

right to religious liberty was established as a matter of principle. President George Washington expressed this new principle in a letter he sent in 1790 to the Hebrew Congregation of Newport, Rhode Island, included in this section.

Rights are the most precious possessions anyone may own. Our greatest property right, or claim to ownership, is found in our religious freedom, James Madison states in his 1792 article "On Property." Religion's role in social and political life is so important, Madison wrote in his "Memorial and Remonstrance Against Religious Assessments," that the religious liberties of all Americans—and all peoples everywhere—must be guarded with special vigilance.

Together, Madison and Jefferson were a powerful force for religious liberty. Working from the mid- to late-1770s until the adoption of the Virginia Statute of 1786, Madison and Jefferson waged an all-out assault on Virginia's establishment of the Anglican Church in what was the most pitched battle for religious liberty in American history. Their untiring work sought to establish the principle that no government in America could legitimately establish an official religion and compel taxpayers to support it to the exclusion of others.

If this conclusion about the sanctity of religious liberty calls to mind one of the most famous metaphors in American political and constitutional thought—"a wall of separation between church and state"—it is not because of the weight Jefferson himself placed upon the metaphor. Rather, the phrase, used by Jefferson in a letter in 1802, was freighted with enormous political and constitutional significance by the Supreme Court, which in the 1947 case *Everson v. Board of Education* transformed it into constitutional law.

For many Americans since then who have listened mainly to the Supreme Court for lessons about religious liberty, the wall separating church and state demands a strict separation of religion and politics. The Court's misreading of Jefferson's metaphor has contributed to a popular misunderstanding of politics, law, morality, and religion. This misreading is best corrected by allowing the Founders to speak for themselves, for their insistence upon religious liberty meant not the erection of a wall separating religion and politics, but the establishment of a principle that would let religion flourish.

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## VIRGINIA DECLARATION OF RIGHTS

### GEORGE MASON (1725–1792)

*The Virginia Declaration of Rights, drafted by George Mason as a pre-amble to the Virginia Constitution, is—along with the Declaration of Independence that followed a month later—the clearest statement of the social contract theory of government found in major early American documents.*

JUNE 12, 1776

A DECLARATION OF RIGHTS MADE BY THE REPRESENTATIVES OF  
THE GOOD PEOPLE OF VIRGINIA, ASSEMBLED IN FULL AND FREE  
CONVENTION; WHICH RIGHTS DO PERTAIN TO THEM AND THEIR  
POSTERITY, AS THE BASIS AND FOUNDATION OF GOVERNMENT.

SECTION 1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

SECTION 2. That all power is vested in, and consequently derived from, the People; that magistrates are their trustees and servants, and at all times amenable to them.

SECTION 3. That Government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community;—of all the various modes and forms of Government that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration;—and that, whenever any Government shall be

George Mason, "Final Draft of the Virginia Declaration of Rights," from *The Papers of George Mason, 1727–1792*, edited by Robert A. Rutland and published in three volumes for the Omohundro Institute of Early American History and Culture. Copyright © 1970 by the University of North Carolina Press. Used by permission of the publisher. [www.uncpress.unc.edu](http://www.uncpress.unc.edu).

found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

SECTION 4. That no man, or set of men, are entitled to exclusive or separate emoluments and privileges from the community, but in consideration of public services; which, not being descendible, neither ought the offices of Magistrate, Legislator, or Judge, to be hereditary.

SECTION 5. That the Legislative and Executive powers of the State should be separate and distinct from the Judiciary; and, that the members of the two first may be restrained from oppression, by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the law shall direct.

SECTION 6. That elections of members to serve as Representatives of the people, in Assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses without their own consent or that of their Representative so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

SECTION 7. That all power of suspending laws, or the execution of laws, by any authority, without consent of the Representatives of the people, is injurious to their rights, and ought not to be exercised.

SECTION 8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

SECTION 9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SECTION 10. That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offense is not particularly

described and supported by evidence, are grievous and oppressive, and ought not to be granted.

SECTION 11. That in controversies respecting property, and in suits between man and man, the ancient trial by Jury is preferable to any other, and ought to be held sacred.

SECTION 12. That the freedom of the Press is one of the greatest bulwarks of liberty, and can never be restrained but by despotic Governments.

SECTION 13. That a well-regulated Militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free State; that Standing Armies, in time of peace, should be avoided as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.

SECTION 14. That the people have a right to uniform Government; and, therefore, that no Government separate from, or independent of, the Government of *Virginia*, ought to be erected or established within the limits thereof.

SECTION 15. That no free Government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

SECTION 16. 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; and that it is the mutual duty of all to practice Christian forbearance, love, and charity, towards each other.