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"Pure Religion of the Gospel... Together with Civil Liberty": A Study of the Religion Clauses of the Northwest Ordinance and Church-State in Revolutionary America

Nathaniel Hamilton Wiewora



THE FLORIDA STATE UNIVERSITY

COLLEGE OF ARTS AND SCIENCES

**“PURE RELIGION OF THE GOSPEL...TOGETHER WITH CIVIL LIBERTY”:
A STUDY OF THE RELIGION CLAUSES OF THE NORTHWEST ORDINANCE AND
CHURCH-STATE IN REVOLUTIONARY AMERICA**

By

NATHANIEL HAMILTON WIEWORA

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The members of the committee approve the thesis of Nathaniel Hamilton Wiewora defended on April 6, 2007.

Sally Hadden
Professor Directing Thesis

Albrecht Koschnik
Committee Member

Matt Childs
Committee Member

The Office of Graduate Studies has verified and approved the above named committee members.

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ABSTRACT

The Ordinance of 1787 provided the method for territories of the Old Northwest to become states. It set out a three-stage process that territories would pass through in order to acquire full rights of statehood. Furthermore, it contained six Articles of Compact between Congress on behalf of the extant states and the states to be created out of the territory. These articles provided guarantees of fundamental rights and liberties for the future states, including religious practice and belief. The first article provided that “no person, demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in the said territory.” Article Three stated that, “religion, morality and knowledge being necessary to good government and the happiness of mankind, Schools and the means of education shall forever be encouraged.”

This study uncovers how ideas on government, law, and religion led to the drafting of the religion clauses of the Northwest Ordinance. Scholars have spent little time examining the philosophical underpinnings of the statements on religion contained in the Northwest Ordinance. This study demonstrates that these statements were not mere afterthoughts, but were thick and complex statements on how the state and the church should be related.

The legislative history of the Northwest Ordinance indicates that the language for the religion clauses appeared just before the document’s passage, but it also seems that the drafters drew upon a deep well of theological and philosophical beliefs and applied them to a specific political and economic context. The theological ideas included Puritan and evangelical ideas like millennialism, free will, true virtue, and covenant. Philosophical views included both Enlightenment philosophy and civic republicanism.

Part of the exploration of this question occurs within the context of the debate of church and state relations in Revolutionary Virginia and Massachusetts. This is necessary for a number of reasons. First, it narrows the scope of the study without sacrificing important historical developments. A study of this sort that does not limit itself geographically can quickly become unmanageable. To include the developments in the negotiation over church and state in all thirteen colonies would be to ask for an unwieldy study that would not necessarily reach significantly different conclusions from a more limited one. The struggle over church and state

in the Virginia and Massachusetts contexts represented the most important and illustrative developments. The state governments of Virginia and Massachusetts and their representatives played influential roles in the drafting of the Northwest Ordinance. Thus, considering these developments will provide a helpful understanding of the ideological antecedents of the religion clauses of the Northwest Ordinance.

Virginia and Massachusetts served as microcosmic representations for the church-state debate in the Revolutionary period. It is both within this indirect and broader microcosmic connection, as well as more direct connections to the Northwest Ordinance itself that the importance of the Massachusetts and Virginia debates are derived. Virginia reached a liberal principle of religious liberty before most of the other states and thus became an example for the other states of how the fusion of Protestant dissension and Christian voluntarism could lead to antiestablishment thought and a liberal expression of religious toleration. Opponents of establishment in many of the other states cited Virginia's thinkers in their own constitutional moves toward disestablishment.

Virginia shared a direct connection with the Northwest Ordinance in two ways. First, the Virginia Legislature had to cede all of her land claims to the Northwest Territory before the Continental Congress could create a territorial policy for the Northwest. Virginia gentry also drafted portions of or served on several of the key committees in the legislative history of the Northwest Ordinance. Virginian Thomas Jefferson composed the Ordinance of 1784, the first national expression of territorial policy for the Northwest. His Ordinance provided a basis for the development of the Northwest Ordinance. Virginian James Monroe proposed changes to Jefferson's Ordinance, helping to draft key sections of the Northwest Ordinance. Monroe's ideas included how many states should be created out of the Northwest Territory and under what conditions these states should enter the Union. Monroe embraced a New England style of territorial development, urging that the Northwest Territory should be settled by townships and in an organized fashion. One of the significant reasons Monroe embraced this style of territorialism was because of the Ohio Company and the large number of New England Revolutionary War veterans who made up the Company's membership rolls and wanted to settle the Northwest Territory under principles consonant with their own particular New England beliefs.

The importance of the teaching of natural religion was cited by both opponents and supporters of establishment in revolutionary Massachusetts. Supporters of limited establishment, in the guise of Article Three of the proposed 1780 constitution, argued that the governmental support of religion had social utilitarian importance. Supporters of Article Three argued that the teaching of the doctrine of a future state of rewards or punishment inculcated virtue into the Massachusetts citizenry. Opponents of Article Three, like the anonymous New Light writer Philanthropos, opposed the teaching of fundamental Calvinist principles, like the doctrine of future states, because they saw the teaching of these principles by the government as antithetical to notions of the inviolability of individual conscience. Opponents of Article Three supported the right of individual conscience to such an extent that on at least one occasion, opponents practiced civil disobedience in the closing of the courts in Berkshire County, Massachusetts.

The leader of the civil disobedient group, the Berkshire Constitutionalists, was Thomas Allen. As noted above, Allen practiced a rigid Calvinist orthodoxy. He was a member of the New Divinity movement that believed in the importance of retaining strict theological principles, while still allowing for a socially active form of Christianity. This social activism stemmed from interpretations of the nature of true virtue that originated in the mind of Jonathan Edwards. Consistent Calvinists embraced these Edwardsean notions and extended them to causes like abolition or disestablishment. The Reverend Thomas Allen embraced New Divinity ideas and helped to influence the church-state debate in Massachusetts.

The church-state debate in Massachusetts also had a direct link to the drafting of the religion clauses of the Northwest Ordinance in two other ways. Manasseh Cutler, land agent for the Ohio Company, hailed from Massachusetts. He, more than probably anyone else, influenced the text of the Ordinance and the timing of its passage. As described above, Cutler's biography linked several of the key arguments made for the territorial policy articulated in the Northwest Ordinance. Finally, it seems that the authors of the Northwest Ordinance's Articles of Compact culled the Massachusetts Constitution 1780 for the specific language of the Ordinance's religion clauses. Thus, a greater understanding of the Revolutionary Massachusetts church-state narrative, along with the story of church-state relations as they developed in Virginia, yields some of the intentions of the framers of the Northwest Ordinance's religion clauses.

The final portion of this study is shorter and much more speculative. The study contemplates the Ordinance's influence upon the drafting of the Constitution and the Bill of

Rights vis-à-vis the religion clauses of each document. Many members of the Continental Congress were also members of the Constitutional Convention. Members of the Confederation Congress corresponded heavily with members of the Constitutional Convention and vice versa. Thus, it is hard to imagine that each body did not know what the other was doing. Furthermore, the First Congress readopted the Northwest Ordinance just days before debating what would become the First Amendment. So, it can be assumed that the Northwest Ordinance is constitutional and that it also served as an example and influence in the drafting of the Bill of Rights. This area of study is much more speculative in nature and ultimately the discussion in this thesis is more suggestive of future directions of study. It raises questions about the constitutional effect of the Northwest Ordinance with respect to the issue of church and state and broader issues of religion and politics in the Revolutionary Period.

CHAPTER ONE

LED BY AN INVISIBLE HAND, DRAFTED BY AN UNSAVORY CREW, OR A CONSTITUTION FOR THE NORTHWEST: INTRODUCTION AND HISTORIOGRAPHY

The Ordinance of 1787, or Northwest Ordinance, provided the method for territories of the Old Northwest to become states. It set out a three-stage process that territories would pass through in order to acquire full rights of statehood. Furthermore, it contained six Articles of Compact between Congress on behalf of the extant states and the states to be created out of the territory. These articles provided guarantees of fundamental rights and liberties for the future states, including religious practice and belief. The first article provided that “no person, demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in the said territory.” Article Three stated that, “religion, morality and knowledge being necessary to good government and the happiness of mankind, Schools and the means of education shall forever be encouraged.”¹

While drafting of the articles section of the Ordinance occurred quickly, delegates to the Articles Congress had given the issue decades of thought. Throughout the revolutionary period, states had negotiated the legal relationship of church and state. Prior to the American Revolution, most states had some sort of established church or a very close and legally favorable relation between church and state. Some colonists saw this close relationship of church and state as another example of the further abrogation of their fundamental rights by the British government. Thus, some colonial calls for independence included references to the close relationship between church and state.

Many state legislators rethought this close association as they drafted new state constitutions in the years after declaring independence. Fierce debate occurred over the nature of this affiliation among politicians, clergymen, and entrepreneurs. States came down on different sides of the issue. Virginia embraced complete religious voluntarism and nonestablishment,

¹Northwest Ordinance, art. 1 and art. 3, quoted in Worthington C. Ford, ed., *Journals of the Continental Congress* (hereafter *JCC*) 34 vols. (Washington D.C.: U.S. Government and Printing Office, 1904-37), 32:334-43.

while Massachusetts saw the importance of religion and created a limited establishment of religion whereby the state would support religious efforts with a financial assessment.

Renegotiation of church-state relations did not just occur at the state level. Debate occurred on a broader and national level, that of the Continental Congress. The closest thing to a proto-national government, the Continental Congress, was a loose and weak body. Prior to the adoption of the Northwest Ordinance, the members did not spend much time during the Revolutionary War debating the philosophical relationship of church and state. Yet, a close look at the body's proclamations and legislation reveals that members held definite opinions about how church and state should interact. The most prominent example of this is the Northwest Ordinance and its two articles concerning religion.

These legal negotiations also occurred within a particular theological context. Ministers and theologians responded to or appropriated Enlightenment philosophy in the mid-eighteenth century socioeconomic context. As a result, many theologians developed a more socially active view of the gospel. Philosophical developments in rationalism, the nature of humanity, ethical living, and the efficacy of religion forced religious leaders to rethink man's character and how he was to act in a virtuous way. Theologians argued that Christians should be more active socially, which included joining the fight for independence and fighting for the rights of individual conscience.

This study uncovers how these ideas on government, law, and religion led to the drafting of the religion clauses of the Northwest Ordinance. Scholars have spent little time examining the philosophical underpinnings of the statements on religion contained in the Northwest Ordinance. This study demonstrates that these statements were not mere afterthoughts, but were thick and complex on how the state and the church should be related. Scholars like Paul Finkelman and Peter Onuf have recently begun to study the constitutionalism of the Ordinance of 1787, but the Articles of Compact themselves have received scant attention.² This study addresses that shortcoming and proposes future directions for its study, such as how the Ordinance may have influenced the drafters of the Constitution and the Bill of Rights. Within the context of decisions about church and state the Ordinance served as the Constitution's and the Bill of Rights' most immediate antecedent on the proper role of religion and politics. How did the Ordinance

²Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington: Indiana University Press, 1987) and Paul Finkelman, "Slavery and the Northwest Ordinance: A Study in Ambiguity," *Journal of the Early Republic* 6 (Winter 1986): 343-370.

influence the framers on this topic and how can understanding its influence advance knowledge of the church-state relations in the Revolutionary and Early National periods?

This study engages two historical problems. The first problem, which represents the substantive portion of this study, is concerned with the origins of the ideology and specific language of the religion clauses of the Northwest Ordinance. Why did the framers of that document seek to both guarantee religious liberty and encourage its development in the Old Northwest? The legislative history of the Northwest Ordinance indicates that the language for the religion clauses appeared just before the document's passage, but it also seems that the drafters drew upon a deep well of theological and philosophical beliefs and applied them to a specific political and economic context. The theological ideas included Puritan and evangelical ideas like millennialism, free will, true virtue, and covenant. Philosophical views included both Enlightenment philosophy and civic republicanism.

Part of the exploration of this question occurs within the context of the debate of church and state relations in Revolutionary Virginia and Massachusetts. This is necessary for a number of reasons. First, it narrows the scope of the study without sacrificing important historical developments. A study of this sort that does not limit itself geographically can quickly become unmanageable. To include the developments in the negotiation over church and state in all thirteen colonies would be to ask for an unwieldy study that would not necessarily reach significantly different conclusions from a more limited one. The struggle over church and state in the Virginia and Massachusetts contexts represented the most important and illustrative developments. Historians such as Anson Stokes and Leo Pfeffer, in their seminal work on American church-state relations, have argued as much. They wrote in *Church and State in the United States* that, "the struggle which took place in Virginia in its last days as a colony and in its early days as a state calls for special attention...it is doubtful that any other legislative body ever had so significant a debate on the subject."³ They also said that, "Massachusetts...had much influence on other states."⁴ Furthermore, the state governments of Virginia and Massachusetts and their representatives played influential roles in the drafting of the Northwest Ordinance. Thus, considering these developments will provide a helpful understanding of the ideological antecedents of the religion clauses of the Northwest Ordinance.

³Anson Phelps Stokes and Leo Pfeffer, *Church and State in the United States*, rev. ed. (New York: Harper and Row, 1964), 65.

⁴*Ibid.*, 77.

All of these ideas occurred within a socioeconomic matrix, when the Confederation Congress had little money and was about to be made obsolete. Then, the Continental Congress received an offer for a quick infusion of cash from a land company made up of former officers in the Continental Army. Suddenly, Congress resolved a three-year impasse over the nature of territorial policy and passed a plan that would provide for the creation of three to five states. Manasseh Cutler, the agent for the land company, supplied the impetus for the passage of the Ordinance and he seems to have helped with its drafting, including the clauses concerning religion. Besides being a land agent and noted scientist, Cutler was also a Congregationalist minister. His religious, philosophical, economic, and social position serve as a near-representation of the ideas and context that played into the drafting of the religious articles of the Northwest Ordinance and thus should be considered within this exploration.

Cutler's religious beliefs contained millenarian beliefs that believed humans could hasten the Second Coming of Christ through the civilizing of the wilderness that was the Northwest. Part of this civilizing process necessitated the dissemination of religious teaching. Cutler saw the social utility inherent in the teaching of religion. This belief was similar to the one espoused by politicians and theologians in both Massachusetts and Virginia. Cutler also would have further supported the Northwest Ordinance because of his business interests. As a member of the board of directors, he stood to reap significant profits through the sale of the Ohio land. However, his belief in the financial promise of the Ohio endeavor went beyond personal profit. These parts of his biography will provide greater detail that could prove helpful in understanding the religion clauses of the Northwest Ordinance.

The final portion of this study is shorter and much more speculative. The study contemplates the Ordinance's influence upon the drafting of the Constitution and the Bill of Rights vis-à-vis the religion clauses of each document. Many members of the Continental Congress were also members of the Constitutional Convention. Members of the Confederation Congress corresponded heavily with members of the Constitutional Convention and vice versa. Thus, it is hard to imagine that each body did not know what the other was doing. Furthermore, the First Congress readopted the Northwest Ordinance just days before debating what would become the First Amendment. So, it can be assumed that the Northwest Ordinance is constitutional and that it also served as an example and influence in the drafting of the Bill of Rights. This area of study is much more speculative in nature and ultimately the discussion in

this thesis is more suggestive of future directions of study. It raises questions about the constitutional effect of the Northwest Ordinance with respect to the issue of church and state and broader issues of religion and politics in the Revolutionary Period.

In the Northwest Ordinance, the Continental Congress issued both a broad expression of religious liberty and a statement supporting religion and morality as necessary for good government. These statements served as a compromise between two differing views of the role of religion in politics. The document upheld rights of individual conscience, while supporting the importance of religion in civic society. Congress reached this point within the context of theological and philosophical developments and state debates over the relationship of church and state.

Many factors played a role in the creation of the Northwest Ordinance's religion clauses, but the most important factors seem to have been the wedding of theological beliefs about freedom of the gospel to Enlightenment notions about the importance of individual conscience. This marriage occurred concomitantly with a theological appropriation of certain Enlightenment ideas that embraced a more active and social role for Christianity. Finally, a progressive and millennial belief about society led many to the conclusion that humans needed to be civilized through religion, education, or civic morality in order to inaugurate a millennial world. The Northwest Ordinance's religion clauses therefore can best be understood as thickly-inspired statements of societal possibility.

Historiographical Introduction

There is a long historiographical tradition concerning the Northwest Ordinance. Understanding how their works illuminate the religion clauses of the Northwest Ordinance is a logical beginning point for this study. A useful framework for grouping these scholars was first articulated in 1989. Historian R. Douglas Hurt identified five primary ways that scholars have analyzed this document: as nationalists, conservatives, economic determinists, constitutionalists, and realists.⁵ From the secondary literature, it appears that recent scholarship since 1989 has tended toward a more constitutional interpretation.

⁵R. Douglas Hurt, "Historians and the Northwest Ordinance," *Western Historical Quarterly* 20 (August 1989): 261.

Hurt argued that the Senator Daniel Webster provided the foundation for the nationalist school of interpreting the Northwest Ordinance. Nationalist historians saw a sense of moral clarity and righteousness within the text of the Northwest Ordinance. The Ordinance, drafted in 1787, created the foundation of a strong and moral republic. It set the conditions for the integration of individual peoples into one nation. Finally, it correctly foreshadowed one of America's great moral dilemmas. The document contained a clause, Article VI, that abolished slavery in the territory of the Northwest. Many nationalist historians saw this inclusion as the first blows against the slave system. However, this focus on the sixth article became myopic. Authors performed little research on the Northwest Ordinance other than focusing on the antislavery provision of the Ordinance. This concentration continued into Reconstruction and beyond.⁶

William F. Poole, in an 1876 book, continued the nationalist school of interpretation. He argued that the Northwest Ordinance forever fixed the character of immigration and the social, political, and educational institutions of the people who would inhabit the Northwest Territory. Authors of the Ordinance established the principles and characteristics of the region through Articles of Compact. The Ordinance was "broad and enlightened" and was "perhaps the most notable instance of legislation that was ever enacted by the representatives of the American people."⁷ Poole connected the Northwest Ordinance to the victorious Union army, in that every square mile of the Northwest Ordinance supported the Union army during the Civil War.

In describing the nature of the Ordinance itself, Poole argued that the drafters of the Northwest Ordinance condensed the Massachusetts Constitution of 1780 to form the document. "Every principle contained in the former, either in a germinal or developed form...is found in the latter, and often in the same phraseology."⁸ Connecting the drafting of the document to the purchase by the Ohio Land Company, Poole suggested that since Massachusetts men organized the Ohio Company they would desire to live under the same laws and values that they had helped to draft in the Massachusetts Constitution.

Poole also made a foray into one of the more popular activities of historians of the Northwest Ordinance, deducing its authorship. In 1830, Daniel Webster largely began these

⁶*Ibid.*, 262.

⁷William F. Poole, *The Ordinance of 1787 and Dr. Manasseh Cutler as an Agent in its Formation* (Cambridge: Welch, Bigelow, and Company, 1876), 4-5.

⁸*Ibid.*, 32.

efforts during a floor debate with fellow Senator Robert Hayne. Webster claimed that a member of the committee that drafted the Ordinance, Nathan Dane, authored the most significant and meaningful sections of the document. Webster thus began a century-long debate over the identity of the Articles of Compact. This debate, while relatively meaningless, reveals significant details about the ideological orientation and proclivities of scholars of the Northwest Ordinance.⁹

Poole challenged Webster's attribution of Dane's authorship through an appeal to the legislative history of the Ordinance. Dane and the committee on which he served did not create the Ordinance *de novo*, but relied upon a history of land developments and debates. Poole argued that one of the most important developments in the history of the Northwest Ordinance was its concomitant drafting with the purchase of land made by the Ohio Company. He wrote that, "the Ordinance of 1787 and the Ohio purchase were parts of one and the same transaction. The purchase would not have been made without the Ordinance, and the Ordinance could not have been enacted except as an essential condition of the purchase."¹⁰ Thus, he identified the agent of the Ohio Company, Manasseh Cutler, as the true author of the Ordinance. He believed that Cutler had unique qualifications for this title, which included legal, religious, and financial training.

Manasseh Cutler's own grandson, William P. Cutler, continued this nationalist approach through an extended analysis of the significance of the Ordinance. For him, the Ordinance stood "out in history as an isolated effort on the part of its authors to forecast a complete system of government and project it over a vast territory in advance of its actual occupation by future inhabitants."¹¹ The document provided the foundation for the modern colonial system. It carried the organic principles of government and state autonomy that lasted for centuries. Cutler also became embroiled in the debate over authorship, not surprisingly claiming most of the authorship for his grandfather.

At the close of the 19th century, progressive historians began to assert their dominance over the field of professional history. Progressive historians saw within the history of America

⁹Ray A. Billington, "The Historians of the Northwest Ordinance," *Journal of the Illinois State Historical Society* 40 (December 1947): 400-401; C. B. Galbreath, "The Ordinance of 1787, Its Origin and Authorship," *Ohio Archaeological and Historical Quarterly* 33 (April 1924): 111-12, 143-44, 147-70.

¹⁰Poole, *The Ordinance of 1787 and Dr. Manasseh Cutler as an Agent in its Formation*, 31.

¹¹William P. Cutler, "The Ordinance of July 13th, 1787," *Ohio Archaeological and Historical Quarterly* 1 (June 1877): 10-11.

evolutionary changes in civilization. This ideological orientation influenced interpretations of the Northwest Ordinance in conservative and economic deterministic ways. Conservative-progressive era historians of the Ordinance suggested that its creation was the result of years of evolutionary legislation. Conservative historians differed little from the nationalists before them in that they elevated the document to a place of significance in the American pantheon of legislation and saw American losing strength and identity when it sacrificed the values of the Ordinance. Economic determinists also viewed the Ordinance as a result of evolutionary change, but their conclusion was very different than the conservative historians. For them, the Ordinance resulted from greed and led to the oppression of many settlers of the Northwest.

Frederick Jackson Turner was the most notable member of this conservative school of interpretation. Turner wrote on the Northwest Ordinance in an 1896 article that appeared in one of the first issues of the *American Historical Review*.¹² He suggested that the Ordinance “provided for a type of government comparable to that of the royal colonies...but the type was revolutionized by the American conditions.”¹³ The Ordinance contained within it the doctrine that the people in the unoccupied lands of the Northwest had the right to determine their own political institutions. However, the settlers of the Northwest and the drafters of the Northwest Ordinance did not partake in their colonial adventure blindly or without any direction. The settlement of the West modified older forms of colonial government and infused them with a spirit of democracy. This view of western settlement differed little from the nationalist school in that scholars in both camps saw the Northwest Ordinance as a method of insuring democracy and fundamental American freedoms.

An economic determinist school of interpretation developed in tandem with the conservative school. These historians largely viewed the Northwest Ordinance as a document written by business interests to guarantee the emigration of the maximum number of settlers to the territory. Historian Frederic Paxson summarized this view well when he wrote, “the eighteenth century was not one in which public men drew as sharp a line between public trust and private gain as now.”¹⁴ He argued that two main reasons existed for passage of the Northwest Ordinance: the potential purchase of a million dollars of land and the cupidity of

¹²Frederick Jackson Turner, “Western State-Making in the Revolutionary Era, II,” *American Historical Review* 1 (January 1896): 251-269.

¹³*Ibid.*, 266.

¹⁴Frederic L. Paxson, *History of the American Frontier, 1763-1893* (Boston: Houghton Mifflin Company, 1924), 66.

certain public officials who wanted to share in the land speculation profits. Thus, the Ordinance became the product of business interests. It was not until the Ohio Company agreed to buy enough land to include members of Congress in the deal that they were able to acquire enough votes to secure passage of the Ordinance. The “bill of rights,” as Paxson called the Articles of Compact, existed merely to make the land of the Northwest attractive to buyers.¹⁵

These economic deterministic historians interpreted the Northwest Ordinance in a similar way to how Charles Beard analyzed the Constitution itself. Beard suggested that the Constitution was drafted by men with significant pecuniary interests. Historian Theodore Pease suggested an analogous interpretation of the Ordinance of 1787. For him, “speculative devils” drafted this document.¹⁶ Further, he said that most of the men who founded the Northwest were monarchists. They had no highminded or disinterested purposes, but “smug New England prejudice went hand in hand with the enlightened self-interest of southerners who did not wish slave grown tobacco from northwest of the Ohio to compete with the produce of the Old South.” The men “who assisted Manasseh Cutler in the passage of the Ordinance through Congress, and in driving the bargain for the Ohio Company, the New York speculators, William Duer and his like, were an unsavory crew.”¹⁷ Despite the presence of less than satisfactory drafters of the document, Pease thought that the Northwest Ordinance embodied a policy of colonial expansion that had worked for many years. This policy had been successful in the first expansion of the American people past the Alleghenies and to the Mississippi. Pease saw the success of the Ordinance in the way it balanced local autonomy with central authority. However, the Northwest Ordinance departed in one significant detail from previous attempts at colonization. The Northwest Ordinance granted political rights to settlers. Pease wrote that the Ordinance held those political rights in trust for a period of years, but the settlers would eventually obtain them. Thus, its success ranks only second to that of the Constitution, yet it was marred in its creation because of a hasty composition. The Northwest Ordinance’s “ill-turned” phrases contained obscurity and controversy. Pease included the Articles of Compact in these confusing and

¹⁵*Ibid.*, 67-68.

¹⁶Theodore C. Pease, “The Ordinance of 1787,” *Mississippi Valley Historical Review* 25 (September 1938): 171.

¹⁷*Ibid.*, 170.

controversial words. The drafters included them to satiate potential settlers and not for idealistic purposes.¹⁸

Some scholars fused together the conservative and economic determinist schools of interpretation. Historian Milo Quaife first did this in a 1938 journal article.¹⁹ He wrote that the New Englanders who formed the Ohio Company did not want to settle the Northwest without a similar government to the one that they had left behind. These settlers desired guarantees of order, continuity, and structure. Settlers wanted governmental guarantees of this kind for military protection as well. Many believed that the Northwest Territory was hostile to settlement because of the Native American threat. Thus, the drafters of the Northwest Ordinance provided a document that granted personal security to all settlers. Economic gain would arrive later, but only after the government guaranteed security.²⁰

Thus, Quaife fused the conservative desire to draft a document that created orderly land acquisition and security with the tertiary concern of creating conditions that would attract the most number of settlers. The conservative and almost nationalistic interpretation of the document appeared further in Quaife's understanding of the Articles of Compact. He wrote that these articles were solemn political agreements and showed the advanced political ideals contained in the Ordinance.²¹

Historian Ray Billington followed much of this interpretation, but rather than emphasizing the conservative qualities that Quaife did, he focused on the economic rationale for the drafting of the Northwest Ordinance.²² This should not come as a surprise, as Billington studied with Frederic Paxson while at Harvard. In his 1949 book, he focused on the role of the frontiersmen as they migrated west over the course of three centuries. He compared the problem that America faced with the western lands after the Revolutionary War with the dilemma that Britain encountered after the Seven Years War. Other problems further complicated the land question in America included: conflicting interests involving land companies, traders, foreign

¹⁸*Ibid.*, 167. Other scholars who held this view included Beverley W. Bond, "An American Experiment in Colonial Government," *Mississippi Valley Historical Review* 15 (September 1928): 221-235 and Samuel Eliot Morison and Henry Steele Commager, *The Growth of the American Republic*, 2nd ed. (New York: Oxford University Press, 1962), 148.

¹⁹Milo M. Quaife, "The Significance of the Ordinance of 1787," *Journal of the Illinois State Historical Society* 30 (January 1938): 415-428.

²⁰*Ibid.*, 417-420.

²¹*Ibid.*, 424.

²²Ray A. Billington, *Westward Expansion: A History of the American Frontier*, 3rd ed. (New York: Macmillan Company, 1967).

intrigue, and state claims. Congress and the drafters of the Northwest Ordinance resolved these dilemmas by sacrificing the wishes of frontiersmen. Billington wrote that the Ordinance of 1787 was a conservative document written by jealous easterners who wanted to guard their own political and economic supremacy. Frontiersmen objected to the oversized states, the lack of self-rule in the early stages, and the absolute veto power of the governor during the second stage.²³ As territories proceeded on the path to statehood, they progressed through stages of increased sovereignty until they became states on par with the other states. At the beginning of the process, the Federal Government approved most of the territory's actions. During the second stage, a federally-appointed governor could veto any of the actions of the new territory's representative legislature with no ability to override.

Despite these less than moral financial interests, Billington interpreted the effects of the Northwest Ordinance in a nationalistic fashion. The document was “the foundation of the most remarkable colonial system known to the world in 1787.” Further, it perpetuated the Union and “removed one great obstacle to western movement.”²⁴

Through World War Two historians of the Northwest Ordinance continued to understand the document in a conservative way. Among these interpreters included Clarence Carter who saw in the Ordinance “one of the most remarkable charters of modern times.”²⁵ The Ordinance recapitulated the experience of the American states when they were colonies of Great Britain. The people controlled all local affairs and compacts guaranteed their fundamental liberties. These features characterized the British system and the Revolutionary state constitutions. Finally, Carter wrote that the capstone of the Northwest Ordinance was that it allowed territories into the Union with the same rights as those of the original states. In this conservative model, the Articles of Compact were derived from the British model, but still made the Northwest Ordinance remarkable and distinctly America.

Perhaps the pinnacle of conservatism in the conservative interpretation came in the 1950s from the pen of Francis Philbrick. He examined the document in a detailed fashion in his legal treatise on the laws of the Illinois Territory.²⁶ The Ordinance of 1787 established a

²³*Ibid.*, 217.

²⁴*Ibid.*, 214-215.

²⁵Clarence E. Carter, “Colonialism in Continental United States” *South Atlantic Quarterly* 47 (January 1948): 18.

²⁶Francis Philbrick, *The Laws of the Illinois Territory, 1809-1818* (Springfield: Illinois

governmental system that was “astoundingly illiberal and tutelary in character.”²⁷ The Ordinance also sought to proclaim the compact articles as unalterable. The members of Congress who drafted and passed the document did it to curb the excesses of the masses who would flock to the Northwest in search of cheap land. Philbrick contrasted the liberal and democratic quality of Jefferson’s Ordinance of 1784 with the Northwest Ordinance’s strong government, a plan eerily similar to the one against which the colonists had just rebelled. He wrote that Jefferson’s plan was a complete and workable plan for the government of a specific territory and at the same time an enunciation of general principles of government which were judged proper to control the administration of all federal territory.²⁸

A few more aspects of Philbrick’s should be noted as they apply directly to the nature of this study. He wrote that the Northwest Ordinance articulated several principles of the Bill of Rights three years before they were added to the Constitution. Members of the Revolutionary vanguard already deeply held onto these values, as they appeared in many of the various state constitutions.²⁹ Philbrick pointed to the First and Third Articles of the Northwest Ordinance as examples of these values. He wrote that the Third Article itself was not novel, but had a background in the New England Revolutionary tradition.³⁰ The importance of the Ordinance thus appeared in its application of national policies and state legislation relating to the territories as public lands and state legislation’s influence was recognized for the first time.

Historian John Barnhart agreed significantly with this interpretation.³¹ He argued that the Northwest Ordinance was an unrepresentative and undemocratic form of government. However, he saw some positive aspects in the Ordinance. These included the temporary nature of the colonial process. Also, he interpreted the Articles of Compact as creating and granting a limited bill of rights for the colonists. Thus, he added a constitutional interpretation to his economic deterministic model.

Conservative interpretations of the Northwest Ordinance continued into the 1960s as Frederick Merk argued that philosophical radicals drafted the Northwest Ordinance. These

State Historical Society, 1950). For similar views, see also Merrill Jensen, *The New Nation: A History of the United States During the Confederation, 1781-1789* (New York: Alfred A. Knopf, 1950).

²⁷*Ibid.*, cclvii.

²⁸*Ibid.*, ccliv-cccviii.

²⁹*Ibid.*, clxxiv.

³⁰*Ibid.*, ccclxxxi.

³¹John Barnhart, *Valley of Democracy: The Frontier Versus the Plantation in the Ohio Valley, 1775-1818* (Bloomington: Indiana University Press, 1953).

radicals argued that the British Empire was federal and that subjects of the Empire were not bound by acts of parliament unless they had given their consent. This concept of federal and local autonomy became the basis for the Northwest Ordinance Merk suggested. The Ordinance became part of the federal framework for the Union under the Constitution. It was the mode used most frequently for enlarging the Union. “These charters constitute a veritable flowering of genius for converting revolutionary idealism into practical devices of government for both the older communities of the East and the newer ones of the West.”³² Merk claimed that the genius of the drafters of the Ordinance was their ability to anticipate future problems that might develop and provide possible solutions.

Also in the 1960s the noted leftist historian Staughton Lynd of Yale University, writing within this conservative-progressive school during the civil rights era, renewed scholarly interest in the Sixth Article of the Northwest Ordinance.³³ The Sixth Article outlawed slavery in the territory of the Northwest. He did not interpret this abolition of slavery as a moral triumph, but as a political compromise. Lynd argued that southern legislators believed future southerners with agrarian interests would settle the Northwest. Thus, the south would acquire political power through shared sectional ties. Further, the Article was palatable to southerners because it merely prohibited slavery where it did not already exist. The effect of this compromise was not merely confined to the Northwest Ordinance, but it had constitutional implications. Through this compromise, delegates of the Constitutional Convention could finish working on the slavery clauses contained in the Constitution. Thus, the Northwest Ordinance served as a stabilizing document. Southerners saw a continued chance to retain political power, while Northerners were able to prohibit slavery and create several new states. Lynd’s thesis rested on the assumption that the delegates of the Constitutional Convention knew the actions and thoughts of the Congress in New York, which bears direct relevance to this project.³⁴

Writing at the same time, Jack Eblen continued with a conservative analysis of the Ordinance. For him, the Northwest Ordinance prescribed the philosophical and structural framework for a United States colonial system based on that of the old British Empire. It defined republicanism and specified it to be the only acceptable form of government for the colonies and

³²Frederick Merk, *Manifest Destiny and Mission in American History: A Reinterpretation* (New York: Vintage Books, 1963), 5.

³³Staughton Lynd, “The Compromise of 1787,” *Political Science Quarterly* 81 (June 1966): 225-250.

³⁴*Ibid.*, 247-50.

future states. Members of the Ohio Company did not force the passage of the Ordinance to promote settlement in the Northwest. The Ohio Company, in the person of its agent Manasseh Cuter, had little influence on the final form or content of the document.³⁵

Rather, Eblen argued that the Northwest Ordinance had distinct pre-Revolutionary origins. This development occurred in stages. Eblen analyzed this evolution through the work of Thomas Jefferson, James Monroe, and Nathan Dane. Each of these men contributed to the creation of the Northwest Ordinance and built upon one another's work. Jefferson devised a four-stage process where proposed colonies would advance individually to statehood. Jefferson made no provision for government during the early years, perhaps believing that *ad hoc* arrangements would suffice. Monroe, after a tour of the Northwest, believed Jefferson's proposed states too small and offered modifications to Jefferson's Ordinance as chairman of a congressional land committee. Eblen wrote that on May 9, 1786 Monroe's committee presented its first report. In a refined form, the report constituted the governmental articles and part of the compact that became the Ordinance of 1787. He patterned the system of colonial government after the British model. The West would pass through two stages of political evolution before admission to statehood. The Ordinance would serve as a constitution until the states achieved statehood. He made the entire Northwest into one single administrative district, centralizing all elements of colonial government. Finally, Dane added to the Ordinance through revisions and simplifications of Monroe's plan. The Articles of Compact were Dane's most important contribution. In adding a positive bill of rights, Dane supplied a valuable but perhaps unnecessary weight to counter the apparently rigid governmental forms and potentially stifling Congressional controls.³⁶ Eblen argued that Dane's conservatism appeared in his inclusion of property qualifications for service in the government of the Northwest. For Eblen, the Ordinance was an ordinary piece of legislation based on years of legal evolution.

Historian Robert Berkhofer continued with this same evolutionary conservative interpretation of the Northwest Ordinance. He argued that historians had exaggerated the differences between the Ordinance of 1784 and the Northwest Ordinance. He traced the history of the land question and American territorial expansion from independence in 1776 through passage of the Northwest Ordinance in 1787. This history led him to diminish the role of

³⁵Jack Ericson Eblen, *The First and Second United States Empires: Governors and Territorial Government, 1784-1912* (Pittsburgh: University of Pittsburgh Press, 1968).

³⁶*Ibid.*, 43.

Jefferson in the drafting of the Ordinance of 1784. Because Jefferson wrote the Ordinance of 1784, most historians assumed that he was primarily responsible for the basic governmental policies proclaimed in the document. Thus, they interpret its provisions for new states mainly in light of how they understood his political philosophy. Since the Northwest Ordinance repealed the Ordinance of 1784, most historians saw it as repealing Jefferson's liberal political philosophy. Berkhofer instead suggested that both resulted from an evolutionary development. He argued that the Northwest Ordinance was the culmination of American thinking about the territory question.³⁷

Frontier historian Andrew Cayton, writing around the bicentennial of the Northwest Ordinance from a conservative constitutional perspective with shades of economic determinism, argued that the Northwest Ordinance permitted cultural imperialism in the guise of constitutional action.³⁸ He wrote that in the late 1780s personal financial interests, a desire to strengthen national authority in both the east and west, and a passion for social order came together to produce a coherent Federalist vision of the future of the West. This design was as powerful as Jefferson's "Empire of Liberty." This Federalist West involved interfering with the normal progression of settlement and improving upon it. The founders of the Northwest desired to create the highest possible stage of economic, social, and political existence immediately. This world would be an eastern world, shorn of its flaws, and elevated to a higher level of development. A member of the Ohio Company, noted Federalist, and general in the Continental Army, Rufus Putnam, said in 1790 that the western country should take the east as its model for manners, morals, and religion. The Federalists wanted to fully integrate the Ohio Country into the Atlantic cultural and commercial community. They sought interdependence, not independence, urban development, manufactures, social stratification instead of egalitarianism—all overseen by a firm national constitutional authority and secured by institutions like churches and schools. The Federalist society of the West would be marked by the enjoyment of luxury items from around the world, the attainment of high cultural achievements, and the gentility of human relationships. The strong institutions of churches and schools would restrain individual

³⁷Robert F. Berkhofer Jr., "Jefferson, the Ordinance of 1784, and the Origins of the American Territorial System," *William and Mary Quarterly* 29 (April 1972): 231-232.

³⁸Andrew R. L. Cayton, *The Frontier Republic: Ideology and Politics in the Ohio Country, 1780-1825* (Kent: Kent State University Press, 1986). See also Andrew R. L. Cayton "The Northwest Ordinance from the Perspective of the Frontier," in Robert M. Taylor, ed., *The Northwest Ordinance, 1787: A Bicentennial Handbook* (Indianapolis: Indiana Historical Society, 1987).

excesses and secure social order. Education would “revive the ideals of order, citizenship, and the useful sciences” among frontiersmen who Cutler claimed were in danger of losing their habits of allegiance and government to the United States.³⁹

Legal historian Paul Finkelman also utilized economic and conservative rationale to write about the Northwest Ordinance around the time of the bicentennial of the Northwest Ordinance. He focused specifically on the prohibition of slavery in Article VI. In two separate articles, he concluded that the provision did little to affect slavery. Article VI has little influence on slavery in the Northwest because “the ordinance itself was ambiguous, internally inconsistent, and written by men who were unsure of their own objectives.”⁴⁰ The inadequate nature of the Ordinance stemmed from several factors. The land committee drafted Article VI of the Northwest Ordinance quickly and without much thought to its ramifications. Slavery also had an “inertia,” which made its eradication difficult.⁴¹ Geographical confusion over potential state borders also created difficulties in the enforcement of Article VI. Finally, the Ordinance also failed to abolish slavery in the Northwest because of a lack of will on the part of local officials. Finkelman further analyzed the effects of Article VI of the Northwest Ordinance and concluded that in the antebellum period both supporters and opponents of slavery cited the document to support their particular cause.⁴² He fused a conservative argument with an economic determinist article to analyze both the drafting of the provision and its effects.

According to historian R. Douglas Hurt’s categories for understanding the historiography of the Northwest Ordinance and a reading of the secondary literature, the conservative interpretation of the Northwest Ordinance finally diminished in the 1980s with the writings of Peter Onuf and the introduction of the realist or pragmatic school of historiography. Writing during the bicentennial of the Northwest Ordinance, Onuf produced one of the only full-length monographs of the Northwest Ordinance in *Statehood and Union*.⁴³ He emphasized the

³⁹*Ibid.*, 21, 31.

⁴⁰Finkelman, “Slavery and the Northwest Ordinance: A Study in Ambiguity,” 346.

⁴¹*Ibid.*, 347.

⁴²Paul Finkelman, “Evading the Ordinance: The Persistence of Bondage in Indiana and Illinois,” *Journal of the Early Republic* 9 (Spring 1989): 21-51.

⁴³Onuf, *Statehood and Union: A History of the Northwest Ordinance*. See also Peter S. Onuf, “Territories and Statehood,” in Jack P. Greene, ed., *Encyclopedia of American Political History: Studies of the Principal Movements and Ideas* (New York: Charles Scribner’s Sons, 1984). For other realist perspectives, see Malcolm J. Rohrbough, “‘A Freehold Estate Therein’: The Ordinance of 1787 and the Public Domain,” *Indiana Magazine of History* 84 (March 1988): 52-59 and Robert F. Berkhofer, Jr., “Americans versus Indians: The Northwest Ordinance, Territory Making, and Native Americans,” *Indiana Magazine of History* 84 (March 1988): 94-96.

constitutional aspects of the document over the economic motives that spurred its creation. For Onuf, states entered the Union through an assimilationist process. Constitutionalism provided this higher authority to which the new states were assimilated. The central government strictly controlled the state entrance process and regulated when and how the people acquired citizenship. This argument was similar to those made by Berkhofer and others who saw the Ordinance as a result of an evolutionary process. Onuf wrote that the Ordinance resembled other contracts and charters granted by the British Crown. Thus, he said that the Ordinance should be seen as a realistic response of Congress to the land question at hand.⁴⁴

Most recent scholarship of the Northwest Ordinance has focused around the constitutional dimensions of the document. Historian Richard McCormick analyzed the use of ordinances by the Continental Congress.⁴⁵ He wrote that the Northwest Ordinance was unlike any other ordinance enacted by Congress. It had a dual aspect. The first part described how the district was to be governed until it progressed to statehood. The second part was reminiscent of Jefferson's 1784 report. It ordained six Articles of Compact between the thirteen original states and the people and territories of the new region. These articles set forth fundamental principles that were to be "the basis of all laws, constitutions, and governments, which forever after shall be formed in the said territory." In this article, McCormick further argued that the Ordinance of 1784 cannot be considered an ordinance because it differed in form from other Congressional ordinances. Thus, Congress' action was not explicitly sanctioned by the Articles of Confederation. The delegates were aware of their equivocal position, but they saw themselves as custodians of the national domain and the Ordinance as a realistic response to the land question.⁴⁶

While historians have mined the text of the Northwest Ordinance for connections between it and the Constitution or tried to determine its author, or the motivations behind its passage, scholars have not connected the Ordinance and the Bill of Rights in the same fashion. This study addresses that historiographical shortcoming by suggesting possible connections between the two documents.⁴⁷

⁴⁴*Ibid.*, 44-45.

⁴⁵Richard P. McCormick, "Ambiguous Authority: The Ordinances of the Confederation Congress, 1781-1789," *The American Journal of Legal History* 41 (October 1997): 411-439. See also Richard P. McCormick, "The Ordinance of 1784?," *William and Mary Quarterly* 50 (January 1993): 112-122.

⁴⁶McCormick, "Ambiguous Authority: The Ordinances of the Confederation Congress, 1781-1789," 434.

⁴⁷Hurt, *Historians and the Northwest Ordinance*, 277.

This project attempts to suggest those connections within a new paradigm of historiographic understanding.

This study utilizes intellectual and cultural history techniques to examine the ideologies behind the religion clauses of the Northwest Ordinance. These methods include the examination of sermons, theological writings, legislation, congressional debates, correspondence, and other applicable primary sources to glean the reasons used to justify the language of voluntarism and the necessity of religion. This examination occurs within a particular socioeconomic context that also must be taken into consideration.

The nature of this study necessitates a thorough look at sources concerning frontier settlement, religious ideas, church-state relations, and constitutional developments. Letters and the records of the Continental Congress provide the narrative and context of the legislative history of the Northwest Ordinance itself. This body of sources also provides a foundation for analysis of the meanings and antecedents of the document. Sermons, pamphlets, and other theological writings provide the source base for religious antecedents and the importance of these ideas to conceptions of the proper relationship between religion and politics. This same source base, along with records of the Continental Congress, records of state constitutional conventions and legislatures, and newspapers will be examined to show the developments of the relationship between church and state during this period and how these developments influenced the Ordinance of 1787.

The next two chapters consider the church-state debates in Massachusetts and Virginia. It is in these contexts that the antecedents for the religion clauses of the Northwest Ordinance will appear. Chapter Two will consider how religion came to be viewed as having social utilitarian purposes within the Massachusetts context. Chapter Three will look at the rise of voluntarism and rights of individual conscience within the context of Virginia's move towards religious freedom. Chapter Four will both consider the legislative history of the Ordinance and the drafting of the religion clauses, as well as explore future directions for studying the provisions of the Ordinance, including constitutional applications of the Northwest Ordinance. This chapter will propose questions as to how much influence the Ordinance may have had on the Constitution and Bill of Rights, within the confines of church-state relations.

CHAPTER TWO
**“...AGREEABLE TO REASON, SCRIPTURE, AND COMMON
SENSE” : CHURCH AND STATE IN REVOLUTIONARY
MASSACHUSETTS**

The purpose of this chapter is to provide contextual evidence for understanding the language and purpose of the religion clauses of the Northwest Ordinance. Each of the thirteen states drafted new constitutions in the years following the outbreak of the Revolutionary War. These constitutions worked out broad questions of state formation, like how to separate powers amongst the various branches. These states also had to seek answers to questions regarding the relationship of church and state. Prior to the Revolution nearly all of the colonies had an established religion or de facto establishment. Yet, by the end of the constitution-making period a revolution had occurred in these arrangements. At the conclusion of the revolutionary period, almost all of the states had abolished established churches and guaranteed the right of religious conscience to all of their citizens.

These state developments provided the context and impetus for how the members of the Articles of Confederation Congress and the Constitutional Convention negotiated the relationship of church and state, especially prior to the enactment of the Northwest Ordinance. Debates in Massachusetts and Virginia had the most significant and wide-ranging effects on the national debates. Establishmentarians and disestablishmentarians produced more church-state commentary in Massachusetts during their constitution-making phase than any other state. For the sheer volume and breadth of material, it is necessary to analyze the Massachusetts debate to provide context for the drafting of the Northwest Ordinance.

Massachusetts also has several unique connections to the Northwest Ordinance that make a study of the state debate over church and state relations especially relevant. The men who founded the Ohio Company, the former Continental soldiers who initially subscribed to the Company, and the individual who lobbied on the Ordinance’s behalf at the Continental Congress in New York City were all Massachusetts citizens. They would have been acquainted with the church-state debate in Massachusetts and that debate may have influenced what type of

arrangement they desired in the Ohio Territory. Another important connection can be seen in the language written into the Northwest Ordinance. Much of the language concerning religion in the Northwest Ordinance was lifted from the Massachusetts Constitution of 1780, with a few key differences. Thus, an examination of the debate over church-state relations in Revolutionary Massachusetts is useful to see the origins of this original language and to uncover how the Massachusetts debate may have influenced the later drafting of the Northwest Ordinance.

The language that the framers of the Northwest Ordinance drew from in their writing of the religion clauses came from the Massachusetts Constitution of 1780. Massachusetts's constitution came into being during an intense period of constitution writing. The Continental Congress called on all of the states to draft new constitutions after independence was declared. Massachusetts first responded to this call in 1778. The Massachusetts legislature reconstituted itself as a constitution-making body and produced a document that retained many of Massachusetts's governmental practices prior to independence. Among these retained institutions and practices was the established Congregational Church. The Massachusetts government had long supported the Congregationalist Church with tax money. Some groups had exemptions from this tax, like Baptists, but these exemptions were the exception and could be revoked at any time. The proposed 1778 constitution kept the established system intact, which worried many opponents of the 1778 constitution. For a number of reasons, the 1778 constitution was rejected. A constitutional convention drafted a new document in 1780. This document guaranteed the freedom of man to worship in any way that he pleased, so long as it was not detrimental to the public order. The 1780 document also contained Article Three, which will be the focus of much of this chapter. Article Three stated that,

“to promote the happiness and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their legislature with power to authorize and require...provision...for the institution of the public worship of God, and for the support and maintenance of public protestant teachers of piety, religion, and morality.”¹

In this third article, the Massachusetts government required all of its citizens to pay taxes for the support of teachers of religion. A tax-payer could designate which minister, approved by the state, would receive his money. If he did not designate a recipient, then the money would accrue to the town's established minister, usually a member of the Congregationalist Church.

¹Massachusetts Constitution (1780), art. 3.

This Article provoked a fierce debate between supporters and opponents and left a rich historical record to be analyzed.

Throughout the colonial period, Massachusetts had the established Congregational Church. Congregationalism received financial support from the colonial government. As Massachusetts moved into the Revolutionary period, some dissenters saw an opportunity to disestablish the Congregational Church. This chapter takes into account the arguments made for and against limited establishment and demonstrates how the Massachusetts citizenry continued establishment, albeit in a more limited form, into the Early National period. Massachusetts's citizens enshrined the establishment of the Congregational Church in the state's revolutionary constitution.

The arguments for Article Three that Massachusetts legislators believed granted state support for teachers of religion were largely based on reasons of social utility. Religion produced a happy and peaceful society. One specific aspect of this pro-establishment will be analyzed because of its pervasiveness and later influence on the Northwest Ordinance, namely the doctrine of the future state of rewards and punishments.

Following the pro-establishment arguments for establishment, the anti-establishmentarian position to the Third Article will next be considered. The most numerous group in opposition to limited establishment was the Baptists. Their arguments will be taken into consideration vis-à-vis Isaac Backus. Next, the main thrust of this chapter will account for the place of Consistent Calvinists in the narrative of church-state in Massachusetts. The Consistent Calvinists were a group of ministers and theologians in western Massachusetts and Connecticut during the late colonial and Revolutionary period. Consistent Calvinists, or Neoedwardseans, believed that they were the intellectual progeny of Jonathan Edwards. Neoedwardseans thought that many of the ministers around Boston and eastern Massachusetts had embraced spiritual ideas antithetical to those of true Calvinism. As a result, Consistent Calvinists embraced rigid orthodox positions and engaged in a war of theological ideas with these ministers in eastern Massachusetts. Scholars like William McLoughlin have placed Consistent Calvinists on the margins of the church-state narrative in Massachusetts, but this study will attempt to restore them to their proper place in the historical narrative. Consistent Calvinists drew their theological ideas from and extended the theological musings of Jonathan Edwards. Thus, they taught an orthodox Calvinism alongside a socially active Gospel. The theological position of Neoedwardseans

helped to provide many of the theological rationales for the arguments used by Backus and his Baptist friends. These Edwardsean-inspired arguments also provide the ideological underpinnings for the most influential work of Massachusetts disestablishmentarians, the writings of “Philanthropos”.

“The Doctrine of the Future State of Rewards and Punishments”

Samuel West, noted liberal minister of the Congregational Standing Order, and supporters of Article Three believed that the peacefulness, happiness, and good order of society required government-funded teachers of religion. West both led and reflected many of the most common views of Massachusetts Congregationalists. Most members of that body supported some form of financial support for teachers of religion. Supporters of Article Three suggested that the teaching of piety, religion, and morality would create happiness amongst the commonwealth. Religion would protect and sustain a good government.²

This chapter does not revise the dominant historiography concerning West and other supporters of pro-establishment, but provides a brief and circumscribed sketch of their views on the social utility of religion. This seems necessary to provide context for their later conflict with opponents of Article Three and to foreground the legal and religious antecedents for the Third Article of the Northwest Ordinance. Historian James Hutson has recently argued that the key to understanding why many members of the Congregationalist establishment enthusiastically supported the importance of established religion in the commonwealth or claimed that they deserved public funds for this effort was the doctrine of “A Future State of Rewards and Punishments.”³

The doctrine of “A Future State of Rewards and Punishments” contained a set of incentives and disincentives which helped mould individuals into obedient Christians as well as responsible citizens. Individuals were motivated by the fear of divine punishment and the hope of eternal life through ministers who explicated this position from the pulpit. Analyzing their sermons and writings, Hutson suggested that these views on fear and hope arose in an

²Thomas J. Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment* (New York: Oxford University Press, 1986), 163-165.

³James Hutson, *Forgotten Features of the Founding: The Recovery of Religious Themes in the Early American Republic* (Lanham: Lexington Books, 2003), 20.

eighteenth-century context of “theological utilitarianism.”⁴ Man was a self-interested and calculating creature who was governed by a desire to achieve the highest amount of pleasure for his life. Thus, he would live a virtuous and holy life in order to attain the promise of an eternal reward. The Christian clergy considered themselves the best individuals to foster this virtuous conduct. Lockean future state theory also helped to inspire the doctrine of a “Future State of Rewards and Punishments.” Locke believed strongly in the power of self-interest and fashioned a view that saw heaven and hell as the greatest pleasures and pains in human life. For Locke, the human who wanted the best bargain lived virtuously. This view was attacked by sentimentalist philosophers, Latitudinarian ministers, deists, and skeptics. Opponents of Locke’s view believed that it turned Christians into blind followers of a brutal taskmaster.⁵

Hutson suggested that the doctrine of a “Future State of Rewards and Punishments” was especially attractive in Revolutionary America. While many Britons had accepted this philosophical construct, they had no desire to create the most hospitable environment for this doctrine, namely a republic. Republics could not succeed without widespread virtue. “Religion was considered to be the handmaiden of republican government.”⁶ Many of the early state constitutions contained some expression of this doctrine, including the first draft of the 1780 Massachusetts Constitution. It suggested that “the knowledge and belief of the being of God, His providential government of the world, and of a future state of rewards and punishments, [were] the only true foundation of morality.”⁷ The doctrine of a “Future State of Rewards and Punishment” provided some of the intellectual foundation for the third article of the 1780 Massachusetts constitution, which stated “as the happiness of a people, and the good order and preservation of civil government essentially depend upon piety, religion and morality...to promote their happiness, and to secure the good order and preservation of their government” the people of the Commonwealth have the right to invest their legislature with the right to require towns to support ministers of religion.⁸

⁴*Ibid.*, 11.

⁵This point is important because Jonathan Edwards would also come into conflict with these sentimentalist philosophers when he fashioned his concept of true virtue. Edwards appropriated some of Locke’s ideas mentioned above, but extended their thrusts. His views will be analyzed later because they prove important for opponents of Article Three. However, this intellectual connection between members of the established order and disestablishmentarians is interesting.

⁶Hutson, *Forgotten Features of the Founding*, 17.

⁷Charles F. Adams, ed., *The Works of John Adams*, 10 vol. (Boston: Little and Brown, 1850), 4:221.

⁸Massachusetts Constitution (1780), art 3.

Samuel West was the most ardent of Congregationalist supporters of the doctrine of a “Future State of Rewards and Punishments.” The doctrine appeared in many of his personal writings and newspaper debates. Specifically, he alluded to the doctrine of hope and fear many times during a newspaper debate with Philanthropos.⁹ West, writing under the pseudonym Irenaeus, participated in a newspaper debate with Philanthropos over the question of limited establishment. Their debate lasted from March 1780 to the winter of 1781. The doctrine of a “Future State of Rewards and Punishments” spread across four Boston newspapers and was widely quoted by contemporaries.¹⁰ West started from the proposition that “the government both of church and state is founded upon and presupposes the belief of the being and attributes of God and of a future state of rewards and punishments.”¹¹ This belief provided the context for an elucidation of Lockean future state theory. According to West, future rewards appealed to all men throughout history. “[T]hus a Mahometan is excited to the practice of good morals in hopes that after the resurrection he shall enjoy the beautiful girls of paradise to all eternity.” Muslims likewise refrained from stealing, murdering, and practicing adultery because they feared being cast into hell, “where he must drink scalding water and the scum of the damned and have nothing to breathe but terrible hot and suffocating air.” West, like Locke, believed that people are restrained from immoralities by fear of future miseries. He suggested that this view restrains men’s destructive activities more than civil laws. Since this doctrine has such “amazing importance,” West considered it was absolutely necessary that teachers of religion should be appointed across the Commonwealth.¹²

The doctrine of the future state of rewards and punishments provides an important context for the debates on establishment or non-establishment within Massachusetts for a number of reasons. First, all opponents of limited establishment had to address this widely held doctrine in some way or another. Further, opponents had to either demonstrate that Christian piety and religion did not lead to a peaceful society or show that Christian voluntarism was a more effective way of achieving this goal. West’s views also shared ideological roots with some of the arguments made against establishment.

⁹The other side of this debate, that of Philanthropos, will be analyzed at the end of this chapter.

¹⁰Hutson, *Forgotten Features of the Founding*, 21.

¹¹*Boston Gazette* (Boston), 23 October 1780.

¹²*Boston Gazette* (Boston) 27 November 1780.

Backus and the Baptists

The principal dissenters against the Massachusetts Congregational Church and the limited establishment contained in the third article of the proposed 1780 Massachusetts Constitution were the Baptists. For many years, they had refused to pay religious taxes or had secured certificates of exemption from those taxes. Following the outset of the Revolutionary War, many Baptists saw this as a providential opportunity to overthrow the established system. A committee of Baptist churches petitioned the Massachusetts Legislature in September 1775 to end the system of exemptions and allow all denominations to compete equally for taxpayer's support. Isaac Backus spearheaded the grievance committee.¹³

Backus was a fifty-one year old Baptist minister when the American Revolution commenced. By this point in his ministerial career, he had achieved some prominence among the Massachusetts Baptist churches. He had written many tracts and had preached on the concept of religious liberty for many years. Backus worked first-hand to secure the passage of the 1775 petition. He lobbied several Baptist members of the legislature, but was ultimately unsuccessful as the legislators were more concerned with military issues than revising church-state relationships.

The Baptists again came into conflict with the established order in 1777, as the Massachusetts Legislature prepared a new constitution for the commonwealth. The Continental Congress had called on all the colonies to write new constitutions but Massachusetts merely revised much of the language found in a charter from a previous century. A committee of the legislature drew up the proposed constitution and the legislature revised it while sitting as a self-appointed constitutional convention. Towns then received the document to consider for ratification. Under this constitution the old ecclesiastical system would have continued unchanged. The constitution did not contain a bill of rights, but it did allow for free exercise of religion.¹⁴

In response to the drafting of this constitution, the Baptist grievance committee met in February 1778 and determined to oppose the proposed constitution. The Baptist grievance

¹³The Baptists had a long history of dissenting against the established order. This study takes up the narrative in the middle of this dissenting tradition. Historian William McLoughlin's work has served as the standard for the historiography of Isaac Backus and this study does not seek to revise it significantly. For earlier aspects of this narrative, see William G. McLoughlin, *New England Dissent, 1630-1833: The Baptists and the Separation of Church and State*, 2 vol. (Cambridge: Harvard University Press, 1971), esp. volume I., and William McLoughlin, *Isaac Backus and the American Pietistic Tradition* (Boston: Little, Brown, and Company, 1967).

¹⁴McLoughlin, *New England Dissent*, 1:594.

committee, through the pen of Isaac Backus, composed the protest and wrote, “religious ministers shall be supported only by Christ’s authority, and not at all by assessments and secular force, which impartial liberty has long been claimed and enjoyed by the town of Boston.”¹⁵ The petition included four separate arguments for this position. First, the choice of a Christian teacher was one of the most important principles of Christian liberty. Next, Backus said that Christ was the only lawgiver and head of the Church. Thus, the Massachusetts Legislature had no right to determine the organization or practices of the Christian church. Backus also wrote that, “our legislature...chosen by virtue only of civil and worldly qualifications...cannot justly exercise any other or greater power than their constituents had to give.”¹⁶ The constituents had not bestowed on the Massachusetts Legislature the right to govern church matters. Finally, he opposed the proposed constitution because forcing the majority to support ministers they might not agree with would have the natural tendency to cause strife.

The Baptist grievance committee circulated one hundred copies of the protest throughout the state. Fortunately for the Baptists, the proposed constitution experienced wide opposition. The legislature sent the constitution to the towns for comment and ratification. About five towns opposed it for every one that supported it. This opposition came from a number of sources. A group in the west of the state, known as the Berkshire Constitutionals, opposed the proposed document to such an extent that they practiced civil disobedience. Their efforts will be analyzed later in this chapter because of their specific theological opposition to limited establishment. A group known as the “Essex Result” opposed the proposed constitution for a different rationale. Most cited by contemporary historians, the “Essex Result” was a group of twelve towns that joined together in opposition to the constitution. Their opposition hinged on questions about separation of powers and the mode of electing the executive. Most of their questions anticipated debates later held at the Constitutional Convention. This may be the reason why historians have been so enamored of their role in the drafting of the Massachusetts Constitution and have paid less attention to the work of religious leaders.¹⁷ Opposition to the proposed constitution, however, extended far beyond these two groups or the Baptists themselves. Many of the towns

¹⁵Quoted in William G. McLoughlin, ed., *The Diary of Isaac Backus.*, 3 vol. (Providence: Brown University Press, 1979), 2:995.

¹⁶*Ibid.*

¹⁷For instance, see Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (Chapel Hill: Published for the Omohundro Institute of Early American History and Culture at Williamsburg, Virginia by the University of North Carolina Press, 1969), 217-218, 424, 431.

that opposed the proposed constitution opposed it because of the omission of a Bill of Rights and the process by which the Constitution had been drafted. Some of these towns also expressed dissatisfaction with the legislature merely reconstituting itself as a constitution-making body, rather than calling for elections for a separate constitutional convention.¹⁸

The role of the Baptists in the Massachusetts church-state narrative did not end after the defeat of the constitution in 1778. They still desired the overthrow of the established order and they knew that another constitution was surely going to be drafted. Backus, with the grievance committee's blessing, drafted *Government and Liberty Described and Ecclesiastical Tyranny Exposed* in October 1778. This pamphlet argued that religious taxation was nothing more than taxation without representation. Backus went further and laid the charge of hypocrisy at the feet of the established Bostonian minister Charles Chauncey. Chauncey had preached a sermon in 1768 claiming that he and all of the other people in New England opposed the establishment of religion. Backus wanted to know how they could now support limited establishment. The pamphlet also cited some recent cases of religious oppression. Baptists in Lancaster, Abbey, and Pepperell had been prosecuted for refusing to turn in their certificates of exemption; members of the towns' standing religious order forced them out of town.

Backus also responded to the arguments made by Charles Chauncey and other members of the Congregational establishment that the establishment was useful on utilitarian grounds. In rebuttal, he referred to the arguments of Roger Williams and John Locke that supported voluntarism in religion. Further, he connected the persecution of dissenters by Puritan ministers in seventeenth-century Massachusetts to the American Revolution. Backus believed that their persecution led to the abrogation of the colonial charter in 1684, further conflict with the British crown, and eventually the Revolution.¹⁹

Unfortunately, how many people read Backus's tract remains unknown, and thus it is difficult to judge the influence of this tract. McLoughlin suggested that it was significant because in the succeeding year the Massachusetts Legislature appointed a Baptist to deliver the annual election-day sermon in May 1779.²⁰ Samuel Stillman, a conservative Baptist minister, was the first dissenter ever chosen to deliver the election sermon. Stillman met with Backus in

¹⁸Robert J. Taylor, ed., *Massachusetts, Colony to Commonwealth: Documents on the Formation of Its Constitution, 1775-1780* (Chapel Hill: Published for the Institute of Early American History and Culture at Williamsburg, Virginia by the University of North Carolina Press, 1961), 49.

¹⁹McLoughlin, ed., *The Diary of Isaac Backus*, 2:1002.

²⁰McLoughlin, *Isaac Backus and the American Pietistic Tradition*, 141.

the days before he delivered the sermon and they spent “some hours...distinguishing...betwixt the government of Christ and that of civil states.”²¹ Stillman continued this Lockean-inspired discussion of the separation of civil and religious societies in his sermon. He asserted that it was the duty of civil society to protect the life, liberty, and health of humanity. The jurisdiction of civil magistrates were thus on outward things and “neither can nor ought in any manner...[to] be extended to the salvation of souls.” The religious kingdom is not “bound by [any] laws in matters of religion but such as they receive from Christ.”²²

Following the rejection of the proposed 1778 constitution, the Massachusetts Legislature next called a constitutional convention to meet in Boston in September 1779. Backus led most of the Baptist efforts to try and overthrow the established order at that convention. He traveled to Boston and lobbied the delegates, wrote newspaper articles supporting his position, published new tracts, and disseminated information about the convention to Baptists throughout Massachusetts. Backus also served on the committee which drafted a list of instructions for Middleborough’s representatives. These instructions included an article supporting liberty of conscience.

Backus had one another significant opportunity to influence the course of debate over religious questions at the Massachusetts constitutional convention. Noah Alden, a Baptist delegate from Bellingham and friend of Backus, asked Backus for his views on a bill of rights. Backus responded with a four-page letter that proposed thirteen basic rights modeled closely on George Mason’s 1776 proposed Bill of Rights for the state of Virginia. The first of these rights was modeled on the Lockean trichotomy that all men have the natural rights of life, liberty, and acquiring, possessing, and protecting property. The second right outlined his views on separation of church and state and deserves to be quoted at length.

“As God is the only worthy object of all religious worship, and nothing can be true religion but a voluntary obedience unto his revealed will, of which every rational soul has an equal right to judge for itself; every person has an unalienable right to act in all religious affairs according to the full persuasion of his own mind, where others are not injured thereby. And civil rulers are so far from having any right to empower any person or persons to judge for others in such affairs, and to enforce their judgments with the sword, that their power ought to be exerted to protect all persons and societies.”²³

²¹Quoted in McLoughlin, ed., *The Diary of Isaac Backus*, 2:1021.

²²*Ibid.*, 2:1021-1022.

²³Isaac Backus to Noah Alden, quoted in McLaughlin, *Isaac Backus and the American Pietistic Tradition*, 143.

Backus believed that the purpose of separation was to provide the soul freedom to find the true religion revealed in the Bible. Only the supernatural grace of God would allow men to find the Truth that is in Christ. McLoughlin has suggested that Backus' tone was that of a "New Light pietist."²⁴ If Backus spoke as a New Light pietist, he did it either for ideological purposes or to appeal to a large segment of the Massachusetts polity. Thus, a better understanding of the nature of New Light pietism may shed light on this anti-establishment ideas.²⁵

Having shared his views on rights with delegate Noah Alden, Backus was shocked when he first saw the convention's wording of Article Three. He believed that the Article bestowed rulers with the power to compel public worship of its citizenry and that would force citizens to hire teachers of religion and piety. Backus believed that this Article would place religion under the complete control of civil authorities.

Backus and the Baptist grievance committee next attempted to convince the public at large of their position. They proved relatively successful as many towns did not reject Article Three outright, but sent it back to the Massachusetts constitutional convention for revision. However, the Convention took the number of towns that accepted Article Three outright and combined that total with those that did not reject Article Three outright to find the two-thirds needed to make Article Three part of the fundamental constitution. The convention's shrewd counting of votes created a source of consternation for the Baptists for years to come.

What is important to note for this study is Backus' use of theological and rational arguments to oppose Article Three. This fusion had similarities to arguments proposed by other New England ministers in opposition to religious establishment. Backus' specific use of this religious fusion, as argued by McLoughlin, was in a New Light pietist way. The next portion of this chapter unpacks what New Light, or New Divinity, piety contributed to the Massachusetts debate. The next section also seeks to challenge the conventional historiography of the New Divinity's attack on established religion.

²⁴*Ibid.*, 143-144. McLoughlin distinguished between the similar wording Backus's Bill of Rights and that of George Mason's 1776 proposed bill of rights for the Virginia constitution. McLoughlin believed that Mason wrote in the tone of an enlightened latitudinarian, in contrast to Backus' pietism. Mason referred to a nebulous creator, while Backus called his deity God. Backus spoke of God's revealed will, while Mason omitted any reference of this kind. McLoughlin suggested that Virginia separationists wanted to allow the mind to follow its own rational direction, while McLoughlin and other Massachusetts separatists believed that the rational soul needed to be free in order to follow true religion.

²⁵A topic this chapter addresses below.

The Major Figures and Theological Developments of the New Divinity

Backus and the Baptists were not the only ones to oppose passage of Article Three of the proposed Massachusetts Constitution. Some Congregationalists also opposed limited establishment. The most noted of these Congregational opponents were Thomas Allen of Pittsfield and the Congregationalist writing under the pseudonym “Philanthropos.” McLoughlin argued that Allen and his New Divinity cadre had little influence outside the area of western Massachusetts.²⁶ However, this seems to diminish their influence too much and their relatively untold story may reveal that the New Divinity’s influence rivaled Backus and the Baptists in the anti-establishment debate for a few reasons. The theological developments of the New Divinity movement, also known as Consistent Calvinism, seem to serve as the intellectual foundation for much of Backus’s theological musings on church and state. Also, the New Divinity clergyman effectively mobilized an entire region of western Massachusetts to practice civil disobedience.

The New Divinity’s opposition to limited establishment came in the context of a prolonged conflict with the Massachusetts government over the broader issue of constitutionalism. Their opposition also came in a particular geographical context. Many of the members of the New Divinity who opposed the proposed Massachusetts constitution of 1780 did it from the hills of the Berkshires in western Massachusetts. Thus, they take the name Berkshire Constitutionalists. Their opposition to limited establishment arose out of a Consistent Calvinist revolutionary ideology.

The oppositionist mentality of the Berkshire Constitutionalists began prior to the proposed 1780 constitution. Their opposition began with Massachusetts’s initial moves towards constitutional formation. The state’s drafting of a new constitution began when the Continental Congress in 1775 called upon all the colonies to adopt modified charters following the outbreak of the American Revolution. These charters would allow the continuation of essential governmental services, while Congress worked on reconciliation with England. Without consulting its citizenry, Massachusetts responded quickly in 1775 and readopted their 1691 colonial charter, infuriating the Berkshire Constitutionalists. This vocal minority in the

²⁶McLoughlin, *New England Dissent*, 609.

westernmost part of Massachusetts opposed the adoption of the charter because the provincial government had not consulted with the citizenry.²⁷

The Berkshire Constitutionalists responded to this perceived injustice in two ways: they kept the already closed county courts shut down and they called a county convention of the committees of correspondence to meet in Stockbridge, Massachusetts in December of 1775. Members of the local committee of correspondence, known as the Stockbridge Convention, vigorously protested the naming of judicial officials by the General Court, which the newly adopted charter allowed. Members of the local convention wanted the people of each individual county to name their own judges for the courts of common pleas and the General Court merely to commission their selections.

Thomas Allen, a Congregationalist minister and leader of the Berkshire Constitutionalists, continued this ideological attack on the Massachusetts Legislature's actions in a petition written on behalf of the town of Pittsfield, located in western Massachusetts. The petition laid out the reasons why the town of Pittsfield wanted local citizens to nominate their own local judicial officials and the petition expressed Allen's early thoughts on the question of church-state relations. Allen began with a statement that the "invincible Love of Civil & religious Liberty for ourselves & future posterity" had induced them to undertake these political actions.²⁸ These views of religious liberty did not come from the present age, but came from their forefathers. Allen suggested that the founders of Massachusetts left the British Isles so that they might enjoy civil and religious liberty and never experience tyranny and persecution again.

Allen went on to describe how the town of Pittsfield had remained ever loyal to the Patriot government in Boston. The town had raised minutemen, paid their taxes, participated in nonimportation pacts, and had lost men in military conflict. Thus, it was only because of "disinterested Principles, & ardent Love for their Country, without Selfish Considerations...[that] they aided in suspending the executive Courts." Among these principles was a belief that the people were the source of power and since the separation from Great Britain had thrown the colonies into a state of nature, the only way to restore civil government was "the formation of a fundamental Constitution as the Basis & ground work of Legislation."²⁹ Government was

²⁷Taylor, ed., *Massachusetts, Colony to Commonwealth*, 13-14.

²⁸Petition of Pittsfield, December 26, 1775, quoted in Taylor, ed., *Massachusetts, Colony to Commonwealth*, 17.

²⁹*Ibid.*

limited by moral law to serve limited ends, chief among these ends was the happiness of the people. Allen continued,

“We Beg leave to assure your Honors that the purest and most disinterested Love of posterity & a fervent desire of transmitting to them a fundamental Constitution securing their sacred Rights & Immunities against all Tyrants that may spring up after us has moved us in what we have done...we beg leave further to represent that we have undergone grievous oppressions in this County & that now we wish a barrier might be set up against such oppressions, against which we can have no security long till the foundation of Government be well established...we beg leave further to represent these as the Sentiments of by far the Majority of the people in this County as far as we can Judge & being so agreeable to Reason Scripture & Common Sense...”³⁰

Reason and scripture provided an ideology of dissent and religious liberty. Thus, patriot authorities could be attacked in the East with the same vehemence as British authorities. In the minds of Allen and the Berkshire Constitutionalists, both governmental entities had perpetrated despotic actions. Only the establishment of a constitution *de novo* could preserve the people’s liberties, including religious liberty.³¹

Where did this Revolutionary political ideology originate? It could have originated in the same context as either the Lockeanism of Backus or the utilitarianism of Article Three proponents, but this seems to gloss over key aspects of the particular context of western Massachusetts. It appears that in Revolutionary Berkshire County a unique set of religious, intellectual and social circumstances created a specific mentality of opposition to the British monarchy, provincial authority, and limited establishment.³² Oppositionist ideology articulated through Congregationalist minister Thomas Allen intimately linked Consistent Calvinist theology with liberal political ideals. Republican and egalitarian philosophy became wedded to New Divinity Calvinism in such a way that their vocabulary became virtually indistinguishable from one another by the Revolutionary period.³³

³⁰*Ibid.*, 28.

³¹Wood, *Creation of the American Republic*, 285.

³²Allen Heimert, *Religion and the American Mind from the Great Awakening to the Revolution* (Cambridge: Harvard University Press, 1966) is the starting point for much of this essay. His work suggested that Calvinist theology stimulated the democratic movement that resulted in revolution. He divided New England religion into liberal and conservative camps and found that the conservative evangelical theology of Jonathan Edwards provided pre-Revolutionary America with a radical ideology and inspired a movement toward American nationalism. This study incorporates the radical nature of evangelical thought and grafts it onto the republican synthesis of Bailyn and Wood, which allows for a better understanding of the relationship between egalitarian republican thought and orthodox Calvinism.

³³See also Eric Foner, *Tom Paine and Revolutionary America* (London: Oxford University Press, 1976), 116-117. For more on the New Divinity movement, see: Joseph Haroutunian, *Piety versus Moralism: The Passing of the New England Theology* (New York: Henry Holt and Company, 1932); Joseph A. Conforti, *Samuel Hopkins and the New Divinity Movement: Calvinism, the Congregational Ministry, and Reform in New England Between the*

Historians have many adjectives for the New Divinity movement: desiccated metaphysicians, gushing humanists, Consistent Calvinists, accomplished revivalists, perverters of Calvinist doctrine, and secularizers of New England theology. From these diverse metaphors, historians have further disagreed over the role of the New Divinity “ethical concept” in revolutionary ideology. Again, some see it as important, while others do not.

The marriage of orthodox Calvinism with Enlightenment philosophy occurred on the outskirts of society in Berkshire County, Massachusetts, a place whose isolation created latent feelings of neglect and resentment. Physical isolation also inclined its residents towards orthodox religious beliefs for a longer period of time than other parts of Massachusetts.³⁴ The first settler arrived in Berkshire County in 1725. Entering from the east or west required travelers and would-be settlers to traverse high and sometimes impassable mountains and historian Theodore Hammett suggested that this physical isolation influenced the creation of latent feelings of opposition as part of the Berkshire identity. In combination with fears of physical attack from French and Native Americans as well as conflict with Dutch settlers from New York over competing land claims, Berkshire County residents became prone to resistance.³⁵

Berkshire’s physical isolation was not complete, however. The people of the county had frequent commercial contacts along the Connecticut River. The people of Berkshire County

Great Awakenings (Grand Rapids: Christian University Press, 1981); Richard D. Birdsall, “Ezra Stiles versus the new Divinity Men,” *American Quarterly* 18 (1965): 248-258; Frank Hugh Foster, *A Genetic History of Theology* (Chicago: University of Chicago Press, 1907); Robert L. Ferm, *A Colonial Pastor: Jonathan Edwards the Younger, 1745-1801* (Grand Rapids: Eerdmans, 1976); Stephen Berk, *Calvinism versus Democracy: Timothy Dwight and the Origins of American Evangelical Orthodoxy* (Hamden: Archon Books, 1974); J.H. Giltner, “The Fragmentation of New England Congregationalism and the Founding of Andover Seminary,” *Journal of Religious Thought* 20 (1963-1964): 27-42; Edmund S. Morgan, “The American Revolution Considered as an Intellectual Movement,” in Arthur M. Schlesinger Jr., and Morton White, eds., *Paths of American Thought* (Boston: Houghton Mifflin, 1963), 11-33; Glenn Paul Anderson, “Joseph Bellamy (1719-1790): The Man and His Work” (Ph.D. diss., Boston University, 1971); Allen C. Guelzo, *Edwards on the Will: A Century of American Theological Debate* (Middletown: Wesleyan University Press, 1989); Gerald R. McDermott, *One Holy and Happy Society: The Public Theology of Jonathan Edwards* (University Park: Pennsylvania State University Press, 1992); and David William Kling, *The Field of Divine Wonders: The New Divinity and Village Revivals in Northwestern Connecticut, 1792-1822* (University Park: Pennsylvania State University Press, 1993).

³⁴See also James C. Scott, John Tehranian, and Jeremy Mathias, “The Production of Legal Identities Proper to States: The Case of the Permanent Family Surname,” *Comparative Studies in Society and History* 44 (2002): 4-44. The authors describe a process in which distance and geography influences the possession of conservative social norms. For instance, local communities from Welsh hills retained conservative norms longer than the lowlands. The process in western Massachusetts seems analogous. Theodore M. Hammett, “The Revolutionary Ideology in its Social Context: Berkshire County, Massachusetts 1725-1785” (Ph.D. diss., Brandeis University, 1976), 1-3. Hammett’s purpose is to place Revolutionary ideology into the extremely complex Berkshire social situation. His study attempts to synthesize intellectual and social history. However, the study too often exalts social factors at the expense of theology. This is especially the case in his analysis of the New Divinity’s role in the formation of Revolutionary ideology.

³⁵Hammett, “The Revolutionary Ideology in its Social Context,” 6.

traded with towns in western Connecticut and along the Hudson River in New York. Contact with these other areas was not merely commercial. Most Berkshire settlers probably came from western Connecticut, rather than eastern and central Massachusetts. These migration and commercial patterns connected the county culturally and socially with western Connecticut. Within these areas of western Massachusetts and western Connecticut the New Divinity would take shape.

Consistent Calvinism arrived in western Massachusetts as a religious ideology fashioned in the heat of the Great Awakening. It became entrenched in the hamlets and villages of Berkshire County, Massachusetts and Litchfield County, Connecticut in the years following the Awakening. Residents became the self-professed intellectual followers of Jonathan Edwards and ministers who preached Edwards's Calvinist orthodoxy. Much of the ministers' theological work revised and extended his theological principles. The New Divinity preachers also considered their theology an intellectual counterpoise to the emerging secular and liberal culture of eastern Massachusetts.³⁶

The theological principles of Jonathan Edwards had a significant influence on the thought of the New Divinity movement and the Berkshire Constitutionalists. Many of the New Divinity patriarchs studied directly under Jonathan Edwards or one of his disciples.³⁷ Joseph Bellamy and Samuel Hopkins, the patriarchs of the New Divinity movement, studied and learned theology under Edwards in Northampton. Edwardsean thought additionally influenced the Berkshire Constitutionalists and the New Divinity movement in a more immediate way because of Edwards's residence in western Massachusetts. Following a conflict over church membership in Northampton in 1750, Edwards took a position preaching in Berkshire County at Stockbridge. He wrote many of his most important theological treatises while at Stockbridge. What is important for this study is the intellectual connection between Edwards and Thomas Allen. Allen, Congregationalist minister and leader of the Berkshire Constitutionalists, was born in 1743 in western Massachusetts and as a child attended Edwards's church in Northampton. Allen's family supported Edwards during the controversy that led to Edwards's dismissal. Allen

³⁶Conforti, *Samuel Hopkins and the New Divinity Movement*, 41.

³⁷*Ibid.*, 4. For the relationship of Edwards to the New Divinity movement on a general level, see Haroutunian, *Piety versus Moralism*; Sidney E. Mead, *Nathaniel William Taylor, 1786-1858: A Connecticut Liberal* (Chicago: University of Chicago Press, 1942); Douglas J. Elwood, *The Philosophical Theology of Jonathan Edwards* (New York: Columbia University Press, 1960); Edmund S. Morgan, *The Gentle Puritan: A Life of Ezra Stiles, 1729-1795* (New Haven: Yale University Press, 1962); Cedric Cowing, *The Great Awakening and the American Revolution: Colonial Thought in the Eighteenth Century* (Chicago: Rand McNally, 1971).

himself studied theology at Edwards's old church in Northampton after graduating from Harvard.³⁸

With a strong connection established between the New Divinity movement, the Berkshire Constitutionalists, and Jonathan Edwards, Edwards's theological principles about good government become more relevant to a discussion on disestablishment. Edwards and other New England clergymen had long articulated an elaborate theory of government. They developed their political theories from the law of God and believed that civil government had divine origins. Government's chief purpose was the good of the people. This connection between political theory and theology was important to Calvinists because they believed that if a government did not have the good of the people at heart, the civil authority did not have the sanction or the blessing of God. Civil authority itself did not come directly from God. Rather, civil authority was mediated through the people and founded in their original compact. Thus, the people, as well as the government, had an ethical responsibility in government.³⁹ This theory is similar in many ways to Lockean theories of government. Both Locke and Edwards believed that the purposes of governments were limited. Governments could only act in accordance with the purposes for which they were founded.

Edwards conceived these governmental ethical responsibilities in response to British moral philosophers like Hutcheson, Shaftesbury, and Hume.⁴⁰ These moralists asserted that benevolence to one's self and personal happiness was not just essential to moral action: it provided the foundation principle for action. They located "the psychological foundations" of both religion and virtue in a natural "sentiment" or "passion" in men and women towards "benevolent" feelings and actions designed to maximize human happiness.⁴¹ Edwards strove to counter this philosophical construct through the retention of a distinctly Christian ethic that stressed the total depravity of man, while simultaneously using the tools and arguments of this

³⁸Hammett, "The Revolutionary Ideology in its Social Context," 214; William G. McLoughlin, *New England Dissent 1630-1833: The Baptists and the Separation of Church and State* 2 vols. (Cambridge: Harvard University Press, 1971), 1:608.

³⁹Alice M. Baldwin, *The New England Clergy and the American Revolution* (Durham: Duke University Press, 1928), 22.

⁴⁰James D. German, "The Social Utility of Wicked Self-Love: Calvinism, Capitalism, and Public Policy in Revolutionary New England," *Journal of American History* 82 (December 1995): 977. See also Norman S. Fiering, *Jonathan Edwards's Moral Thought and Its British Context* (Chapel Hill: University of North Carolina Press, 1981), 8-9, 66, 150. For a view that seems to suggest that Calvinism was compromised through the adoption of moral philosophy, see Mark Valeri, "The New Divinity and the American Revolution," *William and Mary Quarterly* 46 (October 1989): 743. Hutcheson and Hume were also the most likely way that Edwards learned about Locke.

⁴¹German, "The Social Utility of Wicked Self-Love...", 977.

moral philosophy for higher purposes. This allowed Edwards to counteract what he saw as unscriptural psychological optimism.

His major work of moral philosophy, *Two Dissertations* (1765), distinguished true virtue from the counterfeit morality celebrated by the British moralists. He first established that the moral goodness of God is found in the supreme goodness of God and in His role as creator and preserver of the universe. *Concerning the End for Which God Created the World*, the first dissertation, used reason and scripture to suggest that God is “infinitely the greatest and best of beings,” and that the “emanation of his own infinite fullness...[is the] ultimate end of creation.”⁴² This construction of the universe led to specific moral obligations for God’s creation.

Edwards devoted most of the second dissertation, *On the Nature of True Virtue*, to a discussion of specious or counterfeit morality. He wrote that, “True virtue...most essentially consists of benevolence to Being in generally,” and in the complacency of particular beings to being “governed by love...[of] Being in general.”⁴³ Basically, secondary virtue was self-love derived from inauthentic beauty. Edwards argued that secondary beauty was an appreciation for order, uniformity, symmetry, proportion, and harmony. God planted this self-love in human nature. This beauty prompted people to appreciate a well-ordered society or well-regulated behavior. However, this beauty was merely secondary and contained “nothing of the nature of true virtue.” Specious virtue was merely an aesthetic sense that was rooted in self-love. Self-love motivated people to love each other, their families, their communities, and their nation, yet it remained essentially private and never led to the disinterested love that enabled true virtue.⁴⁴ In Edwards’s analysis, all the sources of human benevolence celebrated by British moralists fell far short of the true virtue that arose out of genuine appreciation of the “end for which God created the world.”⁴⁵

Edwards’s theology posited that the wicked could behave in socially virtuous ways out of natural principles and affections. These natural principles and affections can easily be confused with true virtue because the wicked love of private interest is beautiful in its own sphere and because true negative moral goodness is attributed to the natural principles of affection, gratitude, and pity. Edwards came to the conclusion that even this sort of self-love is useful and

⁴²Paul Ramsey, ed., *The Works of Jonathan Edwards*, 25 vols. (New Haven: Yale University Press, 1989), 7:467-468.

⁴³*Ibid.*, 7:539-560.

⁴⁴*Ibid.*, 7:561-562.

⁴⁵German, “The Social Utility of Wicked Self-Love,” 979.

necessary to society because its effects are often the same as true virtue. Self-love can restrain vices and sustain social order. Edwards ended up exalting common morality because secondary virtue revealed the consummate wisdom of an omnipotent God, who constantly frustrates evil intentions and turns evil actions to his glory and into the greatest happiness in the universe.⁴⁶

Edwards's views of happiness and virtue provided the foundation for his ethical beliefs and influenced Consistent Calvinists to hold on to rigidly orthodox Calvinist doctrines, to become more socially active, and to become disestablishmentarians. How this influence occurred and if a socially active form of New Divinity theology exists is the historical debate which this study seeks to enter. Further exploration of the relationship of Edwardsean ethics to New Divinity thought and the ethical concepts of the New Divinity movement itself seem necessary to better understand the movement's attack on religious establishment in Massachusetts.

A reading of the secondary and primary sources suggests that New Divinity theology influenced the Berkshire Constitutionalists to be both orthodox Calvinists and socially active, which led them to desire a fundamental constitution with certain protections for natural rights. Congregationalists in the 18th century had to maintain a balance between nature and grace as Enlightenment philosophers challenged the Scholastic metaphysics of Puritan thought.⁴⁷ The natural theology of the rationalists seemed to undermine the essential Puritan doctrine of total depravity. Older Calvinists wilted under these attacks. They moderated their views and shied away from doctrinal preaching. Old Light Calvinists began to favor practical moral discourses over sermons that dwelt on election and reprobation. Enlightenment philosophy led them to place a greater emphasis on preparing for conversion, which could be undertaken through the conscientious use of grace. Consistent Calvinists opposed this intellectualist theory of psychology. They refuted these views as Arminian and said that all acts of preparation performed before regeneration, such as attendance on the means of grace, were utterly sinful. These attempts at preparationism did not fill any required Christian duty and aggravated the sinner's guilt.

The New Divinity movement responded to the same intellectual developments. Liberals had objected to Calvinism because it portrayed sinners as blameworthy for their own damnation,

⁴⁶*Ibid.*, 984-985.

⁴⁷William Breitenbach, "The Consistent Calvinism of the New Divinity Movement," *William and Mary Quarterly* 41 (April 1984): 242.

even though they were powerless to achieve salvation. More liberal Calvinists resolved this problem through the adoption of an Arminian notion of man's responsibility for his own redemption, which effectively side-stepped the problems of how to reconcile God's sovereignty and man's responsibilities.

The New Divinity movement found the view of making man responsible for his own salvation heretical and sought to fashion a theoretical defense against this Arminian challenge. Consistent Calvinists refashioned a system of orthodox Calvinism that tried to reconcile human accountability with divine sovereignty. Doctrines that might be interpreted as excusing the sinner from responsibility for his own sinfulness and damnation were reinterpreted. The New Divinity accomplished this theological reinterpretation through a sustained exaltation of the sovereignty of God and through an active form of Christianity.

These theological developments created a tension within the New Divinity movement itself that was not lost on contemporaries. As one Consistent Calvinist wrote:

“[doctrines] are represented as leaving men nothing to do; and at other time, as requiring more than they can or ought. Sometimes they are represented as taking all blame from men; and at other times, as making them to blame both for what they have a right to do, and what they cannot help.”⁴⁸

Adherents of the New Divinity adopted orthodox Calvinism and social activism occurred first on the theological and intellectual level. Consistent Calvinists were constant scholars and prolific authors. They refashioned and extended Edwards's theology in print and in the mind before it was translated into an eighteenth-century form of social activism. This theological defense was created by refashioning three traditional theological principles. They included the doctrines of atonement, original sin, and moral agency. Through each of these reforms, Consistent Calvinists tried to bolster man's sense of accountability without surrendering essential Calvinistic premises of depravity and dependence.

Old Calvinists preached a limited atonement in which Christ died only for the elect. By the middle of the eighteenth century, many saw this doctrine as threatening to destroy the moral accountability of the church, furnishing sinners with excuses for sinfulness, and deterring sinners from repentance. Consistent Calvinists reinterpreted this concept of the atonement to reinforce what they saw as the truth of personal accountability. They preached a general atonement. God

⁴⁸*Essays on Hopkinseanism* (Boston, 1820), 44 as quoted in Breitenbach, “The Consistent Calvinism of the New Divinity Movement,” 246. Breitenbach suggests this tension is the reason Consistent Calvinists were simultaneously attacked at flaccid Arminians and hyper-Calvinistic antinomians.

made a “true and sincere pardon to all, on the broad ground of complete propitiation and boundless provision.”⁴⁹ New Divinity preachers opposed the commercial metaphors that Old Calvinists used to describe the atonement. Old Lights believed that sinners owed God a debt that Christ canceled by serving as their substitute. New Divinity ministers opposed this debtor-creditor model for a variety of reasons. This mercantile concept of atoning sacrifice seemed to lead to general salvation, allowed sinners to demand the salvation owed them, subverted moral accountability, encouraged antinomian controversy, and undercut God’s sovereign power to dispense grace to all.

Views of atonement held by adherents of the New Divinity movement are important because Consistent Calvinists replaced the debtor-creditor model with a governmental one. For New Divinity types, sinners who broke the law deserved punishment because the authority of moral law had to be upheld. Government became corrupted if punishment did not occur. The general governmental atonement model allowed God to redeem sinners by upholding and honoring the divine government, while still allowing for the consistent exercise of his benevolent qualities. Consistent Calvinists believed this view of the atonement made Calvinism more defensible because the governmental metaphor of atonement prevented Reformed theology from promoting universalism. A governmental form of atonement further retained the essential doctrine of election, while avoiding its fatalistic and antinomian tendencies.⁵⁰

New Divinity preachers also refashioned the Calvinistic doctrine of original sin. Old Light Calvinists had explained original sin in terms of covenant theology. Adam was the federal head of all his descendants and through his sin in the Garden immediate imputation occurred, where “the condemnation of sinners was antecedent to and independent of their own depravity.”⁵¹ Adam’s sin meant that humans entered the world unsaved and needed the grace of God to avoid eternal damnation. Imputation was immediate because there was no intermediate line between Adam’s first transgression and the curse of the law. Federal explanations of imputed sin accounted for the connection between Adam’s sin and the depravity of his descendants. However, the doctrine of Original Sin had the disadvantage of stating that people were guilty before they became personally sinful. In the neoedwardsean reinterpretation of the

⁴⁹John Smalley, *Sermons on Various Subjects, Doctrinal and Practical; Together With an Appendix, Containing Brief Remarks on Certain Late Innovations in Divinity* (Middletown, 1814), 277-278 as quoted in Breitenbach, “The Consistent Calvinism of the New Divinity Movement,” 248.

⁵⁰Breitenbach, “The Consistent Calvinism of the New Divinity Movement,” 248-250.

⁵¹*Ibid.*, 251.

doctrine of original sin, New Divinity preachers moved away from the doctrine of imputation. Covenant theology was too antinomian for their taste because it held that guilt and sinfulness could be transferred from one person to another. Consistent Calvinists concluded that there was no federal representative acting for the rest of mankind. Sinners were only culpable for their own sin, which made sin more personal and avoided the declension of moral obligation.⁵²

The New Divinity preachers also attempted to avoid the perceived declension of moral obligation by refashioning moral agency. Puritan theories of the will had long been attacked by Enlightenment philosophers, like Hobbes. Hobbes reduced all causality to mechanical efficiency, thus opposing the Puritan model of God and man being different kinds of causes of the same action. Hobbes's views undercut moral accountability, encouraged fatalism, and allowed social consequences.⁵³

Anti-Calvinist philosophers, like Hutcheson and Hume, and theologians continued this assault on Puritan theories of the will by reconceptualizing the moral nature of man. They contended that man, a moral agent, must possess freedom in order to perform the duty required of him, opposing Reformed notions of predestination. In response to these theories, Edwards composed his *Two Dissertations*. He rethought the moral nature of man and countered these Enlightenment developments by distinguishing between true virtue and secondary virtue.

Edwards's distinction taught the New Divinity men how to reconcile determinism with moral accountability. This dichotomy allowed New Divinity men to offer a defense of necessitarian Calvinistic doctrines, while not offending Enlightened notions of fairness or moral accountability. This defense allowed Consistent Calvinism to exist alongside philosophers like Locke and would prove important to the Berkshire Constitutionalists, as they retained orthodox Calvinism and pushed for egalitarian political ideals like resistance to authority and disestablishment.⁵⁴

The Moral Law of the New Divinity

Individual leaders and preachers within the New Divinity movement developed most of the above theological reconfigurations. It was through the thoughts and writings of the leaders of Consistent Calvinism that the intellectual propensity for egalitarian social action, like

⁵²*Ibid.*, 252.

⁵³Fiering, *Jonathan Edwards's Moral Thought and Its British Context*, 272-277.

⁵⁴Breitenbach, "The Consistent Calvinism of the New Divinity Movement," 257.

disestablishmentarianism, can be seen. Thus, it is necessary to examine Hopkins and Bellamy's contributions to notions of virtue and morality. Joseph Bellamy and Samuel Hopkins, ministers and the intellectual fathers of Consistent Calvinism, went farther than Edwards and attempted to reconcile the Calvinist doctrine of providence with latent conceptions of natural law in British moral philosophy. Bellamy and Hopkins wanted to "vindicate experimental Calvinism by showing that it could sustain rational discourse and encourage social responsibility without capitulating to liberal doctrines of free will, sin, and regeneration."⁵⁵ Both incorporated British moral philosophy into their writing and preaching. For instance, Bellamy's *True Religions Delineated* (1750) and *Sermons on the Following Subjects...* (1758) and Hopkins's *Sin thro' Divine Interposition, an Advantage to the Universe* (1759) incorporated Hutchesonian philosophy to defend Calvinism against Arminian thought. Hopkins and Bellamy applied Hutcheson's concept of moral sense in their writings. However, in New Divinity refashioning of the concept of moral sense, providence used concepts of virtue, benevolence, and justice to assert that God ruled through a moral law. Moral sense became moral law as this theory took on republican implications. Moral law allowed for the idea of moral governments, which is how Bellamy and Hopkins eventually found themselves allied with patriots who rejected essential tenets of Calvinism and urged a rejection of British rule because of the British government's oppressive and wicked actions. Moral law allowed them to join the patriots in defending the American Revolution as reasonable, tolerable, humane, and most importantly, virtuous.⁵⁶

Moral government functioned in a number of ways in New Divinity theology, besides as a trope for atonement. Genuine virtue or benevolence implied a love for God and an acquiescence to his divine will, or law. Hopkins and Bellamy also saw Calvinist doctrines of divine sovereignty, total depravity, and eternal punishment as consonant with eighteenth-century moral discourses which said that God displayed his excellence through his authorship of just and benevolent laws. The concept of genuine virtue solved the question of how to explain history through Calvinist theology. Because of his moral governance, God faithfully manifested a moral law that rewarded virtue, punished vice, and produced happiness. God fairly and intelligibly held both rulers and subjects to universal standards of morality and social virtue. The New Divinity preachers pointed to Biblical narratives to show God's protection of righteous people

⁵⁵Valeri, "The New Divinity and the American Revolution," 748

⁵⁶*Ibid.*, 743.

and contrasted these stories with examples from secular history that demonstrated the destruction of unjust and immoral empires.⁵⁷

Hopkins and Bellamy strongly defended a traditional view of church polity. This traditional view left Bellamy and Hopkins with the problem of how to apply their concepts of moral government to a collective body. Historian Mark Valeri believes that this defense occurred through a tacit acceptance of the principles of natural law. Bellamy used principles of moral law to allow the New Divinity ministers to apply their ethical constructs expansively to social and political affairs. Divine, natural law applied to everyone, while the covenant merely applied to the spiritually regenerate.⁵⁸ Consistent Calvinist conceptions of atonement played a role in this dilemma. The adoption of a universal atonement described above allowed the retention of the doctrine of election, while mitigating the question of fairness. If atonement was universal, then the atonement's effects applied to all of humanity. The doctrine of universal atonement further meant that everyone was also responsible for moral law, a consequence of the atonement. Therefore, the application of moral law on a collective level is best understood as a fusion of Calvinist doctrines with Enlightenment-inspired conceptions of egalitarianism.

The theology of the New Divinity movement had to move past some of Jonathan Edwards's theological musings in order to embrace liberal political action, like abolitionism or disestablishmentarianism. While believers in Consistent Calvinist theology drew from the well of Edwardsean theology, adherents of the New Divinity movement differed from their intellectual father over some aspects of moral authority. Edwards's conception of secondary virtue seemed to make too many concessions to rational moral philosophers and did not provide an adequate spur toward social action. Hopkins endeavored to remove the ambiguity in Edwardsean theology through the development and adoption of disinterested benevolence. Hopkins's believed that Edwards borrowed too much from Hutcheson, Hume, and Locke. Edwards's concept of self-love was ethically and spiritually dangerous. A person who embraced Edwardsean notions of self-love would not be damned for the glory of God, the central component of Hopkins's theory disinterested benevolence.

Edwards's adoption of the Enlightenment view of secondary virtue forced him to say that God had organized society on the basis of a kind of virtue and beauty that was inferior to true

⁵⁷*Ibid.*, 750.

⁵⁸*Ibid.*, 752; Conforti, *Samuel Hopkins and the New Divinity Movement*, 80.

virtue and beauty. Hopkins saw too much ambiguity in this thinking. Secondary virtue contrasted with the Hopkinsean view of the awakened sinner, which was Hopkins's conception that the real reprobate was a sinner who realized he was lost and had not yet converted. Hopkins also saw self-love as a defect within Edwards's concept of secondary virtue. He believed that self-love was merely a concept perpetuated by moralists to facilitate a transition from a communal ethic to a more individualistic one. Moral philosophers conceived of self-love to remove the moral obloquy attached to egocentric behavior and ease the passage from traditional communal ideals to a new ideology of self-interest and individualism. In the minds of Hutchesonians, an individualistic pursuit of happiness would bring the greatest good to the greatest number of people.⁵⁹ The rural New England world in which the New Divinity men originated and which supported their theological movement clung to an idealized corporate perspective that made these social changes seem like radical departures from their own historical tradition.

Hopkins believed that this concept of secondary virtue was a selfish conceit. True virtue was found only in disinterested benevolence. The identification of true virtue with disinterested benevolence was Hopkins's attempt to shore up traditional social thought and to block the advance of self-love theories. Disinterested self-denial in combination with amending of the abstract and aesthetic qualities of Edwards's interpretation of true virtues further broadened the theological base for social reform within the New Divinity movement.⁶⁰

This idea of moral law, or true virtue, was "Janus-faced."⁶¹ New Divinity clergy used it to look backward and revive a strict Calvinistic theological perspective through reaffirming the Reformed interpretation of the covenant as an unconditional promise. At the same time, they advanced a liberal Calvinist concept of the benevolence of deity, which created space for social activism and disestablishment thought. Hopkinsean thought dismissed the natural theology of European moral philosophers and of New England rational Calvinists. It refused to give the

⁵⁹Conforti, *Samual Hopkins and the New Divinity Movement*, 111-115.

⁶⁰*Ibid.*, 117. Hopkins first articulated these theories in 1773 with publication of *An Inquiry into the Nature of True Virtue* while he preached in Newport, RI. In his mind, Newport appeared as a symbol of what America was in danger of becoming, avaricious and self-centered. However, this late date and geographical distance does not lessen the effect his ideas had on the New Divinity thought of Thomas Allen and those in Berkshire County. His repudiation of the new morality and the self-love theories upon which it was based originated in his rural upbringing and in his 25-year pastorate in the western backcountry. Hopkins had preached these ideas throughout his tenure in Housatonic, so they already were within the intellectual milieu of 1770's western Massachusetts.

⁶¹*Ibid.*, 118.

slightest theological sanction to the self-interested behavior Hopkins saw as undermining New England society. No middle ground existed in Hopkinsean thought. The human heart was either filled with self-interest or disinterested affections and only the Holy Spirit could infuse the heart with disinterested affections stemming from true virtue. Hopkins saw all affections that fell short of disinterested benevolence as fundamentally rooted in selfishness. Disinterested benevolence could only be achieved through a Christ-like disposition for self-denial. The true Christian must lose himself in a cause higher than his own to receive salvation. This cause was the temporal and eternal well-being of others. Where Edwards had said that true virtue was a matter of right affections, Hopkins said true virtue was in right actions.

Moral law also became the basis of legitimate moral authority. Before the Connecticut Assembly, Bellamy argued that only a benevolent regard for communal authority and the promotion of policies that promoted temporal prosperity legitimated claims to authority. This equation of moral law with legitimate moral authority provided the New Divinity clergy with a ready-made ideology of resistance. The New Divinity social perspective received reinforcement from secular calls for an American commitment to spartan life, republican virtues, and the public good. The republican ideology of the Revolution, with its emphasis on public virtue and simplicity, heightened the conflict between traditional social theory and contemporary behavior. It further fired evangelical hope for radical social reform. Love of Being became synonymous with a commitment to the public good as Consistent Calvinists translated virtue into the secular language of the Revolution.

It should be noted that a strong strain of historiography disagrees from this overall interpretation. Many neo-Whig works portray Revolutionary sermons as vehicles for republican resistant ideology.⁶² These works privilege the thought of Enlightenment philosophers over religious ideas. For these neo-Whig authors, revolutionary preachers infused their sermons with republican thought. Preachers articulated republican ideas in religious language, thus infusing republicanism with an eternal quality. While these works take political rhetoric seriously, they failed to do the same for religious rhetoric and ideology.

⁶²See Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge: Belknap Press of Harvard University Press, 1967); J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975); Wood, *The Creation of the American Republic, 1776-1787*; Lance Banning, *The Jeffersonian Persuasion: Evolution of a Party Ideology* (Ithaca: Cornell University Press, 1978).

However, it seems that the literature of Consistent Calvinism shared a common vocabulary with republican thought that has been overlooked by these scholars.⁶³ Both strains of ideology privileged virtuous behavior and shunned vice. Civic republicanism embraced the common good over that of the individual in the same way that Hopkinseans embraced a model of theology that they should be willing to be damned for the glory of God. Another point of departure in the historiography occurs over the role of ideology. In *Rhetoric and History in Revolutionary New England*, historian Donald Weber suggested that the fragmentary language of New England sermons roused the population to challenge the moral and political authority of the symbols of control.⁶⁴ For him, ideology gave precedence to the way in which revolutionary preachers used language to mediate the liminal experience of the revolution to their congregants. In this process, New Divinity preachers infused Whig political ideology into their evangelical rhetoric. Thus, they could use evangelical rhetoric as an ideological spur and still remain guardians of an emergent social order. Pulpit rhetoric took on a multivalent quality and resulted in a blurring of religious and political terminology.

The final historiographical disagreement with this study is found in the work of Stephen Marini.⁶⁵ He suggested that cultural fragmentation in the western hill country of New England did not allow New Light Congregationalism to establish solid institutional control in a region that could have been its exclusive province. Wartime reductions in class size at theological schools, the disruption of the schools of the prophets, and ministers serving as chaplains all influenced the supply of potential ministers and weakened Congregational control over western New England. However, Marini is mainly concerned with the period just after the scope of this project. Also, even if New Divinity preachers did not have institutional control over western New England during this period, an intellectual hegemony existed in western New England of

⁶³This link between republican thought and Consistent Calvinism deserves future research. Much of republican thought rose out of country opposition to the British court influence. Puritans seem to have some role in the origins of this republican thought in Britain during the late 17th and early 18th century. It would be useful to see these trans-Atlantic connections and to see how clergy mediated the relationship between republicanism and orthodox Calvinism across time and space.

⁶⁴Donald Weber, *Rhetoric and History in Revolutionary New England* (New York: Oxford University Press, 1988). Weber's work focuses specifically on the sermon notes of five New Divinity preachers. He read these notes as expressive of a fragmentary preaching style and the disordered social conditions. This methodology is the main weakness of his work. He discounts the extemporaneous preaching style of New Divinity preachers. Their notes often did not serve as the text to their sermons, but were merely outlines. Weber's work also does not consider the role of ideology itself and seems to be limited in this regard.

⁶⁵Stephen A. Marini, *Radical Sects of Revolutionary New England* (Cambridge: Harvard University Press, 1982).

orthodox Calvinism and egalitarian philosophy that was stronger than any physical domination the New Divinity clergy could have had over people.

Thomas Allen and the Berkshire Constitutionalists

The model of Hopkins and abolitionism serves as a kind of template to understand the actions of Allen and the Berkshire Constitutionalists. Both Hopkins and Allen embraced New Divinity theology, while simultaneously clinging to a socially active version of what they meant. They each responded to a particular crisis they saw as threatening the traditional ethic of communal New England. For Hopkins, it was the stain of slavery and its ties to commercialism that violated his belief in moral law through disinterested benevolent thought.

Hopkins translated this benevolent social action into abolitionism.⁶⁶ Hopkins became a committed abolitionist between 1770 and 1773. Slavery not only violated the principle of disinterested benevolence, but it also was an economic prop to the acquisitive commercial society of Newport. At worst, slavery was a sin. At best, it was a policy inconsistent with the American struggle for liberty against Great Britain. Hopkins's policy on abolitionism reveals the unique way he fused republican beliefs with orthodox Calvinism. Allen fed off of these New Divinity concepts that said the best government was the one that had the people's happiness in mind.

How did Allen accomplish this fusion of republican and Calvinist ideals for his own unique purposes? Allen himself was a relatively unassuming choice for the pastorate of Pittsfield. He was born and raised in Northampton, in the shadow of the emerging New Divinity movement. Allen's father was a farmer, so his social ranking at school was low. He was a 21-year old product of Harvard University, where he stood out as a respected classical scholar, when the Pittsfield church hired him. The church had tried six probationers and had finally agreed upon Allen as an uncontroversial choice.⁶⁷

From this background, it seems unlikely that Allen would participate in revolutionary action. Also, by the middle of the 1760's, a group of elite men came to dominate politics in the Connecticut River Valley. Known as the "River Gods," they served as judges, selectmen, town clerks, and sheriffs. They controlled most western Massachusetts political offices through

⁶⁶Conforti, *Samuel Hopkins and the New Divinity Movement*, 126.

⁶⁷Richard D. Birdsall, "The Reverend Thomas Allen: Jeffersonian Calvinist," *New England Quarterly* 30 (June 1957): 147-165.

commercial interests of their Bostonian political connections. Because of their political power, they were able to keep western Massachusetts relatively quiet during the Stamp Act riots. Most of their representatives voted with the Bostonian elite, who desired to submit themselves to British authority. But, they unknowingly gained the hatred of thousands of Berkshire County residents. Between their political actions and capricious calling in of debts, they created a socially disruptive situation.⁶⁸

With the intellectual awakening of Thomas Allen, the man and the moment met. One historian has commented:

“...Allen, [was] the politician, the creator of egalitarian myths, the author of sedition. He seemed an unprepossessing sort, of medium height, moderately pleasing personality...but standing before an audience of hundreds and transfixing them with his patriarchal gaze, he could lift politics into the realm of myth.”⁶⁹

It seems that at the outset of the Revolution, Allen experienced an intellectual awakening akin to a spiritual conversion. He had long studied Puritan principles of government, secular works of philosophy, and contemporary works on politics. But around 1773 his sermons began to include concrete indications of social conscience in parallel with Consistent Calvinism. In 1774, the town of Pittsfield made him chairman of the Pittsfield Committees of Correspondence. From that point, to the end of the Berkshire controversy, Allen led the Consistent Calvinist opposition first to the British crown and then to the Boston provincial government.

Allen’s actions on the committee culminated in his first act of political rebellion, the closing of the provincial courts in Great Barrington. These courts represented the capricious and immoral government so opposed by Calvinist thought.⁷⁰ This act inaugurated a period of rebellious thinking and active revolt of Berkshire County. Historians have well-told the role of Berkshire County in the military portion of the American Revolution.⁷¹ The focus of this section is the ideological origins of their rebellion to the Boston provincial court and their role in the drafting of the Massachusetts constitution.

After the Declaration of Independence, most states quickly looked to draft new constitutions. While Massachusetts continued this process and fought a war, they adopted a previous charter (1691) to serve as a temporary expedient of governance. Allen and Berkshire

⁶⁸Robert Middlekauff, *The Glorious Cause: The American Revolution, 1763-1789* (New York: Oxford University Press, 1982), 253-254.

⁶⁹Birdsall, “The Reverend Thomas Allen,” 153.

⁷⁰*Ibid.*

⁷¹Robert J. Taylor, *Western Massachusetts in the Revolution* (Providence: Brown University Press, 1954).

Court residents opposed the charter because it had “ruled [them] with a rod of iron.”⁷² Allen spent this early period writing correspondence, drafting petitions, and preaching sermons to encourage the provincial court to allow the people to choose what type of constitution should be adopted. His petition written for the town of Watertown on December 25, 1775 declared the town’s “abhorrence of that constitution [the 1691 charter] now adopting in this province.” The petition went further to state that the old charter of King William was lame and essentially defective because it had not allowed them to choose their own civil and military officers. They feared this new constitution would do the same:

“The tyranny, despotism, and oppression of our fellow subjects in this county have been beyond belief. Since the suppression of government, we have lived in peace, love, safety, liberty, and happiness...[but] we find ourselves in danger of returning to our former state, and of undergoing a yoke of oppression which we are no longer able to bear.”⁷³

Through Allen’s words, the people of Watertown said they would be restless in their endeavors to obtain the privilege of electing their civil and military officers and they asked that the new constitution allow provisions for religious and civil liberty. Allen had preached this gospel message of democratic and constitutional government throughout Berkshire County in the preceding years.

The Berkshire Constitutionals came to see the need for a new constitution as consonant with both their theological and political beliefs, which by this point had become indistinguishable anyway. Independence from Britain had thrown them into a state of nature, which only a constitution as the basis and ground work of legislation could bring them out of it. The Pittsfield reply, quoted at the beginning of the paper, alludes to this. Part of it states:

“We beg leave to assure your Honors, that the purest and most disinterested love of posterity, and the fervent desire of transmitting to them a fundamental constitution, securing to them social rights and immunities against all tyrants that may spring up after us, has moved us in what we have done. We have not been influenced by hope of gain, or expectation of preferment or honor...all is to us nothing while the foundation is unfixed, the cornerstone of the government unalaid.”⁷⁴

This reply stated that their chief goal was the disinterested love of civil society. The language was similar to the Hopkinsean concept of disinterested benevolence. In the same way that Hopkins and the New Divinity exalted civil happiness above individual pursuits: the Berkshire Constitutionals did the same with regards to the formation of a written constitution. It is tempting to see this language as insincere and a way for them to gain political power, but

⁷²Allen as quoted in Baldwin, *The New England Clergy and the American Revolution*, 141.

⁷³Petition of Watertown, Massachusetts as quoted in Birdsall, “The Reverend Thomas Allen,” 155.

⁷⁴Taylor, ed., *Massachusetts, Colony to Commonwealth*, 26.

that is unlikely. Berkshire County was by no means the most populous county and they stood to gain little political power with adoption of a constitution chosen by the people. This language also pointed to the conception of moral government as conceived by New Divinity theologians. The Berkshire Constitutionals desired a moral government that upheld standards of virtue and opposed tyranny, but they used a vocabulary of secular republicanism that called for governments to be virtuous and moral and guarantee political and religious freedoms.⁷⁵

Allen's embrace of republican ideology can also be seen in his "Vindication." Allen composed this document in response to the defeat of the proposed Constitution of 1778 and at the height of constitutionalist activity. Berkshire residents helped defeat the proposed constitution because they saw it as fundamentally unsound and they desired the relationship between government and people be reformed. In his "Vindication," Allen attacked the foundation of Massachusetts government as illegitimate. Because the citizens of Massachusetts existed in a state of nature after declaring independence, the people of Massachusetts needed a compact with the government to protect their essential rights. This type of constitution must correct against certain intolerable political abuses, which could only be achieved through the return of local officials to direct control. Allen posited this work in the legacy of Whig and latitudinarian thought. He cited Philip Furneaux, Lord Somers, and Richard Price, all Whig and latitudinarian philosophers. Revolutionary pamphleteers had quoted these same authors to call for liberty from Britain. Now, Allen and other Berkshire residents appropriated their writings to call for liberty from the "tyranny" of the Massachusetts General Court. This use of latitudinarian thought with underpinnings of Consistent Calvinist theology was the culmination of the New Divinity move to an eighteenth-century socially active Christian evangelicalism.

Two caveats should be noted. The town of Pittsfield, of which Allen was pastor, actually voted for the 1778 Constitution, but this is not surprising because the delegates to the Convention were members of the conservative "River Gods," who opposed social change and did not represent the interests of Allen. Also, historian Theodore Hammett claimed that Allen spoke for the extreme views of the county. This seems unlikely for a few reasons. Allen did not articulate anything new in "Vindication." Other towns had previously accepted many of the arguments he

⁷⁵Wood, *The Creation of the American Republic*, 284-287.

made in the “Vindication,” Thus, it seems that New Divinity thought wedded with egalitarian political thought helped influence the adoption of the first written social compact in America.⁷⁶

Allen’s influence continued in the instructions the town of Pittsfield gave to their delegate for the 1780 Constitutional Convention. Allen served on the committee that drafted those instructions. The instructions called for the constitution to contain a Bill of Rights that would provide true liberty and form the basis of government in a free state. The committee wrote,

“that as all men by nature are free...and all power is founded in compact; that every man has an unalienable right to enjoy his own opinion in matters of religion, and to worship God in that manner is agreeable to his own sentiments without any control whatsoever.”

No particular mode or sect of religion should be established, “but that every one be protected in the peaceable enjoyment of his religious persuasion and way of worship.”⁷⁷

After the 1780 convention finished drafting the Constitution, they sent the proposed constitution to the towns for their ratification. The town of Pittsfield, like in 1778, voted for the constitution. Documents suggest that the town voted unanimously for the Constitution, except Article Three.⁷⁸ While Allen led many of the constitution-making activities, the town was still firmly controlled by a group of conservative businessmen with ties to Boston and supporters of limited establishment. This should not diminish Allen’s or the New Divinity’s place in the narrative. Their ideas influenced much of Massachusetts and helped provide the ideological background for opposition to Article Three and are best seen in the writings of Philanthropos.

Philanthropos

The principal arguments against limited establishment most likely come from the pen of a New Divinity minister.⁷⁹ Writing under the pseudonym “Philanthropos,” this author engaged in a newspaper debate with the Congregationalist minister Samuel West. West, writing under the pseudonym “Irenaeus,” supported establishment, believing that it promoted the peace and

⁷⁶For more on the influence of the Berkshire Constitutionals in the adoption of the 1780 Massachusetts Constitution, see Ronald M. Peters, *The Massachusetts Constitution of 1780: A Social Compact* (Amherst: University of Massachusetts Press, 1974).

⁷⁷Quote in Taylor, *Massachusetts, Colony to Commonwealth*, 118-119.

⁷⁸The numbers of the vote cannot be ascertained, but this development should not be a surprise.

⁷⁹McLoughlin, *New England Dissent*, 1:617-618.

happiness of a civil society. West's thought and writings provided a debate opponent for "Philanthropos" between March 1780 and the winter of 1781.⁸⁰

Perhaps because of his standing in the New Light Order, Philanthropos's arguments had a more significant and wide-ranging influence than Backus. His essays appeared in major Massachusetts newspapers between 1780 and 1781. His essays from the *Independent Chronicle*, *Boston Gazette*, and the *Continental Journal* were more widely-quoted by disestablishmentarians than Backus's.⁸¹ Philanthropos opposed the Third Article of the proposed constitution on four principal points. He believed that support to religion was not a civil duty that required civil enforcement. Support for religion was a duty for Christ's kingdom alone. Those who failed to support religion would receive spiritual punishment and did not need earthly punishment. Similarly, he believed that Christian piety and religion were not essential to the preservation and order of a civic society. He further argued that many states had survived and prospered without a tax supported system of piety and religion. Finally, he believed that natural religion (morality) was essential to good government. Thus, the state did have the right to appoint teachers of natural religion and to provide for their support.

In the *Boston Gazette* on July 24, 1780, Philanthropos wrote that "the church itself is a thing absolutely separate and distinct from the commonwealth."⁸² These separate boundaries of church and state were permanent and impermeable. He argued that the spiritual kingdom has no earthly head, but rather is ruled by Christ. He used this concept of separate spheres of influence to point out a perceived contradiction in the position of "Irenaeus" and other supporters of Article Three. Philanthropos believed that the Third Article would extend civil power into the spiritual kingdom. He could not understand how supporters of the third Article could support this interference, while simultaneously claiming to deny that the state ought to interfere with the spiritual kingdom.⁸³

His rationale for separating civil and religious spheres was similar to the position taken by many of the Virginia petitioners who fused Enlightenment rationales with theological arguments.⁸⁴ In several of his newspaper essays, Philanthropos deployed explicit Lockean arguments for consigning civil magistrates to civil affairs. On August 14, Philanthropos wrote

⁸⁰Analysis of West's writings appears above.

⁸¹McLoughlin, *New England Dissent*, 1: 617-618.

⁸²*Boston Gazette* (Boston), 24 July 1780.

⁸³*Boston Gazette* (Boston), 14 August 1780.

⁸⁴Analyzed in Chapter 3.

that if his opponent Irenaeus truly believed church and state were separate entities then he should make use of either Lockean arguments or the work of Milton, but Irenaeus “chooses to take no notice of those arguments.” Rather, in this arena of ideological conflict, “these gentlemen are against him [Irenaeus] and for Philanthropos.”⁸⁵ He placed himself on the side of Locke again one week later, when he wrote, “Were Locke [and] Milton...enemies to civil government...because they espoused and publicly supported principles like those of Philanthropos? Were those great writers enemies to civil government because they confine the civil magistrate to civil affairs?”⁸⁶ Philanthropos’s explicit Lockean arguments continued in the January 15, 1781 edition of the *Boston Gazette*, where he again quoted Locke at length. He deployed Locke to argue that the civil government should be concerned with injuries done between man, not with the sins of covetousness, uncharitableness, idleness, and other sins that do not break the peace of society. Society should concern itself with the sins of lying and perjury that do injure the commonwealth.⁸⁷ Philanthropos’s final use of Lockean ideas concerned the rights of conscience guaranteed to all people. He believed that the limited establishment of the proposed third article would be repugnant to the rights of conscience. Limited establishment would force the civil government to define which religious groups were eligible to receive state funding. Thus, the state would be cast in the position of first determining what orthodoxy is, so that they would then be able to determine which orthodox ministers could receive funding.⁸⁸

Philanthropos also argued that the civil and religious spheres should be kept separate because Christianity would better flourish without civil interference. Man had been educated for over three hundred years after the death of Christ with great success before the state interfered. Moving to more contemporary examples, dissenting groups continued to flourish in England, despite state oppression.⁸⁹ One did not have to look much further than the myriad of religious groups, not associated with the Congregational Church, that maintained the public worship of God without state support.

State support did not just interfere with rights of conscience and have little efficacy in the spread of religion. Philanthropos undermined an additional notion of Irenaeus and other

⁸⁵*Boston Gazette* (Boston), 14 August 1780.

⁸⁶*Boston Gazette* (Boston), 21 August 1780.

⁸⁷*Boston Gazette* (Boston), 15 January 1781.

⁸⁸*Boston Gazette* (Boston), 22 January 1781.

⁸⁹*Ibid.* Philanthropos suggested that the Puritan forefathers of Massachusetts left England because civil influence had encroached upon their practice of religion.

supporters of Article Three when he argued that Christian piety and religion were not essential to the preservation of the body politic. Writing in the January 29, 1781 issue of the *Boston Gazette*, he commented, “ministers of Christ are an order of men not necessary to the being of civil society.”⁹⁰ This position came into direct conflict with West and Chauncey, their views on the civil necessity of public support of religion, and the doctrine of the future state of rewards and punishments. Philanthropos questioned the fundamental nature of West and Chauncey’s argument that the government should desire to create a Christian commonwealth. He pointed out that Christ had not commended his followers to inaugurate a Christian commonwealth anywhere in Scripture. And unless Christ had “divine communion” with Irenaeus and the legislature of Massachusetts, then Irenaeus had no theological foundation to support the position that Christian piety was inextricably linked to the happiness of society.⁹¹

Philanthropos did not doubt the efficacy of Christianity in producing a happy and well-ordered civil society. Rather, he opposed the idea that any law that had the tendency of promoting the peace and happiness of society should be the proper basis of civil legislation. Philanthropos believed that the best way to accomplish the goal of a happy society would be through Christianity because it had the greatest tendency to produce this idyllic state. However, the legislature would then have to compel people to worship because that would be the best course of action for the commonwealth. Philanthropos’s arguments against the connection between Christianity and the preservation of a state went beyond arguments about individual conscience and suggested that limited establishment would not be the most effective way of even accomplishing this goal. While Christianity would be the best way to promote the peace and happiness of society, limited establishment would prejudice people against the Christian religion and the ministers who teach it. Thus, “the cause of religion and morality is greatly injured by this method.”⁹²

Philanthropos next moved to historical analogy and suggested that many states had flourished for years without state-supported churches. This argument was similar to the argument made by many dissenters to the Virginia Bill that sought to create a state-supported system for religious educators. The governments of Pennsylvania, New York, and New Jersey

⁹⁰*Boston Gazette* (Boston), 29 January 1781.

⁹¹*Ibid.* It is also interesting to note that Philanthropos quoted Locke to support this position. “But there is absolutely no such thing says he, under the gospel, as a Christian common wealth...[Christ] instituted no commonwealth.”

⁹²*Boston Gazette* (Boston), 8 January 1781.

did not financially support ministers and yet, Christian churches in each of these states flourished.⁹³

The final principle that Philanthropos used to oppose limited establishment was an appeal to the type of religion that was essential to government. He believed that morality or “natural religion” should be taught for the furtherance of a peaceful and happy citizenry. The legislature should appoint ministers for this purpose and provide for their financial support. These ministers should not be the same as those who were ministers of Christ. Ministers of Christ, Philanthropos thought, would be concerned with revealed religion, while these teachers of morality would teach natural religion. Philanthropos seemed to suggest that since not every member of society would be a Christian in the New Light Congregationalist mold, then the government should teach principles that would appeal to its entire citizenry and not compel the worship of others.⁹⁴

Philanthropos’s identity remains a mystery to contemporary historians. Internal evidence suggests that he was a member of the New Light standing order. On several occasions, he suggested that West and other supporters of Article Three were deists. They relied more on “the legislature for their support, than their divine Master.”⁹⁵ This invective language was common to members of the New Divinity during their pamphlet wars with “deists,” like Charles Chauncey and Samuel West.⁹⁶ Another reason to suggest that Philanthropos might have been a member of the standing order was that he seemed to know the inner workings of the Massachusetts Constitutional Convention of 1780.⁹⁷ However, the most likely reason to believe that Philanthropos could have been a member of the New Divinity was his theological rationale to oppose limited establishment. He distinguished between true virtue and secondary virtue in the same way that Edwards, Hopkins, and Bellamy had distinguished these concepts. True virtue connoted real religion, while secondary virtue had to do with mere morality and order.

Many theories have been posited as to Philanthropos’s true identity. McLoughlin even proposed that it is possible that Thomas Allen himself could have been Philanthropos, but quickly dismissed this option. He perhaps dismissed Allen too early. His reasons for dismissal include Allen’s apparent silence on the subject on Article Three of the proposed Massachusetts

⁹³*Boston Gazette* (Boston), 21 August 1780.

⁹⁴*Continental Journal* (Boston), 6 April 1780.

⁹⁵*Boston Gazette* (Boston), 8 January 1781.

⁹⁶Conforti, *Samuel Hopkins and the New Divinity*, 59-75.

⁹⁷McLoughlin, *New England Dissent*, 1:617. McLoughlin argued that this author was a member of the Constitutional Convention, but Philanthropos never seemed to suggest that he was actually a member. He was only acquainted with its activities.

Constitution. However, the analysis of Allen above indicated that Allen had a long history of favoring religious liberty and opposing state compulsion. One of the main reasons he and the other Berkshire Constitutionals opposed the actions of the Massachusetts Legislature was the legislature's intrusion in the political and legal consciences of the citizenry. It is highly unlikely that Allen or the other Berkshire Constitutionalist would have supported any sort of establishment that would have required compulsory action. McLoughlin further suggested that Allen had little political influence because he was unable to convince the Berkshire citizenry to oppose the 1780 constitution. McLoughlin's reasoning is fallacious because he conflates these two separate instances. Even if Allen was unsuccessful in convincing Berkshire County to oppose Article Three of the 1780 constitution, one can still believe that his arguments could have had a wide-ranging effect. McLoughlin also overstated Allen's failure to deliver Berkshire County in opposition to Article Three. As stated above, a group of conservative and wealthy men with business and religious ties to Boston controlled many of the levers of power in Berkshire County. Thus, one should not be surprised that Allen was unable to secure Berkshire County's opposition to Article Three.

The point here is not to argue that Allen was Philanthropos because the evidence available does not allow for that conclusion, but rather to suggest that Philanthropos held theological views similar to Allen and other Consistent Calvinists. Whether one man or two, Allen and Philanthropos both had a significant influence on ideas about religious freedom in Massachusetts in the 1780s.

Two points should be noted from this final principle. First, the type of natural religion Philanthropos described seemed to be the same as Jonathan Edwards's concept of secondary virtue. Both Edwards and Philanthropos appeared to believe that this type of moral action would not be practiced by believers alone. Believers and non-believers alike fundamentally strove for order, uniformity, and harmony in society. Secondary virtue, planted by God, created within man an appreciation for a well-ordered society. Man practiced this virtue out of selfish interests, even though natural religion created feelings of gratitude, benevolence, and affection. Philanthropos's description of secondary virtue further makes it seem likely that Philanthropos was a member of the New Divinity, who was well-acquainted with the metaphysical works of Jonathan Edwards.

The other point that should be noted from this final principle is its similarity to the third article of the Northwest Ordinance. The third article read, “religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.”⁹⁸ Philanthropos seemed to support this very position in Massachusetts. He believed that the government should support teachers of natural religion who would create good government and happiness of the citizenry.⁹⁹

Members on both sides of the debate over the relationship between church and state in revolutionary Massachusetts produced contentious and heated writings. Preachers, politicians, and others created more writings on this debate than any other state. Supporters believed that financially supported ministers would help bring about the ideal Christian commonwealth, while opponents thought that establishment was inimical to the rights of individual conscience. This chapter has considered arguments on both sides of this debate with the dual purposes of understanding the relationship between church and state in revolutionary Massachusetts and providing context for the coming discussion of the religion clauses of the Northwest Ordinance.

Because of the prolific nature of its debates, as well as a few unique connections between the state and the drafting of the Northwest Ordinance, understanding the church-state debate in Massachusetts is necessarily important. Arguments on both sides of the Massachusetts debate are worth considering because they both influenced drafters of the Northwest Ordinance and the broader national church-state discussion. Supporters believed that limited establishment was necessary because of a particular view of how humans behaved. Humans made calculated choices designed to maximize their pleasure, which meant for men like Samuel West or Charles Chauncey meant that they would always choose the Christian faith. Thus, the government should provide for teachers in order to maximize human happiness.

Opponents among the ranks of the New Divinity movement or inspired by Consistent Calvinist theology denied this point and suggested that Christians could never truly be virtuous without the freedom to choose whether or not to be virtuous. Men like Thomas Allen, Samuel Hopkins, Joseph Bellamy, and Philanthropos formulated specific concepts of virtue that suggested that humans should practice disinterested benevolence. These ideas permeated throughout Massachusetts and in combination with Lockean ideas of natural rights, they

⁹⁸*Northwest Ordinance*, art.3.

⁹⁹This point will be further analyzed in the fourth chapter.

significantly influenced the opponents of limited establishment. With the Massachusetts context in place, the next chapter turns to the other influential state for church-state developments, Virginia.

CHAPTER THREE

CHAPTER THREE: “CONTRARY TO THE SPIRIT OF THE GOSPEL, AND THE BILL OF RIGHTS”: CHURCH AND STATE IN REVOLUTIONARY VIRGINIA

At the outset of the Revolutionary War, a culture of religious freedom had not yet taken hold throughout the American colonies. Nine of thirteen colonies had legally established churches and de facto establishment existed in three other colonies.¹ In contrast, the end of the conflict found the American nation with a new religiopolitical landscape. Every colony altered the church-state arrangements they had inherited from colonial times. It is through these developments that one can understand how legislators in both the Articles and Confederation Congresses comprehended the relationship between church and state. Lawmakers in both Congresses paid close attention to these state constitutional developments. They saw in the states the seeds of a new understanding of how religion and politics should relate in the new republic.

The states of Massachusetts and Virginia had the most significant and influential impact on what the men in Congress thought. The debates over the concept of religion and religion and politics in these two states both represented the concomitant rearrangements of church-state relations occurring throughout the rest of the Confederation and influenced how church-state relations should be conceived in the Northwest Ordinance. Historian Thomas Buckley wrote that Virginia served as a “politicoreligious microcosm,” where the whole nation could study alternatives for a church-state relationship and then choose among them.² John Adams even wrote Patrick Henry in 1776 and suggested that many in high governmental positions looked to Virginia as an example for church-state developments.³ With this in mind, this chapter focuses on the specific debates, resolutions, and understandings that Virginia reached in the church-state

¹Mark Douglas McGarvie, *One Nation Under Law: America's Early National Struggle to Separate Church and State* (DeKalb: Northern Illinois University Press, 2004), 41.

²Thomas E. Buckley, *Church and State in Revolutionary Virginia, 1776-1787* (Charlottesville: University Press of Virginia, 1977), 6. For the importance of Virginia, see also Merrill D. Peterson and Robert C. Vaughan, eds., *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History* (Cambridge: Cambridge University Press, 1988).

³Buckley, *Church and State in Revolutionary Virginia*, 6.

arena.⁴

The residents of Virginia began the revolution believing that free exercise of religion could exist alongside an established religion. By 1786, the state settled on an arrangement that abolished test oaths for office, eliminated state restrictions on religious freedom, and put churches on a purely voluntary footing without financial contributions from the state government. That transition is the focus of this chapter. From the available evidence, it seems that a combination of Christian voluntarism and natural rights philosophy created a distinct theology, which defeated religious assessment and enabled one of the most liberal statements of religious liberty by any state government to be enshrined into law.⁵

The move to a liberal statement of religious liberty occurred within the context of Virginia's long history of church-state conflict. From its inception, the Virginia colony existed as a mercantile venture. Early in its history, the Episcopal Church became the official established religion. Virginia's early governments doled out large tracts of land to the clergy, which enabled them to obtain vast political and economic power. Access to land gave the Anglican Church a significant temporal presence, but over time the church lost its higher purpose of saving souls where it had sufficient clergymen. However, there were not clergy throughout the state because of geographic factors. Compared with the Anglican Church in England, the Virginian Anglican Church had much larger sized parishes. Clergymen, if there were any, could not effectively minister to their entire parish. Thus, the shepherding of the congregation fell largely to lay administrators who had little religious training. Compared to other denominations, the Anglican clergy overtime appeared inactive and converted few people.⁶

Responding to this dearth of eternal focus, dissenting religious groups began to appear in the colony as early as the second half of the 17th century. Initially, these groups appeared in the western frontier region of the state, but they quickly spread across the rest of the state throughout the 18th century. These religious groups presented a vibrant and vital spiritual message that

⁴This study follows the work of Buckley by suggesting that an alignment of interests between Enlightenment rationalists and Protestant Dissenters influenced the rejection of assessment in Revolutionary Virginia. However, it pays more attention to the religious rationales for disestablishment because these same theological reasons appeared among the disestablishmentarians in Revolutionary Massachusetts and amongst those responsible for drafting the Northwest Ordinance.

⁵Thomas J. Curry, *The First Freedoms: Church and State in America to the Passage of the First Amendment* (New York: Oxford University Press, 1986), 134.

⁶Anson Phelps Stokes and Leo Pfeffer, *Church and State in the United States*, rev. ed. (New York: Harper and Row, 1964), 66.

stood in stark contrast with the apparent vapidness of the Episcopal Church clergymen. Presbyterians and Baptists used this message of dynamism to increase their numbers significantly during the 17th century. However, preferential treatment of the Virginian Episcopal Church greatly hampered their efforts.⁷

These dissenting groups forced the first initial change in the relationship between church and state in Virginia in the middle of the 18th century. This opening conflict occurred over the question of clerical salaries. The infamous Parson's case began as a question over the Virginia legislature setting the price of tobacco. The legislature had set the price below market value in order to relieve the financial burden of creditors and debtors. The Episcopal clergy received no benefit from an increase in prices because they received a set amount of tobacco per year as their support. The Episcopal clergy resisted the change and appealed to the Board of Trade in London. Episcopal clergymen wanted the Board to invalidate the act because it violated English laws enacted for their benefit. The Board of Trade agreed and invalidated the act. This decision made the Episcopal clergy even more unpopular and drove more Virginians into the churches of dissenters. The Parson's Case had a secondary effect besides invalidating the tobacco act and making the Episcopal clergy more unpopular; it encouraged cooperation among the Baptist and Presbyterian churches. These dissenting churches opposed the appeal of the Anglican Church and the action by the Board of Trade. As a result of seeing the dominance of the established church, the dissenting churches began to seek ways to subvert the existing order and separate the established church from the governing order.⁸

Dissenters continued their opposition to the established church through the colonial period and during the Revolutionary War with petitions to the House of Burgesses asking for relief from the economic hardships they incurred by not having tax breaks for their ministers. Baptists claimed that they found "themselves restricted in the exercise of their religion, their teachers imprisoned under various pretences, and the benefits of the Toleration Act denied them."⁹ This memorial, written in 1772, was the first of a series of forceful petitions that Baptist churches and associations would send to the Virginia Assembly. In these memorials, written just before the outbreak of conflict with the British Crown, Baptists asked for freedom in religious

⁷*Ibid.*

⁸*Ibid.*

⁹*Virginia House Journal*, February 12, 1772, in Charles F. James, ed., *Documentary History of the Struggle for Religious Freedom in Virginia* (New York: Da Capo Press, 1971), 33. (The House Journal is hereafter referred to as *VHJ*.)

matter and abolition of the established church. Through a close examination of these petitions and memorials, one can garner a sense of the ideology for religiopolitical change among the Baptists.

Baptists continued their dissent through the early years of the Revolutionary War, and after almost two years of armed conflict, colonists in the several states began to call for declarations of independence from Great Britain. Virginia was one of the first states to issue a Declaration of Independence. The state legislature issued the state's Declaration of Rights three weeks before the national Declaration of Independence. George Mason wrote much of the Virginia Declaration of Rights. The Declaration of Rights took the efforts of both politicians and dissenting ministers to pass it.

The creation and the passage of the Declaration of Rights largely side-stepped the question of religion, though, the statement it did make would become important to later conceptions of religious liberty in Virginia. Drafters of the Declaration of Rights stated in the 16th article that:

“Religion or the duty we owe to our creator, and the manner of discharging it, can be directed only by reason and conviction...and, therefore, that all men are equally entitled to the free exercise of religion according to the dictates of conscience.”¹⁰

Madison actually wanted to take this language further and in his draft resolution for this article, he called for the “fullest toleration in the exercise of religion.”¹¹ However, the Virginia constitutional convention of 1776 was not ready to take that step yet. Most of the members of the convention still believed that free exercise of religion could exist alongside an established church. Thus, the members did not disestablish the Anglican church after the ratification of the Declaration of Rights.

Dissenting church members desired a broader, more Madisonian statement on religious liberty. The primary concern of members of the Baptist churches was freedom of religion. Preachers that accepted monies from the state would undercut their relationship with their congregation. Ministers would become public servants, responsible to the state and not their parish.¹² Both Baptists and Presbyterian presented petitions to the Virginia legislature, calling

¹⁰*Virginia Declaration of Rights*, in James, ed., *Documentary History of the Struggle for Religious Freedom in Virginia*, 62.

¹¹*Ibid.*

¹²Buckley, *Church and State in Revolutionary Virginia*, 39.

for the right “to worship God in their own way, without interruption.”¹³ The Hanover Presbytery in October of 1776 remonstrated against the established church and advocated separation, with language similar to that of Jefferson and Madison.¹⁴ The petition from Hanover fused the ideologies of rationalism and dissension. The petition said that Anglicanism itself was not the problem, but that any established church was a violation of the Declaration of Rights: for instance, “there is no argument in favor of establishing the Christian religion but what may be pleaded for establishing the tenets of Mahomet” and “neither can it be made to appear that the gospel needs any such civil aid...when our blessed saviour declares his kingdom is not of this world, he renounces all dependence upon state power.” Religious establishments hindered the temporal interests of a community, including population growth and the progress of the arts and sciences. The Hanover Presbytery pointed to the northern provinces of Virginia to demonstrate how religious establishment held back societal development. While the state had previously experienced the immigration of skilled workers, the established church had dissuaded others from immigrating into the state.¹⁵

The Hanover Presbytery also appealed to the language of natural rights. For these petitioners, the only proper purpose of government was to secure the inalienable rights of the people and to encourage virtuous behavior through “wholesome laws extending to every individual.”¹⁶ Other denominations, like Lutherans at Culpepper and Baptists at Tuscarora, echoed these calls for all churches to stand on the same equal footing. These other dissenting denominations sought specific, economic relief from their hardships. The Lutheran congregation at Culpepper in October 1776 requested that members of their congregation “may hereafter be exempted from further payment of parochial Charges.”¹⁷ Dissenters of the Tuscarora congregation argued for disestablishment by quoting the Declaration of Rights and calling upon all Christians to practice Christian forbearance, love, and charity towards all. If Christians practiced these virtues, then they would not violate the rights of conscience of others.¹⁸

¹³*Baptist Memorial*, June 20, 1776, in James, ed., *Documentary History of the Struggle for Religious Freedom in Virginia*, 65.

¹⁴Leonard W. Levy, *The Establishment Clause*, 2d ed. (Chapel Hill: University of North Carolina Press, 1994), 59.

¹⁵Petition of Hanover Presbytery, 24 October 1776, in Virginia General Assembly, *Religious Petitions, 1774-1802, Presented to the General Assembly*. (Archives Division: Virginia State Library, 1966), reel 425a; Legislative Petitions, 1776-1865, Virginia State Library, reel 1. (hereafter referred to as *Religious Petitions*)

¹⁶*Ibid.*

¹⁷*Culpepper Petition*, October 1776, in Curry, *The First Freedoms*, 136.

¹⁸Petition of Berkeley, 25 October 1776, in *Religious Petitions*, reel 425a.

As a result of their efforts, the dissenters achieved the repeal of many statutes that had fortified the establishment of the Church of England in Virginia and deferred the question of assessment until after the Revolution.¹⁹ Repeals of these laws included an enactment that exempted dissenting churches from payments to the Anglican Church. This repeal was initially for just one year, but the suspension continued until 1779, when the legislature abolished all taxes in support of the established church. Other efforts included drafting a bill that would allow dissenting clergymen the legal ability to perform marriages.²⁰

Bill for General Assessment

Anglican defenders of tax-supported religion concentrated on maintaining the existing relationship of church and state, while simultaneously trying to appease dissenting congregations.²¹ The most significant offer of appeasement was the Bill for General Assessment. Introduced in tandem with Jefferson's Act for Religious Freedom in 1779, the General Assessment bill had as its most immediate legal antecedent a provision in the South Carolina constitution of 1778.²² The bill worked by assessing all taxpayers. The taxpayer would then designate the church of his choice as the recipient for their taxes. If someone did not designate a church, the money would accrue to all the churches of the county. These supported churches would be a "bulwark of liberty, the cement of society, and an asylum for the persecuted to go to."²³

This bill received some initial support from Episcopalians and a few dissenting churches. Support centered on the bill's potential to improve the welfare of society. Because of this principle of public utility, the legislature has a right to enact laws that required every person to contribute in proportion to their financial circumstance for the support and encouragement of ministers. Supporters of the assessment bill claimed that voluntary assessment had never worked

¹⁹Levy, *The Establishment Clause*, 60.

²⁰Curry, *The First Freedoms*, 136. Curry describes how this effort to exempt dissenter from supporting the Anglican Church had the unintended effect of the legislature having to determine who was Anglican and who was not.

²¹Anglican defenders of the established religion resided in the Tidewater portion of the state, where they had long held significant religious and political power. The 1776 petitions from Tuscarora in the western part of the state and Culpepper in central Virginia demonstrate that at this point dissension centered in the frontier part of the state.

²²Buckley, *Church and State in Revolutionary Virginia*, 47-62.

²³Petition of Mecklenburg County, 29 May 1777, in *Religious Petitions*, 425a.

and there was little reason to expect it to work this time.²⁴

Presbyterians led the opposition to this bill. They believed that any attempt to impose an assessment was a hidden attempt to further strengthen the Anglican Church. Presbyterians's fear of a renewed Anglican Church existed within the context of their deep-seated animosity toward the Anglican Church. Anglicans had recently petitioned the House of Burgesses to regulate the movements of dissenting ministers. Baptist associations also had reservations about the assessment bill and issued several memorials in response. These Baptist organizations concluded that the "heaven-born" gift of religious liberty was essential for the happiness and safety of the state. Any law in opposition to that republican spirit was pernicious and ought to be immediately abolished.²⁵ These memorials all stated that the bill was a violation of the religious liberty guaranteed in the Virginia Declaration of Rights.²⁶

As a result of these opposition efforts, the Revolutionary War, and the lack of clear legislative majorities, the Virginia legislature did not pass either the General Assessment bill or Jefferson's Declaration of Religious Liberty. Jefferson's bill, proposed in 1779, called for a broad expression of religious liberty. With the conclusion of the conflict in 1783, however, petitions concerning the church-state conflict began once more to arrive in the hands of Virginia legislators. Petitioners saw the need for a strong spiritual presence in the turmoil following the war. Many Virginians, especially Anglicans, believed that the prosperity of the state was tied intimately to the progress of religion. Citizens of one of these towns, Surry, that connected religious belief to the progress of society believed that, "so much depends on the virtue of [the state's] citizens-and where much is left to their discretion, much to their caprice; the aid of religion will be more necessary and its influences more decisive."²⁷ Many petitions renewed calls for a general assessment bill for the financial support of the clergy.²⁸ A petition from Lunenburg County said, "it would greatly tend to promote religion and the propagation of the gospel if a general and equal contribution for the support of the clergy were established." A similar petition from Warwick County asked the Virginia Assembly for an assessment on "all titheables for the support of religion."²⁹

²⁴Petition of Lunenburg County, 3 November 1779, in *Religious Petitions*, reel 425a.

²⁵Petition of Charlotte County, 8 November 1780, in *Religious Petitions*, reel 425a.

²⁶Curry, *The First Freedoms*, 137-138.

²⁷Petition of Surry 1 December 1784, in *Religious Petitions*, reel 425a.

²⁸Curry, *The First Freedoms*, 137-139.

²⁹VHJ, May 15, 1784, in *Ibid.*

Patrick Henry, himself a representative from a mostly Anglican district, heeded these calls and introduced a new and much simpler General Assessment bill in 1784. Known as the “Bill Establishing a Provision for Teachers of Religion,” the bill aimed to “correct the morals of men, restrain their vices, and preserve the peace of society.” The bill intended to undertake the teaching of morality through “a competent provision for learned teachers...[and] abolishing all distinction of pre-eminence amongst the different societies or communities of Christians.”³⁰ All Christian denominations would potentially receive support from this bill and any person who did not specify a religion to support would have their money accrue in a fund to support public education.

This bill was a more secularized and stripped-down version of the 1779 bill and unlike the previous version, it commanded majority support in the Virginia legislature and across the state as a whole. Petitioners said that the citizens owed their personal security to the peace and prosperity of the civil government. This plan, based on liberal principles, would prevent jealousy of one sect to be directed at any other denomination. Providing for the teaching of the knowledge and practice of the Christian religion would be the best security for the permanent peace and prosperity of the civil government.³¹

Madison knew this bill would pass the assembly in 1784, so he tried to prevent or delay the bill’s passage. Madison opposed the bill on grounds of Enlightenment rationalism fused with notions of Christian voluntarism. Thus, he worked to postpone the final reading and vote on the bill’s passage until the following year through two methods. First, he supported the election of Patrick Henry to the governorship. Henry had been the chief supporter of the bill; his move to the governorship removed his vote-whipping abilities from the legislature. With this loss of momentum, Madison convinced supporters of the General Assessment to allow the bill to be sent throughout the state for comments. His opponents firmly believed that the public would give them a mandate to pass the bill in the next legislative session; they were mistaken.³²

Madison led the opposition against the general assessment bill. Two different types of ideology formed the basis of this opposition: Lockean rationalism and Protestant voluntarism. Dissenters felt the General Assessment was hostile to the best interests of the gospel. They

³⁰*Bill Establishing a Provision for Teachers of Religion*, reported December 3, 1784, in James, ed., *Documentary History of the Struggle for Religious Freedom in Virginia*, 129.

³¹Levy, *The Establishment Clause*, 61; Curry, *The First Freedoms*, 141; Petition of Mecklenburg 26 October 1785, in *Religious Petitions*, reel 425a.

³²Levy, *The Establishment Clause*, 62.

believed that the General Assessment bill allowed the legislature to determine how religion should operate. The church was at its most effective when it was a voluntary organization, unfettered from any yoke. Finally, why should the church need civil assistance? The primitive church had experienced significant growth in the first three hundred years of its existence, which was a time of persecution. It was not until the Roman Emperor Constantine declared Christianity the state religion that it became corrupted and its growth stagnated.³³

The efforts of these religious groups would not have been possible if it were not for Virginia's political thinkers and statesmen who also opposed the General Assessment. For this group of men, the General Assessment bill violated the fundamental natural right of every man to control his own conscience. These thinkers fell under the influence of John Milton, Algernon Sidney, and especially John Locke. John Locke's *Two Treatises on Government* (1690) and his *Letter Concerning Toleration* contained the fundamental tenets of the rationalistic argument used to oppose general assessment. Mason, Jefferson, and Madison all developed strong convictions about the importance of disestablishment and of the need for equality of all churches under the law from Locke's treatises.³⁴ A chronological examination of opposition arguments seems to indicate that the ideological strains of Enlightenment rationalism and Christian voluntarism fused together to defeat the "Bill Establishing a Provision for Teachers of Religion."

The first appearance of these arguments is also an example of both ideologies occurring within the same document. By March 1785, broadsides of the bill circulated in newspapers throughout the state. Reaction to the bill followed quickly, appearing first in the newspapers. The newly formed *Virginia Journal and Alexandria Advertiser* carried both the text of the bill and a series of articles strongly objecting to its passage. The author "Vigilarius," an unknown pamphleteer, attacked the bill and its implications. He introduced himself as a "sincere friend of the clergy" and a strong believer in Christianity, but he rejected the premise that states needed state assistance.³⁵ Vigilarius' rejection of state assistance stemmed from the dissensionist belief that the Kingdom of God did not need help from any kingdom of man. Religion had a powerful influence upon society, but he did not think this influence would be furthered if ministers of the

³³*Ibid.*, 64-66.

³⁴Stokes and Pfeffer, *Church and State in the United States*, 68. Philip Hamburger argued Christians used these ideas of freedom of conscience heavily in the formation of their own position, in Philip Hamburger, *Separation of Church and State* (Cambridge: Harvard University Press, 2002), 83.

³⁵*Virginia Journal and Alexandria Advertiser* (Alexandria) 17 March 1785, in Buckley, *Church and State in Revolutionary Virginia*, 114-115

gospel were transformed into “officers of the civil government.”³⁶ Vigilarius pointed to the profound influence the primitive Christian church had upon the ancient world. Christianity did not slow its expansion, in its early years, until the corrupting influence of Constantine and its adoption as the official religion that Christianity. Vigilarius believed that these evils continued wherever church and state joined forces. Invoking the primitive church was a reference that had its roots in the Protestant ideology of the preeminence of the early church and its ability to grow in the face of staggering persecution.

Vigilarius next combined this voluntaristic element of Christianity with natural rights philosophy to fashion a distinct religiopolitical strain of ideology that claimed the General Assessment Bill would lead to a decline in societal relationships. He argued that many people would find the bill a violation of their natural rights and refuse to pay the tax. Also, the bill would injure society because of its inherent discrimination. Assessment would create an “invidious distinction” between Christian sects. Churches with traditional leadership structure, like Episcopalians, Presbyterians, and Baptists would have their vestries or associations distribute the money for clerical salaries or church buildings only. Quakers and Menonites would pay their taxes into a general fund, which would be distributed in “a manner which they shall best calculate to promote their own particular mode of worship.” The bill would further create an unhealthy competition between ministers. And assessment would not even achieve its stated goals. Ministers would not be permanently cared for, as they would be subject to the whims and fluctuations of tax payers. Vigilarius appealed to the readers to elect men to the legislature who would oppose the bill and favor religious liberty. Finally, he called on the people to send “decent, but spirited” petitions to the Assembly opposing this measure.³⁷

Another article in the same paper opposed the bill on natural rights and revolutionary principles. It appeared two weeks after the others and began with a tribute to the “complete triumph” of reason obtained by those in Philadelphia in 1776. Residents of Virginia were urged to stand alongside Revolutionaries like Jefferson, Wyeth, and Pendleton. They should not give up so easily the rights they had achieved in 1776 by adopting the assessment bill. The author argued that the Declaration of Rights disallowed the passage of this bill and since a convention had created the Declaration of Rights, no mere assembly could alter or eliminate the provision

³⁶*Ibid.*

³⁷*Virginia Journal and Alexandria Advertiser* (Alexandria) 31 March 1785 and 7 April 1785, quoted in Buckley, *Church and State in Revolutionary Virginia*, 115.

granting free exercise to individuals.³⁸

Assembly elections occurred in the spring of 1785, shortly after the publication of these two articles. In some cases the issue of support of the General Assessment bill affected the election of members to the assembly. In Culpepper County James Pendleton lost his seat in the Virginia legislature because of his strong support for assessment. However, the election was not a referendum on the assessment question, as some have argued.³⁹ Out of the seventy delegates not reelected, only twenty-one of them had supported assessment. Out of those twenty-one, only five replaced men who favored the assessment bill. However, assessment did play a role in the election in that candidates were forced to articulate their positions on the issue.⁴⁰

At roughly the same time, the Episcopal Church held their general convention on May 18 in Richmond, but despite their economic woes and potential loss of political power, they made no mention of the assessment bill. Several members of the Virginia legislature who supported assessment attended the General Convention. So, why was there no response? The Episcopal Church may have recognized the shift in public opinion already underway. Opposition to the bill from Presbyterians and Baptists grew louder by the day. Anglicans may have feared that taking a strong stance in favor of the bill would have further discredited their clergy. Or, the popularity for assessment among the clergy may have begun to wane by this point. Whatever the reason was, if Episcopal support was to continue for assessment, it was to continue on the local levels through parish or county petitions and not on the level of the state Episcopal Church.⁴¹ This choice signaled a further decline among clerical supporters of the bill, while opponents of assessment were about to receive a significant increase of support.

Madison's "Memorial and Remonstrance"

In the early months of 1785 Madison had thought it better to keep his personal opposition limited to his private correspondence and personal notes. The Nicholas brothers, politicians and friends of Madison, encouraged Madison to make his opposition public and to provide opponents of the assessment with a summary of their beliefs. Wilson Nicholas, a leader of the antiassessment forces in the legislature, was at first unsuccessful in persuading Madison to enter

³⁸*Ibid.* Ironically, Pendleton advocated the assessment measure as a positive good for society.

³⁹Levy, *The Establishment Clause*, 61-62.

⁴⁰Buckley, *Church and State in Revolutionary Virginia*, 117.

⁴¹*Ibid.*, 127-128.

the debate against assessment. Wilson was a second term legislator and a strong supporter of religious liberty. His older brother, George, shared his views. Wilson turned to him to persuade Madison after his own efforts failed.

George Nicholas wrote a letter to James Madison in April of 1785, which asked him to provide his fellow opponents of assessment with a common language of opposition. Wilson wrote that he feared Madison's silence "would be construed into an assent especially to the law for establishing a certain provision for the clergy." He implored Madison that "[a] majority of the counties are in favor of the measure but I believe that a great majority of the people are against it; but if this majority should not appear by petition the fact will be denied."⁴²

Nicholas then asked Madison to provide a common vocabulary for the antiassessment forces. "By discovering an exact uniformity of sentiment in a majority of the county it would certainly deter the majority of the assembly from proceeding." He finished the letter by flattering Madison, "If you think with me that it will be proper to say something to the Assembly will you commit it to paper...I wish this because, I know you are most capable of doing it properly and because it will be most likely to be generally adopted."⁴³

Madison acceded to the Nicholas' brothers demands and put his thoughts to paper over the next few months. When he was done, Madison issued one of the most brilliant arguments against assessment. His "Memorial and Remonstrance" combined his various thoughts on assessment into one document. These fifteen points outlined his private beliefs. Madison's document was so effective because he combined the ideology of Protestant dissenters with his interpretation of Enlightenment rationalism. This hybrid-argument has led some historians to believe that the evangelical arguments did not differ substantially from the rational arguments.⁴⁴

Madison's "Memorial" began by saying that if the assessment bill became law, it would "a dangerous abuse of power."⁴⁵ This idea served as the underlying theme for the entire work. Madison wove it in and out of both strains of oppositionist ideology: the pietistic and rationalist.

⁴²*Ibid.*

⁴³*Ibid.*

⁴⁴Levy, *The Establishment Clause*, 64. Levy believes that Madison's document is an attempt to show why the assessment bill was hostile to the best interests of the gospel and how the bill violated fundamental natural rights. However, he does not give proper attention to the nuances and differences of the two strains of ideology. While the two groups shared words, they were not necessarily speaking a common language. But, both ideas were needed to defeat the proassessment forces and bring into reality religious liberty.

⁴⁵*Madison's Remonstrance*, in James, ed., *Documentary History of the Struggle for Religious Freedom in Virginia*, 256.

He began with a statement on the unalienable right to freedom of conscience. Madison's belief in the fundamental right of conscience and self-determination originated from Locke's *Two Treatises on Government* and his *Letter on Toleration*.⁴⁶ In these works, Locke created a hypothetical natural state where man existed before he entered into civil society. Within this state of nature, man possessed certain rights, like life, liberty, conscience, and property. Man understood he had these unalienable rights through the possession of reason and it was through reason that Locke said man knew not to take away these rights from other men. Locke went on to say that the state of nature could not preserve these rights forever. Man had to enter into a social contract with one another in order to protect these rights. Usually, this social contract involved the creation of a civil government. By relinquishing his "legislative and executive" functions to a civil government, man could best protect his own natural rights.⁴⁷ Even though he relinquished those rights, he still held possession of them and could break the social contract whenever he needed too.

Madison said in his "Memorial" that "religion...of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate."⁴⁸ Madison rooted this belief of individual conscience in the natural right of religion in Lockean conceptions of freedom of conscience. Madison took this belief further to suggest that one's religion "depended entirely on personal opinion; as such, it could not be coerced or directed by any other man. Nor could individual conscience be handed over to another human being, because on an even more basic level its direction belonged to God."⁴⁹ Underlying the natural right of conscience was the Christian requirement of man to do his duty to God first. If this freedom of conscience or religion existed previous to the creation of civil government, than any responsibility man had toward God was more important and fundamental than any obligation he had to civil government. Religion was not under either the jurisdiction of society or any legislature. Christianity did not need the support of civil government. Madison

⁴⁶Loren P. Beth, *The American Theory of Church and State* (Gainesville: University of Florida Press, 1958), 65. Beth argues that Locke and Montesquieu influenced Madison and others to adopt a highly rationalistic and non-religious way of viewing the world.

⁴⁷Buckley, *Church and State in Revolutionary Virginia*, 132. Jack Rakove describes how many colonists thought the British government had reduced them to a state of nature in Jack Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York: Vintage Books, 1996), 21.

⁴⁸Madison's *Remonstrance*, in James, ed., *Documentary History of the Struggle for Religious Freedom in Virginia*, 256.

⁴⁹Buckley, *Church and State in Revolutionary Virginia*, 132.

made this point in his “Remonstrance” when he wrote, “This [one’s obligation to religion] is precedent, both in order of time and in degree of obligation, to the claims of civil society. Before any man can be considered as a member of civil society, he must be considered as a subject of the Governor of the Universe.”⁵⁰

Madison did not limit his remonstrance to a polemic on natural rights. Rather, he broadened his argument to appeal to those who may not have comprehended or identified with natural rights philosophy. In a shrewd political mood, he demonstrated how passage of the assessment bill was an inherent attack upon Christianity and the voluntary nature of the church. He remarked that religion has “both existed and flourished, not only without the support of human laws, but in spite of every opposition from them.” To doubt this was to call into question the nature of the inspired nature of the gospels. General assessment would actively harm Christianity and to allow the state to use it was “an unhallowed perversion of the means of salvation.”⁵¹ Finally, the assessment bill “would obstruct the missionary work among nonbelievers by encouraging them to remain out of a state where religion has been established.”⁵²

Civil government, likewise, did not need the support of an established support in order to survive. Madison asked himself the famous question, “What influence, in fact, have ecclesiastical establishments had on civil society?”⁵³ He answered his own question by stating that religious establishments have never in the course of human history been “guardians of the liberties of the people.” Rather, they have “been seen to exact a spiritual tyranny on the ruins of civil authority...[or been] seen upholding the thrones of political tyranny.”⁵⁴

Madison then presented several practical reasons why an established church would be bad for Virginia at her present state of development. The bill would make her a less attractive place to settle, it would discredit the government it was designed to support, and it would weaken society’s respect for law. As a result of these three developments, Madison argued that the bill would actually make the task of governing more difficult.⁵⁵

⁵⁰Madison’s Remonstrance, in James, ed., *Documentary History of the Struggle for Religious Freedom in Virginia*, 256.

⁵¹Buckley, *Church and State in Revolutionary Virginia*, 133.

⁵²*Ibid.*, 134.

⁵³Madison’s Remonstrance, in James, ed., *Documentary History of the Struggle for Religious Freedom in Virginia*, 259.

⁵⁴*Ibid.*

⁵⁵Buckley, *Church and State in Revolutionary Virginia*, 135.

Madison concluded his “Memorial and Remonstrance” with a return to the philosophy of natural rights. He believed that if one liberty was attacked, then all the others would be placed in jeopardy. He closed with a request that God bless the efforts of the Virginia legislature and guide all of its decisions.⁵⁶

Within two months of its drafting, Madison’s “Memorial” was in wide circulation throughout Virginia. George Nicholas and George Mason printed copies and distributed them to various parts of Virginia. Madison’s “Memorial” represented the culmination of all opposition thought against assessment. It showed Madison’s command over both the religious and rationalistic arguments for separation of church and state. And as a document, it demonstrated the fusion of the two main ideological attacks upon the General Assessment: Lockean rationalism and Protestant dissension.

Religious Petitions Concerning the Assessment Bill

With this document in the public sphere for consumption, the Virginia Assembly convened in October of 1785. The “Memorial and Remonstrance” created intense public debate; this debate overwhelmingly shifted public opinion against the assessment bill.⁵⁷ Madison’s reply joined with a significant number of petitions from the counties concerning the bill. Madison had convinced the legislature to send out the bill for public comment and supporters of assessment fully believed that the public would support their position in mass. For every person who signed a petition favoring assessment, ten people signed a petition in opposition to the bill. The assembly received over one hundred petitions by the fall of 1785. Ninety of these petitions opposed the bill, while only eleven favored it.⁵⁸ Some scholars have gone as far as to say that the assessment bill was a dead issue by the time legislators reached the capital.⁵⁹ Whether or not it was a dead issue was certainly resolved as soon as the legislators received their answer from the people on the question of assessment.

⁵⁶Madison’s *Remonstrance*, in James, ed., *Documentary History of the Struggle for Religious Freedom in Virginia*, 262.

⁵⁷Levy, *The Establishment Clause*, 67. Levy believes Madison’s “Memorial and Remonstrance” did little more than reflect public opinion, rather than shape it. If it did have a lasting impact, Levy believes it was in the public debate it began over the question of church and state.

⁵⁸Levy, *The Establishment Clause*, 67.

⁵⁹Buckley, *Church and State in Revolutionary Virginia* 143. He points to writings of Edmund Randolph who said, “The Presbyterians will have a sufficient force to prevent the general assessment” in a letter to Arthur Lee in late September, 1785, *Ibid.*, 143.

The eleven petitions that favored assessment came mostly from ten counties located in the lower region of the Northern Neck, near Lancaster County, and the Southside, in the Tidewater Region. These petitions were “brief and undramatic.” They argued for assessment based on the assertion that throughout history man had learned the importance of religion to the well-being of society. A petition from Surry County stated that religion was, “the most solid Basis of Private and public...at every period of time and in every Corner of the Globe.”⁶⁰ In these petitions, religion was linked to the peace and prosperity of all civil governments.

The ninety petitions that opposed assessment came from virtually every county of the state. Four different types of petitions emerge from an examination of their content.⁶¹ The different arguments, structures, and composition styles of each petition support the view that two main ideological threads fused to oppose the General Assessment bill: Lockean rationalism and Protestant dissension.

The first set of these petitions were thirteen identical memorials. They followed the language and argument of Madison’s “Remonstrance.” George Mason and George Nicholas had distributed his document to the Piedmont and the Northern Neck, where they had the best possibility of provoking disestablishmentarian thought.⁶² Petitions from these two regions comprised about 1700 signatures. A petition from Fairfax argued that religion can only be directed by reason and conviction, not by force or violence. Man should render homage to the creator in the best way he sees fit. The Fairfax petition further suggested that the assessment bill represented first assault on the religious liberties of the citizenry and it violates the equality which ought to be the basis of every law.⁶³

A second group of petitions emanated from religious bodies. These petitions followed the general argument of the Baptist and Presbyterian memorials submitted to the House of Burgesses in the 1770s. A new sect joined this group of petitions: the Quakers. Twenty-two petitions were from Quaker groups; most followed the lead of the document drawn up at Bethel Church on August 24, 1785. They opposed the basic premise of the bill, that teachers could be educated to teach Christian truths. For them, Christian knowledge came directly from God, so there was no need for “Provisions for learned teachers.” They believed the measure infringed

⁶⁰Buckley, *Church and State in Revolutionary Virginia*, 145.; Petition of Surry County, 14 November 1785, in *Religious Petitions*, reel 425b.

⁶¹Buckley, *Church and State in Revolutionary Virginia*, 147.

⁶²The Tidewater region had long been the home of the Episcopal Church of Virginia.

⁶³Petition of Fairfax, 3 November 1785, in *Religious Petitions*, reel 425b.

upon their religious and civil liberties guaranteed by Virginia's Declaration of Rights.⁶⁴

The third and most numerous set of petitions was based on a formulaic petition drawn up by an unknown author and distributed widely throughout central and southern Virginia. These formulaic-based petitions said that the General Assessment was "contrary to the Gospel, and the Bill of Rights." The Christian religion had lasted hundreds of years without the aid of civil power and despite opposition from governments violently opposed to its progress. The formulaic petitions further repudiated the argument that religion was leaving the state because religion was not supported by taxpayers. The petition said that deism, vice, and immorality could be solved by ethical laws, enforced by conscientious governmental official, and a populace educated by ministers leading upright and sound lives. Laws of virtuous character would produce men of pure religion, compelled by eternal motives, living upright lives, and influenced by the Holy Spirit. Men influenced by ethical laws would enter the ministry for eternal purposes and not temporal gain. The petitioners feared that an assessment would encourage men whose desire was their stomach to enter the ministry, rather than those whose citizenship was in heaven.⁶⁵

This formulary also focused on more temporal reasons to oppose assessment. Civil government did not need an established church to succeed. Pennsylvania had proven that a state could produce men of high moral character and thrive financially while still having a vibrant and free religious situation. While these temporal concerns were an important part of the petition, the blending of these temporal concerns with a more eternal focus imbued this formulaic petition with so much power. It seems that these formula petitions were largely the result of evangelical Christians who deeply believed in the principle of voluntary support for churches; they believed that the kingdom of God would best be spread when uncoerced people have the opportunity to choose their own eternal destiny.⁶⁶ Maintenance of governmental responsibilities and legal codes were second to the commitment to the advancement of Christianity.⁶⁷

The final group of petitions came from individuals or groups who had their own personal reasons for opposing the General Assessment. These petitions came from the Eastern shore to the extreme southwestern corner of the state. Generally, all of these petitions focused on the

⁶⁴Petition of Bethel Church, 18 November 1785, in *Religious Petitions*, reel 425b; Buckley, *Church and State in Revolutionary Virginia*, 148.

⁶⁵Petition of Cumberland County, 26 October 1785, in *Religious Petitions*, reel 425a.

⁶⁶Buckley, *Church and State in Revolutionary Virginia*, 149.

⁶⁷Petition of Cumberland County, 26 October 1785, in *Religious Petitions*, reel 425a.

need to separate civil and religious jurisdictions. They also saw in the General Assessment a desperate attempt to save the staggering Episcopal Church.⁶⁸

With this groundswell of support and no organized opponent, Madison and his supporters were euphoric. The 1786 spring legislative session began with little to no support for the assessment bill and Madison seized upon this opportunity to try and secure the passage of Jefferson's Bill Establishing Religious Freedom in Virginia.⁶⁹ Opponents of this Bill tried some of the same tactics he employed in defeating the General Assessment bill one year earlier, but they were unsuccessful. Madison secured passage of the act in June of 1786.

Jefferson's Statute for Religious Freedom

The preamble to Thomas Jefferson's Statute for Religious Freedom contained the very ideas opponents of the general assessment bill used to defeat that legislation in 1784-86. Jefferson spoke of God creating a free and unfettered human mind that only became imprisoned when legislators impiously assumed dominion over others. In the preamble, Jefferson said that man commits a sinful act when he compels another man to make an expression of religion. Civil rights should never be dependent upon a man's expression of religious faith. Finally, truth and reason will always conquer falsehood and lies.

Jefferson's preamble to his Statute for Religious Freedom contained both religious and rationalistic reasons for the support of religious toleration. In this way, the Statute for Religious Freedom served as a culmination of the arguments used to oppose religious assessment. Religious dissenters argued that civil government had no place in the eternal kingdom of God. Rationalist politicians said freedom of conscience was a fundamental and unalienable right. No government should ever be able to take that away from a person. Shrewd politicians and pious believers fused these ideologies and created a common language of religious tolerance. It was this shared language that defeated the assessment bill and enabled passage of Jefferson's statute concerning religious freedom.⁷⁰

By the end of the Revolutionary period, the government of Virginia had embraced one of the most liberal principles of religious tolerance in the American confederation. Despite

⁶⁸Buckley, *Church and State in Revolutionary Virginia*, 149.

⁶⁹Buckley, *Church and State in Revolutionary Virginia*, 153; Curry, *The First Freedoms*, 146.

⁷⁰Daniel L. Dreisbach, "A New Perspective on Jefferson's Views of Church-State Relations: The Virginia Statute for Establishing Religious Freedom in its Legislative Context," *American Journal of Legal History* 35 (April 1991): 185.

its founding as a mercantile venture, the colony and state of Virginia had a long history of religious conflict. Dissenting religious groups felt persecuted throughout the colony's history as a result of exclusionary laws and religious taxes that supported the established church. These Virginian dissenters developed ideas of Christian voluntarism based on notions opposing the intermingling of church and state, supporting liberty of conscience, and believing that man could only truly respond to the Gospel if he had the free will to do so. Dissenters developed antiestablishmentarian notions concomitantly with the maturity of Enlightenment notions of rationalism in Virginia. Thus, by the beginning of the Revolutionary War, dissenting religious groups and Enlightenment rationalists saw an opportunity to overthrow the established Anglican Church and institute a policy of religious tolerance. The institution of a liberal policy of religious expression was successful because theologians and authors from the ranks of Dissenters and Enlightenment rationalists fused their arguments together and created a thick doctrine of antiestablishmentarianism.

This antiestablishmentarian view has several important meanings for the overall study of the antecedents of the religion clauses contained in the Northwest Ordinance. First, Virginia produced a significant amount of debate and scholarship on the church-state question. Newspaper editors, preachers, and politicians quoted at length from supporters and opponents of establishment in Virginia. Disestablishment ideas also shared some common ideological origins with antiestablishment thoughts in Massachusetts. As demonstrated from last chapter, ministers of the New Divinity movement incorporated Enlightenment philosophy with a rigid form of Calvinism to reach a position of antiestablishment. In the same way, the dissenting religious authors of the most circulated disestablishment petition in Virginia fused theological beliefs with Enlightenment philosophy. The theological beliefs of the New Divinity and the dissenting groups in Massachusetts differed significantly, but both groups shared a common purpose of retaining important theological doctrines, while incorporating contemporary forms of philosophy. Further, it was a similar sort of fusion of ideas that influenced the drafting of the religion clauses of the Northwest Ordinance, as will be seen in the next chapter. Finally, both the Virginia legislature and individual citizens of Virginia played key roles in the formation and passage of the Northwest Ordinance and its Articles of Compact, making these disestablishment views important. The most important of these Virginian disestablishment connections to the Northwest Ordinance appears in the legislative history of the Ordinance. Citizens of Virginia,

like Jefferson, Monroe, and Edward Carrington exerted influenced on the drafting of the Ordinance at key stages. The citizens of Virginia who played these important parts in the drafting of the Northwest Ordinance may have influenced the liberal qualities of Article One of the Ordinance, which stated: “no person, demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in the said territory.”⁷¹

⁷¹Northwest Ordinance, art. 1 and art. 3, quoted in Worthington C. Ford, ed., *Journals of the Continental Congress* (hereafter *JCC*) 34 vols. (Washington D.C.: U.S. Government and Printing Office, 1904-37), 32:334-43.

CHAPTER FOUR

“A RELIGION THAT WAS TO BE PROPAGATED...BY REASON AND ARGUMENT”: THE RELIGION CLAUSES OF THE NORTHWEST ORDINANCE

The settling of the Northwest provided an answer to many of the fundamental problems that the new American government faced. The new American nation was in a precarious position during and after its Revolution against the English crown. Not only did the American government face territorial threats, like the British or Native Americans, but the confederation of states faced several internal dilemmas. Congress was nearly bankrupt, unrest existed on the western frontier, and many believed that the Articles of Confederation would never succeed.¹

Systematic and organized settlement had the potential to strengthen the union, create conditions for peace with Native Americans, erect a bulwark against European imperial powers, and pay off the public debt quickly.² With this immense potential came inherent conflicts that had to be rectified. How could the American government pursue these goals of community-beneficial territorial expansion while concomitantly allowing commercially-minded settlers to pursue their own individual goals, which might not be consonant with the territorial ambitions of the new American nation? If the Congress granted the settlers too many rights then the possibilities of the west could be turned into a “nightmare of lawlessness, frontier warfare, and disunion.”³

The story of Congress’ solution was not straight forward. Instead, it had many false turns before a single governmental ordinance dictated how the Northwest would be settled. Historians have considered the drafting of the Northwest Ordinance many times before, as seen in the historiographical section of the Introduction. In many of these analyses, the Northwest Ordinance’s Articles of Compact come across as either a masterpiece of American history or a false promise made by the American government. To recover the historical meaning of the religion clauses of the Articles of Compact, it was necessary to first consider how two states

¹Don Higginbotham, “War and State Formation in Revolutionary America,” in Eliga H. Gould and Peter S. Onuf, eds., *Empire and Nation: The American Revolution in the Atlantic World* (Baltimore: Johns Hopkins University Press, 2005), 65.

²Onuf, *Statehood and Union*, 3.

³*Ibid.*

reconciled the position of church and state. The prior two chapters examined the relationship of church and state in Virginia and Massachusetts immediately before the passage of the Northwest Ordinance. These two states are important because they provided a significant volume of debate on the church-state question. Many members of the other state legislatures looked to Massachusetts and Virginia to see how they negotiated this relationship. Finally, as will be seen in this chapter, many of the key players in the drafting of the Northwest Ordinance were from either Virginia and Massachusetts.

A narrative-centered analysis of the drafting of this Ordinance, with an eye to the creation and importance of the religion clauses and to their context should inform the historiographical understanding of the place of the Northwest Ordinance in American history. The Articles of Compact have been described as hastily conceived and not that important by some historians.⁴ However, the latent energies of the state-level debates over the place of religion in the new nation informed the drafting of the Ordinance. These state-level debates combined with specific philosophical beliefs about the didactic qualities of religion. Thus, the Ordinance had specific and thick meanings. Framers of the Compacts did not compose it as a mere afterthought. Rather, the long history described in the previous chapters provided a ready-made ideology of church-state relations. This thicker understanding of the religion clauses of the Northwest Ordinance provides a more nuanced view of the place of religion and politics in the new nation.

The drafting of the Northwest Ordinance occurred in response to the dilemma of what the Continental Congress should do with the territory of the Northwest. The settling of the Northwest Territory had long caused problems for ruling authorities. The settlement of the west was a source of concern for the British government, the colonies, and then the newly created American nation. However, the problem of settlement was a source of concern that appeared relatively late in the colonial period. The British North American colonies culturally and economically faced East across the Atlantic. Colonists undertook economic and political endeavors with a view to the thinking of the metropole. There was little thought or effort on the part of most colonists to settle the west because it would put them out of reach of the British

⁴Francis Philbrick, *The Laws of the Illinois Territory, 1809-1818* (Springfield: Illinois State Historical Society, 1950), clxxx.

Empire. Furthermore, several acts of Parliament placed strictures on colonial abilities to migrate to the west.⁵

The lessening of obstacles preventing settlers from moving west occurred at the same time as a massive immigration to British North America from England, Scotland, Germany, and Africa.⁶ A quarter of a million immigrants moved to the colonies in the final fifteen years before the outbreak of the Revolutionary War in 1775. About one-half of these immigrants were from protestant Ireland, Scotland, and England. Many members of this group headed immediately to the frontier. This massive influx of people raised some of the key issues that the framers of the Northwest Ordinance would have to resolve.

Immigrants and colonists alike viewed the west with certain idyllic fantasies. The Northwest held the promise of a new life and limitless opportunity. Contemporary writings of the Northwest described it as a place of “happier climes” and “regions of delight.” The region was a place “where all the beauty’s hand can form to please.”⁷ If settled properly, the Northwest had limitless possibilities. Poet Philip Freneau wrote,

“To tame the soil, and plant the arts--
What wonders there shall freedom show,
What might states successive grow!”...

“Far brighter scenes a future age,
The muse predicts, these States will hail,
Whose genius may the world engage,
Whose deeds may over death prevail,
And happier systems bring to view
Than all the eastern sages knew.”⁸

The same people who viewed the west with limitless possibilities also thought that after only a few short years the whole country of the Northwest would be cultivated. Its “latent beauties...[would] justify those descriptions of travelers which have so often made it the garden

⁵Jack Rakove, “Ambiguous Achievement: The Northwest Ordinance,” in Frederick D. Williams, ed., *The Northwest Ordinance: Essays on its Formulation, Provisions, and Legacy* (East Lansing: Michigan State University Press, 1988), 4.

⁶See particularly Bernard Bailyn, *Voyagers to the West: A Passage in the Peopling of America on the Eve of the Revolution* (New York: Vintage Books, 1986).

⁷David Humphreys, “Address to the armies of the united states of America” *American Museum* 1 (March 1787): 238.

⁸Philip Freneau, *On the Emigration to America and the Peopling of the western Country* (1785), in Fred Lewis Pattee, ed., *The Poems of Philip Freneau: Poet of the American Revolution* 3 vols. (Princeton: The University Library, 1903), 2:280-82.

of the world, the seat of wealth, and the center of a great empire.”⁹ The land would produce better agricultural goods than any other part of America. Further, settlers thought that the location and proximity of the Northwest Territory to rivers and resources would enable the region to become the seat of manufacturing in the United States. What was so advantageous about the Northeast was its perceived virginal quality. “There will be no *wrong* habits to combat, and no inveterate systems to overturn...The first settlement will embosom many men of the most liberal minds-well versed in the world, in business, and every useful science.”¹⁰

Proponents of settlement of the Northwest further believed that political benefits would result from settlement of this region. The massive immigration that had occurred in the years prior to the American Revolution continued after Yorktown. Many of these new settlers and other Easterners moved into the region of modern-day Kentucky and Illinois. Few schools and governmental offices existed in this territory. Settlers believed that the orderly colonization of this territory would ameliorate this lack of civilization on the frontier. They saw the region becoming populated with places of education where people would acquire the “habits of government and allegiance to the United States.”¹¹ Parents would, after seeing the examples of government, science, and regular industry take hold on the frontier, “favor their children with these advantages, and revive the ideas of order, citizenship, and the useful sciences.”¹²

This halcyon vision of the Northwest was balanced with fears of unsystematic and unorganized development of the region. Shortly after the war ended, squatters continued a long tradition of moving into the western lands of North America and erecting unauthorized settlements. They presented several problems to Congress. Squatters did not settle in an orderly fashion. They dispersed throughout the region of the Northwest. This scattering had the potential to diminish the commercial possibilities of the area. Members of Congress and other businessmen also believed that this dispersal would force the federal government to defend

⁹Manasseh Cutler, *An Explanation of the Map which Delineates that Part of the Federal Lands Comprehended Between Pennsylvania west Line, the Rivers Ohio and Scioto, and Lake Erie; Confirmed to the United States by Sundry Tribes of Indians in the Treaties of 1784 and 1786, and Now Ready for Settlement* (Salem: Dabney and Cushing, October 28, 1787), in William Parker Cutler and Julia Perkins Cutler, *Life, Journals, and Correspondence of Rev. Manasseh Cutler, L.L.D.*, 2 vols. (Cincinnati: Robert Clarke & Co, 1888), 2:400. (Hereafter referred to as *LJC*)

¹⁰*LJC*, 2:404.

¹¹*Ibid.*, 2:405.

¹²*Ibid.*

dispersed and strategically vulnerable settlements. The location of these settlements would also create conditions for conflict because of their proximity to Native American settlements.¹³

Historian Peter Onuf suggested that squatting was not a significant problem before Virginia ceded all of its land claims. The government of Virginia long ignored the squatters for commercial and speculative reasons or to pay off state debts. Squatters in the eyes of the Virginia government were merely licit settlers who had yet to perfect their land titles by warrant and survey. In this view of settlement, Onuf pointed out a fundamental difference between settlement of western lands by southern states and settlement of land by New England states. “According to southern practice, good title was the culmination of a series of steps—from location to survey—and of its successful defense against counterclaimants.”¹⁴ The southern farmer operated as an individual, surveyed the land himself, defined the boundaries with as much accuracy as he could, and then procured the title and recorded his deed at the county court. This method contrasted with the New England way of territorial acquisition. New England governments granted land in large lots to town groups. The town government subsequently subdivided the land to individual farmers. Town surveyors defined the boundaries of the land in advance.¹⁵ Onuf wrote that southerners came to embrace the northern form of settlement for the purposes of expediency and to maximize revenue from land sales, but in the meantime continued squatting through the 1770s and early 1780s symbolized one of the inherent problems Congress faced when trying to solve the question of how to settle the Northwest.

Squatters did not just pose a commercial obstacle to the federal government’s efforts to settle the Northwest. They also posed a problem because of their character. Many in the federal government saw the squatters as selfish because they settled the land on their own without any regard for what was best for the country as a whole. This was anathema to the republican principles of the Revolution that espoused the subordination of individual interests to what was

¹³Onuf, *Statehood and Union*, 28.

¹⁴*Ibid.*, 29. Not coincidentally, this was the land scheme that Jefferson and other southerners first proposed to settle the west. Southerners, like Jefferson, believed that squatters could be transformed into legitimate settlers. The government merely had to ask the settlers to pay to secure a land title. The national Congress eventually chose the New England method of settling western land. This was a more systematic way that required surveys and precise land titles, as will be explained later in this chapter. By choosing the New England method of western settlement, Congress embraced a specific vision of the Northwest. This vision was intimately tied to notions of the progress of religion and education in the region.

¹⁵Frederic L. Paxson, *History of the American Frontier, 1763-1893* (Boston: Houghton Mifflin, 1924), 59-60.

best for the community as a whole.¹⁶ Conventional ideas about social science and the progress of civilization led many governmental officials and key members that resolved the land question to see illegal settlers as barbarians. The historical development of a people regressed when projected across progressively emptier spaces. Benjamin Rush wrote that the “first settler” in a new country “is nearly related to an Indian in his m[a]nners.”¹⁷ Washington wrote that, “To suffer a wide extended Country to be over run with Land Jobbers, Speculators, and Monopolisers or even with scatter’d settlers, is, in my opinion, inconsistent with that wisdom and policy which our true interest dictates.”¹⁸ Washington suggested that these “banditti” were disposing of the “Cream of the Country” at the expense of Continental soldiers who had fought to obtain this land.¹⁹ Western settlement depended upon the ability of Congress to check the selfish ambitions of the squatters and to fill the vacuum of effective authority in the trans-Ohio region.

Western settlement also depended on the ability of Congress to convince some of the states to cede the land claims they held for the Northwest. Some of the landed states, like Virginia, had seventeenth-century charters that granted them possession of all the land within their dominion from sea-to-sea. Virginia’s land claims embraced not only the area between the Ohio River and the Appalachian Mountains, but the entire territory known as the Old Northwest. Other landed states, like New York, had land claims with ambiguous boundaries. The governments of the landless states, like Maryland, sought to limit these expansive and confusing state boundaries. These landless state governments argued that colonial charters granted unreasonable state boundaries. The debate between landed and nonlanded states during the period of the Articles of Confederation centered on when, and under what conditions, the landed states would cede their land claims to the national union. Debates between these two groups of states were exacerbated because of the near balance between the seven landed states and the six nonlanded states.²⁰ The rights of the landed states rested on somewhat tenuous ground.

These conflicts between landed and nonlanded states came to a head in the final years of the 1770s as a result of two major factors. First, the states had not yet ratified the Articles of

¹⁶Gordon S. Wood, *The Radicalism of the American Revolution* (New York: Vintage Books, 1991), 105.

¹⁷“A Citizen of Pennsylvania” [Benjamin Rush]. “Account of the Progress of the Population, Agriculture, Manners, and Government in Pennsylvania,” *Columbian Magazine* 1 (November 1786), 120, quoted in Onuf, *Statehood and Union*, 31.

¹⁸George Washington to James Duane, September 7, 1783, quoted in Onuf, *Statehood and Union*, 31.

¹⁹*Ibid.*

²⁰Robert F. Berkhofer, Jr., “Jefferson, the Ordinance of 1784, and the Origins of the American Territorial System,” *William and Mary Quarterly* 29 (April 1972): 232.

Confederation. Maryland refused to ratify the Articles until the landed states indicated that they were prepared to cede their land claims. The second and more important factor came from the economic turmoil caused by the war. By the fall of 1779, the Continental dollar was virtually worthless. Members of Congress came to see the selling of land as a way to ensure the financial stability of the American nation. Thus, the government would need to consolidate the states's landholdings, provide for a systematic and orderly way to dispense with those lands, and to create a way for those territories to become states.

The idea of using the west to ameliorate the financial position of the national government and creating new states out of this dominion was not new. Members of the Continental Congress discussed this possibility as early as 1776.²¹ Congress laid out the principles in 1780 that would later determine how they acquired the territory of the Northwest for the possession of the entire nation. "The unappropriated lands that may be ceded or relinquished to the United States...shall be disposed of for the common benefit of the United States." Further, the land "shall be settled into distinct republican states, which shall become members of the federal union, and have the same rights of sovereignty, freedom, and independence as the other states."²² Members of Congress suggested that these equal and republican states would be between one-hundred and one-hundred and fifty miles square. These new states would be settled under the size, political and other regulations that nine of the states agreed upon.

Between 1781 and 1787, New York, Virginia, Massachusetts, and Connecticut ceded their land claims to Congress with the above principles in mind. On November 3, 1781 a committee of Congress recommended the acceptance of New York's cession, which covered a significant portion of Virginia's land claim. The land committee's recommended that Congress should refuse to give to Virginia the guaranty of her remaining territory, which meant that any land claims allowed by Virginia of the Northwest would be nullified. The government of Virginia had demanded the guarantee of the state's land claims as the price for ceding the lands beyond the Ohio. The report was a blow to Virginia's claims. The authors of the report reasoned that the Northwest Territory, the land beyond the Alleghenies, was former crown land. Upon the proclamation of independence, the land devolved to the whole United States. Congress

²¹Richard P. McCormick, "Ambiguous Authority: The Ordinances of the Confederation Congress, 1781-1789," *American Journal of Legal History* 41 (October 1997): 432.

²²*Journals of the Continental Congress, 1774-1789*, ed. Worthington C. Ford et al. (Washington, DC, 1904-37):18:915. (Hereafter referred to as *JCC*.)

did not act on the land committee's report immediately, but the report spurred interest in Congress and among businessmen and increased appeals to Congress by potential settlers for resolution of western land claims.²³

Debate continued throughout 1782 over the organization of the trans-Alleghany lands.²⁴ There were intimations that Virginia intended to create distinct territories out of her western claims and send out lieutenant-governors to rule over them. Historian Frederick Jackson Turner described Virginia's intimations as "a repetition of the colonial policy, and likely to bring about another revolution."²⁵ Members of Congress that wanted to settle the Northwest Territory on behalf of the nation as a whole argued that Congress possessed the right to take control of the territory and to create new states out of the region. In the fall of 1782 Congress accepted New York's cession and matters remained quiet for a year.

Congress never did attempt to force Virginia or any other state to cede its land claims. Rather, they pursued a method of "asking for cessions instead of asserting authority."²⁶ The question of state land claims focused on whether Virginia should have sole possession of the land claim or if the lands should benefit all of the states that had fought in the Revolutionary War. Both sides agreed that independent governments should be created from the new lands. Virginia offered to cede their land claims in early 1781, but with significant conditions that would be detrimental to private land speculators in the landless states. The debate over land cession continued for another three years and only with the end of the war did Congress and Virginia finally agree on complete cession of her land claims.

With the Virginia cession in hand, Congress could now seriously plan for the future government of the western territory.²⁷ The "Committee appointed to prepare a plan for the temporary government of the western territory" consisted of Virginian Thomas Jefferson, Samuel Chase of Maryland, and David Howell of Rhode Island. Jefferson took his seat as

²³JCC, 11:1098; Frederick Jackson Turner, "Western State-Making in the Revolutionary Era II," *American Historical Review* 1 (January 1896): 251.

²⁴See also, Merrill Jensen, "The Cession of the Old Northwest," *Mississippi Valley Historical Review* 23 (1936-37): 27-48.

²⁵Turner, "Western State-Making in the Revolutionary Era II," 251.

²⁶*Ibid.*, 255.

²⁷Some debate concerning the future government of the west occurred before Virginia's land cession. It occurred largely in the Congressional Indian Affairs Committee. For analysis of this debate, see Berkhofer, "Jefferson, the Ordinance of 1784, and the Origins of the American Territorial System," 236-241. Berkhofer suggested that "the report took no more than two and a half weeks for completion during a busy time for all committee members tends to confirm that Congress had discussed western statemaking at length in connection with Indian affairs before Jefferson arrived in Congress." *Ibid.*, 241-242.

committee chairman in November 1783, while Congress appointed Howell and Chase to the committee in early February 1784. They presented their report to Congress on March 1, 1784, which coincided with the day Congress received the second deed of cession from Virginia. After revisions, the document was adopted by Congress on April 23.

The report was the first detailed plan for western government considered by the Congress.²⁸ The 1784 ordinance specified the boundaries for sixteen new states. The states conformed with the requirement of the Virginia land cession that Congress should sponsor the creation of new western states that did not exceed 150 miles square each. “Free males of full age” would be authorized by Congress to adopt “the constitution and laws of any one of the original States.” When the new states acquired twenty thousand free inhabitants, the citizens would have the ability to draft their own constitution. Statehood itself would be achieved when the territory had a population equal to that of the smallest existing state.²⁹

The Ordinance of 1784, largely composed by Jefferson, came under almost immediate attack. This attack manifested itself in a variety of ways. First, the character of westerners and their loyalties were called into question. Thus, many congressmen came to see the liberal qualities of the Ordinance of 1784 as antithetical to the principles of orderly and beneficial development of the west for all the citizens of the new nation. James Monroe, who became the chairman of the committee to revise the Ordinance of 1784, grew convinced that the western lands “will be but little connected with ours.”³⁰ A few months later, Monroe suggested several possible revisions to Jefferson’s 1784 Ordinance. These revisions included the possibility that sixteen states, which might be created in the Northwest Territory, should be reduced to between two and five. Monroe believed the proposed states were too small while the population required for their admission was too low. Congress should appoint governors, judges, and a council to

²⁸There is a significant historiographic debate concerning the authorship of the Ordinance of 1784 and the documents overall connection to the Northwest Ordinance. This debate is alluded to in the historiographic section of Chapter One. This research project does not seek to engage this particular historiographic debate, except to point out the inclusion of the religion clauses in the Northwest Ordinance and their exclusion in the Ordinance of 1784. Because of this exclusion from the Ordinance of 1784, the question of authorship and antecedents to the Ordinance of 1784 are less important to this study.

²⁹“Report of a committee, on a plan for a temporary government of the western territory...” in Onuf, *Statehood and Union*, 46-48.

³⁰Letter of James Monroe to Thomas Jefferson, 19 January 1786, in Edmund C. Burnett, ed., *Letters of Members of the Continental Congress* 8 vol. (Washington D.C.: Carnegie Institution of Washington, 1936), 8:284-86.

govern the territory before they became states. These revisions were “supposed to attract industrious farmers to the Ohio Country and guarantee the orderly expansion of settlement.”³¹

Between the passage of the Ordinance of 1784 and the passage of the Northwest Ordinance, Congress adopted an ordinance for organizing the survey and sale of the western lands. In March 1785 Congress appointed a new land committee that consisted of a delegate from every state. Within a month, the committee reported a proposed ordinance for the organization of the national domain.³² This proposal, called the Land Ordinance, determined that all western land would be surveyed and sold according to a systematic grid pattern. Congress divided the land into townships of six miles square. Surveyors would map out these townships and then subdivide them into lots of one mile square. The land ordinance also stipulated that the townships had to reserve lot number sixteen of each township for public schools. Setting aside this land for a public school reveals that members of Congress saw an important connection between education and the settling of the western land.

Congress struggled to put the Land Ordinance of 1785 into effect within the context of the Ordinance of 1784. The surveys required by the land ordinance multiplied congressional costs of settling the Northwest and did not bring the government the wealth it needed to survive. Sales of western land were sluggish as delays involved in following these two ordinances slowed the availability of lands on the market. Settlers complained about the high price of western lands and called upon Congress to protect them from Indian threats. Further, some in the east doubted the feasibility of allowing the alien westerners to have unbridled representative government. In the minds of these men, the settlements of the Northwest could not support representative government because they were too scattered, too poor, and too small. Thus, by 1787 it became clear that Congress needed to revise its land policy and provide for criminal and civil justice.³³

However, the abstract call for a new system of western settlement would not have been enough to convince Congress if not for the presence of an entity that could solve many of the nation’s problems in a single moment. The Ohio Company, in the guise of its lobbyist Manasseh Cutler, arrived in New York in 1787 and offered to purchase 1.5 million acres of western land.

³¹Onuf, *Statehood and Union*, 50.

³²JCC, 28:375-81. For the legislative history of the land ordinance, see Payson Treat, *The National Land System, 1785-1820* (New York: E.B. Treat, 1910) and Paul W. Gates, *History of Public Land Law Development* (Washington: U.S. Government Printing Office, 1968).

³³Jack Ericson Eblen, *The First and Second United States Empires: Governors and Territorial Government, 1784-1912* (Pittsburgh: University of Pittsburgh Press, 1968), 25-28.

The origins of the Ohio Land Company date to 1783 with the Newburgh petition. Almost three hundred officers of the Continental Army petitioned Congress in 1783 for a state to be created out of the territory of the Ohio Valley. Congress had promised each of these officers bounty lands for their service in the Continental Army. The officers wanted these bounty lands to be included in this new territory. The officers wrote that, “provisions also be made for further grants of lands to such of the Army as may wish to become adventurers in the new government.”³⁴ The officers submitted the petition to their General, George Washington. Washington then passed it on to Congress, which ultimately paid little attention to it.

The efforts of the officers to acquire land as a result of their military service continued largely through the work of General Rufus Putnam. Putnam had helped draft the Newburgh petition and after the war he continued to push for lands to be given to Revolutionary War veterans.³⁵ Putnam fought in the American Revolution, enlisting after Lexington and Concord. As a veteran seasoned from conflict in the Seven Years’ War, he quickly rose through the ranks of the Continental Army. Putnam served in the battle of Saratoga, where he commanded two regiments.

Putnam formed the Ohio Company of Associates on March 4, 1786 with the purpose of acquiring land on behalf of many of the same men who had signed the Newburgh petition. General Putnam, Reverend Manasseh Cutler, and General Samuel Holden Parsons were all elected as directors, and Major Winthrop Sargent was elected as secretary. The company’s immediate goal was to raise one million dollars in depreciated continental certificates in order to purchase one and a half million acres of land. The board of directors raised this money through the certificates of land promised to the Revolutionary War veterans who made up the membership of this company. Many of the Continental Army officers who had signed the Newburgh petition made up the early membership of the Ohio Company. The board of directors and most of the early membership of the Ohio Company also hailed from New England. These men would have been acquainted with the debates in Massachusetts over church and state. As New Englanders, they were used to organized and systematic township-based land settlement.

³⁴Newburgh Petition, quoted in William P. Cutler, “The Ordinance of July 13th, 1787,” *Ohio Archaeological and Historical Quarterly* 1 (June 1877): 29.

³⁵Jay A. Barrett, *Evolution of the Ordinance of 1787* (New York: G.P. Putnam’s Sons, 1891; repr., New York: Arno Press, 1971), 12.

These New England men demanded civil and judicial safety before settling the territory of the Northwest.³⁶

General Parsons was sent to New York to petition Congress to sell some of the Ohio land to the Ohio Company of Associates. On May 9, 1787, Parsons lobbied with the Continental Congress for this land, but was not successful. Because of Parson's failure as a lobbyist, he was removed and Cutler and Sargent were subsequently chosen to replace him.

Cutler was uniquely qualified for his position as agent for the Ohio Land Company. He had significant personal interest in the venture and possessed political skills to enable the passage of an ordinance for the Northwest Territories. During his life, Cutler belonged to many of the groups that also supported most of the interests that favored passage of the Northwest Ordinance. Through his life some of the rationale for the religious clauses inclusion in the Northwest Ordinance can also be seen.

Agent for the Ohio Land Company, Manasseh Cutler was born on May 13, 1742 in Killingly, Connecticut. The pastoral setting of his upbringing instilled in him a life-long love of nature and its intricacies. Cutler's father held positions of authority in both the church and town governance. He was tutored by the Reverend Aaron Brown, who encouraged Culter to attend Yale. Cutler attended and was graduated from Yale University in 1765, while Yale still had many faculty-members inspired by the theological thought of Jonathan Edwards. Despite this orthodox theological training, he did not have a conversion experience at college. Cutler continued his studies at Yale and received a Masters of Arts in 1768. He was intellectually curious. Religion and natural science particularly piqued his interest.³⁷ Without a conversion experience and with little interest in higher matters, Cutler avoided entering the clergy, unlike many of his classmates. Rather, he practiced law, taught school, had a stint in the whaling industry and eventually became the financial manager of a wealthy estate on Martha's Vineyard.³⁸

This listless lifestyle ended as a result of two significant life events: the death of his father and his own marriage. Cutler suffered a traumatic experience shortly after graduation, when his father was thrown from a horse and died instantly in 1766. Cutler respected his father

³⁶See Shaw Livermore, *Early American Land Companies: Their Influence on Corporate Development* (New York: Octagon Books, 1968), 134-46.

³⁷Louis W. Potts, "Manasseh Cutler, Lobbyist." *Ohio History* 96 (Summer-Autumn 1987): 102.

³⁸*LJC*, 1:21.

and with his death, Manasseh Cutler finally faced his own salvation status. He sought spiritual counsel from a pastor, had a conversion experience, and became a member of the Edgartown Massachusetts Congregational church in July 1766. In the same year, Cutler also found a stabilizing influence in the Reverend Thomas Balch of Dedham, Massachusetts. They had a close relationship and Balch became Cutler's theological tutor over the next several years. Over these years of study, Cutler preached at many churches across eastern Massachusetts. Also, Cutler wed Balch's daughter, Polly. He proved to have an aptitude for the ministry as the hamlet of Ipswich selected him to serve as their minister in 1771. Cutler moved his family to Ipswich and his spiritual and physical restlessness ended, as he would hold this pulpit for the next two decades of his life.³⁹

In his theological studies, Cutler picked up strong thoughts about the millennium and human progress.⁴⁰ These millennial ideas believed in humanity's ability to help hasten the penultimate age of the universe. Society, through fulfilling its covenant with God, could progress to a point where Christ would come back. Society completed its covenant with God through ethical living and communitarian faithfulness.⁴¹ Advancement of this sort included the civilizing of society through the teaching of natural religion. Following the War for Independence, the confederation of states had millions of acres to their west. The government viewed this land as uninhabited and uncultivated. Through an orderly civilizing of this untamed region, many believed that they could help inaugurate the Kingdom of God on earth. It was their spiritual calling.⁴²

Cutler's life as a scientist, minister, chaplain, businessman, millenarian, and lawyer all prepared him to extol the virtues of the Northwest Ordinance to the Congress in New York City in 1787. With a special love for botany, it is not a stretch to imagine that he would be excited by the prospect of the seemingly limitless types and varieties of flora and fauna in the Northwest. Cutler espoused a specific kind of millenarianism that believed that humans could hasten the Second Coming of Christ. Humans could take part in the Second Coming through the civilizing of the wilderness that was the Northwest. Part of the civilizing process necessitated the

³⁹Potts, "Manasseh Cutler, Lobbyist," 103.

⁴⁰*LJC*, 1:79.

⁴¹See Ruth H. Bloch, *Visionary Republic: Millennial Themes in American Thought, 1756-1800* (Cambridge: Cambridge University Press, 1985).

⁴²See Manasseh Cutler, "Sermon Preached at Campus Martius, Marietta," (North-west Territory, August 24, 1788) in *LJC*, 2:439-450.

dissemination of religious teaching. Cutler saw the social utility inherent in the teaching of religion. This belief was similar to the one espoused by politicians and theologians in Massachusetts and Virginia analyzed in earlier chapters. Cutler also would have supported the Northwest Ordinance because of his business interests. As a member of the board of directors, he stood to reap significant profits through the sale of Ohio land. However, his belief in the promise of the Ohio endeavor went beyond personal profit.

His pulpit in Ipswich afforded him a close view of the outbreak and early battles of the American Revolution. He had supported the patriot cause as early as 1774 and spent the rest of the war assisting as he could. Cutler witnessed the concluding moments of the first battles of the Revolutionary War on April 19, 1775. Along with a friend, he witnessed the regulars of the British army in retreat from their attempts to seize colonial arms at Concord, Massachusetts. Near the coast, he was able to view the British army boarding ships in Cambridge and retreating to Boston. The following day he traveled closer to Concord to see the dead and offer pastoral comfort. He wrote that “it was supposed that about 30 provincials and 50 regulars were killed.”⁴³ Back at Ipswich, Cutler witnessed the siege of Boston and the ensuing battle of Bunker Hill. On several occasions, he personally went and inspected the fortifications on Dorchester Hill. Cutler almost died at one point from British cannon fire, but he escaped unharmed. His visits to the siegeworks were not mere sight-seeing expeditions. While there, he ministered to the men building and manning the Boston fortifications.

These initial efforts at providing theological direction to men during time of war presaged his decision to become a chaplain in 1776, serving alongside the 11th Massachusetts Infantry and then later with General Titcomb’s brigade. He believed that it was his duty to “inculcate in the minds of the soldiers of said regiment...the duties of religion and morality, and a fervent Love of their Country.”⁴⁴ Many ministers heeded this call and served as comforters and teachers to soldiers during the war. Cutler lived alongside them and sometimes was forced to fight with them. He had a positive view of these men in the military; Continental soldiers were a receptive audience and Cutler formed close personal relationships with many of them.⁴⁵ It was during his time as chaplain that he met Samuel Parsons, later the director of the Ohio Land Company.

⁴³*LJC*, 1:48.

⁴⁴*LJC.*, 1:58-60.

⁴⁵*LJC.*, 1:60, 65.

While he was a lawyer, pastor, chaplain, and businessman, Cutler was most well known for his scientific acumen. Cutler had first fallen in love with science while at Yale. He spent much of his time there studying astronomical phenomena, theories of comets, and botany. Botany piqued his interest the most, thus all this land to the west must have excited him as a botanical observer. After leaving Yale, he continued to develop his powers of scientific observation and became one of the country's most prominent scientists, as attested to his election to the American Academy of Arts and Sciences in 1781. He wrote papers on botany and meteorology that received recognition in both American and across the Atlantic.⁴⁶

Cutler's life serves as a kind of template for understanding the antecedents for the religion clauses of the Northwest Ordinance. His scientific, theological, and business interests all contributed to his particular support for the Ordinance. The interests that joined with one another to pass the Ordinance met within this one man, as will be seen from an analysis of the Ordinance's legislative history. Monroe, the head of the new land committee, wrote many letters about the shortcomings of the Ordinance of 1784. These letters, in combination with the concerns and desires of possible settlers, like the Ohio Company, influenced Congress to revise Jefferson's Ordinance. Congress debated a new system for organizing the Northwest Territory between 1784 and 1787. A congressional committee consisting of Nathan Dane of Massachusetts, William Samuel Johnson of Connecticut, Charles Pickney of South Carolina, Melancton Smith of New York, and William Henry of Maryland reported a system of temporary government in the west on September 19, 1786. These men adopted the recommendations that James Monroe made to fix the failures of the Ordinance of 1784. Their plan required that each new state must have 1/13 of the whole population of the original states and the consent of Congress before being admitted to the United States. However, the subject did not receive attention for another seven months.⁴⁷

This land committee reconvened in April 1787 and presented the report of the previous September on April 26, 1787. Bills and proposals received three readings in Congress before a vote occurred. The proposed Ordinance received its second reading on May 9 and Congress scheduled its third reading for the next day. On May 10 Congress instead considered adjournment and a change of venue. Some Congressmen were also members of the

⁴⁶Potts, "Manasseh Cutler, Lobbyist," 104.

⁴⁷Barrett, *Evolution of the Ordinance of 1787*, 43.

Constitutional Convention in Philadelphia, so the body considered moving their proceedings there. Congress did not reconsider the proposed Ordinance on May 11 either and then Congress went into recess until July 4.⁴⁸

After returning from recess, Congress appointed Virginians Edward Carrington and Richard Henry Lee and South Carolinian John Kean to join Dane and Smith on another territorial committee. The committee quickly produced a new draft, almost identical to the April draft, in late June and early July. Cutler arrived in New York City during this period and it was not until his arrival that Congress passed the Northwest Ordinance. Some historians have argued that Cutler was probably responsible for the clauses concerning slavery, religion, and education.⁴⁹ It is interesting to note that these three key articles did not appear in the proposed Ordinance until after Cutler arrived.

The Articles of Compact did not appear in the proposed ordinance for a western government until July 11, 1787, after the arrival of Manasseh Cutler. Articles one through five appeared in the committee report of July 11th, while the sixth, concerning slavery, appeared the following day. Within the Ordinance, the Articles of Compact provided a fundamental guarantee of the rights that all citizens of the western territory would enjoy. Article One stated that, “no person...shall ever be molested on account of his mode of worship.” Article Two guaranteed the right of habeas corpus, trial by jury, no cruel and unusual punishment, and that no man should be deprived of his liberty or property. Article Three continued with the statement: “religion, morality and knowledge being necessary to good government and the happiness of mankind...shall forever be encouraged.” Article Three also said that the “utmost good faith” should always be observed with the Indians. The fourth and fifth articles laid out the rights that the new states would have vis-à-vis older states. Finally, Article Six abolished slavery in the territory of the Northwest.⁵⁰

Historians have paid some attention to the Articles of Compact, as mentioned in the historiographic section of the introduction. The most significant periods of interest in the articles were the first half of the nineteenth century and the final decades of the twentieth century.

⁴⁸*Ibid.*, 44-46.

⁴⁹Barrett, *Evolution of the Ordinance of 1787*, 72; Frederick D. Stone, “The Ordinance of 1787,” *Pennsylvania Magazine of History and Biography* 13 (1889): 310. Stone bases this analysis on Cutler’s diaries, where he stated that he and Rufus Putnam had settled the principles on which he was to contract with Congress for land in the Northwest and helped influence the passage of a bill that would provide for the orderly settlement of these territories.

⁵⁰Northwest Ordinance, Articles of Compact quoted in *JCC*, 32:334-43.

Throughout the first half of the nineteenth century, historians and politicians pointed to the sixth article, outlawing slavery, and used its existence to argue against the continuation of the slave order in the United States. These debates focused on the authorship of the document itself. The most famous of these debates involved Senators Daniel Webster of Massachusetts and Robert Hayne of South Carolina in 1830. On the Senate floor, Webster argued that Nathan Dane was the primary author of the Ordinance and celebrated his contributions guaranteeing freedom in the Old Northwest. Webster said that he doubted “whether one single law or any lawgiver, ancient or modern, has produced effects of more distinct, marked, and lasting character, than the ordinance of ’87.”⁵¹ Webster relied on Dane’s own writings in *A General Abridgement and Digest of American Law* to deduce authorship of the document. Dane insisted that he had composed most of the document himself, especially indicating his role in the last-minute insertion of Article Six, the prohibition of slavery in the said territory. He made a case for himself as author because of his membership on the committee responsible for drafting the Ordinance and because of his ties to the influential Ohio Company. Dane wrote, “If there be any praise of blame...it belongs to Massachusetts; as one of her members [I] formed it and furnished...[most of its] matter.”⁵² Other members of Congress, mostly Northwesterners, took this praise of Dane and the Articles of Compact further. A group of “Ohio Natives” praised him for securing “the blessings of religion, and learning, and freedom...his name will be hallowed forever.”⁵³ Webster and these men believed that the Articles of Compact contained in the Northwest Ordinance were a high moment in the history of civilization. Their apotheosis of Dane and the Articles occurred at the same time as the economy of the Northwest flourished. Webster and the “Ohio Natives” needed a figure to link to the prosperity of the Northwest Territory. By the eve of the Civil War many Northwestern congressmen and citizens viewed the Northwest Ordinance as one of the greatest documents of the founding period. To them, its emphasis on freedom and civil liberty made it one of America’s greatest contributions to world history.⁵⁴

⁵¹Daniel Webster speech, January 20, 1830 as quoted in Onuf, *Statehood and Union*, 141.

⁵²Nathan Dane, *A General Abridgement and Digest of American Law* 9 vols. (Boston: Hilliard, Gray, Little, and Wilkins, 1823-29), Note A, Appendix to vol. 9, 75-76.

⁵³“Natives of Ohio,” *Celebration of the Forty-Fifth Anniversary of the First Settlement of Cincinnati and the Miami County, on the 26th Day of September, 1833* (Cincinnati: Shreve and Gallagher, 1834), 14 as quoted in Onuf, *Statehood and Union*, 142.

⁵⁴Onuf, *Statehood and Union*, 143-145.

Following the Civil War, historians focused less attention on the Articles of Compact, paying more attention to how the Ordinance created a liberal colonial system. Not until a century and a half later did Peter Onuf provide a new historiographical interpretation of the Northwest Ordinance that facilitated renewed examination of the Articles of Compact. Onuf emphasized the constitutional nature of the document. He wrote that the Ordinance was a form of constitution for the new territories.

Other historians have written within this constitutional framework and provided new ways to understand the Northwest Ordinance's Articles of Compact.⁵⁵ Historian Edwards Corwin believed that Article Three of the Northwest Ordinance, supporting education, found its way into the general welfare clause of the United States constitution. As in the Civil War era, contemporary historians of the Northwest Ordinance's Articles of Compact have focused most of their attention on the Ordinance's prohibition of slavery contained in Article Six. Historian William Wiecek argued that the fugitive slave clause of Article VI became the antecedent for the fugitive slave clause of the constitution. Legal historian Paul Finkelman also focused attention on Article VI, providing the most sustained and rigorous analysis of its significance.⁵⁶

Though the slavery clause has been thoroughly explored, recent historians have focused less attention on analyzing the other Articles of Compact. Most consideration of the Northwest Ordinance's religion clauses interpreted the clauses as a representative example of the Northwest Ordinance's liberal quality. A sustained analysis of their drafting, within the context of the previous chapters on church-state development, demonstrates the careful thought put into these clauses.

The most immediate antecedent for the specific language of Article One, on the freedom of worship, and Article Three, on the encouragement of religion, derived from the Massachusetts Constitution of 1780.⁵⁷ Historian Jay Barrett argued that the language of the religion clauses originated in the mind of Nathan Dane, while others have argued that the clauses came from the pen of Cutler. The specific author is less important than the surrounding context as established in previous chapters. The men who drafted the Northwest Ordinance were veterans of the

⁵⁵See Richard Loss, ed., *Corwin on the Constitution*, 3 vol. (Ithaca: Cornell University Press, 1981), esp. vol. 1; William Wiecek, *The Sources of Antislavery Constitutionalism in America, 1760-1848* (Ithaca: Cornell University Press, 1977); and Forest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution* (Lawrence: University of Kansas Press, 1985).

⁵⁶Paul Finkelman, "Slavery and the Northwest Ordinance: A Study in Ambiguity," *Journal of the Early Republic* 6 (Winter 1986): 343-370.

⁵⁷Barrett, *Evolution of the Ordinance of 1787*, 66.

church-state conflicts of the 1780s. For instance, Cutler and Dane knew of the Third Article of the proposed Massachusetts constitution of 1780. Both men were Congregationalist ministers and would have known and possibly contributed to the theological and political arguments for the Massachusetts compromise. Most Congregationalist ministers at the time, whether or not they supported limited establishment, argued that no better system of morality and education existed than religion.

Congregationalist ministers differed over what sort of religion should be taught to inculcate these values however. Members of the established Massachusetts order wanted the state government to support ministers who would preach Reformed theology to all the citizens of Massachusetts. Thomas Allen, “Philanthropos,” and it seems Manasseh Cutler differed from the established view. These three men saw an inherent link between the teaching of natural religion and the progress of a society. Allen and “Philanthropos” both argued that the state of Massachusetts should support teachers of natural religion. Allen and “Philanthropos” believed that these teachers of natural religion would teach the Massachusetts citizenry principles of true virtue and beauty. Cutler seems to have held consonant views, as indicated in a sermon delivered on the inauguration of the Northwest settlement, where he preached that:

“The Supreme Being seems to conduct his operations...by general laws; both in the natural and moral world, the advances to perfection are gradual and progressive...[the introduction of the Christian religion occurred] in a period when the minds of men were in a degree prepared to receive a religion founded on the highest reason and benevolence, and which was calculated to improve the understanding, penetrate the heart, regulate the passions, and engage the affections of rational creatures. A religion that was to propagated not by the aid of the sword, nor by the civil arm, not by the arts of superstitious intrigue, or the forces of blind enthusiasm, but by reason and argument, by a conviction of the truth in the hearts and consciences of men.”⁵⁸

Cutler believed that religion benefited society. Religion improved reason and regulated the passions. However, Cutler did not think the state government should compel worship or establish a church. Governments should cultivate the principles of religion and the habits of virtue through teachers of natural religion. Citizens imbued with principles of virtue would create a permanent foundation for a state and ensure the happiness of its people. The propagation of the “pure religion of the Gospel, flowing uncorrupted from its sacred sources” combined with “civil liberty and the cultivation of the arts and sciences in their various and extensive branches, must lay the foundation for rational and solid happiness in any country.”⁵⁹

⁵⁸Sermon Preached at Campus Martius, Marietta, 24 August 1788, in *LJC*, 2:442-43.

⁵⁹*Ibid.*, 2:446.

Cutler further said that the state could never propagate the Christian religion with the same efficacy as evangelists. He believed that Christian voluntarism superseded forced teaching. Cutler was happy that the new national Constitution secured civil and religious liberty. He wrote that “Full toleration is granted for free inquiry, and the exercise of the rights of conscience.”⁶⁰ However, Cutler did not believe the government’s embrace of free inquiry would diminish the spread of the Christian religion. He believed that the truth of Christianity would always manifest itself in society. To quote again,

“Religion ought never to be made a political machine, but while it is preserved perfectly free from such a prostitution, and is improved to the great designs of its institution, it affords the greatest aid to civil government, and has the most happy effect on society. Where the Gospel has its genuine effect it inspires the soul with the most noble sentiments, restrains every turbulent passion, and induces a propriety of conduct in every situation in life. The sum total is comprehended in love to God and man.”⁶¹

Cutler’s views on the relationship between church and state take on added significance because of his role as agent for the Ohio Company. As agent and lobbyist for Ohio Company, Cutler represented the views of New England Revolutionary War veterans who desired to settle the Northwest Territory. These veterans wanted a particular kind of state and territory. Cutler’s views of religion not only coincided with many of the men he represented, but also with many of the men he lobbied. Nathan Dane, one of the members of the land committee, represented the district of Ipswich, where Cutler maintained residence. As a lawyer and Congregationalist minister, Dane’s views coincided with those of Cutler’s.

Cutler’s views on church-state relations take on additional significance because of their similarity to antiestablishmentarian arguments made in Massachusetts and Virginia. His statements on the relationship of church and state echo the views of Virginian Protestant dissenters on Christian voluntarism, members of the Massachusetts established order on the social utility of religion, Consistent Calvinist notions disinterested benevolence, and beliefs in the propensity of religion to instill virtue. Cutler, one of the first American lobbyists, combined these positions on church-state relations into a comprehensive statement on the relationship of religion and politics for the Northwest Territory. He believed that the pristine and virgin territory of the Northwest would best be supported through this comprehensive position.

How and why Cutler reached these positions is a bit speculative. His biography seemed to predispose him to this particular concept of the proper relation between church and state. Did

⁶⁰*Ibid.*, 2:444.

⁶¹*Ibid.*, 2:447.

he fuse these views for political reasons to get a comprehensive land bill passed or was it for purely ideological purposes? It may be impossible to separate these two positions and it may not be very helpful. Cutler's views of the west were intimately tied to his ideological, cultural, and political principles. His fusion of these ideas was all the more successful because he tapped into a deep well of church-state debate that was widely known by men like Nathan Dane.

Conclusion

The prior two chapters of this study elucidated the nature of church and state in Revolutionary America through an analysis of Massachusetts and Virginia. As noted above, Virginia and Massachusetts served as microcosmic representations for the church-state debate in the Revolutionary period. It is both within this indirect and broader microcosmic connection, as well as more direct connections to the Northwest Ordinance itself that the importance of the Massachusetts and Virginia debates are derived. Virginia reached a liberal principle of religious liberty before most of the other states and thus became an example for the other states of how the fusion of Protestant dissension and Christian voluntarism could lead to antiestablishment thought and a liberal expression of religious toleration. Opponents of establishment in many of the other states cited Virginia's thinkers in their own constitutional moves toward disestablishment.

Virginia shared a direct connection with the Northwest Ordinance in two ways. First, the Virginia Legislature had to cede all of her land claims to the Northwest Territory before the Continental Congress could create a territorial policy for the Northwest. Virginia gentry also drafted portions of or served on several of the key committees in the legislative history of the Northwest Ordinance. Virginian Thomas Jefferson composed the Ordinance of 1784, the first national expression of territorial policy for the Northwest. His Ordinance provided a basis for the development of the Northwest Ordinance. Virginian James Monroe proposed changes to Jefferson's Ordinance, helping to draft key sections of the Northwest Ordinance. Monroe's ideas included how many states should be created out of the Northwest Territory and under what conditions these states should enter the Union. Monroe embraced a New England style of territorial development, urging that the Northwest Territory should be settled by townships and in an organized fashion. One of the significant reasons Monroe embraced this style of territorialism was because of the Ohio Company and the large number of New England Revolutionary War veterans who made up the Company's membership rolls and wanted to settle

the Northwest Territory under principles consonant with their own particular New England beliefs. The final connection between the church-state debate in Virginia and the Northwest Ordinance was in the person of Edward Carrington, one of the members of the land committee that recommended passage of the Northwest Ordinance. Carrington served terms in the Virginia Legislature during the middle of the 1780s, representing Cumberland County. Historian Thomas Buckley wrote that Carrington tended to side with the group in the Virginia Legislature that favored a closer church-state relationship.⁶² As noted in the earlier chapter concerning the church-state debate in Virginia, the group in Virginia that favored a closer church-state relationship supported religious teaching because of Christianity's close connection to the progress of a civilization. Therefore, Carrington's views appear consonant with the Third Article of the Northwest Ordinance, which encouraged the teaching of religion.

The importance of the teaching of natural religion was cited by both opponents and supporters of establishment in revolutionary Massachusetts. Supporters of limited establishment, in the guise of Article Three of the proposed 1780 constitution, argued that the governmental support of religion had social utilitarianism importance. Supporters of Article Three argued that the teaching of the doctrine of a future state of rewards or punishment inculcated virtue into the Massachusetts citizenry. Opponents of Article Three, like the anonymous *New Light* writer Philanthropos, opposed the teaching of fundamental Calvinist principles, like the doctrine of future states, because they saw the teaching of these principles by the government as antithetical to notions of the inviolability of individual conscience. Opponents of Article Three supported the right of individual conscience to such an extent that on at least one occasion, opponents practiced civil disobedience in the closing of the courts in Berkshire County, Massachusetts.

The leader of the civil disobedient group, the Berkshire Constitutionalists, was Thomas Allen. As noted above, Allen practiced a rigid Calvinist orthodoxy. He was a member of the New Divinity movement that believed in the importance in retaining strict theological principles, while still allowing for a socially active form of Christianity. This social activism stemmed from interpretations of the nature of true virtue that originated in the mind of Jonathan Edwards. Consistent Calvinists embraced these Edwardsean notions and extended them to causes like abolition or disestablishment. The Reverend Thomas Allen embraced New Divinity ideas and helped to influence the church-state debate in Massachusetts.

⁶²Buckley, *Church and State in Revolutionary Virginia*.

The church-state debate also had a direct link to the drafting of the religion clauses of the Northwest Ordinance in two other ways. Manasseh Cutler, land agent for the Ohio Company, hailed from Massachusetts. He, more than probably anyone else, influenced the text of the Ordinance and the timing of its passage. As described above, Cutler's biography linked several of the key arguments made for the territorial policy articulated in the Northwest Ordinance. Finally, it seems that the authors of the Northwest Ordinance's Articles of Compact culled the Massachusetts Constitution 1780 for the specific language of the Ordinance's religion clauses. Thus, a greater understanding of the Revolutionary Massachusetts church-state narrative, along with the type of story in Virginia, yields some of the intentions of the framers of the Northwest Ordinance's religion clauses.

Connection of the Northwest Ordinance's Religion Clauses to the Bill of Rights

Historians have considered many possible connections to establish the meaning and antecedents of the Establishment Clause in the Bill of Rights. Historians often approach their interpretation of the First Amendment from one of three areas: the influence of Enlightenment, the Great Awakening, or the rise of civil religion.⁶³ Often, the historians's ideological orientation predisposes them to focus on one of these categories.

From the perspective of a supposed spread of Enlightenment ideals in the colonies, events seemed to cluster around three foci: developments in colonial law that favored religious toleration, alliances between Whig ideology and clerical patriotism, and secular motivations for revolutionary activism. This approach has tended towards a Whig historicism, looking for developments in the colonial law that indicate the struggle for and eventual triumph of Lockean ideals of natural law and religious toleration. Scholars who invoke the Enlightenment interpretation included Sanford Cobb, Alice Baldwin, Bernard Bailyn, and Pauline Maier.⁶⁴

Another group of historians pays great attention to the impact of religious values upon the revolutionary movement. The central issue in this approach is the meaning and implication of the Great Awakening. Most of the arguments generally made by historians like Alan Heimert,

⁶³Mark Valeri, "Church and State in America from the Great Awakening to the American Revolution," in John F. Wilson, ed., *Church and State in America: A Bibliographic Guide, The Colonial and Early National Periods* (New York: Greenwood Press, 1986), 116.

⁶⁴Sanford H. Cobb, *The Rise of Religious Liberty in America* (New York: Macmillan, 1902), esp. ch. 9; Baldwin, *The New England Clergy*; Bailyn, *Ideological Origins of the American Revolution*; and Pauline Maier, *From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765-1776* (New York: Alfred A. Knopf, 1972).

Richard Birdsall, and Joseph Conforti described broad cultural influences or long-range shifts in social values that the Great Awakening inspired.⁶⁵ The interpretations have generally focused on three areas: the impact of Puritan ideas on beliefs in a peculiar destiny for an American nation, the relation between evangelical and/or Calvinist mentalities and motivations for social and political reform, and the importance of the Awakening for questions of authority and social control. If these revivals were widespread and popular then they manifested a vigorous Calvinism and pietism amongst the colonists and thus, would have had a great influence on the shaping of the First Amendment.

The third general perspective on church and state and its relationship to the First Amendment in the late colonial period regarded the movement for American independence as entailing a fusion of nationalist and religious sentiments. During the political crises of the revolutionary period particular ecclesiastical or theological traditions fostered a common belief in the divine status of the nation. Civic loyalty became the expression of a common American religion. One focus for the study of civil religion is the role of providential and millenarian rhetoric in the period, as seen in works by Nathan Hatch and Ruth Bloch.⁶⁶ Civic millennialism differed from the evangelical variety in that it subsumed competing theological perspectives under patriotic aspirations.⁶⁷

This project has engaged each of these broad areas of historiography in uncovering the religious, legal, and cultural antecedents to the religion clauses of the Northwest Ordinance. It sought to uncover meanings of the First Amendment not through one of these well-studied areas, but through a better understanding of one of the most immediate antecedents to the Bill of Rights, the Northwest Ordinance. The Northwest Ordinance occupies a unique and little-studied place in the historiography of the First Amendment. The Ordinance was one of the first efforts by the national government to regulate the relationship between church and state beyond the individual state level. Further, many members of the Continental Congress were also members of the Constitutional Convention. Members of the Confederation Congress corresponded heavily with members of the Constitutional Convention and vice versa. Cutler again serves as one of the key figures in this connection. After spending several days in New York lobbying on behalf of

⁶⁵Heimert, *Religion and the American Mind*; Birdsall, "Ezra Stile versus the New Divinity Men,"; and Conforti, *Samuel Hopkins and the New Divinity Movement*.

⁶⁶Nathan O. Hatch, *The Sacred Cause of Liberty: Republican Thought and the Millennium in Revolutionary New England* (New Haven: Yale University Press, 1977); and Bloch, *Visionary Republic*.

⁶⁷Valeri, "Church and State in America from the Great Awakening to the American Revolution," 129.

the Ohio land company and working to finalize the Northwest Ordinance, Cutler left for Philadelphia, the site of the Constitutional Convention. He wrote on July 10 that

“as Congress was now engaged in settling the form of government for the Federal Territory, for which a bill had been prepared, a copy sent to me, with leave to make remarks and propose amendment, and which I had taken the liberty to remark upon, and to propose several amendments, I thought this the most favorable opportunity to go on to Philadelphia.”⁶⁸

While in Philadelphia, Cutler met with James Madison, George Mason, Hugh Williamson, Charles Pickney, Benjamin Rush, Benjamin Franklin, and Alexander Hamilton. He had meals with each of these men and discussed matters of government. It is not a stretch to imagine that he discussed the drafting of the Northwest Ordinance with each of these men. Some of these men, like Rush and Madison, had taken a previous interest in an orderly settlement of the Northwest Territory. Thus, it is unlikely each body did not know what the other was doing. Furthermore, the First Congress readopted the Northwest Ordinance just days before debating what would become the First Amendment. Therefore, it can be assumed that the Northwest Ordinance served as an example and influence in the drafting of the Bill of Rights.

The connection between the religion clauses of the Northwest Ordinance and the Bill of Rights seems to be even stronger when one considers the chronologies of the two congresses, as members worked on parallel legislation. The New York Congress that drafted the Northwest Ordinance took up the question of western settlement and drafted the Ordinance during the first and second weeks of July 1787. At the Constitutional Convention one month later, the Committee of Detail included language in their report that prohibited religious tests for federal office holders. This language first appeared in the working draft of the Constitution on August 7, 1787. Charles Pickney, who served on the Continental Congress’s land committee in April 1787 that drafted much of the language of the Northwest Ordinance, formerly proposed that the language be included on August 20, 1787. The full convention adopted this language ten days later.⁶⁹

A further connection can be established between the Northwest Ordinance and the Bill of Rights through the first American Congress. Since the Articles Congress had approved the Northwest Ordinance, the first national Congress had to reenact the Northwest Ordinance. The members of the first Congress passed the Ordinance on August 7, 1789 with little debate and

⁶⁸*LJC*, 1:242.

⁶⁹McGarvie, *One Nation Under Law*, 50-51; Max Farrand, ed., *The Records of the Federal Convention of 1787*, rev. ed. 4 vols. (New Haven: Yale University Press, 1966), 2:342.

shortly after convening for the first time.⁷⁰ This same Congress drafted the Bill of Rights only a few days later. It is unlikely that the same Congress would have reenacted the Northwest Ordinance if they thought it unconstitutional or antithetical to principles contained in the Bill of Rights. Also, Congressional representatives would have been acquainted with not only the text of the Northwest Ordinance itself, but the debates and latent ideologies contained therein. Some members of this Congress were members of the Congress that drafted the Ordinance of 1787 and the representatives from Massachusetts and Virginia were aware of their respective state's moves toward specific church-state arrangements.

With the connection between the religion clauses of the Northwest Ordinance and the Bill of Rights established, it is finally useful to speculate about possible ways that this broader understanding of the religion clauses of the Northwest Ordinance might influence the interpretation of the First Amendment. First, the historiography of the First Amendment would be infused with greater complexity. If there is a connection with the Northwest Ordinance, historians would need to consider why the Bill of Rights did not contain language similar to that found in the Third Article of the Northwest Ordinance, which called for the encouragement of religion. Why did the first Congress not feel it necessary to say that "Religion, Morality and knowledge being necessary to a good government and the happiness of mankind, Schools and the means of education shall forever be encouraged?"⁷¹ Perhaps, members of the first Congress considered that the inclusion of such an Article was redundant. The members of that first Congress may have seen it as only pertaining to the frontier region of the new nation. Since the sources do not indicate a direct connection between the Northwest Ordinance and the Bill of Rights, the above discussion is somewhat speculative. However, with the rich history of the fusion of theological ideas in the Northwest Ordinance's religion clauses recovered, it may be possible to understand the Bill of Rights in the same way.

⁷⁰Act of August 7, 1789, in Francis Newton Thorpe, ed., *The Federal and State Constitutions*, 7 vols. (Washington: Government Printing Office, 1909), 2:963-64.

⁷¹Northwest Ordinance, art. 3.

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BIOGRAPHICAL SKETCH

Nathaniel H. Wiewora

982 W Brevard St.
Apt A22
Tallahassee, FL 32304
Tel: 561-339-2786
Email: natewiewora@gmail.com

Education:

M.A.; U.S History to 1877; Florida State University; May 2007 (expected)

Thesis: "Pure Religion of the Gospel...Together with Civil Liberty": A Study of the Religion
Clauses of the Northwest Ordinance and Church-State in Revolutionary America.
Minor Field: Latin America

B.A.; History/Political Science; Harding University; 2004
Graduate of the Honors College with Distinction

Teaching Experience:

Graduate Assistant

AMH 2097; Race, Nationality, and Ethnicity in U.S. History; FSU; Fall 2006,
Spring 2007

Professional Experience:

Research Assistant

Ed Gray; Tallahassee; 2005-2006; Performed research and editorial duties for FSU
professor of history; editorial, research, and publicity responsibilities for *Common-Place*,
an on-line journal of Early American research; conducted archival research and prepared
bibliographies

Research Assistant

Sally Hadden; Tallahassee; 2005; Performed research for FSU professor of history for
forthcoming book on comparative legal cultures; conducted study of 18th century South
Carolina newspapers

Conference Presentations:

“‘.Agreeable to Reason, Scripture, & Common Sense’”: Thomas Allen, Consistent Calvinism,
and Republican Thought in Western Massachusetts, 1725-1780.” Florida State University
Department of Religion Graduate Symposium, 2006.

Awards:

J. Leitch Wright Award for Excellence in Research, Florida State University, 2005
Pi Sigma Alpha Award for Excellence in Research, Harding University, 2004
Phi Alpha Theta
Pi Sigma Alpha
Omicron Delta Kappa

Professional Organizations:

American Historical Association
Conference on Faith and History

Languages:

Reading knowledge of French and Spanish