

The Sacred Rights of Conscience: The Development of Religious Liberty in America, 1610-1820

The Sacred Rites of Conscience: Selected Readings on Religious Liberty and Church-State Relations in the American Founding, edited by Daniel L. Dreisbach and Mark David Hall. Indianapolis: Liberty Fund, Inc., 2010.

Reader Abstract: The theme of this reader is religious freedom in the context of the founding of the United States. The four sessions move chronologically, from the colonial period, the Confederation, the Constitution, and finally, the post-Constitution interpretation of the First Amendment. The readings are selected to demonstrate the debates between significant figures of each era and highlight the different perspectives and implications of religious liberty in a political context.

Session I: Religious Liberty and Church-State Relations in Colonial America

Chapter 2, 84-102

- "Articles, Laws, and Orders, Virginia, 1610-11," pages 84-86.
- "The Mayflower Compact, 1620," pages 86-87.
- "Providence Agreement, 1637," page 88.
- "Fundamental Orders of Connecticut," 1638-39, pages 88-89.
- "The Laws and Liberties of Massachusetts," 1647, pages 89-103.

Chapter 2, 110-120

- "An Act Made at a General Court, Held at Boston," 1658, pages 110-112.
- "A Declaration of the General Court of the Massachusetts Holden at Boston in New-England, Concerning the Execution of Two Quakers, 1659," pages 112-113.
- "Legislation Concerning Quakers, 1659," pages 113-114.
- "Charter of Rhode Island, 1663," pages 114-116.
- "William Penn, Frame of Government of Pennsylvania," 1682, pages 116-118.
- "William Penn, Laws Agreed Upon in England, & c., 1682," pages 118-119.
- "The Fundamental Constitutions of Carolina, 1669," pages 119-120

Chapter 3, pages 131-132

- "Little Speech on Liberty, 1645," pages 131-132.

Chapter 3, 155

- Roger Williams, "Letter to Town of Providence," 1644, page 155.

Chapter 3, 173-179

- Elisha Williams, "The Essential Rights and Liberties of Protestants," 1744, pages 173-179.

Session Abstract: The readings here are variously selected from the colonies, with particular emphasis on those colonies founded as the result of religious persecution. The first selection of readings demonstrate the strict laws mandating the observance of specific religious practices. This is followed by documents relating episodes of persecution for heretics, followed by documents for the founding of new colonies as a sanctuary for the persecuted. As students move through the readings, they will follow the evolution of thought on religious liberty as a fundamental value and the episodes that served as the catalyst for this evolution.

Session II: Disestablishment, or not, in the States

Chapter 5, 241-253

- “Virginia Declaration of Rights, 1776,” page 241.
- “Pennsylvania Constitutions, 1776 and 1790,” pages 241-243.
- “South Carolina Constitution, 1778,” pages 243-245.
- “Massachusetts Constitution, 1780,” pages 245-247.
- “A Bill Concerning Religion, Virginia, 1779,” pages 247-249.
- “A Bill for Establishing Religious Freedom, Virginia, 1779 and 1786,” pages 250-251.
- “A Bill for Punishing Disturbers of Religious Worship and Sabbath Breakers, Virginia, 1786,” pages 251-252.
- “A Bill for Appointing Days of Public Fasting and Thanksgiving, Virginia, 1779,” page 252.
- “A Bill for Establishing a Provision for Teachers of the Christian Religion, 1784,” pages 252-253.

Chapter 6, 270-278

- “Memorial from Clergy of the Established Church, 1776,” pages 270-272.
- “Memorial of the Presbytery of Hanover, 1777,” pages 272-273.
- “Worcestriensis, Number IV, September 4, 1776,” pages 273-276.
- “Isaac Backus, A Declaration of the Rights, of the Inhabitants of the State of Massachusetts-Bay, in New-England, 1779,” pages 276-278.

Chapter 6, 290-298

- Thomas Jefferson, “Notes on the State of Virginia, Query XVII and Query XVIII, 1782, 1787,” pages 290-294.
- “Petition for Equality by the Philadelphia Synagogue to Council of Censors of Pennsylvania, 1783,” pages 294-295.
- “George Washington, Circular to the States, 1783,” pages 296-298.

Chapter 6, 307-313

- “Petitions For and Against the Assessment from Westmoreland County, 1784,” pages 307-308.
- James Madison, “A Memorial and Remonstrance Against Religious Assessments, 1785,” pages 309-313.

Chapter 6, 314-316

Publius [James Madison], "The Federalist Papers, Number 10, 1787," pages 314-315.
Publius [James Madison], "The Federalist Papers, Number 51, 1788," pages 315-316.

Session Abstract: This session deals with the revolutionary period through the Confederation Period. Building from the previous readings, the selections demonstrate how religious liberty had become an established value among the colonists, demonstrated in the various state constitutions. The subsequent readings add layers of complications to the ideal of "religious liberty," dealing with questions of state support of religion, in the form of subsidies for ministers, official state religions, common law penalties for violations of religious practice, and religious requirements for holding office.

Session III: Religion and the Constitution

Chapter 4, 229-238

"Texts Concerning the National Seal, 1776, 1782," pages 229-231.
"Aitkin's Bible, 1781, 1782," pages 231-235.
"Congressional Resolution Calling for a Day of Thanksgiving, 1783," pages 235-236.
"Northwest Ordinance, 1787," pages 236-238.

Chapter 8, 368-382

"Benjamin Franklin, Letter to Richard Price, October 9, 1780," page 368
"Noah Webster, On Test Laws, Oaths of Allegiance and Abjuration, and Partial Exclusions from Office, March, 1787," page 368-370.
"Records of the Constitutional Convention of 1787," pages 370-373.
"U.S. Constitution, Article VI, Clause 3, 1788," page 373.
"Letter from Jonas Phillips, 1787," pages 374-375.
"James Madison, Letter to Edmund Pendleton, October 28, 1787," page 375.
"An American Citizen [Tench Coxe], An Examination of the Constitution of the United States, 1788," pages 375-376.
"A Landholder [Oliver Ellsworth], 1787," page 376-378.
"William Williams to the Landholder, 1788," page 376.
"Publius [James Madison], The Federalist Papers, Number 52, 1788," page 380.
"Publius [James Madison], The Federalist Papers, Number 57, 1788," page 381.
"Luther Martin, The Genuine Information, 1788," page 381-382.

Chapter 8, pages 388-391

"Debate in Connecticut Ratifying Convention, January 9, 1788," page 388.
"Debate in Massachusetts Ratifying Convention, January 19, 23, 30, and February 4, 1788," pages 388-391.

Chapter 8, page 400

"Proposed Amendment, South Carolina Ratifying Convention, 1788," page 400.

Chapter 9, pages 412-437

Thomas Jefferson, "Letter to James Madison, December 20, 1787," pages 412-413.
James Madison, "Letter to Thomas Jefferson, October 17, 1788," pages 413-415.
"Selected Amendments Proposed by the State Ratifying Conventions," pages 415-417.
James Madison, "Speech in the First Congress Introducing Amendments to the U.S. Constitution, June 8, 1789," pages 418-425.
"Debates in the First Congress on the Religion Clauses, 1789," pages 426-431.
"Religion Clauses from House Resolution and Articles of Amendment U.S. Constitution, 1789, 1791," pages 431-433.
Joseph Story, "Commentaries on the Constitution of the United States, 1833," pages 433-437.

Session Abstract: This session deals with the religious debates during the drafting and ratification of the Constitution. Building from the previous session, the readings make clear that although the value of "religious liberty" was held in universal esteem, there was no clear agreement as to what that value entailed. The problems debated in the reading include the non-subsidized endorsement of a certain religion by a government, the matter of religious tests and oaths for political officeholders, the final ratification and the First Amendment, along with Joseph Story's commentaries on the First Amendment.

Session IV: Religious Liberty and Church State Relations in the New Republic

Chapter 10, 442-445

"U.S. Constitution, 1788," page 442.
"An Act to Regulate the Time and Manner of Administering Certain Oaths, 1789," pages 442-443.
B.F. Morris, "Christian Life and Character of the Civil Institutions of the United States, 1864," pages 443-444.
"Fourth Amendment, 1791," page 445.

Chapter 10, 453-464

George Washington, "presidential proclamations, October 3, 1789, and January 1, 1795," pages 453-455.
John Adams, "presidential proclamations, 1798, 1799," pages 455-457.
James Madison, "presidential proclamations, 1812, 1813, 1814, 1815," pages 458-461.
George Washington, "Letter to the Baptists, May 10, 1789," pages 461-464.
George Washington, "Letter to the Hebrew Congregation in Newport, Rhode Island, August 18, 1790," page 464.

Chapter 10, 468-476

George Washington, "Farewell Address, 1796," pages 468-470.
"George Washington to Clergy, 1797," page 470.
"John Adams to the Officers of the First Brigade, 1798," page 471.
"Congressional Chaplains, 1789," pages 471-472.

“An Act to Provide for the Government of the Territory Northwest of the River Ohio [Northwest Ordinance], August 7, 1789,” page 473.

“An Act for the Punishment of Certain Crimes, 1790,” page 473

“An Act for Raising and Adding Another Regiment, 1791,” pages 473-474.

“An Act for Establishing Rules, 1806,” pages 474.

“An Act Regulating the Grants of Land, 1796,” page 475.

“Treaty of Tripoli, 1797,” pages 475-476.

“Treaty with Kaskaskia Indians, 1803,” pages 476-477.

Chapter 12, 525-531

Danbury Baptist Association, “Letter to Thomas Jefferson, October 7, 1801,” pages 525-526.

Thomas Jefferson, “Letter to Attorney General Levi Lincoln, January 1, 1802,” page 527.

Levi Lincoln, “Letter to Thomas Jefferson, January 1, 1802,” page 527.

“Postmaster Granger to Thomas Jefferson, December 1801,” page 528.

“Thomas Jefferson to Nehemiah Dodge et al, January 1, 1802,” page 528.

Thomas Jefferson, “Second Inaugural Address, March 4, 1805,” page 530.

“Thomas Jefferson to Samuel Miller, 1808,” page 531.

Chapter 14, 589-595

James Madison, “Detached Memoranda, c. 1817,” page 589-593.

James Madison, “Letter to Robert Walsh, March 2, 1819,” page 594-595.

“James Madison to Jacob de la Motta, 1820,” page 595.

Session Abstract: The readings here show that even after the First Amendment was ratified, the matter of upholding the guarantee of religious liberty continued to be a contentious issue. The first readings demonstrate that although religious liberty was politically upheld, Christianity was endorsed and observed by the president, establishing religious precedents that would be carried as tradition. Subsequent readings demonstrate the beliefs among founding figures as to the importance of religion in civil society, demonstrating the felt need for government support of religion by some that might be seen as consistent with the separation of church and state. The final readings highlight the threat of the gradual encroachment of religion into politics early in the new republic.