in order to avoid the risk of uprooting the good grass together with the bad grass; therefore, when this danger no longer exists, that is when it is evident who are the wheat and who are the tares, “*non dormiat severitas disciplinae*” [“severity of discipline should not sleep”].⁴⁸

⁴³ For Williams views on these different jurisdictions, see, among others, Timothy L. Hall, *Separating Church and State: Roger Williams and Religious Liberty* (Champaign, IL: University of Illinois Press, 1998), 72–98.

⁴⁴ The parable of the Wheat and the Tares (Mt 13: 24–44) lied at the center of the debates on toleration. Cf. R. H. Bainton, *The Parable of the Tares as the Proof Text for Religious Liberty to the end of the Sixteenth Century*, “Church History”, vol. 1, n. 2 (June 1932), 67–89.

⁴⁵ Roger Williams, *The Bloudy Tenent*, 43.

⁴⁶ *Ibid.*, 111.

⁴⁷ John Cotton, *The Bloudy Tenent, Washed, And Made White in the Bloud of the Lambe* (London, 1647). It was bound in one volume with *Reply to Mr. Williams his Examination*, which Cotton had written some time earlier.

⁴⁸ Augustinus, *Contra Epistulam Parmeniani*, III, 2, 13, PL 43, 92. After this stance in favor of a harsh repression of religious dissent and the imposition of a “catholic truth”, Augustinus confirmed and reinforced his position against heretics. Cf. Peter Brown, *Religion and Society in the Age of Saint Augustine*, Faber and Faber, London 1972), 272–276. Augustinus’ interpretation became normative for Medieval theology and for a thousand years the church pursued a policy of suppressing religious dissent.

Cotton worried about the contagious effect for the civil society of the “*dangerous and damnable infection*” of Williams’ ideas.⁴⁹ The person who had fallen into error on fundamental issues of religion threatened his soul as well as the well-being of the community, “*sinning against his own conscience*.” For Cotton, “*liberty of conscience sets the conscience at liberty*”⁵⁰ and true liberty was Christian liberty, i. e. the liberty of believers to follow the Gospel. John Norton (1606–63), Cotton’s successor as pastor of the first Congregationalist church of Boston and stubborn opponent first of Antinomians and after of Quakers, admonished that it was necessary to pay attention that, “*When you hear men plead for Liberty, see that it be not Liberty falsely so called*”.⁵¹ And Captain Edward Johnson (1598–1672), author of the first history of New England, asked the authorities of Massachusetts to take position against, “*such as would have all sorts of sinfull opinions upheld by the civill government, [...] that our Lord Christ might raigne over us, both in Churches and Common-wealth,*” those who “*would have all sort of sinful opinions upheld by civil government [...]*”⁵²

Cotton, Norton, and Johnson still retained the predominant view that religious disagreements sprang from malice, and were rooted in sin. This belief in the malice of the dissenter had been the essential basis of the medieval repugnance of heresy. However, by then alternative opinions were also being articulated. The Leveller William Walwyn, for instance, had taken up the text “whatever is not of faith is sin” (Rom 14: 23), that medieval theologians had used to defend the primacy of conscience, to reach a different conclusion: “every man ought to have Liberty of Conscience of what Opinion soever.”⁵³ Walwyn argued that because “God only perswades [through] the heart,” those who practiced “compulsion and enforcement” were acting “contrary to the rule and practice” of “the will of God”.⁵⁴

Representative of many Levellers’ theological reasoning, Walwyn’s colleague Richard Overton similarly claimed that because “God only knoweth

⁴⁹ Roger Williams, *The Bloody Tenent*, 53.

⁵⁰ John Cotton, *The controversie concerning liberty of conscience in matters of religion: truly stated, and distinctly and plainly handled, by Mr. John Cotton of Boston in New-England. By way of answer to some arguments to the contrary sent unto him, wherein you have, against all cavils of turbulent spirits, clearly manifested, wherein liberty of conscience in matters of religion ought to be permitted, and in what cases it ought not, by the said Mr. Cotton*, Printed for Thomas Banks, London 1646, 8. Cf. Thomas Davis, *John Calvin’s American Legacy*, 51.

⁵¹ John Norton, *Three Choice and Profitable Sermons upon several texts of Scripture*, Printed for Hezekiah Usher of Boston, Cambridge, Mass. 1664, 7–8.

⁵² Edward Johnson, *The Wonder-Working Providence of Zion’s Savior in New England* [London 1658], J. F. Jameson, ed. (New York: Charles Scribner’s Sons, 1919), 45, 46.

⁵³ William Walwyn, *The Compassionate Samaritane*, *Unbinding the Conscience* (1644), in *The Writings of William Walwyn*, J. R. McMichael and B. Taft, eds. (Athens, Georgia: University of Georgia Press, 1989), 103.

⁵⁴ Walwyn, *A Whisper in the Eare*, in *ibid.*, 178–179.

the heart,” and since He is the “immediate Lord over the inward,” coercion of any kind ran counter to “God’s prerogative.”⁵⁵

4. Roger Williams’s defense of universal toleration

The founding document of the colony of Rhode Island contained the principle of liberty of conscience:

“to the end that we may give, each to other, (notwithstanding our different consciences, touching the truth as it is in Jesus, whereof, upon the point we all make mention,) as good and hopeful assurance as we are able, touching each man’s peaceable and quiett enjoyment of his lawfull right and Libertie”.⁵⁶

Without an established church as a benchmark for social solidarity and moral influence, the first inhabitants of the new colony were sailing uncharted waters and Williams had to face a completely new challenge, i. e. to reconcile individual liberty of conscience with a disciplined cohabitation in a society devoid of rigid religious norms.

For Massachusetts’ authorities, Rhode Island’s internal conflicts were the evidence that church and state could not be two separate entities but had to remain in a relationship of mutual support. The “New England Way” developed by the Puritans did not allow the possibility of dividing theology from the social and political organization of the community and required that every form of religious dissent be repressed inasmuch as it endangered the commonwealth. The opposition of the Puritan leaders toward dissenters such as Anne Hutchinson and Roger Williams was accounted for by the firm belief that it was necessary to prevent the spread of doctrines that undermined the very foundation of a society submitted to God, created factions, and deflected the attention of the community from its principal objective, i. e. living a holy life. For the magistrates, Hutchinson’s revelations divided families and churches, whereas Williams’ ideas threatened the legitimacy of the religious, social, and political project that the Puritans were realizing.

Williams’ defense of universal toleration was neither the result of a relativization of religious truth, being that he was deeply convinced that Protestantism, in its Puritan/Separatist version, was the “true” faith, nor simply a means to deal with and solve doctrinal conflicts between Christians. Universal toleration was meant to make possible the realization of a society

⁵⁵ Richard Overton, *An Appeal to the Commons from the Free People* (London, 1647), in A. S. P. Woodhouse, *Puritanism and Liberty: Being the Army Debates (1647–1649)* (Chicago: The University of Chicago Press, 1951), 332.

⁵⁶ *Acts and Orders. Made and agreed upon at the Generall Court of Election, held at Portsmouth, in Rhode Island, the 19, 20, 21 of May, Anno. 1647, for the Colonie and province of Providence*, in *Colonial Origins of the American Constitution: A Documentary History*, Donald S. Lutz, ed. (Indianapolis: Liberty Fund, 1998), 186.

of individuals with profound and irreconcilable religious and cultural differences. The term that better explains his concept of toleration is “*civility*”, a respectful and tolerant behavior towards everyone, different from “*civilization*”, a combination of social patterns and cultural norms of behavior. Martha Nussbaum has observed that Williams’ concept of toleration as respect for diversity and liberty of individual conscience went well beyond an understanding of toleration as concession.⁵⁷

“And notwithstanding these spirituall oppositions in point of Worship and Religion”, wrote Williams, “if Men keep but the Bond of Civility,” there would be “not the least noyse [...] of any Civil breach, or breach of civill peace amongst them.”⁵⁸

John Clarke, pastor of the Baptist church of Newport, shared Williams’ idea of universal religious toleration and had to face the strong opposition of the Puritan divines. Clarke personally experienced their hostility when, in 1651, he and two other members of the Newport church, Obadiah Holmes and John Crandall, were arrested in Lynch, Massachusetts, for preaching in a private home. Clarke and Crandall were released after local friends paid their fines, but Holmes refused to accept the offer and was publicly whipped on Boston Common.⁵⁹ In a detailed exposé of religious persecution in New England, published in London a year later in an unsuccessful effort to persuade Parliament to require New England colonies to tolerate dissent, Clarke reiterated that spiritual sins like apostasy or blasphemy did not concern the civil order and that the magistrate’s only duty was to safeguard “*the peace, liberty and prosperity of a civill State, Nation and Kingdom*”.⁶⁰

As a consequence of the public beating of Obadiah Holmes, Rhode Island Baptists desisted from entering into Massachusetts territory for many years. Thereafter, they concentrated on the defense of their own rights⁶¹ even if, “*in seeking Christian liberty for themselves, they helped (almost in spite of themselves) to expand the concepts of freedom and equality for everyone*”.⁶²

⁵⁷ Martha Nussbaum, *Liberty of Conscience: In Defense of America’s Tradition of Religious Equality* (New York: Basic Books, 2010), 52.

⁵⁸ Roger Williams, *The Bloudy Tenent*, 74.

⁵⁹ On Obadiah Holmes, see Edwin S. Gaustad, *Baptist Piety: The Last Will and Testament of Obadiah Holmes* (Grand Rapids: Christian University Press, 1994).

⁶⁰ John Clarke, *Ill Newes from New England: or A Narrative of New-Englands Persecution. Wherein Is Declared That While old England is becoming new, New-England is become Old* [1652], Preface, in *Colonial Baptists: Massachusetts and Rhode Island. The Baptist Tradition*, E. S. Gaustad, ed. (New York: Arno Press, 1980). For Clarke, conscience was that “*sparkling beam from the Father of lights and spirits that [...] cannot be lorded over, commanded, or forced, either by men, devils, or angels [...]*” (6).

⁶¹ William McLoughlin, *Soul Liberty: The Baptists’ Struggle in New England, 1630–1833* (Hanover, NH: Brown University Press, 1991).

⁶² William McLoughlin, *New England Dissent, 1630–1833*, vol. 2, 1281–1282.

5. A petition against persecution

The dispute on the limits of religious toleration and the meaning of liberty of conscience that unsettled public debate in seventeenth-century New England was not an isolated situation but it was part of a wider context of religious and political turmoil underway in the Anglo-Saxon world as well as in other settings, like that of New Holland.

In 1657, the inhabitants of Flushing, a village of New Holland – all of them English Protestants who had fled from the Puritan orthodoxy of New England – sent to Peter Stuyvesant, the governor of the colony, a petition (known as *Flushing Remonstrance*) to ask for the revocation of an injunction forbidding to receive in one's home the members of the “abominable sect” of the Quakers.

The law of the colony affirmed the liberty of conscience but in fact only the Dutch Reformed Church was officially recognized;⁶³ liberty to believe and practice his/her own kind of religion could be enjoyed only privately. Lutherans, Baptists, Catholics and Anglicans were allowed to live in the colony providing that they would not disturb in any way the public peace. The Quakers (two women and one man) who arrived in the Summer of 1657 had started immediately to disturb the public order preaching on the streets; for this reason, the governor prohibited to lodge them.

The arguments advanced by the signatories were based upon Dutch constitutional law: if “*The law of love, peace and liberty in the states extending to Jews, Turks and Egyptians, as they are considered sons of Adam, which is the glory of the outward state of Holland, soe love, peace and liberty, extending to all in Christ Jesus, condemns hatred, war and bondage.*”⁶⁴ Actually, at the time there was no Muslim community in Holland, because only Venice had a permanent community, composed by Muslim merchants who were allowed to worship in a special area.⁶⁵ Moreover, even if religious liberty had been incorporated in the Utrecht Union of 1579, only the members of the Reformed Church enjoyed full religious liberty and the Catholic worship was forbidden. In fact, Catholics were not mentioned in the petition and, in so doing, the signers aligned themselves to the prevalent Protestant position that excluded from toleration Catholics, Unitarians (Socinians and Antitrinitarians) and atheists.

⁶³ “Authorized Religious Service Restricted to the Dutch Reformed Church (February 1, 1656)”, in *Foundations of Colonial America. A Documentary History*, vol. II/2: *Middle Atlantic Colonies*, W. K. Kavenagh, ed., Chelsea House, New York 1983, 1319–1320.

⁶⁴ Remonstrance of the Inhabitants of the Town of Flushing to Governor Stuyvesant, December 27, 1657. For a transcript of the original, see *Russell Shorto, The Importance of Flushing*, “New York Archives” (Winter 2008), 11 [http://www.nysarchivestrust.org/apt/magazine/archivesmag_wintero8.pdf (accessed 9 September 2015)].

⁶⁵ B. J. Kaplan, *Divided by Faith: Religious Conflict and the Practice of Toleration in Early Modern Europe*, Harvard University Press, Cambridge, MA 2007, 303–306.

The idea of a toleration extended “to Jews, Turks and Egyptians [or heathens]” was most probably connected to Dutch Anabaptism as well as to English religious radicalism. It could also be related to Roger Williams, even if Williams included Catholics in his view of toleration.

Contrary to the prevailing belief, the petition’s signatories thought that the real problem was not the doctrinal error or the religious diversity but the persecution of those who tried to obey directly to the divine law, thus redefining the concept of toleration in a way that left a profound mark on American religious life. Being confronted with a human law, they felt to be called to decide according to their consciences, that is obeying the divine law to which every man’s behavior must conform: “*in this case of conscience betwixt God and our own souls [...] we are bounde by the law of God and man to doe good unto all men and evil to noe man.*”⁶⁶

The episode had little historical relevance since it did not lead to a change in the situation. However, as the first legal battle in the colonies for the recognition of liberty of conscience and first form of organized resistance to persecution for religious cause, it was an important landmark in the difficult path toward liberty of conscience in America.

6. After the American Revolution

During the Revolutionary War, religious toleration was granted to Protestant dissenters and even to Catholics living in the rebellious colonies, because it was necessary to form a united front against the British.⁶⁷ After the war, the choice had to be made between the recognition of a national church and disestablishment. On one side, Anglicans (now called Episcopalians) and Congregationalists strongly favored a national church, providing that it be their own. On the other, Dissenters, Deists, and other religious and secular groups opposed any form of national church establishment. The confrontation between these opposite fronts took place first at state and later at the federal level.

6.1. Dissenters, religious liberty, and disestablishment: Virginia

In Virginia, the Church of England had always been the established church but the Revolutionary War caused the departure of two-thirds of its clergy and the extinction of one-third of the parishes.

⁶⁶ *Documents Relative to the Colonial History ...*

⁶⁷ On the expansion of religious liberty as a result of political calculation and economic advantage, see Anthony Gill, *The Political Origins of Religious Liberty* (Cambridge, MA: Cambridge University Press, 2008), 26–113, and Charles Hanson, *Necessary Virtue: The Pragmatic Origins of Religious Liberty in New England* (Charlottesville: University Press of Virginia, 1998).

Meanwhile, the numbers of Presbyterians, Baptists, and Methodists continued to increase.⁶⁸ These denominations joined forces with political leaders like Thomas Jefferson and James Madison who favored disestablishment. In May 1776, in the context of a still-established Church of England, Virginia delegates had adopted a Declaration of Rights, whose final article asserted “all men are equally entitled to the free exercise of religion”.⁶⁹ In the following decade, Jefferson and Madison led a combination of forces opposing Anglicanism until a full freedom of religion was secured with the “Virginia Statute for Religious Freedom” (1786) that provided that

“no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.”⁷⁰

During that decade, a repeated effort was made to establish Christianity (“the Christian Religion” as it was called in a “general assessment bill” introduced in the Virginia legislature to tax all the citizens on behalf of religion and virtue) as the official religion of the state of Virginia.⁷¹ In order to defeat the bill, Madison presented a carefully written “Memorial” arguing that Christianity needs no political defense and that the general result of the long history of state-supported Christianity has been “pride and indolence in the Clergy; ignorance and servility in the laity; in both, superstition, bigotry, and persecution.”⁷²

In May 1789, the General Committee of the United Baptist Churches in Virginia sent to George Washington, a nominal Episcopalian, a letter expressing concern that the Constitution did not sufficiently secure the liberty of conscience:

“When the constitution first made its appearance in Virginia, we, as a Society, had unusual strugglings of mind; fearing that the liberty of conscience, dearer to us than property or life, was not sufficiently secured. Perhaps our jealousies were heightened on account of the usage that we received under the royal government, when Mobs, Bonds, Fines, and Prisons were our frequent attendants. Convinced on one hand that without an effective national government we should fall into disunion and all the consequent evils; and on the other fearing that we should be accessory to some religious oppression, should any one Socie-

⁶⁸ Thomas E. Buckley, *Church and State in Revolutionary Virginia, 1776–1787* (Charlottesville: University of Virginia Press, 1977).

⁶⁹ *Ibid.*, 18.

⁷⁰ *The Papers of Thomas Jefferson*, Julian P. Boyd, ed., (Princeton, NJ: Princeton University Press, 1950), vol. 2, 545–547.

⁷¹ *Religion and Political Culture in Jefferson’s Virginia*, Garrett Ward Sheldon and Daniel L. Dreisbach, eds. (Lanham, MD: Rowman & Littlefield Publishers, 2008), 145.

⁷² James Madison, *Memorial and Remonstrance against Religious Assessments*, reprinted in *The Papers of James Madison* (Chicago: University of Chicago Press, 1973), vol. 8, 298–304.

ty in the union preponderate over all the rest: But amidst all the inquietudes of mind, our consolation arose from this consideration ‘The plan must be good for it bears the signature of a tried, trusty friend’ [...].”⁷³

In his response, Washington assured them that

“If I could have entertained the slightest apprehension that the Constitution framed in the Convention, where I had the honor to preside, might possibly endanger the religious rights of any ecclesiastical Society, certainly I would never have placed my signature to it; and if I could now conceive that the general Government might ever be so administered as to render the liberty of conscience insecure, I beg you will be persuaded that no one would be more zealous than myself to establish effectual barriers against the horrors of spiritual tyranny, and every species of religious persecution – For you, doubtless, remember that I have often expressed my sentiment, that every man, conducting himself as a good citizen, and being accountable to God alone for his religious opinions, ought to be protected in worshipping the Deity according to the dictates of his own conscience.

While I recollect with satisfaction that the religious Society of which you are Members, have been, throughout America, uniformly, and almost unanimously, the firm friends to civil liberty, and the persevering Promoters of our glorious revolution; I cannot hesitate to believe that they will be the faithful Supporters of a free, yet efficient general Government. Under this pleasing expectation I rejoice to assure them that they may rely on my best wishes and endeavors to advance their prosperity.”⁷⁴

In this and other letters written by Washington soon after his assumption of the presidency in response to congratulatory letters received from several religious groups (besides the Baptists, Presbyterians, Quakers, Roman Catholics, Jews, and others), he sought to make clear that for the first time in human history political citizenship would no longer be based upon religious affiliation. In doing so, Washington not only demonstrated his personal commitment to uphold the right to religious freedom and liberty of conscience, but pledged the nation to it as well.⁷⁵

6.2. Dissenters, religious liberty, and disestablishment: Pennsylvania

Unlike Virginia, Pennsylvania in the revolutionary era faced no great crisis of disestablishment nor did it require new arguments on behalf of religious liberty. In *The Great Case of Liberty of Conscience* (1670), written

⁷³ “Address of the Committee of the United Baptist Churches of Virginia, assembled in the City of Richmond, 8th August, 1789, to the President of the United States of America,” in *The Writings of the Late Elder John Leland*, L. F. Greene, ed. (New York: G. W. Wood, 1845), 52–55.

⁷⁴ “From George Washington to the United Baptist Churches of Virginia,” May 1789, in *The Papers of George Washington*, Presidential Series, vol. 2, 1 April 1789 – 15 June 1789, ed. Dorothy Twohig (Charlottesville: University Press of Virginia, 1987), 423–425.

⁷⁵ Harry V. Jaffa, *The American Founding as the Best Regime: The Bonding of Civil and Religious Liberty* (Claremont, CA: The Claremont Institute for the Study of Statesmanship and Political Philosophy, 1990), 25.

while he was still in England, the Quaker leader William Penn (1644–1718) had argued for liberty not only for religious opinions, but for religious actions as well, namely, that religious liberty entails “*not only a meer Liberty of the Mind, in believing or disbelieving this or that Principle or Doctrine, but [also] the Exercise of ourselves in a visible Way of Worship*”.⁷⁶ Liberty of conscience was a guarantee to be left alone to choose from among the plural religions that were equally available to all. Free exercise of religion was the right to act publicly on the choices of conscience once made, without intruding on or obstructing the rights of others and the general peace of the community.

Penn believed that a proper religious worship was “indispensably required at our hands,” and that to neglect such worship is to “incur divine wrath.”⁷⁷ He also declared mere fallible men to be incompetent to judge the affairs of other men’s souls and that government must leave conscience alone.

For Penn, as for Jefferson, the “Almighty God hath created the mind free,”⁷⁸ therefore freedom of conscience was one of the natural rights of man. “I ever understood,” Penn declared, “an impartial liberty of conscience to be the natural right of all men.”⁷⁹

To put into practice his beliefs, in 1682 Penn launched the Holy Experiment that society could succeed where every person shall “freely and fully Enjoy his or her Christian Liberty without any Interruption or Reflection.”⁸⁰ “Christian Liberty” indicates that Penn’s commitment to religious freedom was not absolute. Although anyone who professed a belief in God could live undisturbed, one had to believe in Jesus Christ in order to vote and hold office.⁸¹ Coupled with a belief in toleration was the belief that true liberty, political virtue, and civil justice rested on Christian principles.

By 1776, Quaker dominance in the affairs of Pennsylvania had long since ceased. The consequences of Penn’s principle were by that time all too evident: “Pennsylvania had proved to be America’s most hospitable haven for diversity and dissent,” and “the resulting heterogeneity was so unfamiliar, and so visible” to alarm and irritate “many, especially the Anglicans who

⁷⁶ William Penn, *The Great Case of Liberty of Conscience Once More Briefly Debated & Defended* [London], Printed in the year 1670, 11 [<http://brbl-dl.library.yale.edu/vufind/Record/3547129> (accessed 10 September 2015)].

⁷⁷ *Ibid.*

⁷⁸ See Jefferson’s *Virginia Statute for Establishing Religious Freedom*.

⁷⁹ *Letter of William Penn to William Popple* (24 October 1688), in Thomas Clarkson, *Memoirs of the private and public life of William Penn: who settled the state of Pennsylvania, and founded the city of Philadelphia* (Dover, NH, 1827), 12. Penn anticipated John Locke who, in his *Letter Concerning Toleration* (originally published in Latin in 1689 and translated in English by William Popple in the same year) wrote that “*liberty of conscience is every man’s natural right.*”

⁸⁰ “An Act for Freedom of Conscience” (1682), in *Colonial Origins of the American Constitution: A Documentary History*, Donald S. Lutz, ed. (Indianapolis: Liberty Fund 1998), 60.

⁸¹ See the Pennsylvania Frame of Government, Articles xxxiv and xxxv of the Laws Agreed Upon in England.

were growing in numbers, prestige, and anxiety.”⁸² However, after the July 1776 Declaration of Independence, there could be no more Church of England in America, because the alliance of church and state was so intimate that the fall of one necessitated the fall of the other.

The Holy Experiment had not only survived, but it prospered, and simply being there was a successful example of religious liberty at work. There religious liberty had not subverted the state, had not destroyed the market place nor the connecting social tissue. It was an historical reality, the best answer to all arguments about the indispensable presence of an official church and about the necessary connection between religious establishment and political order.

6.3. Dissenters, religious liberty, and disestablishment: New England

Disestablishment did not happen all at once; it unfolded first in certain colonies and later state-by-state in the early republic. Massachusetts, Connecticut, and New Hampshire (and Vermont, which would become a state in 1791) maintained tax supported churches, with each town choosing which church to support, and with exemptions – at least in theory, and sometimes in practice – permitting dissenters to pay their tax to their own church instead.⁸³ The coexistence of belief in the importance of freedom of conscience with the existence of governmental religious establishments presented an obvious paradox. The reconciliation of practically universal calls for freedom of conscience with religious intolerance and persecution was achieved by different groups in different ways. Some maintained that conscience could not lie and, therefore, the expression of beliefs which were religiously “erroneous” could not be a “true” exercise of conscience.⁸⁴ Liberty of conscience for most New England Congregationalist clergy, for instance, was simply “liberty of what they regarded as conscience.”⁸⁵ Others simply assumed that the liberty of conscience of which they spoke presupposed the existence of a Protestant Christian state and the exclusion of religious competitors.⁸⁶ Elisha Williams, Congregationalist minister and President of Yale University, declared that although every person was entitled to a natural and inalienable right to liberty of conscience, this principle did not include Catholics, because they were enemies of a “Protestant State.”⁸⁷

⁸² Edwin Scott Gaustad, “The Emergence of Religious Freedom in the Early Republic,” in *Religion and the State. Essays in Honor of Leo Pfeffer*, James E. Wood, Jr., ed. (Waco, TX: Baylor University Press, 1985), 33.

⁸³ Thomas J. Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment* (New York: Oxford University Press, 1986), 134–192.

⁸⁴ *Id.*, 22.

⁸⁵ *Id.*, 88.

⁸⁶ *Id.*, 78–79.

⁸⁷ Elisha Williams, *The Essential Rights and Liberties of Protestants* (1744), cited in Curry, *First Freedoms*, 97–98. See also Benjamin Gale, *A Reply to a Pamphlet entitled the Answer*

The ambiguity of calls for freedom of conscience by those who worked for its suppression came increasingly under the attack of the dissenters. Baptist pastor Isaac Backus (1724–1806) charged that the established Congregational Church in Massachusetts “has declared the Baptists to be irregular, therefore the secular power still force them to support the worship which they conscientiously dissent from. ... [M]any who are filling the nation with the cry of LIBERTY and against oppressors are at the same time themselves violating that dearest of all rights, LIBERTY of CONSCIENCE.”⁸⁸

New England’s Baptists had declared their support for the revolutionary cause in 1775 and in 1779, Samuel Stillman (1737–1807), pastor of the First Baptist Church in Boston, was invited to deliver the annual Election Sermon before the Massachusetts General Court, the first time of a non-Congregationalist. Stillman used the occasion to make an ardent plea for religious equality.⁸⁹

7. From religious toleration to freedom of conscience

The demand for universal toleration was taken up again by John Leland (1754–1841), leader of the Virginia Baptists, during and after the Revolutionary War. When the Connecticut’s general assembly passed “An Act securing equal Rights and Privileges to Christians of every denomination in this State”⁹⁰ (October 1791), Leland was “one of the few dissenting leaders”⁹¹ of

of the Friend in the West, Etc., With A Prefatory Address to the Freemen of His Majesty’s English Colony of Connecticut (1755); Gale stated that liberty of conscience did not include those “whose religious Principles are not compatible with a Protestant Country, or destructive to the Community,” such as “Roman Catholics, Deists, [and] Atheists,” cited in Curry, *First Freedoms*, 103.

⁸⁸ Isaac Backus, *A Seasonable Plea for Liberty of Conscience, against some later Oppressive Proceedings ...* (1770), cited in Bailyn, 263. See also Jonathan Mayhew, “A Sermon Preach’d in the Audience of His Excellency William Shirley, Esq.” (Boston, 1754), 32: “It may be worth considering whether we have not some laws in force, hardly reconcilable with that religious liberty which we profess.” Mayhew’s sermon has been reprinted in *The Wall and the Garden: Selected Massachusetts Election Sermons, 1670–1775*, A. W. Plumstead, ed. (Minneapolis: University of Minnesota Press, 1968), 288–324.

⁸⁹ Samuel Stillman, *A Sermon Preached before the Honorable Council, and the Honorable House of Representatives of the State of Massachusetts-Bay, in New-England, at Boston, May 26, 1779. Being the anniversary for the election of the Honorable Council* (Boston, 1779); available online at Evans Early American Imprint Collection (<http://name.umdl.umich.edu/n13070.0001.001> (accessed 12 September 2015)). For the novelty of non-Congregationalist preacher, see Stephen A. Marini, *Radical Sects in Revolutionary New England* (Cambridge, Mass.: Harvard University Press, 1982), 23.

⁹⁰ This law allowed Christians who had joined dissenting congregations to file certificates with the clerks of the established ecclesiastical societies in their localities and thereby gain exemption from taxation to support the established church; it also granted dissenting denominations equal power with the established societies to support their own churches financially.

⁹¹ Philip Hamburger, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2009), 84.

the time to criticize the exemption of the Protestant dissenters from taxation for the support of the clergy and from military service; few if any clergy conscientiously objected to taxes other than the tax for the established church, and few clergy outside the historic peace churches conscientiously objected to military service. In his most famous sermon against establishments, *The Rights of Conscience Inalienable*, Leland stated that

“Ministers should share the same protection of the law that other men do, and no more. To proscribe them from seats of legislation, & c. is cruel. To indulge them with an exemption from taxes and bearing arms is a tempting emolument. The law should be silent about them; protect them as citizens (not as sacred officers) for the civil law knows no sacred religious officers.”⁹²

Leland attacked the exemption for not going far enough, i. e., for failing to exempt Jews, Catholics, Turks, and “heathens”. He claimed that

“Government has no more to do with the religious opinions of men than it has with the principles of mathematics. Let every man speak freely without fear – maintain the principles that he believes – worship according to his own faith, either one God, three Gods, no God, or twenty Gods; and let government protect him in so doing, i. e. see that he meets no personal abuse or loss of property for his religious opinions.”⁹³

The belief that religious belonging was irrelevant from a social and political perspective had been already expressed also by Thomas Jefferson,⁹⁴ with whom Leland cooperated in the drafting of the First amendment of the US Constitution, that prohibited the recognition of an official religion and guaranteed religious liberty for all.

The “free exercise of religion” had been deliberately substituted for a guarantee of “toleration” in drafting the Virginia Declaration of Rights,⁹⁵ and was finally adopted in the federal Bill of Rights instead of “liberty of conscience.”⁹⁶ With Leland, the concept of toleration and “free exercise of religion” was definitively substituted by “liberty of conscience” for all:

“The notion of a Christian commonwealth should be exploded forever. ... Government should protect every man in thinking and speaking freely, and see that one does not abuse another. The liberty I contend for is more than toleration. The very idea of toleration is despicable; it supposes that some have a pre-

⁹² John Leland, “The Rights of Conscience Inalienable, and therefore, Religious Opinions not Cognizable by Law” (1791), in *The Writings of the Late Elder John Leland*, 188.

⁹³ Id., 184.

⁹⁴ Thomas Jefferson, *Notes on Virginia*, QUERY XVII: “The rights of conscience we never submitted, we could not submit. We are answerable for them to our God. The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg.” *The Life and Selected Writings of Thomas Jefferson/Adrienne Koch and William Peden*, eds. (New York: Random House, 1944), 254.

⁹⁵ Curry, *The First Freedoms*, 135.

⁹⁶ Michael W. McConnell, “The Origins and Historical Understanding of Free Exercise of Religion,” *Harvard Law Review*, 103 (1990), 1488–1500.

eminence above the rest to grant indulgence, whereas all should be equally free, Jews, Turks, Pagans and Christians.”⁹⁷

A year before, on August 28, 1789, the French Reformed pastor Jean-Paul Rabaut Saint-Étienne (1743–93), who was one of the 600 deputies for the Third Estate elected to the Estates General, in a passionate speech at the National Constituent Assembly (*Assemblée nationale constituante*) had demanded to go beyond the Edict of Toleration (November 29th, 1787), that granted civil rights to French Protestants but no religious liberty:

“Messieurs, ce n’est pas même la tolérance que je réclame: c’est la liberté. La tolérance! Le support! Le pardon! La clémence! Idées souverainement injustes envers les dissidents [...]. Je conclus donc [...] que vous fassiez entrer dans la déclaration des droits cet article: Tout homme est libre dans ses opinions; tout citoyen a le droit de professer librement son culte, et nul ne peut être inquiété à cause de sa religion.”⁹⁸

Two Protestants, one connected to the American Revolution, the other to the French, one Baptist and the other Reformed, claimed almost simultaneously liberty of conscience for all.

8. Baptists’ renewed concern for religious liberty, freedom of conscience and disestablishment in the Nineteenth Century

At the end of the eighteenth century, the long conflict for protecting the fundamental right to freedom of religion and conscience – fought by Protestant minorities in England and America – was not yet concluded, but it had reached an important objective. This objective was the proclamation of human rights as an essential feature of the Christian faith itself, as it had been already proclaimed by seven Baptist leaders in a pamphlet of 1661: “*the liberty of men’s consciences ... is also a part of the Christian religion.*”⁹⁹

The principle of religious liberty and the denial of the state’s jurisdiction over religion were gradually established in the constitutions of Western states, beginning with the United States. In 1834, looking back to the struggle he had been so much involved with, John Leland could write “*The plea*

⁹⁷ John Leland, *A Chronicle of His Time in Virginia* [1790], in *The Writings of the Late Elder John Leland*, 118.

⁹⁸ J.-P. Rabaut Saint-Étienne, *Oeuvres de Rabaut Saint-Étienne*, vol. II, édité par J.-A.-S. Collin de Plancy (Paris: Laisné frères éditeurs, 1826), 143, 148–149. Rabaut Saint-Étienne’s proposal was accepted in the *Décret sur les protestants* (24 December 1789) and then inserted in the Constitution proclaimed on September 3, 1791: “*La liberté à tout homme de parler, d’écrire, d’imprimer et publier ses pensées, sans que les écrits puissent être soumis à aucune censure ni inspection avant leur publication, et d’exercer le culte religieux auquel il est attaché.*” Article X of the October 4, 1958, Constitution provides that: “*Nul ne doit être inquiété pour ses opinions, même religieuses, pourvu que leur manifestation ne trouble pas l’ordre public établi par la Loi.*”

⁹⁹ Thomas Monck et al., *Sion’s Groans for Her Distressed, or Sober Endeavours to Prevent Innocent Blood* (n. p., 1661), in *Tracts on Liberty of Conscience and Persecution*, 379.

for religious liberty has been long and powerful; but it has been left for the United States to acknowledge it a right inherent, and not a favor granted: to exclude religious opinions from the list of objects of legislation."¹⁰⁰

In England, religious liberty and freedom of conscience continued to be a preeminent concern of the Baptists, who played a relevant role in the formation of Nonconformist voluntary organizations like the Evangelical Voluntary Church Association and the Religious Freedom Society, both established in 1839, the British Anti-State Church Association (founded in 1844 and renamed in 1853 as the Society for the Liberation of Religion from State Patronage and Control) – all created to pursue the aim of disestablishing the Church of England¹⁰¹ – and the Evangelical Alliance (1846), that campaigned internationally for religious freedom. Edward Steane (1798–1882), one of the main promoters of the formation of the Evangelical Alliance, was also co-secretary of the Baptist Union.

9. Baptists' enduring concern for religious liberty, freedom of conscience and disestablishment in the Twentieth Century

The violation of religious liberty was one of the main issues discussed at the creation of the Baptist World Alliance (BWA), founded in London in 1905, with the mission "*to empower and enable national Baptist leaders to effectively witness and minister in the name of Jesus Christ and to represent and support Baptists throughout the world in defense of human rights and religious freedom.*" Furthermore, "*the world must not be permitted to forget what the Baptist doctrine of soul liberty, broadening into the conception of personal liberty and finding expression in the ordinances of civil liberty, has wrought for the political emancipation of mankind.*"¹⁰²

Several Baptist national bodies participated at the ecumenical Oxford Life and Work Conference of 1937 and the Madras Missionary Conference of 1938, where the issue of religious liberty was addressed as a fundamental human right.¹⁰³

During the 1930s, Baptists in the United States had become increasingly concerned about the threat posed to religious liberty by the rise of totalitarian regimes across Europe and about the Roosevelt administration's favorable policies towards Catholics, specifically with regard to the idea of

¹⁰⁰ Leland, "Events in the Life of John Leland: Written by Himself," in *The Writings of the Late Elder John Leland*, 39.

¹⁰¹ See, among others, Ian Machin, "Disestablishment and Democracy, c. 1840–1930," in *Citizenship and Community: Liberals, Radicals and Collective Identities in the British Isles, 1865–1931*, Eugenio F. Biagini, ed., (Cambridge: Cambridge University Press, 1996), 120–148.

¹⁰² *Proceedings of the Baptist World Congress, 1905* (London: Baptist Publications Department, 1905), 76, cited in William H. Brackney, *The Baptists* (Westport, CT: Praeger, 1994), 103.

¹⁰³ See Ninan Koshy, "The Ecumenical Understanding of Religious Liberty: The Contribution of the World Council of Churches," *Journal of Church and State* 38 (Winter 1996), 137–154.

establishing formal diplomatic relations with the Holy See. In response to these concerns, representatives of three Baptist denominations – the Northern Baptist Convention, the National Baptist Convention, USA, Inc., and the Southern Baptist Convention – met in 1939, and jointly issued “A Pronouncement on Religious Liberty,” officially published under the title *American Baptist Bill of Rights*. The document warned that religious liberty was under threat and proclaimed that because religious liberty was “*not only an inalienable human right, but indispensable to human welfare*,” Baptists had to protect “*absolute religious liberty*” for Jews, Catholics, Protestants, and “*everybody else*,” and they should “*condemn every form of compulsion in religion or restraint of the free consideration of the claims of religion*.”¹⁰⁴ A Baptist historian has suggested that this “*egalitarian stance may well have been the background for President Roosevelt’s espousal of the right ‘of every person to worship God in his own way – everywhere in the world,’ in his famous Four Freedoms Speech before Congress in January 1941*.”¹⁰⁵

Representatives of the three denominations formed the Associated Committees on Public Relations, that in 1942 became the Joint Conference Committee on Public Relations and, in 1950, was renamed Baptist Joint Committee for Public Affairs (BJCPA).

Another important factor in revitalizing the British, American, and Canadian Baptist churches’ concern for religious liberty was the nineteenth century’s missionary movement, because missionaries had to deal with restrictions imposed by local government regulations and established churches. Baptist involvement in overseas missionary enterprise dates back to the formation of the Particular-Baptist Society (later renamed Baptist Missionary Society) in 1792 and William Carey’s (1761–1834) mission in India and Burma from the end of the following year. Until 1813 the British East India Company did not tolerate Dissenting missionaries, because it aimed at “instilling the virtuous and moral principles of the religion of the Church of England” among the natives.¹⁰⁶ The British Baptists’ work prepared the way for the American and Baptists’ engage-

¹⁰⁴ “Believing religious liberty to be not only an inalienable human right, but indispensable to human welfare, a Baptist must exercise himself to the utmost in the maintenance of absolute religious liberty for his Jewish neighbor, his Catholic neighbor, his Protestant neighbor, and for everybody else. Profoundly convinced that any deprivation of this right is a wrong to be challenged, Baptists condemn every form of compulsion in religion or restraint of the free consideration of the claims of religion.” *The American Baptist Bill of Rights: A Pronouncement Upon Religious Liberty* (Washington, DC: Associated Committees on Public Relations, 1940), 17–18. Cf. William H. Brackney, “American Baptist Bill of Rights,” in *Dictionary of Baptists in America*, Bill J. Leonard, ed. (Downers Grove, IL: InterVarsity Press, 1994), 21; Bill J. Leonard, *Baptists in America* (New York: Columbia University Press, 2005), 167.

¹⁰⁵ Brackney, *The Baptists*, 105.

¹⁰⁶ S. Pearce Carey, William Carey (New York: Doran Company, 1923), 56; quoted in William H. Brackney, “Baptists, Religious Liberty and Evangelization: Nineteenth-Century Challenges,” in *Baptist Identities*, Ian M. Randall, et al., eds. (Milton Kenyes: Paternoster, 2006), 315.

ment in missionary endeavors in Burma with Adoniram (1788–1850) and Ann Hasseltine (1789–1826) Judson, and Samuel S. Day (1807–71); in Africa with Lott Cary (c. 1780–1828) and Collin Teague (c. 1780–1839), free African Americans from Virginia, supported by the General Missionary Convention; in China with William Dean (1807–95); and in Latin America with Archibald B. Reekie (1862–1942).¹⁰⁷

10. The unfinished recognition of “the right to freedom of thought, conscience and religion”

While continuing to affirm religious liberty and freedom of conscience, a large part of American Baptists, especially in the South, failed to connect them to a full acknowledgment of human rights and continued to support slavery. The largest Baptist body, the Southern Baptist Convention (SBC), remained hostile to desegregation even when – in the 50 and 60 – the civil rights movement was led by Baptist ministers like Martin Luther King, Jr. and Ralph Abernathy. Only in 1995, on its 150th anniversary, the SBC issued an apology for its earlier stance on slavery and segregation. In January 1999, an International Summit of Baptists against Racism was held in Atlanta.¹⁰⁸

Baptists can also be placed among the precursors – together with many other religious dissenters – of the 1948 “Universal Declaration of Human Rights,” adopted in 1948 by the United Nations General Assembly. Article 2 of the UDHR stated that everyone is to be entitled to all the rights and freedoms without respect to religion. Article 18 affirmed, “*Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.*”¹⁰⁹ In 1950, the eighth Baptist World Congress in Cleveland urged all nations to support the Universal Declaration of Human Rights by ratifying the agreements designed to put its requirements into international law.

The recognition of “the right to freedom of thought, conscience and religion”, however, did not put an end to intolerance and persecution and its implementation is not yet fully completed. Today, religious human rights are still not respected in many areas of the planet. Without their complete and universal recognition and implementation, no peaceful and just world-order will be possible.

¹⁰⁷ Richard V. Pierard, *Mission and Baptist Identity* (Beverly, MA: Richard Henry Press, 2004); William H. Brackney, *Bridging Cultures and Hemispheres: The Legacy of Archibald Reekie and Canadian Baptists in Bolivia* (Macon, GA: Smyth & Helwys, 1997).

¹⁰⁸ *Baptist Against Racism: United in Christ for Racial Reconciliation*, Denton Lotz, ed. (McLean, VA: The Baptist World Alliance, 1999).

¹⁰⁹ *The Universal Declaration of Human Rights*, (<http://www.un.org/en/documents/udhr/index.shtml#a18> (accessed 20 September 2015)).