

A bronze statue of a man in a long coat, standing in a classical building with columns. The statue is the central focus, set against a background of large, light-colored stone columns and a classical architectural ceiling. The lighting is warm, suggesting an indoor or sheltered outdoor setting.

LESSON 2
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Founders mean by
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INTRODUCTION

This lesson explores America’s founding documents to determine how the Founders understood religion and the right to “exercise” religion—a right they enshrined in the First Amendment to the *U.S. Constitution*. Today, that right is contested by many Americans who no longer agree on the meaning or value of religion for our country. The early Americans also had serious disagreements over religion. But, despite these disagreements, our Founders saw religion itself—the natural human search for truth and ultimate meaning--as good for the new Republic. They believed religion to be a primary source of virtue and morality and its free exercise necessary to protect the common good.

They believed government should stay out of the business of *determining* truth, but should *acknowledge and protect* those truths that further the common good, such as the God-given equality of every person. They saw religious free exercise as a way to cultivate public virtue and morality without violating anyone’s human dignity. The work of the Founders was truly revolutionary. While the *concept* of universal religious freedom had been around for centuries, it had never been placed into law and had certainly never played such an important role in the ordering of an entire society. In fact, religious freedom for all was considered so important by the Founders that they considered it “the first freedom.”

LEARNING OBJECTIVES

- 2.1 Define key terms and phrases the Founders used to explain religious freedom ideas and practices
- 2.2 Describe the ways the Founders believed religious freedom protected other basic freedoms
- 2.3 Summarize the social and political advantages of guaranteeing the “free exercise of religion” and banning an “establishment of religion”
- 2.4 Explain the main features of key primary documents related to the American Founding
- 2.5 Recognize the first sixteen words of the First Amendment to the US Constitution

KEY TERMS AND CONCEPTS

<i>Coercion</i>	<i>Factions</i>	<i>Natural</i>
<i>Common Good</i>	<i>Free Exercise</i>	<i>Separation of Powers</i>
<i>Conscience</i>	<i>Justice</i>	<i>Unalienable</i>
<i>Establishment</i>	<i>Limited Government</i>	<i>Virtue</i>

Lesson 2: What did the Founders mean by Religious Freedom?

ENGAGE

On November 19, 1863, Abraham Lincoln delivered one of the most famous speeches in US history at the dedication of the National Cemetery in Gettysburg, Pennsylvania. This “Gettysburg Address” began with the famous line *“Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.”* Of course, four score and seven years was a poetic way of saying 87 years ago which was, from Lincoln’s perspective, the year 1776. In that year, a group of individuals we call the Founders declared in the Declaration of Independence *“that all men are created equal, that they are endowed by their Creator with certain unalienable Rights.”* In 5 minutes, brainstorm ways that things like liberty and equality are threatened without religious freedom.

Advantages of Free Exercise of Religion

We will see later in this chapter that the constitutional guarantee of the “free exercise of religion” was intended by the Founders to protect what they considered to be a “natural right” given by God to all people. They also wanted to encourage individuals and groups to carry out virtuous religious acts (e.g., acts of charity) that contribute to the common good. As we will see in Lesson 3, when people of faith are allowed to exercise their religion freely, they typically create faith-based institutions such as hospitals, orphanages, schools, shelters, food banks, services for immigrants, and a long list of other enterprises and services that benefit all people, not just those in their own religious communities.

Further, they wanted America’s religious groups to make arguments about what is moral and just in order to encourage public morality. In this sense the Founders saw free exercise of religion as a counterpart to free speech and a free press, which help develop citizens’ political views. Finally, the Founders sought to reduce the conflict that deep religious differences sometimes cause.

Despite political and religious differences, the Founders tended to agree on the advantages of guaranteeing the “free exercise of religion” for all and of banning an “establishment of religion.” These advantages include:

- ❖ Ensuring religious voices are part of debates over how the common good is to be advanced in law and public policy.
- ❖ Ensuring that the federal government, through its laws or policies, protects religious free exercise for all and does not interfere with free exercise by establishing any particular religion.
- ❖ Ensuring that the free exercise rights of religious *communities* (and individuals) are protected, thereby encouraging religious acts for the public good.
- ❖ Strengthening their revolutionary idea, as expressed in the words of the Declaration of Independence, that all human beings are morally and politically equal and entitled to the same inalienable rights given by God.

❖ Providing special protections for the individual’s religious conscience and free exercise.

❖ Ensuring free exercise for all in order to support economic prosperity.

Of all the dispositions and habits which lead to political prosperity, **religion** and **morality** are indispensable supports.

President George Washington, Second Farewell Address, 1796

Founding Documents and their Relationship to Religious Liberty

This section introduces six documents that summarize the Founders’ views of religion and religious freedom and the importance of each to the grand and revolutionary experiment on which they were embarking: the new American Republic. You are encouraged to read each of these documents on your own, but for this lesson you may focus on the summaries that follow.

❖ THE DECLARATION OF INDEPENDENCE ❖

The **Declaration of Independence** was formally adopted by the Second Continental Congress on July 4, 1776. In this document, the Founders declared a universal principle that became the “**Engine of American Democracy**.”

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

--Declaration of Independence

In declaring their independence from Great Britain, the American Founders justified their decision by citing natural law and rights given by God. They believed God had given certain rights to all people, not just the British, and not just Americans. They further declared that people have the right to dissolve their political relationship with a tyrannical leader, such as the king of Great Britain, who takes away their freedoms.

They proclaimed that people are entitled to this right of political freedom based on “the Laws of Nature and of Nature’s God.” In other words, a right is “natural” and “unalienable” because it is given by God to everyone. Further, if the right is “unalienable,” it cannot be “alienated” or taken away. Their reasoning was simple—if the government is not the source of a right, it does not have the power to take it away.

To the Founders, the recognition of natural and unalienable rights provided an important limit on the power of government. Any just government must acknowledge such rights and protect them for all their citizens. Later, in the First Amendment, the Founders would acknowledge religious freedom as the first of

the rights that are given by God and cannot be taken away by government. To the Founders, religious freedom included the right to seek religious truth, to embrace that truth when found, and to express it publicly as a citizen, or a religious community, with each equal to all others.

DID YOU KNOW?

Did you know that in several state and federal proposals including an early draft of the *Declaration of Independence*, Thomas Jefferson condemned the practice of slavery calling it a “cruel war against human nature itself” and a “great political and moral evil”? He condemned King George for violating the “sacred rights of life and liberty” by promoting the slave trade and introduced several proposals to end the institution of slavery in the new nation. Unfortunately, his various proposals were all blocked by a small number of delegates and would have to wait for the devastating Civil War to become a reality.

Unfortunately, the Founders did not always live up to their own high standards. Despite its insistence on the equality of all men and women, the Declaration did not prevent the terrible scourge of human slavery and the brutal civil war which abolished it. Nor did women or religious minorities (Jews, Catholics, Muslims, Buddhists, and others) experience equality in law or public life until

much later in American history. But the Declaration’s radical religious truth claim that *all of us are created equal by God* is arguably the most important political statement regarding human equality ever conceived, and it laid the groundwork for America’s ongoing progress in achieving equality in human freedom.



THE DECLARATION OF INDEPENDENCE SUMMARIZED

- ❖ Unalienable rights come from God and therefore belong to everyone.
- ❖ Governments must not violate those rights, including the British king and the (new) American Republic.
- ❖ The right of “free exercise” of religion is an important limit on government.

❖ MEMORIAL AND REMONSTRANCE AGAINST RELIGIOUS ASSESSMENTS ❖

James Madison’s view on religion, and the role of religious liberty in the Constitution, is made clear in his 1785 letter *Memorial and Remonstrance Against Religious Assessments*.

- ❖ The duty of religion can never be coerced

Madison argues that religion is every man’s duty to God, but that no man may be coerced – except by his own conscience – to perform that duty. Strikingly, Madison argues that protecting the right of every citizen to perform this duty uncoerced is of supreme importance

to the individual *and* to society. This right is not only “unalienable,” but *more important than any other in civil society*.

❖ The right to exercise the duty of religion is unalienable

Madison further argued that religion is “in its nature an unalienable right . . . because the opinions of men, depending only on the evidence contemplated by their own minds cannot follow the dictates of other men.”

❖ Exercising the duty of religion encourages people to be good citizens

Madison also declared that it is the duty of every man to “render to the Creator such homage and such only as he believes to be acceptable to him. *This duty is precedent, both in order of time and in degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governour of the Universe [emphasis added].*”

❖ VIRGINIA STATUTE FOR ESTABLISHING RELIGIOUS FREEDOM ❖

The *Virginia Statute for Establishing Religious Freedom* was written by Thomas Jefferson, adopted by Virginia’s Senate, and signed into law in 1786. Jefferson held the *Virginia Statute* to be one of the three accomplishments worth inscribing on his tomb (along with “Author of the Declaration of American Independence” and “Father of the University of Virginia”). Jefferson affirmed that religious truth is important to American society when he stated that “truth is great and will prevail if left to herself” and permitted to emerge through “free argument and debate.” The real threat to truth is coercion by a government or ecclesiastical authority.

Jefferson begins the Statute by declaring: “almighty God hath created the mind free” and that attempts to coerce the mind “are a departure from the Holy author of our religion.” Jefferson is arguing that, if God himself did not coerce the mind, neither should “fallible and uninspired men,” such as civil or ecclesiastical authorities.

Here Jefferson is reflecting the Christian view that all men are fallible, and no man or group of men should be entrusted with too much

power for too long. He is arguing that, while truth is important for American democracy, it cannot be entrusted solely to government.

Jefferson places similar ideas in the preamble to the *Virginia Statute*. They will later appear in Article VI of the *US Constitution* that affirms no religious test may be applied as a qualification for public office. Jefferson wrote that “our civil rights have no dependence on our religious opinions. . . . Laying upon [a citizen] any incapacity of being called to offices . . . , unless he profess or renounce this or that religious opinion, is *depriving him... [of] a natural right [emphasis added].*”

The Statute declares that “no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever..., but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion.”

Finally, recognizing that a future legislature would have the *political* power to overturn this law, the Virginia Assembly endorses the idea that religious freedom is an inalienable right, which should not be altered by politics. They wrote 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.”



THE VIRGINIA STATUTE SUMMARIZED

- ❖ God creates our minds free to discover truth.
- ❖ Government cannot and must not impose moral or religious truth; it must protect the natural rights of its citizens to perform that duty.
- ❖ Government must not infringe the natural rights of mankind.

❖ THE FEDERALIST PAPERS ❖

The *Federalist Papers* (also known as The Federalist) were a series of eighty-five essays written by Alexander Hamilton, James Madison, and John Jay. The essays were published in New York newspapers in 1787 in an effort to persuade New Yorkers to adopt the Constitution recently signed in Philadelphia. The Federalist is considered one of the three most important documents of the American founding (along with the *Declaration of Independence* and the *U.S. Constitution*) and is often cited by Supreme Court justices to support their decisions.

James Madison wrote several of the essays, including numbers 10 and 51. Scholars agree that these two essays are important for understanding the American constitutional settlement. Although neither focuses directly on religion, each reflects Madison’s view that the central threats to the new Republic are unchecked power, whether in the hands of a majority (Fed 10), or a central government (Fed 51). He shows how the Constitution’s checks and balances limit power by strengthening that most precious possession of the American people: liberty for all.

A Summary and Interpretation of Federalist Paper 10 The Union as a Safeguard Against Domestic Faction and Insurrection November 1787

Madison clearly argues that the Constitution’s creation of a democratic republic with elected representatives, rather than a pure democracy where citizens vote directly, is critical to the country’s success. However, he believes that “factions” pose a great danger to any form of democracy. A faction is “a majority or minority of a whole, who are united and actuated [motivated to act] by some common impulse of passion or of interest, adverse to the rights of other citizens, or to the permanent and aggregate [collective] interests of the community.” Today we might call factions “special interest groups.”

Madison argues that, in a pure democracy, the majority itself is a faction and easily ignores the rights of minorities and therefore harms the common good. But he insists that factions cannot be abolished without abolishing liberty. One remedy for factions is to increase their number to allow for the free competition of their ideas. This, he said, will reduce the possibilities that any one faction, including a religious faction, can restrict the freedom of minorities. In other words, *an established religion would discourage religion’s otherwise positive contributions toward virtuous behavior and social harmony.*

A Summary and Interpretation of Federalist Paper 51
**The Structure of the Government Must Furnish the Proper Checks and Balances
Between the Different Departments**

February 1788

In this essay, Madison continues his Fed 10 argument that a Democratic Republic must limit the powers of the majority to survive. But in Fed 51 he focuses on another threat to the American political order, namely the threat of too much power concentrated in the federal government itself. To effectively limit this threat, Madison argues that the Constitution must provide checks and balances.

❖ *Government is a Reflection of Human Nature*
“Madison was a Christian who believed in original sin, the idea that, as a result of Adam’s sin, each human being is naturally inclined toward moral error.” Thus, he concluded that human nature requires checks and balances. “[T]hat such devices [checks and balances] should be necessary to control the abuses of government . . . may be a reflection on human nature.” Of course, governments are made up of human beings. “What is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary.”

❖ *Checks and Balances are Essential to Liberty*
Accordingly, he argues in Fed 51 that as members of governments, men, like those in a faction, will naturally be tempted to abuse their power and may well do so. This is why the limits imposed on the branches of

government are “essential to the preservation of liberty.” “The great difficulty,” Madison wrote, “lies in this; you must first enable the government to control the governed; and in the next place oblige it to control itself.”

❖ *One Important Check is Separation of Powers*
He emphasizes two methods for guarding against the emergence of an oppressive government. One is “to lay a due foundation for that separate and distinct exercise of the different powers of government....” We know this idea as the “separation of powers” between three co-equal branches of government: legislature, executive, and judiciary. Each must be checked by the power of the other so that each may “be the means of keeping each other in their proper places.”

❖ *Another Check is Division of Powers*
Another is the division of powers between the federal and state governments (a division codified in the Tenth Amendment of the Bill of Rights). “[T]he power surrendered [to governments] by the people,” wrote Madison, “is first divided between two distinct governments [federal and state], and then the portion allotted to each, subdivided among distinct and separate departments [legislative, executive and judicial].”

“Our Constitution was made only for a moral and religious People. It is wholly inadequate to the government of any other.”

President John Adams, Letter to Massachusetts Militia, 1798

Later, in Fed 55, Madison would argue that, despite the “degree of depravity in mankind,” other virtues in men “justify a certain portion of esteem and confidence.” It is these virtues that the American Republic needs “in a higher

degree than any other” human characteristic. In a speech to the Virginia Convention, Madison said, “To suppose that any form of government will secure liberty or happiness without any virtue in the people is [a fantasy].”



THE FEDERALIST PAPERS SUMMARIZED

- ❖ The American government was instituted primarily to protect freedom.
- ❖ Any government made of men is corruptible by power. Thus, the need for limits (checks and balances).
- ❖ A successful American society must remain virtuous. Religious free exercise will limit government power and promote virtue in society.

❖ UNITED STATES CONSTITUTION and THE BILL OF RIGHTS ❖

Madison’s influence on the development of the *United States Constitution* earned him the title “Father of the Constitution.” The new political framework for the young country was signed on September 17, 1787 and ratified (approved) in June 1788. Delaware became the first state to ratify the Constitution in December 1787 and Rhode Island the last state in 1790.

Even after the ratification of the Constitution, many Americans were fearful that the powers given to the new government by the Constitution threatened their natural rights. Therefore, a series of amendments were proposed that would clarify the limits of this power. On December 15, 1791, Virginia became the 10th state to approve the first 10 amendments to the Constitution—thereafter known as the *Bill of Rights*.

Article VI protects candidates for any public office from any religious test, similar to the protection seen in the Virginia Statute. It affirms that “no religious test shall ever be required as a qualification to any office or public trust under the United States.”

The First Amendment articulated the rights of religion, speech, press, assembly and petition. Note the first sixteen words, which became known as America’s first freedom.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;

--1st Amendment to the United States Constitution

Observe how the right of free exercise for everyone (referred to hereafter as “free exercise equality”) is guaranteed by ensuring Congress may not prohibit that right and may not establish any particular religion.

Even after the states ratified the First Amendment and the other nine amendments (known as the *Bill of Rights*), there were disagreements over how it was to be interpreted and implemented. But for the

most part the founding generation of Americans, even though they remained divided over religion and politics, revered the American commitment to religious freedom for a host of very important reasons including:

- ❖ Their reverence for the rights of conscience.
- ❖ Their belief that religious freedom was a “natural” or “unalienable” right.
- ❖ Their desire for a virtuous citizenry, without which they believed the new Republic would fail, and their conviction that religion was necessary for virtue.

- ❖ Their determination to protect minority religious communities from the power of the majority, and to protect all religious communities from the power of government.
- ❖ Their desire to nurture respect among citizens and groups with deep and consequential religious differences.
- ❖ Their understanding of the value of religious freedom in achieving one of their most important constitutional goals—limiting the power of government.

CHALLENGE YOURSELF

DID THE FOUNDER’S BUILD A "WALL OF SEPARATION"?

Thomas Jefferson became the third President of the United States in March 1801, following one of the most bitterly contested elections in history. His religious views were a critical issue in the campaign with his foes labeling him an infidel or atheist. The campaign rhetoric was so harsh that when news of Jefferson's election swept across the country, housewives in New England buried family Bibles in their gardens or hid them in wells expecting them to be confiscated and burned by the new administration. One pocket of support in New England where the Congregationalist church was legally established was the Baptists. The Baptists, who supported Jefferson, had written the President a "fan" letter in October 1801, congratulating him on his election and celebrating his support for religious liberty. In a carefully crafted reply, Jefferson endorsed the persecuted Baptists' pursuit of religious liberty and coined one of the most familiar, yet misunderstood, phrases in American Constitutional history.

For more, read [Thomas Jefferson and the Mammoth Cheese](#) by Daniel Dreisbach (2010) and answer the following questions:

1. What was Jefferson’s motivation for sending his letter to the Danbury Baptists?
2. How do Jefferson’s actions as an elected official call into question many modern interpretations of the “wall metaphor?”
3. In Jefferson’s mind, what was the metaphorical wall meant to separate?

REFLECT

The Founders thought Religious Freedom was important enough to identify it as “America’s First Freedom” and vital to the young republic’s success. For this reflection assignment, pretend you are a young person who is coming of age in 1789 America. Write a 150-word journal entry to your cousin in England reporting on the main ideas contained in the documents we studied in this lesson and the central role that religious freedom was meant to play in the life of the young republic.

KEY QUESTIONS

Now that you completed the lesson, can you answer the following key questions?

1. Why did the Founders consider the preservation of religious freedom essential to the republic's survival?
2. What were the key themes that regularly appeared in the writings of the Founders?
3. What did the Founders hope to accomplish with each of the First Amendment's two "religion clauses"?
4. How does an understanding of the Founder's vision for religious freedom in society provide answers to debates in contemporary America?
5. Can you recite the first 16 words of the First Amendment to the United States *Constitution*?

ADDITIONAL READING

Dreisbach, Daniel. "[The Mythical 'Wall of Separation': How a Misused Metaphor Changed Church-State Law, Policy, and Discourse.](#)" (2006)

Dreisbach, Daniel. "[Thomas Jefferson and the Mammoth Cheese.](#)" (2010)

Farr, Tom. "[The Importance of Free Exercise to American Democracy.](#)" (2018)

Frank, Matthew. "[Religious Freedom as the First Freedom.](#)" (2016)

Lankford, James and Russell D. Moore. "[The Real Meaning of the Separation of Church and State.](#)" (2018)

Noll, Mark A. "[The Founders and Religious Freedom: A Critical Look](#)" (2016)

White, Adam J. "[A Republic, If We Can Keep It.](#)" (2020)

