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THE CONSTITUTIONAL PRINCIPLE  
OF THE SEPARATION OF CHURCH AND STATE  
IN THE LIGHT OF COLONIAL EXPERIMENTS

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## INTRODUCTION

THE CONSTITUTIONAL PRINCIPLE  
OF THE SEPARATION OF CHURCH AND STATE  
IN THE LIGHT OF COLONIAL EXPERIMENTS

INTRODUCTION

A. The Subject

1. The Subject Stated and Explained

The United States of America prides itself on being a land of freedom. One of the most cherished possessions is religious freedom--absolute liberty of conscience and legal equality of all religious faiths. This freedom of religion is largely based on the principle of the separation of Church and State. Anson Phelps Stokes quotes Professor Francesco Ruffini, an eminent European writer on religious liberty: "...And thus it is that religious liberty and separatism have become in America two terms which, ideally, historically, and practically, are inseparable."<sup>1</sup> Although the phrase "separation of Church and State" does not appear in the Constitution the idea for which it stands is found in the constitutional provisions against religious tests and the statement in the First

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1. Anson Phelps Stokes: Church and State in the United States, Vol. I, p. 28.

Amendment that "Congress shall make no law respecting an establishment of religion.."

The purpose of this thesis is to examine some of the background, both in thought and in practice, of the principle of separation of Church and State. The background studied will be limited to that of the colonial period in this country, from the first settlements until the formulation of the Constitution in 1787. The colonial experiments which will be discussed are those of Roger Williams in New England and William Penn in Pennsylvania.

## 2. The Subject Justified

Religious freedom in the United States and the separation upon which it is based is so much taken for granted that its significance is often overlooked. Yet there are some who feel that the most notable feature of the Constitution is its provision for complete religious freedom. David Dudley Field expresses this view in describing "American Progress in Jurisprudence" when he says:

...the greatest achievement ever made in the cause of human progress is the total and final separation of church and state. If we had nothing else to boast of, we could lay claim with justice that first among the nations we of this country made it an article of organic law that the relations between man and his Maker were a private concern.<sup>1</sup>

Without question the separation of Church and State is one of the most important principles upon which

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1. Quoted in Stokes, op. cit., p. 37.

this nation was founded and upon which it rests today. Yet although this general concept was set forth in the Constitution at this nation's inception there have been throughout its history numerous problems of interpretation in connection with it. There are many present-day issues which give evidence of the seriousness of the problems involved, i.e., a United States representative to the Vatican, state aid to parochial schools, court actions concerning Jehovah's Witnesses. These are just a few of many examples which could be cited. The greatest controversy at the present time is one which has been increasing in intensity for a number of years, the teaching of religion in the public schools. There has been the feeling that the teaching of any religion in the schools is a direct violation of the principle of separation of Church and State. This has had serious consequences for the American society as a whole. Stokes says that the stability of the family unit is threatened by the recent changes in moral standards and these changes, due in a considerable degree to a lack of adequate moral and religious training of youth at school age, can in part be traced back to this principle.<sup>1</sup> On the other hand, in at least one specific instance the yielding on the part of the state authorities to the claims of religion, based upon this same principle, has resulted in the

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1. Cf. Stokes, op. cit., p. lvii.

elimination from the school curriculum of an important area of scientific knowledge which conflicts with the teaching of a particular sect. In 1951 the New York State Board of Regents omitted all questions regarding health, hygiene, etc., from the high school student biology and scholarship examinations in deference to the teachings of the Christian Science faith.<sup>1</sup> This applied of course to the examinations of all students.

A failure to be on guard against violations of the principle of separation of Church and State can lead to extremely grave consequences, as the example given above proves. Another good illustration of this is found in New Mexico where the public school system took over the Roman Catholic parochial schools, supposedly to operate them as public, non-sectarian schools. Actually, the result was state-supported parochial schools. Members of Catholic religious orders continued to teach in clerical garb; pupils were forced to learn the catechism; Catholic shrines, religious pictures and symbols were placed in the classrooms; some of the textbooks used were marked "Faith and Freedom Readers for Catholic Schools Only." In some cases

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1. Cf. Walter R. Martin and Norman H. Klann: The Christian Science Myth, p. 136.  
Gov. Dewey who signed the bill in March 1950, stated, "I believe it to be a simple fundamental freedom of religion that the State shall compel no child to learn principles clearly contrary to the basic tenets of his religious faith," Martin and Klann, op. cit., p. 137.



non-Catholic pupils, unable to afford private schools, were forced to attend these schools.<sup>1</sup> Joseph Blau says of this occurrence, "A false toleration, arising out of unfamiliarity with situations like this, can very easily lead to the destruction of the freedom of religion which it claims to exemplify."<sup>2</sup>

### 3. The Subject Delimited

As previously stated, this thesis will deal only with the colonial background of Church and State separation in the United States. This background will be limited primarily to two major colonial experiments in applying the principle of separation of Church and State, Rhode Island and Pennsylvania, and a discussion of the struggle for separation of Church and State in Virginia. These particular background factors were selected not because they form a direct line of influence leading to the adoption of the principle of separation in the American Constitution but because each is in itself an important contribution to the subject under discussion.

Roger Williams and William Penn are both well known to Americans as men to whom is owed a great debt for the religious freedom which is enjoyed today. They have been selected for consideration in this thesis not merely because they are well known but because their fame as

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1. Cf. Joseph L. Blau: Cornerstones of Religious Freedom in America, p. 19.
2. Ibid., p. 20.

leaders in the field of religious liberty and Church-State separation is well justified. They are two of seven Americans considered by Stokes in his recent three volume work Church and State in the United States as the most outstanding contributors to religious liberty based on separation.<sup>1</sup> Of these seven Williams and Penn stand out above the others as the real "path makers."<sup>2</sup>

The Bill for Establishing Religious Freedom of 1785 was the result of the struggle for separation of Church and State in Virginia. This outcome was of great influence in the inclusion of the idea of separation in the Constitution of the United States. Stokes says this fight for freedom "...influenced the American theories of Church-State separation and religious freedom more than any other historical factor."<sup>3</sup> Because of its important bearing on the idea of Church-State separation as found in the Constitution of the United States some attention will be given to the development of separation in Virginia.

Although it is not the purpose of this thesis to trace the step by step development of the Constitutional principle of separation, an attempt will be made to point out whatever relations are discovered to exist between these selected factors and the theory of separation as found in the Constitution.

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1. Cf. Stokes, op. cit., p. 171.

2. Ibid., p. 345.

3. Ibid., p. 366.

## B. Method of Procedure

The first chapter will be a discussion of Roger Williams' (1603?-1683) theory of Church and State relations and the results of his experimentation in putting this theory into actual practice in Rhode Island. The second chapter will discuss William Penn's (1644-1718) ideas of Church-State relations and the outcome of his application of them in Pennsylvania. The third chapter will center around the actual framing of the Constitution: the issues involved concerning the separation of Church and State and the views of the men who were in large measure responsible for the theory as found in the Constitution, such as Madison and Jefferson. Included in this chapter as bearing directly on the framing of the Constitution of the United States will be a summary of the struggle for separation of Church and State in the state of Virginia.

## C. Sources

The chief sources used will be biographies of the major historical figures considered, their writings which contain material on this subject, and books dealing with religious freedom and the development of the separation of Church and State in America.

CHAPTER I

ROGER WILLIAMS' "LIVELY" EXPERIMENT  
IN RHODE ISLAND

## CHAPTER I

### ROGER WILLIAMS' "LIVELY" EXPERIMENT IN RHODE ISLAND

#### A. Introduction

Roger Williams founded the town of Providence in 1636, a century and a half before the drawing up of the Constitution of the United States. Yet through his influence this early colony was governed by the same spirit of religious freedom based on the separation of Church and State which later found expression in the basic governmental document of the United States. Chitwood says of him,

He was the first man in America who taught and practiced the modern doctrine of complete religious tolerance and that of the entire separation of church and state. To this idea of religious liberty he adhered not only when he was the victim of intolerance, but also with equal firmness when he was in a position to make others suffer for their beliefs.<sup>1</sup>

Roger Williams was years in advance of his time and his struggle for religious freedom brought opposition from many sides. Today he is recognized as a great leader, a forerunner in the field of religious liberty, but during the time in which he lived he was generally considered

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1. Oliver Perry Chitwood: A History of Colonial America, p. 164.

to be extrememly eccentric and to be leading unfortunate people from the way of Truth by his dangerous doctrines.

The purpose of this chapter is to present Roger Williams' ideas concerning the relation of Church and State and show how these ideas were actually put to the test of experience in the colony which he founded. To reveal more clearly the uniqueness of his ideas and the difficulties he faced and overcame the first section of this chapter will consider the view of Church-State relations which was commonly held at that time.

The major source of Williams' theory of Church and State used here is his Bloudy Tenent<sup>1</sup> which Stokes says is in many ways his most important literary work and "...an epoch-marking milestone in the history of the separation of Church and State and of religious freedom."<sup>2</sup>

#### B. Existing Relations Between Church and State in Massachusetts

There were two early colonies in Massachusetts: one consisted of the Pilgrims of Plymouth (1620) and the other of the Puritans of Massachusetts Bay (1630). All had originally been Puritans and in 1692 the Puritans of

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1. The full title is The Bloudy Tenent, of Persecution for cause of Conscience. (1644)
2. Stokes, op. cit., p. 196.

the Massachusetts Bay colony absorbed the other group. The Bay colony was the one which exerted the most influence and it was the one responsible for the banishment of Roger Williams which led him to settle an independent colony. Therefore, the discussion of Church-State relations in Massachusetts will refer specifically to this colony but it is to be understood that similar, although less extreme, views were held by most Pilgrims.<sup>1</sup>

#### 1. John Cotton

The Reverend John Cotton, teacher and later minister in Boston, was a man of great influence. He was in fact the power behind the civil government in Boston as well as the leading church authority--an inevitable relationship under the system set up, as shall be seen. Because of his position an examination of his views will disclose the underlying philosophy of the governmental system in the Bay colony.

John Cotton expressed his ideal of government thus:

It is better that the commonwealth be fashioned to the setting forth of God's house, which is his church, than to accomodate the church frame to the civil state. Democracy, I do not conceive that ever God did ordain as a fit government either for church or commonwealth. ...As for monarchy and aristocracy, they are both of them clearly approved, and directed in scripture, yet

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1. Cf. Stokes, op. cit., pp. 152-153.

so as referreth the sovereignty to Himself and setteth up Theocracy in both, as the best form of government in the commonwealth as well as in the church.<sup>1</sup>

In evaluating this idea it must be borne in mind that these people were Congregationalists. The reason for their dissent was the fact that to them the Church was a covenant of believers. Yet in accepting or even seeking the authority of the State in keeping their power they were allying themselves with men who might be unregenerate and if these men ruled over them the intolerable result would be that the unregenerate would be controlling the regenerate. The only solution was a separation of the two powers, civil and religious, or an absorption of the civil by the religious. The Congregationalists chose the latter alternative mainly because of their need to have the power of the State at their disposal, a need partly due to the looseness of their organization.<sup>2</sup>

Apparently John Cotton sincerely believed that it was his duty before God to compel men to live righteously. Men's freedom was to be limited to freedom to do the will of God. Mecklin quotes Cotton:

In a free state no magistrate hath power of the bodies, goods, lands, liberties of a free people, but by their free consents. And because free men are not free lords of their own estate, but are only stewards unto God, therefore they may not give their free consents to

1. Quoted in Ernest Sutherland Bates: American Faith, p. 125.
2. Cf. John M. Mecklin: The Story of American Dissent, pp. 72-73.



any magistrate to dispose of their bodies, goods, land, liberties, at large as themselves please, but as God, the sovereign Lord of all alone. And because the Word is a perfect rule as well of righteousness as of holiness, it will be therefore necessary that neither the people give consent, nor that the magistrate take power to dispose of the bodies, goods, lands, liberties of the people, but according to the laws and rules of the Word of God.<sup>1</sup>

The Word of God, of course, was the Word of God as interpreted by John Cotton and his associates.

John Cotton had an interesting (Roger Williams called it "monstrous") distinction between sinning in matters of conscience and sinning against the conscience.<sup>2</sup> Magistrates were to have nothing to do with the former and were to punish the latter. The latter, i.e., sinning against the conscience, meant sins committed when the sinner knew in his conscience he did wrong; those who sinned unknowingly were to go unpunished. In practice, all sins related to the spiritual life were sins against the conscience since Rev. Cotton saw to it that everyone did know what was right and what was wrong. Parrington states Cotton's attitude in these words: "Let there be freedom of conscience if it be under no error, but not otherwise; for if freedom be permitted to sinful error, how shall the will of God and John Cotton prevail upon earth?"<sup>3</sup>

. . . . .

1. Mecklin, op. cit., p. 74.

2. Cf. Perry Miller: Roger Williams, p. 160.

3. Vernon Louis Parrington: The Colonial Mind, p. 36.

Cotton was convinced that civil authority should punish all heretics; otherwise the heresy would spread and more would lose their faith. He said:

It is evident that the civil sword was appointed for a remedy in this case....And therefore it cannot truly be said that the Lord Jesus never appointed the civil sword for a remedy in such a case. For He did expressly appoint it in the Old Testament, nor did He ever abrogate it in the New.<sup>1</sup>

He believed that it was the duty of civil authority to put to death any apostate, seducing idolater or heretic who sought to lead God's people away from their Lord.<sup>2</sup>

Rebellion against the established order in any form had to be dealt with severely. The colonists were convinced that they were a special people chosen by God. Everything done had been carried out at the direct command of God and therefore to rebel against the civil authority as well as the religious authority was to rebel against what God had ordained.<sup>3</sup> John Cotton as well as the colonists thought of Massachusetts Bay as "...a Bible commonwealth, modeled after the Old Testament theocracy, with Reverend John Cotton as its high priest."<sup>4</sup>

## 2. Development of Theocracy

John Cotton's ideas, which express also the beliefs of a large percentage of the colonists, were the basis for

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1. Quoted in Miller, op. cit., p. 181.

2. Cf. ibid.

3. Cf. Thomas Jefferson Wertenbaker: The Puritan Oligarchy, pp. 74-75.

4. Mecklin, op. cit., p. 68.

the theocracy which developed. In 1631 the franchise was limited to church members, thus establishing the close affinity of the Church and State. The town meeting, which according to law was open only to church members, determined the minister's salary, was responsible for the building of his house and the meeting-house, and levied tithes.<sup>1</sup> Other laws were passed in the following years. In 1635 church attendance was made compulsory by law. In 1636 (after the difficulties caused by the appearance of Roger Williams) it was voted that no church should be approved without the sanction of the magistrates and established churches. This of course further limited the franchise since voting rights of church members in an unauthorized church would not be recognized. In 1638 a law was passed taxing both church members and non-church members for the support of the minister.<sup>2</sup>

The climax of this legislation was the Cambridge Platform of 1648 which "...placed the power of the state at the disposal of the priesthood so that they were enabled to use the arm of the law for the enforcement of the requirements of their Biblical theocracy."<sup>3</sup> This was the culmination of the years of practical experience in the development of a theocracy.

. . . . .

1. Cf. Wertenbaker, op. cit., p. 69.
2. Cf. Mecklin, op. cit., p. 68.
3. Ibid., p. 69.

### 3. Evil Results

To make clearer the picture of the theocracy which existed in Massachusetts at the time of Roger Williams a few examples of the persecutions resulting from such a form of government will be cited briefly. In 1630 two men were severely punished for blasphemy, one was beaten and the other had his ears cropped.<sup>1</sup> The banishment of Roger Williams (1635) and of Ann Hutchinson (1638) from this colony, because they expressed beliefs which differed from those accepted by the authorities is a well-known story. In 1651 John Clarke and Obadiah Holmes, two Baptists, secretly reached Lynn, Massachusetts, to comfort a dying Anabaptist who had somehow stayed there. They were arrested and forced to hear a sermon by John Cotton justifying the severest of penalties; they were struck in the face by an official and cursed by John Endicott, the governor; they were fined and sentenced to whipping. Holmes was lashed thirty times with a three pronged whip.<sup>2</sup> Mary Dyer, a Quaker, was hanged on the Boston Common in 1660, although Massachusetts was willing to allow her to accept the freedom offered by Rhode Island if she would return there. She refused on the basis of conscience.<sup>3</sup>

. . . . .

1. Cf. Bates, op. cit., p. 127.
2. Cf. Miller, op. cit., p. 157.
3. Cf. Stokes, op. cit., p. 184.

So deeply entrenched was this intolerant spirit that it persisted for many years. The theocracy finally fell in 1684 but the establishment remained. In 1780 the constitution was revised but the establishment continued. In 1820 another attempt was made and failed. It was not until 1833 that total separation of Church and State was realized in Massachusetts, nearly fifty years after this principle was incorporated into the United States Constitution.<sup>1</sup>

### C. Roger Williams' Religious Beliefs

In this section there will be no attempt to discuss fully the religious beliefs of Roger Williams. The purpose here is to present his basic beliefs, giving special attention to those ideas which relate directly to his view of Church-State relations.

#### 1. Doctrinal Orthodoxy

Roger Williams left no written statement of his religious beliefs as such; his main concern was with Christian living. But from scattered passages in his writings it is clear that he agreed with the basic Christian doctrines accepted in his day. It is impossible

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1. Cf. Mecklin, op. cit., p. 67.

after even a cursory reading of his literary works to doubt his firm conviction that Jesus was the divine Son of God through whom alone men must be saved. His defense of the humanity of Christ against the Quakers<sup>1</sup> is evidence of his belief on that point. That he saw man as a sinner in need of salvation is clear from his Queries of Highest Consideration addressed to five Independents in the Westminster Assembly. In this work he suggests that few of the people of England and Scotland are "living stones," truly regenerate and converted and feels that it is the responsibility of the church leaders to point out to them "...how impossible it is for a dead stone to have fellowship with the living God, and for any man to enter into the Kingdom of God without a second birth."<sup>2</sup> He was an extreme predestinarian, and he believed firmly in the bodily resurrection of the just and predestined and in the eternal punishment of those not of the election.<sup>3</sup>

## 2. View of the Bible

In the tradition of the Reformers Roger Williams held the Scriptures to be the absolute and final authority in spiritual matters.<sup>4</sup> However, contrary to the accepted method of interpretation, it is obvious from Williams'

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1. Cf. Howard E. Bloom: A Study of the Main Beliefs of Roger Williams, pp. 50-51.
2. Miller, op. cit., p. 83.
3. Cf. Bloom, op. cit., p. 52.
4. Cf. ibid., p. 49.

writings that he was an extreme typologist. Luther had asserted, "The literal sense of Scripture alone is the whole essence of faith and of Christian theology";<sup>1</sup> and in the early seventeenth century during the struggle between the Anglicans and the Puritans one thing both sides agreed upon was that it was dangerous for anyone to become involved in symbolical meanings of Scripture.<sup>2</sup> Williams, however, by some means developed his own interpretation of Scripture so that the Old Testament incidents were all seen to be types of the New Testament and not only that, but to him there was a radical break between the two. His statement that "...the Scripture is full of mystery, and the Old Testament of types"<sup>3</sup> reveals his typological approach to Scripture. The Old Testament consists merely of types of the New and therefore is not to be taken in its literal sense and to be any kind of standard for Christians.<sup>4</sup> This view of Scripture contrasts sharply with that of the Puritans of Massachusetts who, as we have seen, considered that they were God's chosen people, a new Israel.

### 3. View of the Church

It was Williams' conviction that any particular church should, like the true universal Church, consist of

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1. Miller, op. cit., p. 35.
2. Cf. *ibid.*, p. 36.
3. *Ibid.*, p. 42.
4. Cf. *ibid.*, pp. 37-38.

only regenerate believers. All hypocrites and nominal Christians should be excluded from the fellowship of the church "...for the Church of Christ Jesus cannot tolerate either persons or practices which are false and antichristian."<sup>1</sup> Such persons are to be absolutely and thoroughly excommunicated from the church "...for every bit and parcel of leaven is to be purged out of the house of God."<sup>2</sup> Such a church, consisting of only those truly regenerate, would of course be separate from the world. Williams further believed that these church members must be "volunteers," who, hearing the preaching of repentance and the forgiveness of sins, believe and thus are "born of his Spirit."<sup>3</sup>

Obviously this view, which is the basis for Williams' total rejection of a national church as well as the basis for his strong defense of liberty of conscience, would lead to serious controversy with the authorities of Massachusetts.

It was Williams' idea of the Church which determined the course of his religious affiliations. Originally an Anglican he became a Puritan with very strong Separatist convictions. His refusal of the invitation to become teacher in the church in Boston upon

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1. Bloom, op. cit., p. 57.
2. Ibid.
3. Ibid, p. 58.



his arrival there in 1631 was due to the fact that the congregation had not explicitly "separated" from the Church of England.<sup>1</sup> In 1639 (a few years after the founding of Providence) Williams and several others decided that adult baptism was the correct Biblical teaching and they organized what has been called the first Baptist Church in America.<sup>2</sup> Within a few months Williams came to the conclusion that this church was too sacerdotal, even though because of the principle of adult conversion and renunciation of infant baptism he had hoped it would be a purer church than that which he had left. He told the younger Winthrop in 1649 that the Baptist way came nearer to the earliest Christianity than any other, but he became a "Seeker", "...forever looking for, hoping for, and on this earth never expecting to find an incorporated fellowship of Christ."<sup>3</sup> Williams, however, never held many of the views common to Seekers such as their denial that there remained any true Church, true ordinances, true worship, or that there was any necessity for the visible Church.<sup>4</sup>

Bloom says,

Williams became and remained a "Seeker" through the latter part of his life in the sense, and only in this sense, that he was unable to find any one church which could fully satisfy his soul and his conception of the true visible Apostolic Church.<sup>5</sup>

. . . . .

1. Cf. Miller, op. cit., p. 19.
2. Cf. Bloom, op. cit., p. 42.
3. Miller, op. cit., pp. 156-157.
4. Cf. Bloom, op. cit., p. 43.
5. Ibid., p. 46.

## D. His Theory of Church and State Relations

### 1. Statement of His Theory

Williams tells us his idea of the purpose of the civil authority in his Bloudy Tenent: "...a civil government is an ordinance of God to conserve the civil peace of people so far as concerns their bodies and goods."<sup>1</sup> From his reply to Cotton's letter of 1643 it is apparent that he considers the state to be an entity, in and of itself, with its laws and ordinances which have nothing to do with religion.<sup>2</sup> This thought is expanded in the Bloudy Tenent as follows:

There is a civil sword, called the sword of civil justice, which, being of a material civil nature, for the defense of persons, estates, families, liberties of a city or civil state, and the suppressing of uncivil or injurious persons or actions by such civil punishments--it cannot, according to its utmost reach and capacity (now under Christ, when all nations are merely civil, without any such typical, holy respect upon them as was upon Israel, a national church), I say, cannot extend to spiritual and soul causes, spiritual and soul punishment, which belongs to that spiritual sword with two edges, the soul-piercing (in soul-saving or soul-killing), the Word of God.<sup>3</sup>

The chief function of the State is the protection of the individual in all his natural and civil rights and liberties. It has nothing to do with the spiritual life of the individual or community; that is the responsibility

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1. Quoted in Miller, op. cit., p. 147.
2. Cf. Mecklin, op. cit., p. 85.
3. Quoted in Miller, op. cit., p. 133.

of the Church. The functions of these two powers are to be kept separate and distinct: "...all the power the magistrate hath over the church is temporal and not spiritual, and all the power the church hath over the magistrate is spiritual and not temporal."<sup>1</sup>

## 2. Bases of this Theory

There are a number of reasons why a sharp distinction between Church and State must be maintained. As was noted previously the Church is to be separate from the world and the State is necessarily of the world.<sup>2</sup> According to Williams, although the civil government is an ordinance of God the foundation of civil power lies in the people. If the magistrates control the Church then actually the people control the Church.

And if this be not to pull God and Christ and Spirit out of heaven, and subject them unto natural, sinful, inconsistent men--and so consequently to Satan himself, by whom all peoples naturally are guided--let heaven and earth judge.<sup>3</sup>

It is impossible to approve of civil power controlling the Church for then men would be in the position of ruling over God. But in Williams' opinion it is as great an evil for the Church to control the State. Since the resurrection of Christ this has not been the intention of God.

. . . . .

1. Wallace P. Rusterholtz: American Heretics and Saints, p. 24.
2. Cf. ante, p. 12.
3. Quoted in Miller, op. cit., pp. 147-148.

God requireth not an uniformity of Religion to be inacted and inforced in any civill state.... An inforced uniformity of Religion throughout a Nation or civill State, confounds the Civill and Religious, denies the principles of Christianity and civility, and that Jesus Christ is come in the Flesh.<sup>1</sup>

Williams states this belief positively as well as negatively in the Bloudy Tenent:

It is the will and command of God that (since the coming of his Sonne the Lord Jesus) a permission of the most Paganish, Jewish, Turkish, or Antichristian consciences and worships, bee granted to all men in all Nations and Countries: and they are onely to bee fought against with that Sword which is only (in Soule matters) able to conquer, to wit, the Sword of Gods Spirit, the Word of God.<sup>2</sup>

In a society where the Church had absolute control of the State the inevitable result would be the attempt to force conformity to the accepted beliefs upon everyone. There are three main reasons why Williams believes that a Church-controlled State is against the will of God. In the first place, no one can be so sure of what he takes to be eternal truth as to have a right to impose it on the mind and spirit of other men. The following quotation is taken from a letter Williams wrote to Governor Endicott on the occasion of the persecution of Clarke and Holmes in Massachusetts in 1651:<sup>3</sup>

Sir, I must be humbly bold to say that 'tis impossible for any man or men to maintain their Christ by their sword and to worship a true Christ, to fight against

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1. Quoted in Stokes, op. cit., pp. 196-197.
2. Ibid., p. 196.
3. Cf. ante, p. 8.

all consciences opposite to theirs, and not to fight against God in some of them and to hunt after the precious life of the true Lord Jesus Christ.<sup>1</sup>

Secondly, the Church is to be composed of sincere believers. It is impossible to convert anyone by force; the very nature of conversion itself demands that the individual freely submit his will to God. Compulsion in any form will only produce hypocrites.<sup>2</sup> Thirdly, Williams points to the example of Jesus, reminding his antagonists of Jesus' attitude toward His enemies when He was living on earth. In answering a letter of John Cotton he says,

And I desire Mr. Cotton and every soul to whom these lines may come seriously to consider, in this controversy, if the Lord Jesus were Himself in person in old or New England, what church, what ministry, what government He would set up, and what persecution He would practice toward them that would not receive Him?<sup>3</sup>

Apart from the reason of the sin of opposing God's will involved in persecuting non-conformists, Williams felt that such procedure was needless. Unlike Cotton<sup>4</sup> he felt that the civil authorities should not take action even against those spreading false teachings to others and leading them from the Truth. It is not man's but God's prerogative to judge in spiritual matters; men are not to presume to take the place of God in judgment.

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1. Quoted in Miller, op. cit., pp. 162-163.

2. See ante, p. 12.

3. Quoted in Miller, op. cit., p. 100.

4. See ante, p. 6.

Furthermore, Williams, the extreme predestinarian, believed it was impossible for any of God's elect to be led astray anyway for they would be kept by God.

### 3. Conflict with Massachusetts Authorities

Roger Williams arrived in Boston from England in 1631. After refusing the position of teacher in the First Church there because they were not distinctly separated from the Church of England he went to Salem. There was no question about the Separatism of the church there so he accepted the invitation to become the teacher. But while he had been in Boston there had been differences of opinion on other matters than Separation. He had almost immediately become known as an opponent of all official connection between Church and State.<sup>1</sup> Such a view threatened the whole foundation upon which the colony was built. A court was held in Boston and a letter sent to Salem. According to Winthrop's journal,

...a letter was written from the court to Mr. Endicott to this effect; that whereas Mr. Williams...had declared his opinion that the magistrate might not punish a breach of the sabbath, nor any other offense, as it was a breach of the first table; therefore they marvelled they would choose him without advising with the council, and withal desiring that they would forbear to proceed till they had conferred about it.<sup>2</sup>

The "first table" referred to means the first five Commandments which concern religious belief and practice

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1. Cf. Stokes, op. cit., p. 194.

2. Quoted in Bates, op. cit., p. 129.

rather than matters of public welfare. His opposition to the action of the magistrates in punishing anyone for these violations is but the natural result of his conviction that God alone can judge sins of the spirit and that men's judgment produces hypocrites. There had been in Boston other disagreements as well; for example Williams' belief that it was wrong to require oaths of unregenerate people.<sup>1</sup>

Salem yielded to Boston and Williams was dismissed and went to Plymouth. His stay there was a short one and he returned to Salem as pastor of the church there. He continued to speak out in favor of the separation of Church and State and Boston was finally successful in forcing his resignation.<sup>2</sup> A law was passed by the General Court obviously with Williams in mind. It read:

If any person or persons within this jurisdiction... shall deny...their (the magistrates) lawful right or authority...to punish the outward breaches of the first table...every such person or persons shall be sentenced to banishment.<sup>3</sup>

Williams was sentenced to banishment in 1635 but due to his illness it was postponed. In January 1636, learning that the authorities were planning to ship him to England, Williams fled to the wilderness. In the spring of 1636 he and a few friends founded the town of Providence on land which Williams purchased from the Indians.

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1. Cf. Bates, op. cit., pp. 129-130.

2. Cf. ibid., pp. 131-133.

3. Ibid., p. 134.

## E. His Theory Applied in Rhode Island

### 1. Theoretical Application

Williams and his associates had no legal authority to found a colony, but in 1636 they drew up a "plantation covenant" which provided for majority rule in Providence but "only in civil things."<sup>1</sup> Three other settlements, Portsmouth, Newport, and Warwick, soon developed in Rhode Island and in 1644, Williams, who had gone to England for that purpose, obtained a Parliamentary charter which gave the Rhode Island colonies legal title to their land and the right to federate and form a joint government. In 1647 the colonists, acting on this charter, organized a united government. This government embodied the principle of separation of Church and State as advocated by Roger Williams: church membership was not a requirement for voting privileges; every man was to be protected in the "peaceful and quiet enjoyment of lawful right and liberty...not withstanding our different consciences touching the truth as it is in Jesus."<sup>2</sup> A second charter was later necessary due to political changes in England. This charter was secured in 1663 from King Charles II. The colonies received this charter chiefly

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1. William Warren Sweet: The Story of Religion in America, pp. 69-70.
2. Ibid., p. 71.



through the efforts of John Clarke of Newport but the principles of Williams are seen in its provision that no one shall "...in any wise be molested, punished, disqualified or called in question for any differences of opinion in matters of religion; and every person may at all times enjoy his own judgment and conscience in matters of religion."<sup>1</sup> This charter served as the colonial and later as state constitution of Rhode Island until 1842.<sup>2</sup>

## 2. Practical Application

Without question Roger Williams was faced with many problems in Providence as a result of attempting to put into practice his liberal theories. In Williams' words this colony was designed "...for those who were destitute especially for conscience's sake."<sup>3</sup> Because of the freedom it offered, Rhode Island became the haven of the "otherwise-minded"; those who were dissatisfied and/or considered undesirable in other settlements soon moved there. There was much dissension among individuals and groups and the people were not accustomed to the responsibility of so much freedom. At one time conditions were so unsettled Williams compared the disorderly society to "tertian ague."<sup>4</sup>

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1. Howard E. Bloom: The Contributions of Roger Williams to Religious Liberty, p. 89.
2. Cf. Chitwood, op. cit., p. 164.
3. Quoted in Bates, op. cit., p. 135.
4. Chitwood, op. cit., p. 160.

One of the most serious problems arose in 1654 soon after Williams' election to be chief official of this town. A paper which somehow came to be circulated among the citizens of Providence asserted "...it was blood guiltiness and against the rules of the Gospel to execute judgment upon transgressors against the public or private rule."<sup>1</sup> This led Williams to write a letter explaining what he meant by religious freedom. This letter is addressed to the town of Providence and dated January 1655. He says "That ever I should speak or write a tittle, that tends to such an infinite liberty of conscience, is a mistake, and which I have ever disclaimed and abhorred."<sup>2</sup> He then uses the illustration of a ship at sea with Catholics, Protestants, Jews and Turks (Mohammedans) on board. He says all he ever insisted upon was that no one on board of whatever religious faith be forced to attend any services of worship on the ship or be forbidden to practice their own worship if indeed they practiced any. But if anyone on board should violate the common regulations of the ship or in any way rebel against the commander or officers they are to be punished. "I say, I never denied, but in such cases, whatever is pretended, the commander or commanders may judge, resist, compel and punish such transgressors, according to their deserts and merits."<sup>3</sup>

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1. Mecklin, op. cit., p. 107.
2. Quoted in Stokes, op. cit., p. 197.
3. Quoted in ibid., p. 198.

In spite of problems, however, the principles of freedom remained in force as can be shown by the example of several specific instances. A man named Joshua Verin, as Williams reported it,

...refused to hear the word with us (which we molested him not for) this twelve month, so because he could not draw his wife...to the same ungodliness with him, he hath trodden her under foot..<sup>1</sup>

For this, by majority vote of the settlement, Verin lost his right to vote. Persecution in matters of conscience was not to be permitted in the colony either within the family relationship or otherwise.<sup>2</sup>

It was largely through the influence of Williams' steadfast support of liberty of conscience that Rhode Island was the first colony to give Jews equal civil rights.<sup>3</sup> But it is in Williams' relations with the Quakers that his faithfulness to his ideals is most clearly evident. There is no doubt that Williams had only the utmost abhorrence for the doctrines of the Quakers. In 1672 he engaged in a debate with three of Fox's disciples in Newport; the record of his arguments against them is contained in his paper George Fox Digg'd out of his Burrowes published in 1676 and reveals his strong feelings in the matter.<sup>4</sup> However, never did Williams suggest

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1. Quoted in Bloom, op. cit., p. 91.
2. Cf. ibid.
3. Cf. ibid., p. 92.
3. Cf. Miller, op. cit., pp. 246-253.

using civil power against them. This was in keeping with his unchanging policy, another instance of which may be seen in earlier years, also in relation to the Quakers. In 1651 the General Assembly of Rhode Island, under the leadership of Williams who was then president, refused to expel the Quakers from their midst even though the other colonies threatened to close the trade channels of Rhode Island.<sup>1</sup>

Although Williams was confronted with numerous problems in carrying out his principles, he steadfastly persisted in putting them into operation in Rhode Island. He was true to his convictions not only as they existed in theory but as they took form in practice.

### 3. As Viewed by his Contemporaries

The example cited above of the attempt of the Massachusetts colonies to force Rhode Island to banish the Quakers is but one of many illustrations which could be given to show the attitude of these intolerant colonies toward Rhode Island. They had no sympathy whatever with the spirit of liberty which prevailed in that democratic colony. They held it in lowest contempt as a center of the most undesirable people in the New World. It was always "Rogues' Island" to the other New England colonies

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1. Cf. Bloom, op. cit., pp. 92-93.

and except for attempts to "reform" some of its most obnoxious practices they had as little to do with it as possible. A New England Confederacy was formed by Massachusetts Bay, Plymouth, Connecticut and New Haven for mutual protection against the Indians but Rhode Island was refused admission. As a result this colony suffered severely in King Philip's War.<sup>1</sup> But Rhode Island continued to go its own way in spite of the high price it sometimes had to pay for its independence.

#### F. Significance

It is impossible to estimate to what extent a debt is owed to Roger Williams for the ultimate inclusion of the principle of separation of Church and State in the national Constitution at the end of the next century or to what extent he and his ideas are responsible for the freedom of religion enjoyed in this country today. But certainly in spite of the problems which developed and notwithstanding the contempt of the other colonies Williams' experiment in Rhode Island was basically successful. To thoughtful people both of his day and of later years who could look at his experiment objectively, it was evident that Williams was an outstanding leader in the area of freedom, both

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1. Cf. Bates, op. cit., p. 150.

religious and political. Perhaps Perry Miller's evaluation is as fair as any:

He exerted little or no direct influence on theorists of the Revolution and the Constitution,...yet as a figure and a reputation he was always there to remind Americans that no other conclusion than absolute religious freedom was feasible in this society.<sup>1</sup>

#### G. Summary

When Williams arrived in Massachusetts in 1631 he found himself living in a theocracy; a society modeled on the Israel of the Old Testament. Civil authorities were at the command of the Church and took action against violators of completely religious standards, such as the first five commandments. Liberty of conscience existed in theory only.

To Williams such a state of affairs was directly opposed to the will of God who since the coming of Christ no longer authorizes any national Church. The Church is to be composed of believers who freely submit to God and voluntarily join together in fellowship and separate themselves from the world. Forcing conformity upon unbelievers only produces hypocrites and furthermore it is infringing upon the jurisdiction of God who alone is the Judge in spiritual matters. These beliefs of Williams

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1. Miller, op. cit., p. 254.

led ultimately to the conviction that complete separation of Church and State is absolutely necessary in any society. Separation of Church and State in Massachusetts would have meant the collapse of the whole governmental system. Consequently, a bitter conflict developed which resulted in the banishment of Williams in 1635.

In 1636 Williams founded the town of Providence in Rhode Island and there, notwithstanding the many difficulties he encountered, he remained true to his convictions. Not only according to the basic documents of the colony but also in actual practice the Church and State had separate and distinct functions; the right of every individual to complete freedom in matters of conscience was carefully protected.

This experiment of Williams stands out in the history of our country as the first attempt to insure freedom of religion by separating the Church from the State. Its influence, although admittedly indirect, has been considerable.

CHAPTER II

WILLIAM PENN'S EXPERIMENT IN PENNSYLVANIA



## CHAPTER II

### WILLIAM PENN'S EXPERIMENT IN PENNSYLVANIA

#### A. Introduction

William Penn has frequently been called "the first American" because of his democratic convictions.<sup>1</sup> Yet Penn spent only four years of his life in this country. His influence, however, was not dependent upon his presence. He was responsible for the government of Pennsylvania and also to a large extent for that of West New Jersey and in this capacity he greatly affected the government of this country. It is claimed that

The course of government in America was profoundly shaped by his pioneer constitutions of self-government for the colonies of West New Jersey and Pennsylvania, of which religious liberty was the foundation and just laws the substance.<sup>2</sup>

It is the foundation of Penn's government, religious liberty, and more particularly its basis, the separation of Church and State, with which this chapter is primarily concerned. The first section will discuss Penn's religious beliefs as they have a bearing upon his idea of government; the following section will deal with Penn's view of Church

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1. Cf. Stokes, op. cit., p. 208.

2. The William Penn Tercentenary Committee: Remember William Penn, p. xvi.

and State relations; and finally there will be a discussion of the way in which his theories were worked out in the colony of Pennsylvania.

## B. Penn's Religious Beliefs

### 1. Conversion to Quakerism

William Penn's "convincement" that he must join the Quakers occurred in 1667 when he was twenty-two years of age.<sup>1</sup> This decision profoundly affected the whole future of his life, for at the time it was made young Penn was, by all appearances "...a belated Elizabethan of the Raleigh type, destined for an adventurous, many sided career as soldier, courtier, scholar and man of the world."<sup>2</sup> Penn's father, Admiral William Penn, a favorite of Cromwell and Charles II, had considerable wealth and as a result his son William was greatly privileged in many ways. He was well educated and had traveled in Europe where he had received the honor of being presented at the court of Louis XIV.<sup>3</sup> But after his conversion to Quakerism all this changed. The Quakers were a despised and persecuted sect whose appeal had largely been to the lower and middle classes. The early Quakers were not meek and lowly but

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1. Cf. The William Penn Tercentenary Committee, op. cit., p. xv.
2. Bates, op. cit., p. 184.
3. Cf. ibid.

fiery and courageous. The prisons of England were filled with Quakers who refused to yield to the restrictions placed upon them and many even died as a result of their faith.<sup>1</sup> Immediately after his "convincement" Penn became an active champion of the Quakers and as a result shared in their persecutions. He was in prison several times, his first brief imprisonment occurring in 1667, the year he became a Quaker. He was also disinherited by his father although subsequently his father reconsidered and forgave him for joining the despised Quaker sect.<sup>2</sup>

Penn made a great contribution to the Quaker faith through his writing. As early as 1668 he was attempting to create a systematic theology of the Quakers. For the next twelve years his life was spent in writing pamphlets of a religious nature, preaching, and debating, interrupted by periods of imprisonment.<sup>3</sup> He did a great service not only to the Quakers but to all persecuted groups through his influence upon English government. Penn's defense at William Mead's and his trial for preaching in the street in 1670 is said to be "a landmark in English

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1. Cf. Bates, op. cit., p. 80.

To illustrate the suffering experienced by the Quakers Bates uses the example of William Dansbury, a close friend of Fox, who was a strong, healthy, ex-soldier when he first was sent to prison and twenty years later when he was freed from his last imprisonment was "a shattered wreck cast out to die."

2. Cf. *ibid.*, p. 185.

3. Cf. *ibid.*

constitutional history."<sup>1</sup> Penn's life and writings were a major factor in the passing of the Toleration Act of 1689 in England.<sup>2</sup>

## 2. Distinctive Quaker Doctrines

The Quaker view of the Trinity was not strictly orthodox. In fact, Penn was imprisoned for nearly nine months for writing The Sandy Foundation Shaken in which he attacked the dogmas of the Trinity and the Atonement.<sup>3</sup> The Quakers believed that the Father, the Son, and the Spirit were all one, different manifestations of the same entity.<sup>4</sup> More orthodox groups also were shocked by the Quaker declaration that "Justification by the righteousness which Christ fulfills for us in his own person wholly without us, we boldly affirm it to be a doctrine of devils."<sup>5</sup> Because of their stress on striving for perfection they were often accused of believing in salvation through works. However, they never believed that by external acts they could earn their way to heaven. In Some Fruits of Solitude (1693) Penn wrote "Regeneration is the only way to the

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1. Bates, op. cit., p. 186.  
The court sentenced the jury to prison for bringing in a verdict of acquittal; later this was judged illegal.
2. Cf. The William Penn Tercentenary Committee, op. cit., p. xvi.
3. Cf. William Wistar Comfort: William Penn, p. 21.  
He was released only after an interview with the orthodox Dr. Stillington and the publication of Innocency with Her Open Face in which Penn explained his earlier tract on the Trinity.
4. Cf. ibid., p. 79.
5. Quoted in ibid., p. 86.

kingdom of God."<sup>1</sup> And regeneration was possible only through Christ who forgave the past sins of everyone who truly repented, believed, and obeyed Him and then through His Spirit worked in their hearts to destroy the very nature of sin within.

The most important of the Quaker beliefs was that concerning Inner Light. Penn wrote on this subject in The Spirit of Truth Vindicated (1672) where his purpose was to establish that the correct reading of John 1:9 is "This is the true Light which lighteth every man that cometh into the world."<sup>2</sup> All men therefore are equal since the Light lights "every man", although all may not choose to receive and obey it and thus to become children of God. But those who do receive the Light receive continuous and progressive revelation as they are able to comprehend it. Since each person has the Light within and can follow it by himself, an ordained priesthood and sacraments are unnecessary. There can be no infallible church nor are the Scriptures infallible. Penn never referred to the Bible as the "Word of God" but always as the progressive revelation of God's will.<sup>3</sup> Quakers put the conscience of the individual ahead of all things; it was the responsibility of each person to act in accordance with that which he considered to be right.

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1. Quoted in The William Penn Tercentenary Committee, op. cit., p. 28.
2. Comfort, op. cit., p. 86.
3. Cf. The William Penn Tercentenary Committee, op. cit. p. 26.

The persecution the Quakers endured was largely a direct result of their beliefs, some of which were considered blasphemous. Their belief in the equality of all men caused them to refuse to remove their hats to anyone, even in court, and they addressed everyone alike as "Thee" and "Thou." Both of these Quaker customs were regarded as insults. Finally their refusal to take judicial oaths and their strict pacifism brought them trouble.<sup>1</sup>

### C. His Views on Church and State

#### 1. His Idea of Government

Quakerism was primarily a personal religion and the Quakers as a rule kept out of public affairs as much as possible. It was their thought that the less government the better.<sup>2</sup> Penn, although by nature interested in government, shared this conviction. In 1700 when he addressed the Provincial Council of Pennsylvania he said:

...I advise you not to trifle with government; I wish there were no need of any but since crimes prevail, government is made necessary by man's degeneracie. Government is not an end but a means..<sup>3</sup>

Penn saw the need for government and also the dangers involved. Whenever there is power there is the possibility

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1. Cf. Comfort, op. cit., pp. 91-92.

2. Cf. *ibid.*, p. 102.

3. Quoted in The William Penn Tercentenary Committee, op. cit., p. 96.

of its being abused. Penn expresses his idea of the purpose of government and also of its limits in these words:

It is the great end of government to support power in reverence with the people, and to secure the people from the abuse of power; for liberty without obedience is confusion, and obedience without liberty is slavery.<sup>1</sup>

His description of government is as follows: "By government we understand an external order of justice, or the right and prudent disciplining of society, by just laws either in the relaxation or execution of them."<sup>2</sup> Penn made a distinction between fundamental laws which were basic and unchanging and temporary laws which needed to be adapted to a changing society. The fundamental laws were based on religious and moral principles "which should underlie all legislation."<sup>3</sup> However, though government was to be firmly grounded on religious and moral principles it was not to be considered a religious institution. In his address of 1700 to the Provincial Council mentioned above, Penn goes on to say of government:

At the late Election in Philadelphia, I was grieved to hear some make it a matter of religion. It is merely a human and moral thing relating to society, trade, traffique, and publick good, consisting in virtue and justice; where these are maintained, there is government indeed.<sup>4</sup>

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1. Quoted in Leonard Woolsey Bacon: A History of American Christianity, p. 116.
2. Quoted in Comfort, op. cit., p. 118.
3. The William Penn Tercentenary Committee, op. cit., p. 141.
4. Quoted in ibid., p. 96.

## 2. Separation of Church and State

The distinction made in the quotation above reveals Penn's conviction that Church and State must be two separate entities. It has been shown that he considered government to be a necessary but limited external control over men's lives so that absolute chaos might be prevented. Religion, however, was quite another thing. Penn discusses this in his Address to Protestants of All Persuasions where he speaks of the gross and general mistake concerning the nature of Christ's church and kingdom, which, he says:

...is not an outward or worldly kingdom that can be set up by man and sustained by coercive laws, but it consists of the reign of God in the souls of men; it is a spiritual kingdom, and none but spiritual weapons are to be used to reclaim those who are ignorant or disobedient.<sup>1</sup>

Penn's tract The Great Case of Liberty of Conscience (1670)<sup>2</sup> presents his arguments against any kind of external pressure in the matter of religious faith. His first major emphasis is that "Imposition, Restraint, and Persecution, for matters relating to conscience, directly invade the divine prerogative.." He gives five supporting reasons for this: 1) God as Creator has "an incommunicable right of government over conscience." 2) Attempts to impose one religious faith on all people are an evident claim to infallibility on the part of the

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1. Quoted in The William Penn Tercentenary Committee, op. cit., p. 58.

2. Reprinted in part in Blau, op. cit., pp. 52-67.



authorities; Protestants in opposing the Papists have consistently denied infallibility to any except God alone.

3) Man would be enthroned as king over conscience; Caesar in this case has all--God's share and his own too. 4) God's work of grace and the invisible operation of His eternal Spirit is defeated when worship is determined by outward force and corporal punishments. 5) Such authority in religion is an assumption of the judgment of God. Penn summarizes this argument by saying:

He will not give his honor to another; and to him only, that searches the heart and tries the reins, it is our duty to ascribe the gifts of understanding and faith, without which none can please God.<sup>1</sup>

Penn's second major contention is that external force in the matter of religious faith and practice may ultimately lead to the overthrow of the whole Christian religion. He gives four bases for this: 1) External force is entirely contrary to the nature of Christianity. Christ Himself said His kingdom was not of this world. It is a spiritual kingdom "accompanied with weapons as heavenly as its own nature, and designed for the good and salvation of the soul, and not the injury and destruction of the body.."; Penn concludes, "In short, the Christian religion intreats all, but compels none." 2) Conformity by force is contrary to the practice of Christianity. As examples he cites the Christian martyrs through the ages as well as

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1. Quoted in Blau, op. cit., p. 59.

Christ Himself who not only refused to persecute but even refused to revile His persecutors. 3) "Restraint and persecution obstruct the promotion of the Christian Religion" for those who may conform outwardly actually have no desire to lead a true Christian life.<sup>1</sup> 4) Many are prevented from receiving eternal rewards. If one is religious through fear of any authority other than that of God the only reward to be obtained is that which the authority is able to bestow.

Penn's next argument against civil force in matters of religion is from the point of view of government. "We next urge, that force, in matters relating to conscience, carries a plain contradiction to government, in the nature, execution and end of it."<sup>2</sup> He goes on to list the various ways in which each of these aspects of government is violated: violation of its nature, which is justice; of its execution, which is prudence; and of its end, which is felicity.

Penn summarizes the situation and gives his own evaluation thus:

...some will not that we should live, breathe, and commerce as men, because we are not such modelled Christians as they coercively would have us: they might with as much justice and reputation to themselves forbid us to look or see unless our eyes were grey, black, brown, or blue, or some one color best suiting theirs: for not to be able to give us faith, or save

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1. Quoted in Blau, op. cit., p. 59.

2. Quoted in ibid., p. 60.

our consciences harmless, and yet to persecute us for refusing conformity, is intolerable hard measure.<sup>1</sup>

Back of all Penn's objections to coercion in matters of religious life was his Quaker belief in Inner Light. Men were equal; each one had a right to follow the light which God had given him individually. Furthermore, since revelation was progressive and continuous any attempt to set a rigid pattern was by the very nature of things wrong. Even aside from the moral issue involved, such forced conformity was unreasonable. Those who supported a national church to the exclusion of all others were creating problems for their own posterity; they could not determine in advance to what religious beliefs their children would adhere. Indeed, since men are liable to change in their beliefs, those who tried to force one religious faith on everyone were setting a trap for themselves. It might well be that at a later day they would be convinced of different views and by their own previous actions have laid themselves open to persecution if they should attempt to act on these new convictions.<sup>2</sup> Also unreasonable is the idea that men can be made to believe anything by force. Penn's statement that "Force may make an hypocrite, 'tis faith grounded upon knowledge that makes a Christian"<sup>3</sup>

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1. Quoted in Blau, op. cit., p. 66.

2. Cf. ibid., p. 53.

3. Quoted in Comfort, op. cit., p. 118.

brings to mind Roger Williams who thoroughly agreed with this viewpoint.<sup>1</sup>

These views led Penn to the conviction that Church and State must be kept separate. They operated in two entirely different realms and performed different functions. Such a separation, he felt, contrary to the prevalent belief of his day, would endanger neither Church nor State.<sup>2</sup> He was convinced that "...diversities of faith and worship contribute not to the disturbance of any place, where moral uniformity is barely requisite to preserve the peace."<sup>3</sup> He believed that if civil rights, based on religious and moral principles, were "inviolably observed" there would be no difficulty at all in maintaining an orderly, peaceful government regardless of the variety of religious faiths which might exist.<sup>4</sup> Penn believed that separation of Church and State was the best, in fact the only possible solution, to the problems brought about by the attempt to enforce conformity in religion, as Sweet says:

The point for which Penn argued so cogently is the removal of religious faith and practice from the jurisdiction of government, that is, the complete separation of Church and State.<sup>5</sup>

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1. Cf. ante, p. 17.
2. Cf. Comfort, op. cit., p. 127.
3. Quoted in The William Penn Tercentenary Committee, op. cit., p. 31.
4. Cf. Comfort, op. cit., p. 122.
5. Ibid., p. 118.

### D. Penn's "Holy Experiment"

#### 1. As Conceived by Penn

In 1681 King Charles II paid a debt he owed Penn by giving him land in the New World. Penn was to have proprietorship of a colony to be called "Pennsylvania."<sup>1</sup> This settlement of the debt was most satisfactory to Penn. For years through his writing, debating, preaching and his own firm personal stand Penn had done all he could to bring about religious freedom in England. Progress had been made, but so slowly that Penn gave up all hope of real freedom ever being achieved. His thoughts had turned to the New World and he had felt that if given an opportunity he would like to experiment there. He was convinced that a colony established upon Quaker principles could succeed. Thus, when he was given land in the New World he took his responsibility for its government very seriously. To him this colony was to be a "Holy Experiment." He explained his intention for the colony as follows:

My God that has given it me through many difficulties, will, I believe, bless and make it the seed of a nation....I have so obtained it and desire to keep it, that I may not be unworthy of His love; but do that which may answer His kind providence and serve His Truth and people; that an example may be set up to the nations. There may be room there, though not here, for such an experiment.<sup>2</sup>

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1. Cf. Sweet, op. cit., p. 98.

2. Quoted in ibid., p. 98.

He was confident that this colony would be proof that

...a state could be run successfully in accordance with Quaker principles; that prosperity and peace could be maintained without oaths and wars; and that religion and morality could flourish in a society where there was no established church and everybody enjoyed freedom of conscience.<sup>1</sup>

Penn hoped to show the world that Quaker principles, based primarily upon the freedom and responsibility of each individual to follow his Inner Light, were a solid and safe foundation for a government. In his planning he insisted that at every step he was following God's guidance, acting only with His glory in view and depending completely upon Him. Only in this way could his "holy experiment" be a success.<sup>2</sup>

## 2. As Established by Law

The first important document in regard to the government of Pennsylvania was the First Frame of Government (1682) and the code of laws, known as the Great Law or the Bill of Rights, added to it in the following year.<sup>3</sup>

Stokes says of it: "This constitution was, next to that of Rhode Island, the most liberal from the standpoint of religion existing for any considerable period in colonial America."<sup>4</sup> This constitution includes the provision that

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1. Chitwood, op. cit., pp. 256-257.
2. Cf. Comfort, op. cit., p. 38.
3. Cf. Stokes, op. cit., p. 206.
4. Ibid., p. 207.

All persons living in this province who confess and acknowledge the one almighty and eternal God to be the Creator, Upholder and Ruler of the world...shall, in no ways, be molested or prejudiced for their religious persuasion, or practice, in matters of faith and worship, nor shall they be compelled, at any time, to frequent or maintain any religious worship, place or ministry whatever.<sup>1</sup>

There was to be no established Church in Pennsylvania.

According to Penn's convictions there was to be separation of the two powers. And yet, broad as the freedom permitted was in contrast to most governments of that day, there were certain restrictions. Freedom, for example, was not guaranteed to atheists but only to those who acknowledged one God as the Creator, Upholder and Ruler of the world.

An even more severe restriction was contained in the following statement found in this constitution:

All persons who profess to believe in Jesus Christ the Saviour of the World, shall be capable to serve the government in any capacity, both legislatively and executively.<sup>2</sup>

This limitation of office-holding to Christians only was probably included because of pressure from England.<sup>3</sup>

The Bill of Rights had to be agreed upon in England before it went into effect in Pennsylvania and the restrictions to freedom in England have already been mentioned. That Penn succeeded in obtaining as many concessions as he did speaks

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1. Quoted in Comfort, op. cit., p. 145.

2. Quoted in Stokes, op. cit., p. 206.

3. Cf. Isaac Sharpless: Political Leaders of Provincial Pennsylvania, p. 37.

a great deal for his persistence and influence. However, not all restrictions can be blamed on the English authorities. Some are due to Penn's own view of government. The preface to the First Frame of Government contains the idea that civil powers are ordained by God and are responsible for punishing the evil and protecting and rewarding those who do good.<sup>1</sup> Although the civil realm and the spiritual realm are separate and distinct, there is a relationship between the two which must be taken into account. God must be considered active in every area of life and this includes the civil governments of men. In the preamble to the Great Law the purpose of government is stated thus: "...the glory of Almighty God and the good of Mankind, is the reason and end of government." The specific purpose of the government of Pennsylvania is also given: "...it is principally desired and intended...to make and establish such laws as shall best preserve true Christian and Civil Liberty, in opposition to all Unchristian, Licentious, and unjust practices."<sup>2</sup> Penn refused to permit an established Church or to insist on conformity in matters of religious faith and worship, yet the colony he established was to be based on Christian principles. God had ordained civil governments; therefore, they owed their origin to Him. They must be in keeping with His fundamental laws. The

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1.Cf. The William Penn Tercentenary Committee, op. cit., p. 80.  
2.Quoted in ibid., pp. 85-86.



Quaker views on moral issues were not regarded by them as particular beliefs of their own sect, but as basic views of all God-fearing people. Therefore, Penn saw no contradiction in his insistence on the freedom of the individual to follow the Light within and the laws of Pennsylvania forbidding not only the customary immoralities acted upon by all governments but also "all prizes, stage-plays, cards, dice, May-games, gamesters, masques, revels, bull-baitings, cock-fightings, bear-baitings, and the like."<sup>1</sup> There were also penalties for swearing and it was a civil offense to say "The Holy Scripture is a mere fable."<sup>2</sup> Proper observance of Sunday was demanded:

...to the end that Looseness, irrelegion, and Atheism may not Creep in under pretense of Conscience in this Province,...Every first day of the week, called the Lord's day, People shall abstain from their usual and common toil and labour..<sup>3</sup>

Green states Penn's intention in this way, "In short, Penn's commonwealth was meant to be a Christian society, but without enforced conformity."<sup>4</sup>

In 1683 a Second Frame of Government was found to be necessary since additional land was given to Penn and provision had to be made for it in the law. Except for the changes made in the number of representatives to the Council and to the Assembly the laws of Pennsylvania remained about the same as under the First Frame.<sup>5</sup>

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1. Quoted in Comfort, op. cit., p. 145.
2. Quoted in Swancara, op. cit., p. 47.
3. Quoted in Stokes, op. cit., p. 207.
4. Green, op. cit., p. 58.
5. Cf. Comfort, op. cit., p. 146.

Because of a boundary dispute with Lord Baltimore, Penn, who had arrived in Pennsylvania in 1682, returned to England in 1684 to present his case at court. While Penn was in England Charles II died and James succeeded him as King. Penn felt that he could best serve the cause of religious freedom and the interest of his colony by remaining in England and attempting to influence James. James did show concern for increased religious freedom but this was because of his own Roman Catholic beliefs and his desire to obtain freedom for the Catholics. Penn became extremely unpopular in England because of his close association with King James and was even accused of being a Papist himself.<sup>1</sup> Penn was under suspicion for some time after the Glorious Revolution of 1688 in England and lost his governorship of Pennsylvania in 1692. It was restored to him in 1694 and as a matter of form a new Frame of Government was necessary. This was the Third Frame of Government, adopted by the Pennsylvania Assembly in 1696, and known as Markham's Frame of Government since Penn's cousin, William Markham, was acting as Penn's deputy governor in Pennsylvania.<sup>2</sup> Again only minor changes were made in the government.

The final revision of the Pennsylvania Constitution was the Charter of Privileges of 1701. This

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1. Cf. The William Penn Tercentenary Committee, op. cit., p. 92.

2. Cf. Comfort, op. cit., p. 147.

contained essentially the same provisions for freedom of religion as the First Frame of Government, i.e., all who believed in God were allowed to worship freely, according to their own persuasion and all who believed in Christ could hold office.<sup>1</sup> After making provision for proper procedures in making changes there is a section of this document which promises that Penn himself, his heirs, and his "assigns" shall never lessen the liberty of conscience as stipulated in the Charter:

...the First Article of the Charter relating to Liberty of Conscience, and every Part and Clause therein, according to the true Intent and Meaning thereof, shall be kept and remain, without any alteration, inviolably for ever.<sup>2</sup>

This Charter remained in effect until Pennsylvania became a state.

### 3. As Worked Out in Practice

There were many difficulties which had to be faced in applying Penn's theories to an actual situation. Pressure from England was felt strongly in at least three different respects: laws concerning Catholics, war, and oaths. There was strong feeling against the Catholics in England and the Quaker colonists finally acquiesced. Catholics were excluded from public office in spite of the fact that as those who professed faith in Christ they were

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1. Cf. The William Penn Tercentenary Committee, op. cit., pp. 99-100.

2. Quoted in *ibid.*, p. 102.

legally eligible according to the law of Pennsylvania. In yielding to England on this point, however, the colonists did not adopt England's custom of persecution of undesirable sects. Even though Catholics could not hold office in Pennsylvania, at the time of the Revolution Pennsylvania was the only one of the thirteen colonies in which Roman Catholic worship services were publically held.<sup>1</sup> In 1755 after the news of Braddock's defeat reached Philadelphia, a mob assembled to destroy the "Mass House." This action was prevented by Quakers who defended the Catholics on the grounds that they were a Christian group and therefore entitled to the protection of the government.

Quaker pacifism created a real problem, especially after the war with France began in 1689. The Quakers refused to bear arms or to appropriate money for defense. Finally it was necessary to provide some protection and they did equip Indians who had no moral scruples against war.<sup>3</sup> But the basic Quaker conviction remained unshaken and in 1756 Quaker delegates to the Pennsylvania Assembly gave up their seats rather than sacrifice their principles by supporting the war between Britain and France.<sup>4</sup> Due to the religious freedom which prevailed in Pennsylvania it was inevitable that the Quakers, a minority sect, should

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1. Cf. Evarts B. Greene: Religion and the State, p. 58.

2. Cf. Sharpless, op. cit., p. 37.

3. Cf. Bacon, op. cit., p. 196.

4. Cf. ibid., p. 201.

eventually lose their power in the government, and the Quakers voluntarily giving up what seats they had remaining is the final result.

Since oaths were contrary to Quaker beliefs, in Pennsylvania affirmations were permitted in all cases as a substitute for oaths. England opposed this law and the question was finally settled by allowing affirmations for all purposes so that Quakers brought to court had no problem. A Quaker judge, however, might be involved in proceedings where non-Quakers took oaths. Some judges refused to serve because of this fact.<sup>1</sup>

Penn, of course, objected to the restrictions imposed by England but there was little he could do about them. He also tried, without success, to do something about the fact that his colonial officials had to give allegiance to the Crown, deny papal authority and practice and profess faith in orthodox Christianity. The Quakers could sincerely make the statements required but it was against Penn's principles for them to have to do so.<sup>2</sup>

Penn acted in accordance with his convictions also in refusing to grant any political favors to members of his own sect. He is known to have severely rebuked one who asked whether the founders of the colony should not have special consideration.<sup>3</sup>

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1. Cf. Greene, op. cit., p. 58.

2. Cf. Sharpless, op. cit., p. 38.

3. Cf. ibid.

Another example of the Pennsylvania Quakers' refusal to violate their principles occurred in the case of George Keith. Keith had been one of the leading Quakers after he left the Presbyterians as a young man. But later he challenged the leadership of Fox and Penn, denying some of the fundamental tenets of the Quaker religion. Many followed him, creating a split among the Quakers. If Pennsylvania had been like the other colonies (with the exception of Rhode Island) the Church could have tried Keith and had him banished by the civil authorities. The Quakers could not do this, however, and be consistent with their ideals. Instead, the Church took the action of disowning him and his followers as Friends and he eventually joined the Anglican Church.<sup>1</sup>

In spite of Penn's persistent emphasis on the freedom of the individual it must be confessed that for a brief period of time he himself acted in direct violation of the very principles which he had spent so much of his life in trying to establish. During the time he was under suspicion in England as a possible Papist, Penn to a large extent lost his respect for people and their judgment. Upon his return to Pennsylvania in 1699 he found that the Assembly had been increasing its powers to the point of demanding the virtual abolition of the Upper House, the

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1. Cf. Thomas Jefferson Wertenbaker: The Founding of American Civilization: The Middle Colonies, pp. 194-195.

Governor's Council. Penn not only opposed this but had one of his opponents publicly whipped and another censured for reprinting the First Frame of Government. He suppressed the newspaper of an antagonist and confiscated the printing press of William Bradford. That Penn's inconsistency did not cause the colony to yield its ideals of liberty is shown by the fact that Bradford, taken to court for libel, was given a fair trial and won his case.<sup>1</sup> These were all violations of civil liberties; apparently Penn never wavered on his insistence that everyone should have freedom of conscience. He soon recovered from his spell of tyranny and submitted to the demands of the colonists. Except for this brief episode he steadfastly supported the ideals of freedom which he held so firmly.

In spite of the many difficulties faced, the government held together and served its function well. From time to time changes had to be made in the laws which regulated the colony but this was to be expected since revelation was considered to be continuous and progressive. Not only was the form of government found to manage the affairs of the colony satisfactorily, in spite of many misapprehensions on the part of outsiders, but the colony was exceptionally successful materially as well. Penn advertized the religious freedom offered in Pennsylvania

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1. Cf. Bacon, op. cit., pp. 194-195.

and all sorts of persecuted groups swarmed into the colony. Pennsylvania became wealthy, so wealthy in fact that the Quaker principles of morality were endangered later in its history. Thus this colony based so specifically upon Christian ideals tended to become materialistic.<sup>1</sup>

#### E. Significance of His Experiment

Penn did prove to the world through his experiment in Pennsylvania that a colony based on Christian principles and permitting freedom of religion can succeed. There were many problems in connection with the government of the colony but some of these such as oaths and warfare were a result of particular Quaker beliefs rather than fundamental Christian doctrines. Pressure from England made it impossible to carry out the experiment in freedom as fully as Penn desired but nevertheless much was achieved. Speaking of the total result Chitwood says, "His experiment was undoubtedly a success."<sup>2</sup> Comfort says, specifically in regard to the Charter of Privileges in 1701, "Religious toleration, civil liberty, and popular government had reached a new high as the result of his Holy Experiment."<sup>3</sup>

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1. Cf. Wertenbaker, op. cit., p. 201.
2. Chitwood, op. cit., p. 257.
3. Comfort, op. cit., p. 151.



Comfort expresses his evaluation of Penn's work as a whole as follows:

We take our religious and civil liberties for granted, without inquiring how we became possessed of what are now unquestioned rights. It is in this sense that Penn staked out an advance in human progress, and this is his greatest claim to fame. He protested against certain abuses and asserted certain rights so manfully that the job will never have to be done again.<sup>1</sup>

Sweet believes that the outstanding reason for the success of Pennsylvania was "the religious freedom which the proprietor not only guaranteed, but also widely advertised."<sup>2</sup>

As in the case of Roger Williams it is impossible to determine to what extent William Penn influenced those who were directly responsible for the Constitutional provision of separation of Church and State. It is certain that the overall success of his experiment was one more strengthening factor to those who sought to ensure religious freedom by insisting that Church and State should be separated. Stokes says, "Certain it is that as a Christian statesman he was well ahead of his time, and highly influential with Thomas Jefferson the other of the Founding Fathers."<sup>3</sup>

#### F. Summary

As soon as William Penn was converted to Quakerism he became an active supporter of this sect through writing,

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1. Comfort, op. cit., p. 103.
2. Sweet, op. cit., p. 98.
3. Stokes, op. cit., p. 208.

debating and preaching. His Quaker beliefs, especially that concerning individual guidance through Inner Light, were the basis for his views on government. When he became the proprietor of Pennsylvania in 1681 he saw this as an opportunity to carry out a "holy experiment", establishing a colony based on Quaker principles.

The laws of Pennsylvania under the leadership of Penn prohibited an established church; each person who believed in God was permitted to worship as he chose. There were some restrictions on religious freedom, however. Only Christians were allowed to hold office, proper observance of Sunday was required by law, and several laws corresponding to the New England "Blue Laws" were in effect. Yet Pennsylvania was far in advance of most of the other colonies in promising freedom to all, even persecuted sects.

Although pressure from England made it difficult to allow religious freedom to the extent that Penn would have liked, Pennsylvania was outstanding among the colonies of the time for its liberal attitude. As an experiment it was basically a success, and thus exerted influence to some extent on the writers of the Constitution who made separation of Church and State the law of this nation.

CHAPTER III

ESTABLISHING THE CONSTITUTIONAL PRINCIPLE  
OF SEPARATION OF CHURCH AND STATE

## CHAPTER III

### ESTABLISHING THE CONSTITUTIONAL PRINCIPLE OF SEPARATION OF CHURCH AND STATE

#### A. Introduction

Each of the preceding chapters has described an early experiment in governing a colony on the basis of the separation of Church and State. The purpose of this chapter is to deal directly with the incorporation into the United States Constitution of the principle of separation of the two powers. The winning of religious freedom in Virginia and its significance will be the subject of the first part of this chapter. This will be followed by a discussion of the actual legislation which made separation of Church and State the national law. The final section will be concerned with the meaning and significance of the term "separation."

The relationship between the colonial experiments presented in the first two chapters and the national legislation considered in this chapter will be seen most clearly in the section which tells of the chief factors leading to the Constitutional principle of separation of Church and State. It should be stated at the outset that it is impossible to determine the exact degree to which the early

experiments were responsible for later legislation on Church-State relations. The relationship is at best only indirect; and yet, as will be pointed out, the effects of the experiments in Rhode Island and Pennsylvania were far-reaching in several ways.

B. The Struggle for Religious Freedom  
in Virginia

Stokes says that Virginia was "the first state in the modern world with both complete religious freedom and complete separation of Church and State."<sup>1</sup> He believes that what happened in Virginia had a greater influence on American theories of Church-State separation than any other single historical factor.<sup>2</sup> It is particularly relevant to the main subject of the chapter, the incorporation of Church-State separation into the American Constitution, because of the closeness of time of the Virginia struggle to the writing of the United States Constitution and also because of the fact that the outstanding statesmen responsible for the legal action taken in Virginia were the same men chiefly responsible for the establishment of the Federal government.

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1. Stokes, op. cit., p. 381.

2. Cf. ibid., p. 366.

Sweet describes the struggle for religious freedom in Virginia as "prolonged and bitter."<sup>1</sup> The discussion here will be far from complete, but it is hoped that the general outline of what took place and its significance will be revealed in this study.

#### 1. The Existing Situation (c1750)

The colony of Virginia had been established mainly as a mercantile venture. There was a General Assembly but England maintained a great deal of control over the government. The Anglican Church, which owned large tracts of land, had long been exclusively established and was supported by taxes from all the citizens of the colony. Since 1662 the General Assembly required ministers to present evidence of ordination by an English bishop and the governor and council were empowered to silence the teaching or preaching of any other persons. Unfortunately, the ministers of the Episcopal Church in general had little concern for things of the spirit. They were content to live in relative wealth and maintain their privileged position.<sup>2</sup>

Certain laws of the colony show the complete lack of religious freedom. By common law heresy was still a capital offense, punishable by burning. Foote says that

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1. Sweet, op. cit., p. 190.

2. Cf. Stokes, op. cit., pp. 366-367.

according to an act of the General Assembly in 1705

...a person brought up in the Christian religion who denied the existence of God, or the Trinity, or asserted that there were more gods than one, or denied the truth of Christianity or the divine authority of scripture was punishable on the first offense by incapacity to hold any office, ecclesiastical, civil or military; and on the second offense by incapacity to receive any gift or legacy or to serve as a guardian or executor, and by three years' imprisonment in jail.<sup>1</sup>

These laws had in effect become dead letters but the danger that they might be revived remained a constant threat.

## 2. Samuel Davies

Samuel Davies, "perhaps the most brilliant Presbyterian preacher of the colonial period," was sent to Hanover County in Virginia in 1747.<sup>2</sup> He had an excellent knowledge of English law and gradually won legal concessions for the dissenters. His arguments were based chiefly on his claim that the English Act of Toleration of 1689 had become part of the Virginia law in 1699. He obtained a license from the court to preach at four places in Hanover and adjoining counties and this was soon increased to seven.<sup>3</sup> Davies was tremendously popular as a preacher. Because he was responsible for many scattered congregations it was necessary for him to do a considerable amount of weekday preaching in order to reach them all.

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1. Henry Wilder Foote: Thomas Jefferson, pp. 20-21.

2. Sweet, op. cit., p. 148.

3. Cf. Mecklin, op. cit., p. 237.

Many Anglicans who probably would not have quite dared to substitute his church services for their own took the opportunity to hear Davies during the week. There was already much dissatisfaction with the Anglican Church and an ever-increasing number of Anglicans turned to the Presbyterian Church with the intention of becoming members.<sup>1</sup>

In 1752 Governor Dinwiddie told Davies that his preaching must be confined to one meeting house or to the limits of one county.<sup>2</sup> Davies continued to fight for freedom on legal grounds. The issues as summarized by Gewehr were whether or not the Act of Toleration actually applied to Virginia and if it did whether or not the Act granted the right to itinerate. There was also a question as to the legality of recognizing the rights of the New Light Presbyterians as an acceptable sect since they were disowned by the main stream of Presbyterians.<sup>3</sup> In 1752 Davies in a letter to England wrote that "...we only press for an explanation of the Act of Toleration with reference to Virginia according to its true intent and meaning in England."<sup>4</sup> Davies went to England in 1753 to present his case there and finally in 1755 when he returned to the colony the legal status of dissenters in Virginia was

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1. Cf. Wesley M. Gewehr: The Great Awakening in Virginia, 1740-1790, p. 73.
2. Cf. Mecklin, op. cit., p. 239.
3. Cf. Gewehr, op. cit., p. 74.
4. Mecklin, op. cit., p. 240.



settled.<sup>1</sup> They could preach and build meeting houses but they received only the rights of toleration. The establishment of the Anglican Church still remained.

Although Virginia was still far from full religious freedom Davies had made a good beginning. His preaching had attracted many people and his work had increased so that in 1755 the Hanover Presbytery was formed. Davies left Virginia in 1759 to become the president of the College of New Jersey (Princeton) and he died of fever two years later.<sup>2</sup> His influence, however, lived on in the Hanover Presbytery which he imbued with his ideas of government "...and particularly with an insistence on the separation of church and state."<sup>3</sup> After Davies' death it was the Hanover Presbytery which made the first demand for a legal separation of Church and State. Stokes says that Davies is "one of the little recognized heroes in securing American religious freedom."<sup>4</sup> The importance which Stokes sees in Davies' work is expressed in the following statement:

He was the forerunner of Thomas Jefferson in advocating the complete separation of Church and State, and helped to lay the foundation for Jefferson's immortal work.<sup>5</sup>

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1. Cf. Gewehr, op. cit., p. 74.

2. Cf. Sweet, op. cit., p. 149.

3. William Thomson Hanzsche: Forgotten Founding Fathers, p. 162.

4. Stokes, op. cit., p. 209.

5. Ibid.

Davies is also believed to have been a great influence in the formation of Patrick Henry's ideas of freedom. Henry attended Davies' church from the time he was eleven until he was twenty-two.<sup>1</sup>

### 3. Outstanding Statesmen

There were in Virginia in the last half of the eighteenth century an outstanding group of statesmen who were concerned with the problem of religious freedom. Mecklin points out that in the minds of these men religious liberty was intimately associated with political liberty and the doctrine of natural and inalienable rights.<sup>2</sup> Thomas Jefferson is usually considered the leader of this group in its concern for freedom and Stokes quotes him as saying:

Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gifts of God?<sup>3</sup>

Stokes believes that Roger Williams is the only person in the history of the United States who can dispute Jefferson's

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1. Cf. Stokes, op. cit., p. 312.
2. See also Hanzsche, op. cit., p. 161 and Mecklin, op. cit., p. 245.
3. Cf. Mecklin, op. cit., p. 259.
3. Stokes, op. cit., p. 339.  
This idea is reflected in much of Jefferson's writings, as for example the important Act for Establishing Religious Freedom to which reference is made below.

claim to primacy in his influence in the cause of religious freedom and Church-State separation.<sup>1</sup>

James Madison is another of the statesmen of this period. His work in behalf of religious freedom is generally less well known than that of Jefferson and yet although Jefferson "may have had more intuitive flashes of genius in dealing with the subject," Stokes is of the opinion that Madison is in many ways supreme among the statesmen of this nation "for his logical and consistent development of the Constitutional ideal of religious freedom."<sup>2</sup>

Patrick Henry's concern for personal liberty in all areas of life is well known. He, too, was actively engaged at this period of American history in trying to secure freedom on a sound legal basis.

Although these three statesmen are those best remembered today, there were several other men of unusual calibre who devoted themselves with equal fervor to the cause of freedom. These men all had developed their own convictions as to the need for disestablishment and to insure equality under law to all churches. The dissenters, however, particularly the Presbyterians and the Baptists in Virginia, laid the ground work and did much to arouse the

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1. Cf. Stokes, op. cit., p. 333.

2. Ibid., p. 345.

statesmen to action. Stokes explains the relationship thus:

The dissenting ministers provided the facts of the serious difficulties and handicaps under which they were laboring, and helped to create strong public opinion demanding a change; while the statesmen gave classic expression to the logical reasons for religious freedom, and formulated in admirable legal form the constitutional provisions and statutes to make it effective.<sup>1</sup>

#### 4. Final Victory

The first significant victory of the dissenters in Virginia has been mentioned above. It occurred in 1699 when Virginia passed the Act of Toleration, and with this as a basis Samuel Davies and others were able to win increasing concessions from the government for the dissenters. Both individuals and groups from the Baptist and Presbyterian Churches constantly petitioned for equal rights. Finally in June 1776, three weeks before the adoption of the Declaration of Independence, Virginia adopted a Declaration of Rights. It was mainly the work of George Mason although Madison was responsible for having the phrase "the fullest toleration" altered to read "free exercise of religion" since he felt "toleration" was not a sufficiently strong term.<sup>2</sup> The final form of the Sixteenth Article of this Bill of Rights was as follows:

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1. Stokes, op. cit., p. 379.

See also Merrimon Cuninggim: Freedom's Holy Light, p. 53.

2. Cf. Stokes, op. cit., p. 380.

That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience;..<sup>1</sup>

Although this action did not in itself disestablish the Church of England it was an important step toward this goal. In October 1776 the Hanover Presbytery sent to the government of Virginia a petition which asked for the dissolution of the Virginia union of Church and State and insisted that the support of any and all churches should be left to the voluntary offering of friends and never to public taxation. This petition, along with all others concerning religion, was referred to a special committee of the Assembly of which Thomas Jefferson was the chairman.<sup>2</sup> An act passed in December 1776 repealed all laws restricting freedom of conscience and exempted dissenters from all financial support of the established Anglican Church. This act also suspended the salaries of the Anglican ministers and in 1779 the established clergy permanently were deprived of their support.<sup>3</sup>

It had been proposed by some that a general assessment for the teaching of religion be established by law with the stipulation that each person be given the

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1. Quoted in Greene, op. cit., p. 78.
2. Cf. Hanzsche, op. cit., p. 162.
3. Cf. Gewehr, op. cit., p. 205.

right to indicate the particular denomination to which his contribution should go. An express reservation of this question was inserted in the December Act and in 1784 there was introduced into the Assembly a bill which provided for such an assessment.<sup>1</sup> This plan was favored by many people, including Patrick Henry, who was usually a staunch supporter of religious freedom. Madison and Jefferson saw the dangers of such a law and in order to convince others Madison wrote A Memorial and Remonstrance on the Religious Rights of Man which he addressed to the General Assembly.<sup>2</sup> It is clear from this paper that Madison believed true freedom of religion was possible only if Church and State remained independent of one another. If there is to be true freedom of religion there must be freedom as well to have no religion at all and the State is responsible for protecting such an inalienable right. This paper, which "must be considered one of the truly epoch-making documents in the history of American Church-State separation,"<sup>3</sup> was mainly responsible for the fact that the General Assessment Bill ultimately failed.

Jefferson in 1779 had presented a Bill for Establishing Religious Freedom which incorporated the

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1. Cf. Stokes, op. cit., p. 382.
2. This is reprinted in full in Blau, op. cit., pp. 81-87.
3. Stokes, op. cit., p. 391.

point of view that no church could be supported by the government. Chiefly due to the efforts of Madison, this bill was finally passed by the Virginia Assembly in 1785 when Jefferson was serving as a government representative to France.<sup>1</sup> This statute was the primary source of the disestablishment of the Anglican Church and its authorship was one of the three achievements of his life of which Jefferson was most proud.<sup>2</sup> After setting forth the reasons upon which the act is based, the actual law is stated as follows:

We the General Assembly do enact: That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.<sup>3</sup>

The paragraph following the above quotation concludes the act with the statement that although the Assembly has no right to declare this act irrevocable yet they do make the following declaration:

...that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement of natural right.

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1. Cf. Cuninggim, op. cit., pp. 98-99.
2. Cf. ibid., p. 95.
3. This act is reprinted in Stokes, op. cit., pp. 392-394 and in Blau, op. cit., pp. 74-75.

This statute provides complete religious freedom for all, including atheists. It also contains Jefferson's views on Church-State relations. These views are expressed in two sentences in Section I of the act:

...that to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy, which at once destroys all religious liberty..

...that it is enough for the rightful purposes of Civil Government for its officers to interfere when principles break out into overt acts against peace and good order.

From this it is apparent that Jefferson saw separation of Church and State as a necessary condition for freedom of religion, and, at least by inference although not explicitly stated, separation was inevitable once this bill became law. Stokes says that the effective separation of Church and State in the United States virtually dates from this statute.<sup>1</sup>

### C. Struggle for Religious Freedom in the United States

#### 1. Significant Factors in 1787

When the representatives from the various states gathered together in 1787 to determine the actual form of government for the United States, there were several main

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1. Cf. Stokes, op. cit., p. 334.



factors which influenced their thinking on the subject of Church-State relations. One of these was the experience of Rhode Island, Pennsylvania and Virginia. The experiments in government carried out in Rhode Island and Pennsylvania had stood the test of time and proved conclusively that governments based on separation of Church and State could succeed. The prosperity of these colonies and the satisfaction of their citizens were facts which must have been noted by the other colonies. The experience of these colonies together with the much more recent acts in Virginia had influenced the colonists in general to a more liberal attitude. These three colonies had a more direct influence through their representatives to the Constitutional Convention. These men, realizing the value of their religious freedom, were eager to maintain it.

The increasing number of sects also made it less likely for any one to obtain control over the others. Since the beginning of the Revolutionary War there had been increased agitation for the separation of Church and State in order that each sect receive equal rights.<sup>1</sup> The membership of the Convention itself represented all the leading religious groups in the country, an added assurance that no one church would be established.<sup>2</sup>

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1. Cf. Sweet, op. cit., p. 189.
2. Cf. Stokes, op. cit., p. 526.

A third factor was the national leadership. Several of these leaders, Jefferson, Madison, and Patrick Henry, had recently led the fight for religious freedom in Virginia and the separation of Church and State in that state was due to their work. Washington<sup>1</sup> and Franklin<sup>2</sup>, two of the most outstanding leaders at the Constitutional Convention, were also strong supporters of full religious liberty and the separation of Church and State.

One other factor was the widespread interest in religion and the great concern for freedom. The War of Independence had made everyone conscious of the need to have legal protection for the rights they valued so highly. These facts also had a place in the thinking of the Constitutional Convention.

## 2. Church-State Relations Established by Law

The members of the Constitutional Convention must have discussed the subject of religious freedom both in the Convention meetings and informally but very little of these discussions have been recorded.<sup>3</sup> Many delegates to the Convention came from states where there was some form of Church-State organic relationship. Dissent in these states often was responsible for steps being taken

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1. Cf. Stokes, op. cit., pp. 310-311.

2. Cf. ibid., pp. 293-294.

3. Cf. ibid., p. 526.

to make the two powers independent, following the example of Virginia. The general feeling seems to have been that the question of Church-State relations should be left to the decision of the individual states.<sup>1</sup> Some members of the Convention, however, notably Charles Pinckney of South Carolina<sup>2</sup>, were deeply concerned lest the Constitution leave room for religious intolerance in the Federal government. Pinckney proposed that the Constitution include a guarantee that no religious test would ever be a qualification for office in the United States government. The clause "No religious test shall ever be required as a qualification to any office or public trust under the authority of the United States" was passed unanimously by the Convention.<sup>3</sup> The word "under" limited the application of the law to cases under the jurisdiction of the Federal government; there was no guarantee of religious freedom in the states. This is the only direct reference to the relationship between Church and State in the Constitution as it was originally written.

There had been some pressure at the Constitutional Convention for the inclusion of a Bill of Rights, and when the Constitution went to the states for ratification the demand increased. Some states hesitated to

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1. Cf. Cuninggim, op. cit., pp. 55, 95-96, and Greene, op. cit., p. 84.
2. Cf. Stokes, op. cit., p. 526.
3. Cf. ibid., p. 523.

ratify the Constitution because although separation of Church and State was implied in the matter of religious freedom to Federal office holders, they wanted personal liberties to be specifically guaranteed. But by June 1788 the necessary number of states had approved the Constitution and it became law. Seven states, however, recommended that a specific guarantee of religious liberty be added to it.<sup>1</sup> Thomas Jefferson's influence was also felt as he wrote from France expressing his disapproval of the lack of a Bill of Rights.<sup>2</sup>

Washington was inaugurated as the first president of the United States on April 30, 1789, and four days later Madison gave notice that he was prepared to submit amendments to the Constitution. It was understood that these amendments would constitute a Bill of Rights. After much debate in the House the Bill of Rights was finally passed on September 24, 1789, and was approved by the Senate the following day. The eleventh state to ratify the first ten amendments was Virginia, who did so on December 15, 1791, and the Bill of Rights became effective on that day.<sup>3</sup>

It is the First Amendment which contains the law concerning Church and State relations. It reads

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1. Cf. William Warren Sweet: Religion in the Development of American Culture, pp. 86-87.
2. Cf. Foote, op. cit., p. 33.
3. Cf. Stokes, op. cit., pp. 518-519.

as follows:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.<sup>1</sup>

Stokes suggests that the rights included in this Amendment are interrelated and that all are important from the standpoint of religion.<sup>2</sup>

Stokes also points out that although this Amendment definitely establishes the separation of Church and State it does so only on a national basis. It was not until the passing of the Fourteenth Amendment shortly after the Civil War that the Constitution of the United States guaranteed religious freedom and separation of Church and State within the states. The statement of this Amendment which has special reference to religious freedom is as follows:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.<sup>3</sup>

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1. Quoted in Stokes, op. cit., p. 539.

2. Cf. *ibid.*

3. Quoted in *ibid.*, p. 577.

#### D. Meaning of "Separation"

Cuninggim says that historically "separation" was "synonymous with disestablishment, with equal legal status for all religious groups, and with full religious liberty."<sup>1</sup> He insists that complete separation of Church and State is not only impossible but was never the intention of the founding fathers. On the other hand, Sweet expresses a quite different point of view. He says:

The records of the proceedings of Congress during its consideration of the first amendment show conclusively ...that Congress consistently voted down every proposal which merely prevented an advantage of one denomination over another, and the trend of the debate indicates conclusively that the Congress was thinking in terms of the complete separation of the church from the state.<sup>2</sup>

Actually, there has never been complete separation of Church and State in the United States, except in an organic sense. Perhaps those who insist upon complete separation should specify "organic" separation. A few examples of the fact that the "wall of separation" between Church and State is not as accurate a figure as many people like to think are the religious exercises which are part of official ceremonies, the chaplains of Congress and the state legislatures as well as the armed forces who are

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1. Cuninggim, op. cit., pp. 97-98.

2. Sweet, op. cit., p. 88.

See Stokes, op. cit., pp. 545-546, where some of these proceedings are recorded.

paid out of public funds, and the exemption of Church property from public taxation.<sup>1</sup> It may be that more complete separation is desirable but this can scarcely be argued on historical grounds. The public support of chaplains in Congress and in the army goes back to the time of the Continental Congress during the Revolutionary War.<sup>2</sup> Since that time, although organic separation has been insured by law, the government of the United States has continued to show its sympathy for religion in general.

#### E. Summary

In this chapter the struggle for religious freedom in Virginia has been traced, since the final victory of religious freedom in that state was one of the determinative factors in the inclusion of the guarantee of religious freedom in the Constitution of the United States. The intolerant situation in Virginia while the Established Church remained was described. Then the various influences leading to the disestablishment of the Anglican Church were discussed. Special attention was given to the work

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1. Cf. Greene, op. cit., pp. 96-97.

2. Cf. *ibid.*, p. 82.

It is interesting to note that the duty of army chaplains was not only to discourage profanity and vice but also to stress the importance of proper sanitation--"on the theory, no doubt," says Greene, "that cleanliness was next to godliness."

of the dissenters, particularly the early leader, Samuel Davies, and that of the outstanding statesmen such as Jefferson, Madison and Patrick Henry. Reference was made to the various steps leading to the final victory which was finally won in 1785 with the passage of An Act for Establishing Religious Freedom written by Jefferson and pushed by Madison.

The next section of this chapter traced the course of events leading to the inclusion in the United States Constitution of the principle of Church-State separation. The factors mainly responsible for the action of the Constitutional Convention and the First United States Congress were given. The three specific references to Church-State relations as they are today in the original Constitution, the First Amendment, and the Fourteenth Amendment were quoted and their individual significance explained.

The final section discussed briefly the meaning of the term "separation" as it is used in referring to the relationship between Church and State in the United States.



## CHAPTER IV

### SUMMARY AND CONCLUSION

#### A. Summary

The purpose of this thesis was to study the historical background of the Constitutional principle of the separation of Church and State in order to gain insight into the significance of this principle both as it affects the system of government of the United States and as it relates to present day problems concerned with this subject. The first attempt in this country to insure freedom of religion by separating the function of the Church from that of the State was Roger Williams' experiment with government in Rhode Island. Williams' theory of the separation of Church and State was diametrically opposed to that of the Puritans of Massachusetts who conducted their government on the basis that the two should be merged. Although Williams was considered fanatical and eccentric by most of his contemporaries, his experiment was successful. Rhode Island provided proof that a government based on the separation of Church and State could succeed and could benefit both Church and State. The experiment of William Penn in applying Quaker principles to government in Pennsylvania half a century later was further evidence of the

soundness of running a government on the basis of Church-State separation. Penn's colony had several rather serious problems but these were not due to the policy of separation. On the contrary, they resulted in many cases from a failure to apply the principle of separation consistently, a failure seen in the extensive influence Quaker beliefs had over the government at certain points.

The establishment of religious freedom based on separation of Church and State in Virginia had tremendous effects. This colony was not founded on that basis as were Rhode Island and Pennsylvania and the long and bitter struggle to achieve religious freedom under a government which had exclusively established one church was a warning to those who were shortly to be responsible for the writing of the Constitution of the United States. The fact that the leaders of the legislative battles in Virginia were to be also the national leaders in the Constitutional Convention and the government which developed from it was of great significance also. These statesmen knew the importance of insuring religious freedom by seeing to it that no organic relationship between Church and State be permitted. The efforts of these men plus those of the dissenters as a group resulted in the principle of the separation of Church and State as it is found in the Constitution today.

## B. Conclusion

This study has shown that religious freedom in the United States based as it is upon separation of Church and State was won only at great cost. In the time of Williams and Penn dissenters were persecuted and many gave their lives for their faith. Williams was banished from Massachusetts for his dangerous ideas and had to endure the hardships of founding a colony in the wilderness with but a few followers to support him. Penn, too, suffered persecution for his faith in the years following his conversion to Quakerism. The principle of separation of Church and State was developed not by irreligious people but by men whose religious convictions meant so much to them that they were willing to suffer for their faith. It was primarily their own experience of being persecuted and of seeing others persecuted for religious beliefs that led Williams and Penn to found colonies in which all men, even those who disagreed with them, could live in freedom. Their purpose, as well as the purpose of those who fought for Church-State separation in Virginia and in the United States, was not to eliminate the spirit of religion from government and to form a purely secular state but to insure full freedom to everyone to follow his own religious convictions. Problems have arisen, especially in relation to the secularism which many claim is a direct result of

the separation of Church and State. And yet Virginia during the years when the Anglican Church was established was characterized by secularism even though it was somewhat disguised by the form of religion. Separation of Church and State is not in itself a cause of secularism; it merely leaves the Church free and independent to accept its responsibility for the spiritual welfare of the citizens of the State.

The exact meaning of the term "separation" is still an unanswered question, and interpretations of the Constitutional principle of the separation of Church and State vary. In dealing with present day problems the purpose of those who were responsible for the inclusion of this principle in the Constitution should be borne in mind as well as the great privilege of freedom which has resulted from it. Freedoms taken too much for granted are in danger of being lost.

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