

education much beyond his own, and he appears to have conducted the plantation as a family business to which everyone contributed according to their talents and could draw on in accordance with their needs. As his sons attained maturity, the father acted as a loving first of equals. As the eldest son assumed his obligations in the county, he inherited a favored station in a wider family in which political authority already rested on the deferential, but conditional, consent of equal, independent owners. As these independent owners mustered with their arms, Orange County was an archetype of the republican community idealized in early revolutionary thought, and there was every reason to believe that property as well as liberty was safest in these freemen's hands.<sup>32</sup>

Perfect liberty, of course, did not imply that independent freemen were to rule directly or without restraint. None of the republicans of revolutionary times envisioned anything except a representative, contractual, and limited regime.<sup>33</sup> In 1776, however, many revolutionaries did suppose that private rights and the public good could be protected quite completely by eradicating the remains of monarchy and aristocracy, purging their existing governments of all of the familiar means by which executives could influence and corrupt their other parts, and binding representatives more closely to the will of citizens who seemed to be ideally suited for the preservation and perfection of their freedom.

These, of course, were just the suppositions that would be severely tested in the decade after Independence. The challenge came in a variety of forms, for there were many instances by then in which experience suggested that the people as a body might not be the best protectors of the private rights that individuals had not surrendered when a lawful government was formed.<sup>34</sup> For Madison himself, however, what we now regard as an enduring tension in the effort to combine republican with liberal convictions reached a climax—and began to find a resolution—only when his early, strong commitment to religious freedom was at first directly threatened, then abundantly supported, by the body of the people. There were many sources for the reconstruction of his youthful thinking. But none was more instructive than Virginia's revolutionary settlement of conflicts over church and state.

Among the rights that Madison believed could be protected more completely in republics, none was literally more sacred than the liberty of conscience. He first involved himself in local politics, in 1773, in order to protest the persecution of dissenters in neighboring Culpeper County. When shaky health defeated his determination to defend the cause of

liberty in arms, the gratitude of Baptist neighbors may have helped him win election to the state convention of 1776, which framed one of the earliest, most widely imitated revolutionary constitutions.<sup>35</sup> Here, despite his modesty and youth, he made his next important contribution to a lifelong battle for religious freedom, standing on a set of principles that placed him from the start among the most advanced reformers of his age. Ten years later, the renewal of this battle became perhaps the single greatest test of his original convictions and the single most important catalyst for the distinctive insights that revitalized his revolutionary faith.

When the Virginia constitution came to the convention from committee, George Mason's draft of a Declaration of Rights contained a generous, though basically conventional, protection for dissenters:

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, that all men should enjoy the fullest toleration in the exercise of religion, according to the dictates of conscience, unpunished and unrestrained by the magistrate unless, under color of religion, any man disturb the peace, the happiness, or safety of society. And that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.

Madison was not content. The language of the article, like the language of the preface to the Declaration, suggested the enormous influence of John Locke, whose famous *Letter Concerning Toleration* grounded freedom of religious conscience on the character of human understanding and the separate origins and purposes of church and state, yet listed several opinions that the magistrates should punish.<sup>36</sup> On his copy of the printed draft of the religious article, Madison prepared a change that pressed Locke's premises to logical conclusions from which Locke himself had shied. In place of Mason's "all men should enjoy the fullest toleration," Madison's amendment, which was introduced by Patrick Henry, said:

All men are equally entitled to the full and free exercise of [their religion] according to the dictates of conscience; and therefore that no man or class of men ought, on account of religion, to be invested with peculiar emoluments or privileges; nor subjected to any penalties or disabilities unless, under color of religion, any man disturb the peace, the happiness, or safety of society.<sup>37</sup>

Someone asked if Henry really meant to disestablish the Anglican Church. He denied it, the amendment failed, and Madison wrote out a substitute, this time asking Edmund Pendleton to introduce it. The new

proposal altered Mason's "All men should enjoy the fullest toleration . . . unpunished and unrestrained by the magistrate" to "All men are equally entitled to enjoy the free exercise of religion unless the preservation of equal liberty and the existence of the state are manifestly endangered." As approved by the convention, Article 16 incorporated Madison's replacement of the reference to "toleration" with recognition of an equal right and simply dropped the clause referring to the state's authority to keep the peace.<sup>38</sup>

Momentous implications were contained in what might seem a minor change of wording. However broadly it extended, Madison perceived, "toleration" was a privilege permitted by the state, and it implied a state authority to set a standard from which some degree of deviation, but perhaps no more, might be allowed. An equal right, not just to hold, but also to express and freely exercise the differing demands of conscience, placed religious freedom on entirely different grounds. Although the failure of his first amendment left the question of a state establishment unsettled, the logic of his second still demanded equal treatment for competing faiths and urged withdrawal of the state from the entirety of the distinctive sphere which Locke had carefully defined but not consistently defended. In its final phrasing, Article 16 erected an ideal that no society had ever written into law and spurred the commonwealth at once toward its achievement. Dissenters seized on it immediately to call for equal treatment. Among Virginia's legislative leaders, it identified the shy, young representative from Orange as one from whom extraordinary deeds might be expected.<sup>39</sup>

Madison's mature position on religious freedom was probably complete in its essentials when he drafted these amendments. He seems from that point forward, with unwavering consistency, to have envisioned total freedom of opinion, absolute equality for various denominations, and an end to the prevailing intermixture of the logically distinctive spheres of politics and religion, this world and the next.<sup>40</sup> He probably agreed with the dissenters that despite the failure of his first amendment, Article 16 implied a speedy disestablishment of the Anglican Church, together with the revocation of a panoply of statutes punishing dissent, providing tax support for the established church, and licensing or regulating both dissenting preachers and the regular parishes and clergy. When the General Assembly met again for its October session, Thomas Jefferson, who had been busy in the Continental Congress in the spring, assumed direction of a legislative drive for most of these reforms. Madison, who served on the Committee for Religion, gave Jefferson his full support.<sup>41</sup>

The effort met with only limited success. Though Madison and Jefferson, who called the fight the hardest of his life, already looked toward

disestablishment, repeal of all restrictions on opinion, and a wholly voluntary system of support for all denominations, the majority of delegates was not prepared for such a large departure from tradition. The assembly did revoke all parliamentary statutes concerning religion. It did suspend collection of religious taxes, from which dissenters now received exemption. Nevertheless, the state retained the power to license dissenting preachers and meetings as well as to supervise the established church, whose parishes continued to perform several civil functions. Although the gains were great, many fundamental issues continued unresolved. In order to address them, Jefferson secured appointment of a small committee charged to undertake a general republican revision of Virginia's laws.

Among the many bills that Jefferson prepared for the committee of revisors was the famous Statute for Establishing Religious Freedom, one of three accomplishments that he would have inscribed on his tombstone.<sup>42</sup> Number 82 of the revised code, this bill was introduced to the assembly in 1779, as was a rival bill providing for a general tax for the support of the Christian religion. Neither was enacted. Except for the repeal of the suspended law providing salaries for the Episcopal clergy, the legislature passed no major bills relating to religion for the duration of the war.<sup>43</sup> Jefferson's ability to press his program of reforms was ended when the legislature chose him to be governor in 1779 and Congress followed by selecting him as minister to France. Madison was not a member of the General Assembly after 1776. Alarmed about the customary practice of "corrupting" voters by providing them with alcohol and other treats, he "trusted" that in the next election his neighbors would approve a new example more consistent "with the purity of moral and of republican principles." Regrettably, competitors adhered to custom (as he would himself in future), and the county's freeholders insisted on a due "respect" for habit and their palates. The disappointment surely deepened Madison's distaste for popular electioneering. Still, it was the only election he ever lost, and even as he lost it, he was reinforcing his emerging reputation as a man of principle and virtue.<sup>44</sup>

Defeated in the spring election of 1777, Madison was promptly chosen by the legislature as a member of the Council of State, where he served with Governors Henry and Jefferson. Two years later, in December 1779, the legislature saved him from this "grave of useful talents" and sent him on to Congress. There, as has been seen, he gradually acquired the stature and experience that permitted him to renew the legislative efforts that had been deflected by the vagaries of politics and the necessities of war.<sup>45</sup>



When Madison returned to the Virginia General Assembly in the spring of 1784, he was primarily concerned about the needs of the Confederation and the economic future of his state. In the long run, he believed, prosperity depended on a more effective Union, and the viability of the American experiment in popular self-government depended on the economic underpinnings of a healthy civic life. Since liberty and Independence would be judged according to their fruits, he also hoped, however, to revitalize the Jeffersonian agenda for reform. In 1783, Jefferson had urged him to consider a revision of the revolutionary constitution, which both of them considered poorly balanced and without an adequate foundation in authoritative action by the people.<sup>46</sup> Madison was also eager to encourage legislative action on his friend's revision of the laws.

In all of these objectives, Madison was persevering, highly capable, and seldom more than partially successful. In the spring of 1784, as has been seen, the legislature passed his act restricting foreign traders to specific ports. With Patrick Henry's valuable support, he won approval of a federal power to retaliate against the British. On May 29, he also moved successfully to fund a public printing of the stalled revision of the laws. Nevertheless, he was severely disappointed by the session. Encouraged by support from Richard Henry Lee, he urged a state convention to amend Virginia's constitution. But Lee and Patrick Henry were traditional opponents, and Henry's disapproval crushed the move and carried resolutions that prevented its revival.<sup>47</sup> Later, Madison and Lee were checked again when they attempted to defeat a resolution that postponed collection of the land tax for 1784, without which the assembly could not fulfill its earlier resolution to meet its congressional requisitions. Madison was thoroughly disgusted by the postponement of the tax, the miserable condition of the state's accounts, and bills that seemed to him so poorly drafted that they threatened to reduce the legislature to contempt. He also noted with distaste that several petitions had arrived requesting an assessment to support religion and that supporters of the clergy had concocted an objectionable proposal to incorporate the Episcopal Church. "Extraordinary" as the latter project was, he wrote, it was held over for the fall, "preserved from a dishonorable death by the talents of Mr. Henry."<sup>48</sup>

Madison was fully as successful in the fall assembly session as he had been in the spring. The legislature passed his bill prohibiting additional confiscations of loyalist property. As chairman of the Committee for Courts of Justice as well as the Committee on Commerce, he successfully prepared an assize bill, establishing a system of circuit courts; and he was instrumental, as we saw, in passing an ambitious program of improvements.<sup>49</sup> Once again, however, he was scarcely able to enjoy his triumphs.

Long and tedious, the session was preoccupied from the beginning with religious issues, and Madison was heavily afflicted by a sudden (temporary) turn in Presbyterian opinion. Outvoted in the House of Delegates, he felt compelled to sacrifice his opposition to the Episcopal Incorporation Act in order to postpone the final passage of a measure even more at odds with his and Jefferson's ideals. Indeed, this bill, Establishing a Provision for Teachers of the Christian Religion, could have pressed Virginia's—and perhaps America's—relationship of church and state into a mold profoundly different from his and Jefferson's desires.<sup>50</sup>

The House of Delegates had found a quorum for its autumn session on October 29, 1784. Already in its hands were numerous petitions calling for a general assessment to support religion and the bill providing for incorporation of the church, held over from the spring. Although the Presbyterians and Baptists still objected to the legislature's special treatment of Episcopalians, neither group had reaffirmed its customary preference for a voluntary system of church finance. The silence of dissenters, the continuing decline of the Episcopalians, and mounting fears of immorality and inattention to the public good encouraged yet another effort to support the Christian churches. In the eighteenth century, almost everyone believed that virtue rested on religion, and many thought that an assessment which made it possible for every individual to designate which church received his portion of the tax was an acceptable security for the morality without which no republic could endure.<sup>51</sup>

Making many of these points, Patrick Henry quickly moved for an assessment act, and over Madison's objections, by a vote of 47 to 32, the Committee of the Whole approved the preparation of a bill. Madison was not immediately alarmed. When Henry was elected governor again and left the House to take his new position, Madison was hopeful that a bill would never issue from the select committee, which Henry had chaired, or that a bill would be defeated in the absence of the orator's support.<sup>52</sup> By the beginning of December, though, when an assessment bill appeared, he recognized the danger. On November 12, the House of Delegates had received its annual petition from the Hanover Presbytery. In a remarkable reversal of its previous position—"shameful," Madison described it—the Presbytery dropped its customary opposition to religious taxes, providing that the act was fair to all denominations. With this important portion of the clergy "as ready to set up an establishment which is to take them in as they were to pull down that which shut them out," with the overwhelming weight of an increasing number of petitions favoring a bill, and with the pro-assessment forces willing to revise the marriage law and the incorporation bill to satisfy the main objections of dissenters, the prospect for successful legislation was growing day by day.<sup>53</sup>

While the assessment bill was on the table, the House directed its attention to the new incorporation act, which carried on December 22 by a vote of 47 to 38. Although he still considered it "exceptionable" in several respects, Madison abandoned his objections and voted with the majority. Some such act was clearly necessary to permit the church to hold and manage property, he wrote, and this one seemed as harmless as the circumstances would permit. Moreover, its defeat, he reasoned, might have doubled its supporters' "eagerness" for the "much greater evil" of the general assessment, to which the House immediately proceeded.<sup>54</sup>

To Madison's dismay, support for the assessment showed few signs of cooling. The bill completed its preliminary readings by a vote of 44 to 42, and there was nothing left to do except to argue that a measure so important should be printed for the public's consideration before its final passage. In support of this appeal for a delay, Madison prepared one of the most elaborate speeches of his career. Sometime during the debates, in fact, he drafted outlines for at least two major speeches.<sup>55</sup>

If he followed the surviving outlines, the shorter speech observed that the assessment bill required the courts to determine what was "Christian." How, he asked, were they to do so? Which Bible would they use, "Hebrew, Septuagint, or Vulgate?" Which translation? How were judges to decide which books were canonical and which apocryphal when Catholics, Lutherans, and other Protestants disagreed? How should the courts interpret scripture? "What clue" could guide them through the "labyrinth" of Christian doctrine?

The longer speech placed state support in broader context. The tendency of the assessment bill, it opened, was to establish Christianity as a state religion, although religion was "not within [the] purview of civil authority." The fundamental issue, Madison insisted, was not whether religion was necessary, but whether an establishment was necessary for religion. Human beings were naturally religious, he maintained, but history showed that state establishments "corrupted" the religious impulse. Contemporary Pennsylvania, other middle states, and early Christianity all showed that religion could thrive without state support, which would discourage immigration and might even lead Virginia's own dissenters to seek a freer climate. Patrick Henry, it was true, had warned that immorality had led to the collapse of several mighty states. But most such states had had established churches, Madison observed. So did most of the New England states, which were as troubled as Virginia. Rising immorality was not a product of the absence of a state-supported church; it was a consequence of wartime dislocations and "bad laws." The proper cures, accordingly, were peace, a better administration of justice, education, the personal example of leaders, laws that would "cherish virtue," and an end

to the hope for a general assessment instead of voluntary support for religious bodies. The assessment bill, he finished, would "dishonor Christianity." The "progress of religious liberty" was inconsistent with the resurrection of a state religion.

Madison was seldom a "forensic" member of a legislative body (in his own disdainful phrase), but he could be uncommonly effective when he was. He was undoubtedly an able parliamentary tactician. On Christmas Eve, eight other delegates who had supported the incorporation act changed sides and voted with him to postpone the final reading of the assessment bill until November 1785. The vote was 45 to 38, almost exactly a reversal of the numbers that had carried the Episcopal incorporation.<sup>56</sup>

Madison's appeals and legislative strategy were not, of course, the only influence on this outcome. By itself, moreover, the postponement of the final reading of the bill did not assure defeat of the assessment. Yet Madison had plainly served as legislative leader of his side, and his defense of freedom left a memorable impression on his colleagues. Two of them, the brothers George and Wilson Cary Nicholas, immediately appealed for his continued leadership in a campaign to muster public opposition. They urged him to prepare a form for a petition, which could be circulated in the counties in the months before the next assembly as an instrument for shaping and expressing popular opinion.<sup>57</sup> The product, his anonymous "Memorial and Remonstrance against Religious Assessments," became a cornerstone in the American tradition of religious freedom.<sup>58</sup> It also proved perhaps its author's clearest and most eloquent enunciation of a set of fundamental principles that guided him throughout his public life.



The "Memorial against Assessments" was eclectic rather than inventive, an effort reminiscent of Jefferson's attempt, when drafting the Declaration of Independence, to express the general understandings of the age. Drawing on the body of his knowledge rather than on a few specific sources, and recalling all the arguments that moved his own emotions, Madison appealed to many different segments of Virginia's varied public: evangelicals as well as Deists, Baptist ministers as well as the enlightened members of the vestries, all who shared (or could be taught to share) his libertarian convictions. The comprehensive reach of the appeal, together with its unfeigned fervor, may explain its lasting impact. Madison was not a man of ready, strong emotions, but religious freedom was a topic on which he was quickly and repeatedly aroused.<sup>59</sup>

Like Jefferson, if Madison was specially indebted to a single source for

his remonstrance, this indebtedness was principally to Locke.<sup>60</sup> As before, however, he carried Locke's contractual philosophy to rigorous extremes, admitting none of the exceptions Locke himself had made to his original insistence on the separate spheres of church and state, politics and religion, this world and the next. Beginning from the point where Locke had started and quoting Article 16 of the Declaration of Rights, Madison called religious liberty "unalienable" in its essential nature. Because opinion, by its nature, could not be coerced, it was the right of every man to hold and exercise his own convictions. Moreover,

what is here a right toward men is a duty toward the Creator. 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 Governor of the Universe: And . . . every man who becomes a member of any particular civil society [does] it with a saving of his allegiance to the Universal Sovereign.

"In matters of religion," Madison insisted, "no man's right is abridged by the institution of civil society, and . . . religion is wholly exempt from its cognizance."<sup>61</sup>

But if society itself had no legitimate authority to intervene in the sphere of conscience, "still less" could any such authority devolve on the "legislative body."

The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited: it is limited with regard to the coordinate departments, more necessarily is it limited with regard to the constituents. The preservation of a free government requires not merely that the metes and bounds which separate each department of power be invariably maintained, but more especially that neither of them be suffered to overleap the great barrier which defends the rights of the people. The rulers who are guilty of such an encroachment exceed the commission from which they derive their authority, and are tyrants. The people who submit to it are governed by laws made neither by themselves nor by an authority derived from them, and are slaves.<sup>62</sup>

Having hinted the regard for fundamental charters that had guided him throughout the 1780s—the profound respect for fundamental law that would become the starting point for his and Jefferson's strict construction of the Federal Constitution—Madison implied that no one should be tempted to conceive of the assessment as a valid compromise

between the rights of conscience and the requirements of the state, as only an inconsequential deviation from pure doctrine. The proper time to "take alarm" for liberty, he cautioned, was the moment it was first endangered, much as patriots had done at the beginning of the Revolution (or as he and Jefferson would do when Hamilton presented his proposal for a national bank).

The free men of America did not wait till usurped power had strengthened itself by exercise and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. . . . Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christians in exclusion of all other sects? that the same authority which can force a citizen to contribute three pence only of his property . . . may force him to conform to any . . . establishment in all cases whatsoever?<sup>63</sup>

Equal rights were yet another test of the validity of every republican law. Quoting once again from Mason's Declaration, Madison reminded legislators that "all men are to be considered as entering into society on equal conditions, as relinquishing no more, and therefore retaining no less, one than another, of their natural rights." Like Jefferson, therefore, and unlike Locke, he forcefully maintained that there could be no logical exceptions to the rule. Even atheists must be accorded full protection:

Whilst we assert for ourselves a freedom to embrace, to profess, and to observe the religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offence against God, not against man: To God, therefore, not to man, must an account of it be rendered.

Any breach of this essential principle, even one that afforded an equal preference to every Christian, must imply either that the civil authority is competent to judge religious truth or that the state may legitimately "employ religion as an engine of civil policy. The first is an arrogant pretension falsified by the contradictory opinions of rulers in all ages; . . . the second an unhallowed perversion of the means of salvation."<sup>64</sup>

What logic taught, experience confirmed; and Madison could transit neatly to a series of historical and practical objections to the general assessment. He argued first, as he had in the assembly, that Christianity did not require state aid, "for it is known that this religion both existed and flourished, not only without the support of human laws, but in spite of



every opposition from them, and not only during the period of miraculous aid, but long after it had been left to its own evidence and the ordinary care of Providence." State support had several consequences, the Memorial suggested, just the opposite from those its advocates intended. It weakened Christians' confidence in the intrinsic excellence of their religion and encouraged nonbelievers to suspect that Christians were "too conscious of its fallacies to trust it to its own merits." Instead of bolstering the purity and power of the faith, ecclesiastical establishments had always had the opposite effect. What were the fruits of nearly fifteen centuries of state support? "More or less, in all places, pride and indolence in the clergy, ignorance and servility in the laity, in both, superstition, bigotry, and persecution." Every Christian teacher knew that Christianity was purest and had reached "its greatest luster" in the "ages prior to its incorporation with civil policy," when its ministers "depended on the voluntary rewards of their flocks."<sup>65</sup>

If Christianity required no help from government, but prospered best without it, neither did the needs of government demand establishments or general assessments.

What influence in fact have ecclesiastical establishments had on civil society? In some instances they have been seen to erect a spiritual tyranny on the ruins of the civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been seen the guardians of the liberties of the people. . . . A just government . . . will be best supported by protecting every citizen in the enjoyment of his religion with the same equal hand which protects his person and his property, by neither invading the equal rights of any sect, nor suffering any sect to invade those of another.

"What a melancholy mark" the general assessment would appear, Madison warned, of "sudden degeneracy" from the policy of "offering an asylum to the persecuted and oppressed of every nation and religion": "It degrades from the equal rank of citizens all those whose opinions in religion do not bend to those of the legislative authority. Distant as it may be in its present form from the Inquisition, it differs from it only in degree. The one is the first step, the other the last in the career of intolerance." The foreign sufferer could only see a general assessment "as a beacon on our coast, warning him to seek some other haven." The bill would add another motive to the many presently existing for emigration from the state. It would destroy the harmony and moderation that had prevailed among the different denominations while the laws forbore to "intermeddle" with religion. "Torrents of blood have been spilt in the

old world by vain attempts of the secular arm to extinguish religious discord by proscribing all difference in religious opinion." Such differences were best assuaged, and Christianity most generally diffused, "by leveling as far as possible every [artificial] obstacle to the victorious progress of truth," not by "ignoble and unchristian" efforts to defend the faith from error.<sup>66</sup>

Returning once again to the words of the Virginia constitution, words that he himself had written, Madison completed the Memorial by powerfully restating its main theme. "The equal right of every citizen to the free exercise of his religion," he concluded, "is held by the same tenure with all our other rights."

Either then, we must say that the will of the legislature is the only measure of their authority and that, in the plenitude of this authority, they may sweep away all our fundamental rights, or that they are bound to leave this particular right untouched and sacred. Either we must say that they may control the freedom of the press, may abolish the trial by jury, may swallow up the executive and judiciary powers of the state, nay that they may despoil us of our very right of suffrage and erect themselves into an independent and hereditary assembly, or we must say that they have no authority to enact into law the bill under consideration.<sup>67</sup>

Nowhere else, in any of his writings, was Madison more eloquent or more explicit in explaining the consistent core of fundamental principle that guided him through all the turns of his career. In its brief but clear elucidation of the origins of governmental power, its insistence on inherent, equal rights, which individuals do not surrender when they enter a society, its fear of even slight transgressions of the chartered bounds of power, and even in its ultimate concern with rulers who might free themselves entirely from dependence on the people, the Memorial is indispensable for understanding why the leader of the Federalists of 1787 would also be the future captain of the Jeffersonian resistance. In its sincere regard for both the purity of faith and the protection of the state from bigots, the petition nicely balanced Christian and republican preoccupations.<sup>68</sup> In its insistence on the total separation of these spheres, it linked the youth of 1776 to the distinguished elder statesman who worried during his retirement that he might have missed an implication of the principle before the War of 1812 when he gave in to Congress and issued a presidential proclamation for a day of prayer.<sup>69</sup> In its conviction that the truth requires no artificial aids and that religious freedom is the litmus test of freedom of the intellect in all its forms, the powerful remonstrance

was in full accord with Jefferson's great bill, which it elaborated and would shortly help to pass.



Completed by the end of June, Madison's anonymous Memorial was circulated widely through the state.<sup>70</sup> By the time of its appearance, as he hoped, opinion was already shifting noticeably against the general assessment. Lay and clerical Episcopalians were increasingly at odds over governance and doctrine. The dissenters were returning to their customary stance. In August, the Virginia Presbyterians agreed on a long petition that rejected the assessment, disapproved of several features of the late incorporation act, and called for the approval of the Bill Establishing Religious Freedom. The General Committee of the Baptists also roundly and specifically condemned a general tax.<sup>71</sup> During its 1785 session, the General Assembly received more than a hundred religious petitions, only eleven of which supported the assessment. Among the ninety that condemned the measure, signed by nearly 11,000 Virginians, thirteen were copies of Madison's remonstrance. So plainly did the people speak that no one tried to resurrect the bill providing for religious taxes, and Madison took full advantage of the situation.<sup>72</sup>

Chairman of the Committee for Courts of Justice, as before, Madison decided early in the session to force the laggard House of Delegates to act on the proposed revision of the laws, which had been printed at his instigation in 1784. On October 31, he introduced more than a hundred bills, virtually the whole of the revision except for portions that had been enacted in preceding years.<sup>73</sup> It was a huge commitment for the busy House and for its legislative leader, yet the Delegates agreed to set aside three days per week until the work was finished. Holding faithfully to this agreement, they labored systematically through the revision, amending and enacting thirty-five proposals. But with the opposition steadily increasing and supporters growing tired, progress stalled completely when the members reached the bill on crimes and punishments, number 64 of the new code. The session had already stretched into December, and it was clear that there was insufficient patience to complete the task. From the remainder of the code, therefore, Madison extracted number 82, the Bill Establishing Religious Freedom. Despite significant, "warm" opposition on the floor, it passed the House of Delegates on December 17 essentially unchanged. Opponents in the Senate carried an amendment that would have devastated Jefferson and robbed the bill of much of its importance by striking its impressive preamble and substituting Article 16 of the Declaration of Rights. The Delegates refused the change. Tedious maneuver-

ing continued nearly to adjournment of the session, but Madison's tenacity and legislative skills were equal to the challenge. The act was signed by Speaker Harrison on January 19, 1786, with its preamble fundamentally unmarred.<sup>74</sup>

Although he never bragged about his legislative feats and did not change his custom of reporting the assembly's actions in a style that never mentioned his personal role, Madison did not disguise his exultation over the defeat of the assessment and the passage of the Statute for Religious Freedom. Sending the news to Jefferson in France, he reported that an argument between the houses had "defaced the composition" of the act. Delegates who favored Jefferson's original language, he explained, had thought it "better to agree" with minor Senate changes "than to run further risks, especially as it was getting late in the session and the House was growing thin." Nevertheless, the enacting clauses of the bill had passed unchanged "and I flatter myself have in this country extinguished forever the ambitious hope of making laws for the human mind."<sup>75</sup> Passage of the statute was a proud achievement. It was also an important moment in the evolution of the legislator's thought.

To many of his legislative colleagues, Madison had never seemed more formidable than in 1785. "Can you suppose it possible that Madison should shine with more than usual splendor this assembly?" one delegate inquired. "It is, sir, not only possible but a fact. He has astonished mankind and has by means perfectly constitutional become almost a dictator upon all subjects."<sup>76</sup> With Patrick Henry serving as the governor again and Richard Henry Lee in Congress, Madison had no competitor for domination of the lower house and took a leading role on nearly every issue.<sup>77</sup>

From his own perspective, nevertheless, the 1785 assembly was the most distressing he had seen.<sup>78</sup> One of his persistent worries was alleviated for a time. "Not a word has passed in the House as to a paper emission," he told Monroe.<sup>79</sup> Nevertheless, he still discerned a danger. "A considerable itch for paper money" was apparent, he reported to Jefferson at the session's end, and "the partizans of the measure . . . flatter themselves, and I fear upon too good ground, that it will be among the measures of the next."<sup>80</sup> Even his success with the revision of the laws was tempered in his mind by the reflection that "it might have been finished at one session with great ease if the time spent on motions to put it off and other dilatory tactics had been employed on its merits."<sup>81</sup> It is clear that Madison's determination to hold impatient colleagues to the work on the revision cost him much good will and influence as the session lengthened. The colleague who had been astonished with his influence early in the session later wrote that the House "was upon the whole the most stupid, knavish, and designing Assembly that ever sat, . . . and as . . . proof of this