

AMERICAN CONSTITUTIONALISM  
VOLUME II: RIGHTS AND LIBERTIES  
Howard Gillman • Mark A. Graber • Keith E. Whittington

Supplementary Material

Chapter 4: The Early National Era – Individual Rights/Religion/Establishment

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**Massachusetts Debates Test Oaths (1820–21)<sup>1</sup>**

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*The 1780 Constitution of Massachusetts required that all elected officials be Christians. Members of the executive and legislative branches took the following oath: “I . . . do declare that I believe the Christian religion, and have a firm persuasion of its truth.” In 1820, Massachusetts held a convention to consider revising the original constitution. The delegates proposed fourteen amendments, nine of which were ratified by the people. One of these amendments modified the religious oath. After 1820, members of the executive and legislative branches of government were required to only believe in God. The new oath of office was “I . . . do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts and will support the constitution thereof. So help me, God.” Quakers in 1780 and after 1820 were permitted to take a modified oath.*

*The debate over religious oaths in the Massachusetts constitutional convention was vigorous. Proponents of the 1780 oath insisted that a Christian people had the right to limit office holders to believing Christians. Opponents insisted that the oath fostered hypocrisy and was inconsistent with republican commitments to equality. When reading the excerpts from the debates below, consider the changing place of religion in the American constitutional democracy. What different relationships did advocates draw between Christianity and the Constitution? Did any speaker think the people of Massachusetts were likely to elect non-Christians to public office? If not, what explains the vigor with which the test oath was debated?*

DANIEL WEBSTER (Boston)

. . . In the first place; have the People a right, if in their judgment, the security of their Government and its due administration demand it to require a declaration of belief in the Christian Religion as a qualification or condition of office? . . . By the fundamental principles of popular and elective Government, all office is in the free gift of the people. They may grant, or they may withhold it at pleasure; and it may be for them, and them only, to decide whether they will grant office, it for them to decide, also on what terms, and with what conditions, they will grant it. Nothing is more unfounded than the notion that any man has a right to an office. This must depend on the choice of others, and consequently on the opinions of others, in relations to his fitness and qualifications for office. No man can be said to have a right to that, which others may withhold from him, at pleasure. . . .

This qualification has nothing to do with any man’s conscience. If he dislike the conditions, he may decline the office. . . .

However clear the right may be . . . the expediency of retaining the declaration is a more difficult question. It is said not to be necessary, because, in this Commonwealth, ninety-nine out of every hundred of the inhabitants profess to believe in the Christian religion. It is sufficiently certain, therefore, that persons of this description, and not others, will ordinarily be chosen to places of public trust. . . .

This qualification is made applicable only to the Executive and the members of the Legislature. It would not be easy, perhaps, to say why it should not be extended to the Judiciary, if it were thought necessary for any office. There can be no office, in which the sense of religious responsibility is more

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<sup>1</sup> Excerpted from *Journal of Debates and Proceedings in the Convention of Delegates Chosen to Revise the Constitution of Massachusetts* (Boston: Daily Advertiser, 1853).

necessary than in that of a Judge; especially of those judges who pass, in the last resort, on the lives, liberty and property of every man. . . . [L]egislation is in its nature general. Laws usually affect the whole society, and, if mischievous or unjust, the whole society is alarmed, and seeks their repeal. The judiciary power, on the other hand, acts directly on individuals. The injured may suffer, without sympathy, or the hopes of redress. The last hope of the innocent, under accusation, and in distress, is the integrity of the judges. If this fail, all fails; and there is no remedy on this side the bar of Heaven. Of all places, therefore, there is none, which so imperatively demands that he who occupies it should be under the fear of God, and above all other fear, as the situation of a Judge.

JAMES PRINCE (Boston)

. . . I submit the following positions, first, admitting the right (which, however, I do not) of the citizens when forming a social compact to prescribe such terms as a majority may deem expedient and proper, yet I hold it to be unjust to introduce a principle into the compact which while it provides that the individual shall afford his personal aid and risk his life for the common defense and yield up all his property (if need be) for the maintenance of the government and its laws; yet virtually precludes him from participating in any of the advantages resulting from offices, or from any share in the administration of the government, because he differs on a subject with which society has but a doubtful right to interfere; although in point of morality and strength of intellect he shines as “a star of the first magnitude.”

Secondly, I hold that this act of injustice toward the individual is neither politic nor expedient; first, because . . . it may deprive society of talent, and moral excellence, which should always be secured and cherished as one of the best means of preserving the prosperity of the Commonwealth; and secondly, while it may thus exclude men possessing such useful and amiable qualifications, yet it is no effectual safeguard whereby to keep out ambitious unprincipled men from office, or a seat in the public counsels.

And, I moreover hold, that the cause of Christianity doth not require such a qualification to support it. This religion is founded on a rock and supported by a power which humanity cannot affect—it does not want the secular arm to defend it—its divine origin, and its own intrinsic merit, ever have been, and ever will be, its firmest support. What have the powers of the world to do with such a religion? Experience has demonstrated that when left to the umpire of reason and the aid of arguments, it has triumphed the most brilliantly over the attacks of infidelity. . . .

I verily believe in forming or revising the social compact, we ought wholly to exclude every principle which by possible construction may interfere with the consciences of men, thereby leaving them and their religions opinions where alone they ought to be left “to him who searcheth the heart and knows our inmost thoughts.” Whether the individual has or has not formed a correct religious opinion is nothing to us, as civilians.

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JOHN PHILLIPS (Boston)

. . . He did not believe the citizens of this Commonwealth were prepared by erasing from this instrument, this declaration, virtually to express an opinion, that it was indifferent to them whether their rulers should be Christians or the followers of Mohomat. . . . [H]e inquired if it could be now a subject of doubt whether the inhabitants of this Commonwealth professed to be a Christian people.

REVEREND JOSEPH TUCKERMAN (Chelsea)

. . . The constitution declares every man to be eligible to all the high offices of the state, on the condition of certain prescribed qualifications. Yet if there was any probability that any people of color would be elected to fill either of these offices, he presumed that no doubt would be felt, either as to the right, or the propriety, of their exclusion. There would, without doubt, be a provision in the constitution for their exclusion; or, it would be required, that these offices should be holden only by the white

inhabitants of the commonwealth. And if, as is without doubt a fact, ninety-five out of hundred of the people of this commonwealth are in their faith Christian, it seems to be as unquestionable as any one of the rights of a people, to require that their rulers shall, in the faith be Christians . . .

The test required by the English constitution, for example, required a belief of the thirty-nine articles of the Church of England. He would resist with all the energy of the small powers that he possessed, any definition in the constitution, of what Christianity is, as a faith to be required of those who may be elected to office. . . . He said that, in his view, the most beautiful feature of those parts of our present constitution, which concern religion, is, that it recognizes Christianity as the religion of the state, in the great principles in which its various sects agree; leaving unnoticed those in which they differ. Any man therefore, he thought, who believes that Christianity is a divine revelation, can make the declaration now required, and comprehend in that declaration, all that it is intended to embrace.

On the question of the propriety of the test, he said, his objections were still more solemn. Either the religion of Jesus Christ is from God, or it is not. Either we are accountable to God for all our means and opportunities of advancing the interests of this religion, or we are not. If our religion be from God, and if it be our duty, by all means which are consistent with its spirit, to promote its progress, it is a question on which we ought to pause, whether we shall open the door of office indiscriminately to those who believe, and to those who reject this revelation of God's will. We all know the descending influence of example. If men should be elevated to high and responsible stations, who are enemies of Christianity, may we not look with some apprehension to the consequences. . . . Sir, we owe it to God, to Christ, and to our own souls, to do what we may for the extension and security, of our faith as Christians; and to give our influence, whatever it may be, to the election of magistrates, who will make laws, and administer justice, in the spirit of Christianity. . . .

HENRY A. S. DEARBORN (Roxbury)

. . . [T]he test was an unjust exaction and a violation of the unalienable rights of the people. He referred to the opinion of the learned, pious and illustrious Locke, that it was not the business of religion to interfere with the civil government. It was an established principle that acts, not opinions, were the subject of laws. Political opinions were not subject to a test; why should those upon religion be subject to any? They had no right to compel a man to throw open the portals of his mind and discover his religious sentiments. He trusted such oppression would not prevail in the free and enlightened country. There was no authority for it in the scriptures. . . .

JAMES T. AUSTIN (Boston)

. . . [E]very one who contributes to the expenses of government and bears his share of the public burdens, has a right to be a candidate for the public favor. . . . No one would say that a belief in Christianity was indispensable in Legislators. . . . [P]lace him who believes and him who sneers at religion side by side as candidates and let the people decide between them. . . .

The Christian religion needs not oaths and tests to protect it any more than it does force. Its empire will be maintained and extended by neither the one nor the other, but the only aid which can be given to secure its triumph, is the diffusion of knowledge. . . .

REVEREND EDMUND FOSTER (Littleton)

. . . We live in a more enlightened age, and it is owing to the diffusion of the knowledge of Christianity. . . .

SAMUEL A. WELLS (Boston)

. . . The people undoubtedly have the right to institute such form of government as they conceive to be best calculated to secure their peace and happiness; the people are the majority, and if this majority

is composed of Christians, and conceived that their security and happiness required that their rulers should also be Christians, they had an undoubted right to prescribe as a condition, that their rulers testify to their belief in the Christian religion. . . .

JOSEPH STONE (Stow and Boxborough)

. . . Some religion is recognized and made a part of the law of every country. It forms the criterion of right and wrong. It supplies to a great extent the place of law — without it we should have no principle by which in many things we should be governed. . . .

If Christians were a bare majority in the Commonwealth, it would be right, because it would be necessary for the preservation of the religion. But there was now nothing to fear. There was no inconvenience in giving up the test. . . .

HOLDER SLOCUM (Dartmouth)

. . . Religion was a thing between the creature and the creator; it was not to be regulated by the laws of man. . . .

WILLIAM NICHOLS (South Reading)

. . . [T]he constitution of the United States is paramount to the state constitution, and that constitution guaranties to the several states a republican form of government. Our constitution with this provision in it, would be an anti-republican form of government, and to make it consistent with the principles contained in the declaration of our independence, we should alter a clause in that declaration so as to read all Christians are born free and equal, instead of all men are born free and equal.

GEORGE BLISS (Springfield)

. . . There was a certain fitness in requiring this declaration to be made by the persons mentioned in the constitution, because the constitution enjoins it upon those persons to provide for the support of the Christian religion. . . . [Massachusetts did not abandon state financial support for religion until 1833]

RUSSELL FREEMAN (Sandwich)

. . . He was an advocate for religious liberty. He hoped never to see the spirit of the constitution as it respects religious freedom departed from. He would have no sect preferred, no restraint upon the consciences, opinions, or even caprices of men. Let them go where they please, but in a Christian country let it be required that candidates for office shall be Christians.

JOSIAH HUSSEY (Nantucket)

. . . Is it necessary to expunge that part of the Constitution which requires a declaration of a belief in the Christian religion? I would ask, sir, what benefit can possibly result to the citizens of the Commonwealth, from throwing open the doors, and admitting a race of unbelievers to the rights of legislation.