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A Perfect Freedom: Religious Liberty In Pennsylvania

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Recommended Citation

J. William Frost. (1990). "A Perfect Freedom: Religious Liberty In Pennsylvania". *A Perfect Freedom: Religious Liberty In Pennsylvania*.
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Introduction: The Pennsylvania Traditions of Religious Liberty

Most readers of this book will be seeking insight into the meaning of the religious clauses in the First Amendment. The study of the history of religious liberty is particularly pertinent today because of the increasing debate over original intent and the controversy arising from recent Supreme Court decisions concerning school prayer. The danger is that the contemporary issues sometimes reverse historical priorities. Until the mid-twentieth century, Pennsylvanians held the First Amendment to be a symbolic testimony to the nation's adoption of their beliefs and practices on religious freedom. The Federal disestablishment clause was important for what it showed about the religious clauses in the 1790 Pennsylvania constitution. The First Congress's inclusion of religion in the Bill of Rights had little impact on Pennsylvania's conduct for the next one hundred and fifty years.

In the colonial period Pennsylvania's pattern of separation of church and state paved the way for similar policies in other states and the Federal government. Thomas Jefferson in his *Notes on Virginia*, written in 1781 and published in 1785, saw the postrevolutionary Virginia disestablishment of the Church of England as growing out of a pattern begun in Pennsylvania one hundred years earlier. The radical experiment in religious liberty, wrote Jefferson, took place in Pennsylvania (and New York) and not in Virginia.¹

Scholars have long recognized that the Founding Fathers incorporated republican ideology and colonial experience in creating the constitutions for the states and the new nation. Pennsylvania was the primary model for the success of freedom of religion in the other states. The delegates to the First and Second Continental Congress and the Federal Constitutional Convention, all held in Philadelphia, saw the results of freedom of religion at firsthand. Philadelphia was the most cosmopolitan city in the colonies, the Athens of North America. Since the 1720s the growth in

prosperity of the city and surrounding countryside had been linked to the freedoms the populace enjoyed, particularly religious liberty. James Madison, attending college at Princeton, learned that the lack of governmental tax support hurt neither Pennsylvania nor the Presbyterian church. In 1773, when Madison began his investigation of religious liberty, he wrote to William Bradford of Pennsylvania asking about "the extent of your religious Toleration" and "Is an Ecclesiastical Establishment absolutely necessary to support civil society?"²

Today, Virginians can thank the Revolutionary generation for establishing religious freedom; New Englanders can look back to the First Amendment and Baptist agitation as goads prompting Connecticut, New Hampshire, and Massachusetts to question direct tax support for religion. Even before the War of 1812 the alliance between magistrates and ministers in New England was an anomaly, such policies having been repudiated by the rest of the nation. Connecticut in 1818 and Massachusetts in 1833 finally disestablished the Congregational church.

By contrast, Pennsylvanians could claim that their land was born free. The factors that created and sustained the colony's religious liberty can be understood in isolation from similar practices elsewhere. Pennsylvanians looked to their own history for precedents and procedures and saw themselves as models for others. From its founding in 1682 – long before the influence of factors like the Great Awakening, pietism, and the Enlightenment that historians often cite as the antecedents of the American pattern of separation of church from state – Pennsylvania stood for non-coercion of conscience, divorce of the institutional church from the state, and the cooperation of the church and state in fostering the morality necessary for prosperity and good government. Pennsylvania first encountered the dilemmas that separating churches from the state entailed for both institutions. Her citizens and churches early learned how to live under and then rejoice in conditions of religious freedom. This book is the story of that adjustment.

Until the Revolution, most colonists outside the Middle Colonies knew little about the distinctive religious patterns of Pennsylvania. Between 1775 and 1790 reformers in those states that levied taxes to support the Church of England (the South) or several churches (New England and New York) contrasted Pennsylvanians' voluntary gifts with their situation. Pennsylvania became a symbol of a new republican pattern of religious liberty in opposition to a single or multiple establishment. The policies that New York and the southern states adopted before 1800 and that eventually came to prevail in New England resemble Pennsylvania's. After 1800 it was not that other states sought to emulate Pennsylvania so much as that it had already provided a solution to common problems of church

and state, religious pluralism, and civic virtue. Pennsylvania pioneered American religious liberty.

Considering the importance of Pennsylvania's experience in religious freedom, it is surprising that there has never been a full study of its evolution.³ Historians have produced excellent books on how Massachusetts, Rhode Island, Virginia, Connecticut, and New Hampshire separated church and state.⁴ The contributions of James Madison and Thomas Jefferson are well documented. Biographies of William Penn and monographs on individual denominations abound. Three recent excellent books on religious liberty exemplify the neglect of serious research on Pennsylvania's continuing traditions of religious liberty. Thomas J. Curry's *The First Freedoms: Church and State in America to the Passage of the First Amendment*, Leonard Levy's *The Establishment Clause and the First Amendment*, and William Lee Miller, *The First Liberty: Religion and the American Republic* find little to say about Pennsylvania, perhaps because drama and significant events are seemingly found in persecution and politics in New England and Virginia.⁵

Pennsylvanians wanted the freedom to attend worship services or to stay at home, to pay a minister or to ignore him. The entire populace made religious liberty succeed, but those who addressed the theoretical issues and implications were white males – politicians, clergy, trustees, lawyers, judges, and editors. Only rarely can we glimpse the contributions of blacks, lower-class whites, and women. In the decade of war between 1755 and 1765 – the French and Indian War and the so-called Pontiac's rebellion – the frontier settlers opposed Quaker pacifism as an infringement of religious equality. After the Revolution, Jews sought to end restrictions on their holding public office and succeeded in having their synagogues and charitable organizations incorporated. Even after the 1780 law that declared gradual emancipation of slaves, blacks experienced various legal disabilities. Still, they created black congregations within predominantly white denominations, like Episcopalian and Presbyterian, as well as autonomous black churches. By obtaining legal incorporation, black Christians demonstrated that religious liberty extended to all Americans. Women did not constitute separate churches, but they did receive charters for their moral and philanthropic organizations. Lucretia Mott and Sarah Grimké in the 1840s opposed clerical power and Sunday legislation as destructive of religious freedom. After the 1844 anti-Catholic riot in Philadelphia, nativist women founded a newspaper in which they advocated immigration restriction as a measure to preserve religious liberty against the Pope. Mechanics, frontiersmen, Jews, blacks, Catholics, Protestants, clergy, laity, politicians, judges sought to preserve and extend religious liberty. The history of church

and state in Pennsylvania took place within a consensus created in the early years of settlement.

This book emphasizes five themes of religious liberty: (1) autonomy for the churches, (2) separation of the institutional church from the state, (3) freedom of conscience for the individual, (4) the informal support of religion as a creator of the morality necessary for good citizenship, and (5) natural law as the intellectual basis for policies in the colony and state.

The subject is neither church and state nor toleration in Pennsylvania, because the colony was not autonomous and the Quakers who founded it had a sectarian mentality. William Penn and the Friends created the initial pattern of freedom. After 1700 Pennsylvania's sectarian policies on religion had to be approved or acquiesced in by authorities in England who consulted with officials of the Church of England. The practices followed in the eighteenth century represented a compromise between Quaker and Anglican positions. England after 1689 had a form of toleration; New England and the South enjoyed toleration. A state practicing toleration recognized the legitimacy of dissent, but labeled it as a variant that could legally exist without having full rights. By contrast, Pennsylvanians sought religious liberty.

From the 1680s until the Revolution the praxis of religious liberty was a source of political acrimony in Pennsylvania. The controversies occurred among Quakers, between Quakers and Anglicans, and among the sectarians (Quakers, Mennonites, Moravians, German Brethren) and church people (Anglicans, Presbyterians, Lutherans, and Reformed). At first religious freedom contributed to instability in the colony; eventually it became a source of strength. By 1720 virtually all Pennsylvanians accepted the virtues of religious liberty, but now battles arose over whether the Quaker definition of religious liberty was discriminatory and a threat to security. The debate over whether to support the Revolution and the treatment of pacifists during the war also involved the definition of religious liberty.

Religious liberty forced eighteenth-century immigrants from established churches in Europe to create mechanisms that would bring order within their churches, settle clerical disputes, and provide financial stability. The clergy had to learn how to operate in an environment of religious pluralism, governmental neutrality, and lay power. Both laity and clergy created new roles for addressing moral and political issues in the general society. The political authorities needed to improvise laws to protect church property, preserve morality, regulate marriages, and define the status of ministers. All of these subjects brought controversy.

In the eighteenth century Pennsylvania was the most liberal American colony on religion. For example, only in Philadelphia was there a legally

functioning Roman Catholic Church protected by authorities. On two occasions magistrates moved against anti-Catholic mob violence. Only in Pennsylvania were religious objectors to war not penalized. Only in Pennsylvania did those who ran the assembly learn in time to defend the rights of minorities such as slaves and Indians. Only in Pennsylvania did the government allow virtual autonomy to sectarian communities such as Ephrata and Bethlehem, where inhabitants modified basic institutions, including private property. Pennsylvania's churches remained separate from the government, and its ministers were free to criticize the colony's politicians. The history of religious liberty in Pennsylvania before 1776 shows how different that colony was from the rest of the emerging nation.

The first three chapters of this book will describe the emergence of religious liberty in Pennsylvania: the vision of William Penn, the adjustments made by the early settlers, the controversies over pacifism, and how the later immigrants and ministers who created the Presbyterian, Lutheran, and Reformed churches came to support freedom of religion.

The impact of the American Revolution in altering the Pennsylvania traditions of religious liberty is the theme of Chapters 4 and 5. The sectarians and their allies who dominated the colony lost power and their replacements had a new perspective on what religious liberty entailed. Pacifism, equal rights for sectarians, and anticlericalism disappeared as Pennsylvanians fought to secure their independence. Catholics achieved equality; the state disenfranchised Quakers and other sectarian pacifists from 1776 to 1786. Laws mandated the legal equality of denominations and the separation of the institutional church from the state. The Presbyterian church became dominant in Pennsylvania, and the Scots-Irish and Germans came to power.

The repudiation of Penn's charter and *Frame of Government* and the loss of British citizenship forced the Revolutionary leaders of Pennsylvania to grapple with the relationship of republicanism, morality, the church, and government. Benjamin Rush, a signer of the Declaration of Independence, and James Wilson, a member of the Pennsylvania delegation to the Federal Constitutional Convention in 1787 and the primary author of the state's 1790 constitution, justified religious liberty with the new American political language of equal rights, inherent truths, and natural law. They argued that reason and an innate moral sense reinforced the virtues commanded in Scripture. Government and religion worked together because, under God, reason and revelation harmonized but in their institutional embodiment – state and church – remained distinct with different ends. Separating church and state facilitated spiritual devotion and civil order; merging them brought superstition, persecution, and tyranny.

In 1776 and 1790 Pennsylvania created new constitutions that guaran-

teed religious liberty. Yet the legislature also passed new laws that showed no more leniency toward moral deviation than the statutes of 1700. And these new laws remained unrepealed for over a century. In fact, before the Civil War the legislature enacted stricter laws on alcohol, dueling, and lotteries.

In the early republic the advocates of religious liberty echoed themes first enunciated in colonial Pennsylvania.⁶ Ignoring the tax support for an established Congregational church in New England, they wrote as if the Pennsylvania pattern were normative for the entire country. The debates on republican religious liberty in Pennsylvania after 1790 showed that while virtually everyone approved the general policy there was disagreement on details. All agreed that the church must be free of state interference and that the state and the institutional church must be separate. Most thought that fragile democratic governments required officials and citizens to have a moral character that only the churches could create. So the state had to exercise benevolent neutrality toward religious institutions.

Politicians, clergymen, and judges, the three professions most influential in defining and maintaining the Pennsylvania traditions of religious liberty in the nineteenth century, are treated in Chapters 6, 7, and 8. Politicians and clergymen normally shrouded their discussions of the American pattern of church and state with platitudes, but on occasion sharp differences emerged. For example, in the election of 1800 the Democratic-Republicans compared Thomas Jefferson to William Penn and portrayed both as suffering from clerical opposition because they sought religious freedom. Federalists and Republicans portrayed themselves as defenders of religious liberty against opponents who either attempted to create an established church or to overthrow revealed religion and bring the wrath of God on America. But, once in power, the Pennsylvania Republicans did not modify the state's attitude of benevolent neutrality to organized religion.

The Pennsylvania constitutional convention of 1837 featured two debates—one on paying the clergy for praying at the convention and the other on religious tests for office—in which legislators offered contrasting interpretations of the role of religion and the state. Other moral-political-religious issues involved Sabbath legislation, temperance, and anti-Catholicism. Although each of these could be viewed as a religious issue in which the demands of the evangelical Christians jeopardized the separation of church and state, those Pennsylvanians agitating for change saw themselves as preserving morality and protecting liberty.

In the 1750s Covenanting Presbyterian clergymen began a debate over constitutional principles, which lasted one hundred years within the Presbyterian community. Arguing that the Solemn League and Covenant was still in effect, the Reformed Presbyterians insisted that Christians were

obliged to oppose any system of government that tolerated Roman Catholics and slavery and did not acknowledge God as sovereign. In response the clergy and laity of the Presbyterian Church in the U.S.A., reiterating natural law principles of John Calvin and the Founding Fathers, distinguished the sacred covenant of the church from the political covenant of the state. America's tradition of religious freedom preserved the church and fostered the morality of her people. In the 1830s the power of the moral reform societies generated by the Second Great Awakening occasioned acrimony over the power and alleged political meddling by the Presbyterian Church, U.S.A. The legislature's refusal to charter the American Sunday School Union was a direct rebuke of the evangelical alliance. The Pennsylvania assembly wished the clergy to instill morality in the people, but not to instruct them in politics.

Because churches owned property and had disputes involving the civil peace, the state created a jurisprudence to settle differences. It had to determine whether it had any legal responsibility when churches divided over theology. The legislature decided that religious institutions helped unify the state and thus should be encouraged. So the state decided not to tax church buildings, to exempt ministers from the militia, to forbid all unnecessary labor on the Sabbath, and to require state officials to believe in the existence of a future state of rewards and punishments. Like the oaths and affirmations used in courts, such beliefs would protect the Commonwealth against atheists, who could not be trusted to act responsibly. The courts, the politicians, and the clergy advocated both a strict separation of church and state and a pattern of accommodation. Although their lack of consistency occasioned little comment, religious liberty remained a potentially politically divisive issue because the citizens did not agree on what constituted correct moral behavior.

Chapter 9 shows how a sizeable number of Roman Catholic immigrants and the creation of a public school system forced Pennsylvanians to redefine the relationship of the Protestant churches to public institutions. The result was a major riot that showed how misleading was the claim that Pennsylvania enjoyed perfect religious liberty. The Catholics then created a parochial school system that allowed them to teach what they saw as the only true Christianity. The Protestants continued to use the public schools to promote what they defined as a nondenominational Christianity designed to foster morality.

With the exception of liabilities for pacifists and legality for the theater, William Penn could have felt comfortable with Pennsylvania's patterns of religious liberty in 1860. The Commonwealth before the Civil War bore little resemblance to the holy experiment initiated by Penn and the Quakers. Presbyterians, Roman Catholics, Lutherans, German Reformed, and Methodists each outnumbered the sectarians. Pluralism, two Great

Awakenings, and denominationalism reduced Penn to a monument and Friends to an anachronism. The politics of factions and trade and agricultural patterns of the colony before 1776 had virtually no similarity to the parties and factories of the state. Independence, republicanism, and democracy created a new political vocabulary just as antislavery, temperance, and penitentiaries transformed the moral world. There might have been a corresponding metamorphosis in religious liberty. Yet, judging by institutions and ideology, there was extraordinary continuity in ideal and practice.

In 1860, as in 1700, Pennsylvania remained committed to the legal equality of all denominations, minimal religious tests to hold office, separation of church and state, freedom of belief, and autonomy for the institutional churches. There was no tithe, no establishment, no persecution for religious practice so long as the peace was not disturbed. Pennsylvanians still expected their legislators to be religious men and to use the law to discourage vice and encourage morality. The courts assumed that natural law as reflected in Christianity undergirded the law of the land. Blasphemy, profane swearing, drunkenness, and desecrating the Sabbath were illegal acts.

Before 1850 the rest of the nation caught up to Pennsylvania on religious freedom; or, perhaps it would be more accurate to say, Pennsylvania stood still while the other states continued to evolve. The result was that before 1770 the colony's religious liberty was famous; in 1900 the state's blue laws were famous. Even when the Commonwealth's courts cited its distinctive heritage, the resulting decision was the same as in New York or Massachusetts. Except for its law denying Catholic bishops the right to own church property, there was little singularity to Pennsylvania's treatment of legal disputes within or between denominations. All states had some kind of Sunday law, though Pennsylvania's was more stringent. Americans everywhere opposed persecution for religious belief, tax support for churches, government involvement in purely religious matters, and direct exercise of political power by churches or clergy. Their consensus on religious liberty left room for debate on the many moral issues at the intersection of religion and politics: alcohol, divorce, the family, aid for parochial schools, prayer in public schools, the Sabbath.

The Pennsylvania patterns of mutual support and separation of church and state created before the Civil War endured until the mid-twentieth century. After World War II the United States Supreme Court declared that the traditional Pennsylvania understanding of religious liberty violated the First Amendment. The Court applied rigorously the part of the definition of freedom of conscience that requires separation of government from religion as both an institution and system of belief. The inconsistencies in the practices of Pennsylvanians are no longer legal. Both

supporters and opponents of the Court's decisions need to understand that accommodation and separation are firmly rooted in the past. Even then, controversy over whatever pattern prevailed in the state was endemic, and political power, rather than abstract ideology, normally determined actions. Pennsylvanians thought Christian values so important that they were willing to ignore or coerce the nonreligious minority. In the 1990s, as in the 1680s, whatever stance a state takes or does not take on religious-moral issues will be offensive to many. The dilemma of guaranteeing freedom for religious practice and liberty from religious persecution is perennial.