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The Elusive Common Good: Religion and Civil Society in Massachusets: 1780-1833

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In 1810, Theophilus Parsons, the Federalist chief justice of the Massachusetts Supreme Court, argued that the state need not recognize voluntary churches, calling the idea "too absurd to be admitted." In contrast, the modern idea of civil society is premised on the right of individual citizens to associate and for their institutions to gain the legal privileges connected with incorporation.[1] Federalists did not share this idea. They believed that in a republic the people's interests and the state's interests were the same, since voters elected their own rulers.

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1. Michael Walzer, "The Idea of Civil Society" *Dissent* (Spring 1991), 293–304. For a history of the idea of civil society, see John Keane, "Despotism and Democracy: The Origins of the Distinction between Civil Society and the State, 1750–1850" in *Civil Society and the State: New European Perspectives*, ed. John Keane (London, 1988), 35–71; John Ehrenberg, *Civil Society: The Critical History of an Idea* (New York, 1999); Adam B. Seligman, *The Idea of Civil Society* (Princeton, 1992); Marvin B. Becker, *The Emergence of Civil Society in the Eighteenth Century: A Privileged Moment in the History of England, Scotland, and France* (Bloomington, 1994).

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Private groups threatened the Federalists' vision by dividing the population. The freedom of association was not considered a right, but a privilege extended to certain institutions that served the common good. One of the most important of these institutions was the parochial church, which Massachusetts supported with taxes until 1833. Other churches, as Parsons implied, served no positive civic good. After disestablishment in 1833, however, all churches became private associations. Moreover, by the 1830s, citizens of Massachusetts had joined associations to carry out all kinds of reform activity.[2] This essay relies on debates over the relationship between churches and the state to trace the emergence of an independent civil society and to suggest some of the new conflicts that emerged within it.

Recent work on the public sphere and civil society provides a new context to think about religion in Massachusetts. Historians have demonstrated the importance of activities in civil society for defining who "the people" are and what they believe in.[3] For example, in public ceremonies, Mary P. Ryan writes, citizens are organized, or organize themselves,

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2. Richard D. Brown, "Emergence of Urban Society in Rural Massachusetts, 1760–1820," *Journal of American History*, 61 (June 1974), 29–51.

3. My understanding of the historiography of the early American public sphere has been greatly aided by John L. Brooke, "Consent, Civil Society, and the Public Sphere in the Age of Revolution and the Early American Republic: Thoughts on Rousseau, Montesquieu, Tocqueville, and Habermas" (unpublished manuscript cited with permission of author). I thank him for sharing it with me. See Mary P. Ryan, *Women in Public: Between Banners and Ballots, 1825–1880* (Baltimore, 1990), esp. 130–71, and *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Berkeley, CA, 1997); Michael Warner, *The Letters of the Republic: Publication and the Public Sphere in Eighteenth-Century America* (Cambridge, 1990); David Waldstreicher, *In the Midst of Perpetual Fetes: The Making of American Nationalism* (Chapel Hill, 1997); Simon P. Newman, *Parades and Politics of the Street: Festive Culture in the Early American Republic* (Philadelphia, 1997); Christopher Grasso, *A Speaking Aristocracy: Transforming Public Discourse in Eighteenth-Century Connecticut* (Chapel Hill, 1999); Albrecht Koschnik, "Voluntary Associations, Political Culture, and the Public Sphere in Philadelphia, 1780–1830" (Ph.D. diss.: University of Virginia, 2000). Although he does not frame his argument in terms of the public sphere, Sean Wilentz, *Chants Democratic: New York City and the Rise of the American Working Class, 1788–1850* (New York, 1984), esp. 87–90, discusses the symbolic importance of parades for artisans.

"to learn, invent, and practice a common language that could be converted to other civic or political uses."[4] Public activities could foster a "common language," but they could also be "converted" to other uses. For this reason, Federalists in Massachusetts worried that self-created groups in civil society would undermine the idea that there existed one people with shared interests. They believed that all citizens must put aside their own interests and defer to the common good. Dissent or division of any kind in the public sphere was to be avoided at all costs.[5] Most historians of the early national public sphere have largely ignored the state and the role of law and public policy in defining the contours of civil society and its public sphere, yet the state, through its power to incorporate and to determine which associations would be legally recognized, was a vital force in shaping civil society.[6] Those who have examined the activities of political elites have found that postrevolutionary leaders, especially but not only Federalists, were actively engaged in managing the public sphere, including deciding which associations and

4. Ryan, *Civic Wars*, 15.

5. John L. Brooke, "Ancient Lodges and Self-Created Societies: Voluntary Association and the Public Sphere in the Early Republic," in *Launching the Extended Republic: The Federalist Era*, ed. Ronald Hoffman and Peter J. Albert (Charlottesville, VA, 1996), 273–377; Stanley Elkins and Eric McKitrick, *The Age of Federalism* (New York, 1993), 451–88; David S. Shields, "Anglo-American Clubs: Their Wit, Their Heterodoxy, Their Sedition," *William and Mary Quarterly*, 51 (April 1994), 293–304; Saul Cornell, *The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788–1828* (Chapel Hill, NC, 1999); Albrecht Koschnik, "The Democratic Societies of Philadelphia and the Limits of the American Public Sphere, circa 1793–1795," *William and Mary Quarterly*, 68 (2001), 615–36; Johann N. Neem, "Freedom of Association in the Early Republic: The Republican Party, the Whiskey Rebellion, and the Philadelphia and New York Cordwainers' Cases," *Pennsylvania Magazine of History and Biography*, 127 (July 2003), 259–90.

6. For the role of the state in shaping civil society, see Michael Schudson, "The 'Public Sphere' and its Problems: Bringing the State (Back) In," *Notre Dame Journal of Law, Ethics, and Public Policy*, 8 (1994), 529–[illegible] Theda Skocpol, Marshall Ganz, and Ziad Munson, "A Nation of Organizers: The Institutional Origins of Civic Voluntarism in the United States," *American Political Science Review*, 94 (Sept. 2000), 527–46; William J. Novak, "The American Law of Association: The Legal-Political Construction of Civil Society," *Studies in American Political Development*, 15 (Fall 2001), 163–88.

institutions to patronize and which to condemn.[7] At stake was not only what groups should be permitted to exist, but also what kind of society the new republic would be.

Federalists argued that the state should provide tax support to the parochial Congregational Church because public religion was vital to creating a citizenry with shared values. Moral conflict, realized in the competition between groups in civil society, threatened the common good by implying that "the people" need not or did not share the same values. Federalists tried to limit the rights of voluntary dissenting churches by denying them corporate privileges.[8] Debates over the legal rights of voluntary churches therefore became part of a broader discussion about the relationship between civil society and the state, and vice versa.[9] In order to accept the proliferation of and the competition be-

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7. Brooke, "Ancient Lodges and Self-Created Societies"; Elkins and McKitrick, *Age of Federalism*, 451–88; Koschnik, "Democratic Societies of Philadelphia"; Neem, "Freedom of Association in the Early Republic."

8. In Massachusetts, the shift that Sidney E. Mead describes as being "from coercion to persuasion" was more difficult than Mead suggests. The principle of "voluntaryism" was not easily accepted by Massachusetts's Federalist leaders. See Mead's *The Lively Experiment: The Shaping of Christianity in America* (New York, 1963).

9. This essay builds on and contributes to recent work by historians of the nonprofit sector, who have turned to corporate law in order to understand the different legal environments under which American nonprofit institutions have operated. See Peter Dobkin Hall, *The Organization of American Culture, 1700–1900: Private Institutions, Elites and the Origins of American Nationality* (New York, 1982), and *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations* (Baltimore, MD, 1992); David Hammack, ed., *Making the Nonprofit Sector in the United States: A Reader* (Bloomington, IN, 1998), and "Nonprofit Organizations in American History: Research Opportunities and Sources," *American Behavioral Scientist*, 45 (2002), 1638–74; Bruce A. Campbell, "Social Federalism: The Constitutional Position of Nonprofit Corporations in Nineteenth-Century America," *Law and History Review*, 8 (1990), 149–88; Lawrence J. Friedman and Mark D. McGarvie, eds., *Charity, Philanthropy, and Civility in American History* (Cambridge, UK, 2003); Johann N. Neem, "Politics and the Origins of the Nonprofit Corporation in Massachusetts and New Hampshire, 1780–1820," *Nonprofit and Voluntary Sector Quarterly*, 32 (Sept. 2003), 344–65.

These works, in turn, expand upon older histories of corporations that focused primarily on economic and not civic institutions. I rely particularly on Edwin Merrick Dodd, *American Business Corporations until 1860, with Special Reference*

tween interests—what Gordon S. Wood calls an "American science of politics"—and the moral and political diversity they implied, Massachusetts leaders needed to construct a new conceptual space in which competition could take place. In essence, civil society, not just the church, had to be disestablished.[10]

The idea of the common good was never abandoned. Instead, an independent civil society opened up a new arena in which private groups could promote it. In the 1820s and 1830s, religious leaders who supported disestablishment turned to voluntary associations to promote social and political reforms that they believed served the common good. Citizens argued that it was their right to organize in civil society to influence public opinion and to pressure lawmakers. Yet many of these groups, by seeking to impose their own vision of the good on others, threatened the very civil society that had made their own organizing possible. Political leaders, having accepted the separation of church and state, and of civil society and state, now wondered what to do when powerful interest groups sought to effect political change from within civil society. By the 1830s, there were more people promoting more common goods than ever.

The Massachusetts Constitution of 1780 established a "commonwealth" or a government actively committed to promoting the common good.[11]

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to Massachusetts (Cambridge, 1954); Oscar Handlin and Mary Flug Handlin, *Commonwealth: A Study of the Role of Government in the American Economy. Massachusetts 1774–1861* (Cambridge, 196[illegible]; Pauline Maier, "The Revolutionary Origins of the American Corporation," *William and Mary Quarterly*, 50 (1993), 51–84.

10. Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (New York, 1969), esp. 608. In their classic work, *Commonwealth*, Oscar and Mary Handlin argue that conflicts between corporate interests and the state were vital to the formation of a separate realm for independent, albeit regulated, market activity. I extend their insight into the realm of civic associations in civil society.

11. Many historians have commented on the communitarian character of the Massachusetts Constitution. See Handlin and Handlin, *Commonwealth*, 3–31; Ronald Peters, Jr., *The Massachusetts Constitution of 1780: A Social Compact* (Amherst, MA, 1978); Willi Paul Adams, *The First American Constitutions: Republican Ideology and the Making of the State Constitutions in the Revolutionary Era*, trans. Rita and Robert Kimber (1973; trans.: Chapel Hill, NC, 1980); Donald S. Lutz, *The Origins of American Constitutionalism* (Baton Rouge, LA, 1988).

The primary distinction between a modern liberal democracy and a commonwealth is that in a commonwealth the whole is prior to the parts. According to Theophilus Parsons in the "Essex Result" (1778), written as a critique of an earlier proposed constitution, "when men form themselves into society, and erect a body politic, they are to be considered as one moral whole."[12] This "moral whole" was the will of the people themselves. Throughout the revolutionary era, political leaders and ministers echoed these sentiments. In their address to the public, delegates to the state constitutional convention affirmed that "the interest of the Society is common to all its Members."[13] If ratified, the new constitution would establish a polity committed to securing this common interest.

The delegates were not naïve; they understood that society was composed of multiple interests, but they hoped to create a political system that could overcome them. The constitution's primary draftsman, John Adams, believed that a well-constructed constitution could minimize the influence of minority interests.[14] The constitution was divided into two parts. The Declaration of Rights delineated those individual and communal rights fundamental to liberty; the Frame of Government provided for the organization of the various branches of government. To ensure that the people understood their own interests, chapter 5 of the Frame of Government obliged the state to support educational institutions, charities, and literary and scientific societies.[15] The revolutionary generation believed that the people must be virtuous if the republic was to survive; only by learning their true interests would they favor the common good.[16]

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12. [Theophilus Parsons] "Essex Result" (1778) in Oscar Handlin and Mary Flug Handlin, eds., *Popular Sources of Political Authority: Documents on the Massachusetts Constitution of 1780* (Cambridge, MA, 1966), 330. See also Henry Cumings, "A Sermon Preached before His Honor Thomas Cushing . . ." (Boston, 1783).

13. *Journal of the Convention for Framing a Constitution of Government for the State of Massachusetts Bay* (Boston, 1832), 216–17.

14. C. Bradley Thompson, *John Adams and the Spirit of Liberty* (Lawrence, KS, 1998); Richard Adam Samuelson, "The Adams Family and the American Experiment" (Ph.D. diss.: University of Virginia, 2000).

15. *Journal of the Convention*; The constitution is also reprinted in Handlin and Handlin, *Popular Sources*, 441–72.

16. Lawrence Cremin, *American Education: The National Experience, 1783–1876* (New York, 1980); Richard D. Brown, *The Strength of a People: The Idea of an Informed Citizenry in America, 1650–1870* (Chapel Hill, NC, 1996).

Various articles in the Declaration of Rights dealt specifically with the question of how to protect the common good from being threatened by private or partial interests. The two most important for civil society are articles 3 and 6. Article 6 reads, "no man, nor corporation or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community."[17] Although chapter 5 of the Frame of Government committed Massachusetts to patronizing civic institutions, article 6 ensured that the government's patronage would extend only to institutions that promoted the common good. Organizations in civil society were to be dependent on the state for legitimacy and legal rights. Rather than permitting an autonomous civil society where any group could associate to pursue their goals, the state served as gatekeeper.

One of the most important institutions in Massachusetts was the church. Since the settling of the Bay Colony, the parochial church formed the heart of the moral community. Over time, the growth of religious dissent threatened the status of the Congregationalists, but the ideals of the covenant remained powerful enough to find voice in the new constitution. Because the freedom of conscience was a fundamental right, article 2 of the Declaration of Rights guaranteed it to all citizens. However, article 3 granted the new regime the authority to collect taxes for religious purposes and to oblige citizens to attend church services:

> As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of GOD, and of public instructions in piety, religion and morality: Therefore, to promote their happiness and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies-

17. *Journal of the Convention*, 194. As radical as article 6 might be, it did not go as far as Virginia, which repealed the Elizabethan statute for charitable trusts and was hostile to most corporations, nor France, where the republican revolution destroyed all corporate privileges of the old regime. See H. Miller, *The Legal Foundations of American Philanthropy, 1776–1844* (Madison, WI, 1961); Edith Archambault, "Historical Roots of the Nonprofit Sector in France," *Nonprofit and Voluntary Sector Quarterly*, 30 (2001), 204–20.

politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD.[18]

As with other clauses in the constitution, article 3 was premised on the common good. Because republics require virtuous citizens, the public church served a vital role by providing all citizens access to moral education. Technically, article 3 permitted taxes to be paid to any church, thus ensuring Baptists and other dissenters equal rights. Federalists would soon conclude, however, that article 6 prohibited voluntary churches from receiving the state's patronage. Article 3, in tandem with article 6, was implemented in a manner that limited the rights of religious minorities in civil society.

Article 3 was by far the most controversial aspect of the new constitution. Historians have divided into two major camps on the issue, camps that replicate the debate that took place in 1779–1780. Some historians consider article 3 an oppressive throwback to the Puritan past. They see it as a handout to Congregational ministers who, besieged by competition from dissenters since the Great Awakening, sought the state's aid to reassert their authority.[19] A second school argues that the primary purpose of article 3 was not religious but civic. The goal of the church was not to establish religious doctrines but to teach the moral values necessary for a republic.[20]

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18. *Journal of the Convention*, 216–17.

19. Samuel Eliot Morison, "The Struggle over the Ratification of the Constitution of 1780," *Proceedings of the Massachusetts Historical Society*, 50 (1917), 353–411; Jacob C. Meyer, *Church and State in Massachusetts from 1740 to 1833: A Chapter in the History of the Development of Individual Freedom* (Cleveland, OH, 1930), 90–132; Peter S. Field, *The Crisis of the Standing Order: Clerical Intellectuals and Cultural Authority in Massachusetts, 1780–1833* (Amherst, MA, 1998), 34–46.

20. Conrad Wright, "Piety, Morality, and the Commonwealth," in *The Unitarian Controversy: Essays on American Unitarian History*, ed. Conrad Wright (Boston, 1994), 17–35; Charles H. Lippy, "The 1780 Constitution: Religious Establishment or Civil Religion?" *Journal of Church and State*, 20 (Autumn 1978), 533–49; John Witte, Jr., "'A Most Mild and Equitable Establishment of Religion': John Adams and the Massachusetts Experiment" in *Religion and the New Republic: Faith in the Founding of America*, ed. James H. Hutson (Lanham, MD, 2000), 1–40. William G. McLoughlin's authoritative study of church-state issues in *New England Dissent: 1630–1833: The Baptists and the Separation of Church and State*, 2 vols. (Cambridge, 1971), notes that both sides have merit depending on the perspective one took toward religious liberty.

The debates in the press over article 3 generally support the second school, but the issue remains unresolved. If the public church was simply a utilitarian moral institution, why was it included in the Declaration of Rights instead of chapter 5 of the Frame of Government, where the constitution mandates the government to support other educational institutions? The answer is that religion is not like other civic goods because it concerns metaphysical questions of right and wrong, the answers to which are derived from revealed or natural law. Massachusetts Congregationalists considered themselves a covenanted people, committed as a community to supporting their god's laws. The Revolution reinvigorated this tradition. Speaking in their pulpits, before militias, and at public meetings, ministers reminded their listeners that their revolution against England must be accompanied by a new commitment to the covenant, and that their god sanctioned the rebellion in order to protect his people from the machinations of the English crown and church.[21] The Reverend Samuel Cooper elaborated on the relationship between religion and the state in his election sermon preached on October 25, 1780, the day the new constitution went into effect. Cooper told his audience that Massachusetts was settled "as a refuge from tyranny." Like the people of Israel, the Puritans were "led into a wilderness" and "pursued through the sea, by the armed hand of power." In the new world, they committed themselves to live under their god's laws. The rulers of Massachusetts now entered into "a solemn renewal of this covenant."[22] To its supporters, the public church did not just teach common values, but derived those values from a higher source.

Opponents of article 3 were quick to point out that it violated the freedom of conscience. By mandating that citizens support the church, the constitution undermined the distinction between "protestantism and

21. Harry Stout, *The New England Soul: Preaching and Religious Culture in Colonial New England* (New York, 1986); Nathan O. Hatch, *The Sacred Cause of Liberty: Republican Thought and the Millennium in Revolutionary New England* (New Haven, CT, 1977); J. C. D. Clark, *The Language of Liberty, 1660–1831: Political Discourse and Social Dynamics in the Anglo-American World* (Cambridge, UK, 1994), 111–25.

22. Samuel Cooper, "A Sermon preached before His Excellency John Hancock . . . being the day of the Commencement of the Constitution and Inauguration of the new Government" (Boston, 1780), in *Political Sermons of the Founding Era, 1730–1805*, ed. Ellis Sandoz (Indianapolis, IN, 1991), 627–56.

popery."[23] Article 3's most ardent critic, "Philanthropos," worried that under the new constitution "the church and State are not barely to be brought together, but are to be really *united*."[24] Philanthropos argued that civil legislation interferes with the natural tendency of people to love their god, "for whenever the magistrate does interfere, law-suits, imprisonment and quarreling take place." Rather than promoting social harmony and the common good, state supported religion undermined it.[25]

Baptists were particularly vocal objectors to article 3. Early on, Baptists had worried that Congregationalists would threaten religious liberty. When the 1780 constitution was revealed, Baptists protested the state's right to interfere with religious affairs. They believed that the church of Christ was distinct in all ways from the polity.[26] Under article 3, Baptists were required to pay their ministerial taxes, imposing the state between the church and its members. The new regime co-opted all churches for public purposes. Like other citizens, Baptists were expected to perform their civic duties. Although the constitution's supporters argued that paying taxes to support the church was a civic obligation, Baptists argued that religion was a matter of private conscience beyond the state's reach. In making this claim, Baptists challenged the basic premises of how the Massachusetts polity was organized.[27] In time, Baptist arguments would prove invaluable to defending the rights of associations, thus creating an ideological foundation for an autonomous civil society. At the moment, Baptists were on the losing side of the argument.

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23. Boston *Gazette*, May 13, 1780. See also "Objections of the Minority of the Town of Boston," Boston *Gazette*, May 22, 1780.

24. Boston *Independent Chronicle*, Mar. 21, 1780.

25. Boston *Gazette*, Jan. 8, 1781. See also *Independent Chronicle*, Mar. 2, 1780; Mar. 16, 1780; Mar. 23, 1780; Apr. 6, 1780; Apr. 13, 1780.

26. In *New England Dissent*, William G. McLoughlin recovered the pietistic origins for the separation of church and state. McLoughlin explained that Baptist arguments for separation of church and state were made on behalf of, rather than in opposition to, religion. See also Mark DeWolfe Howe, *The Garden and the Wilderness: Religion and Government in American Constitutional History* (Chicago, 1965).

27. John L. Brooke, *The Heart of the Commonwealth: Society and Political Culture in Worcester County, Massachusetts, 1713–1861* (New York, 1989), 158–88, argues that by proclaiming the right of individuals to voluntary associate, Baptists contrasted a "Lockean" vision of civil society with the "Harringtonian" ideals of the Commonwealth's supporters.

In response to the above critiques, defenders of article 3 emphasized the communitarian benefits of religion. Religion taught virtue, which was necessary for the common good. As one writer claimed, the public church was "essential to the well being of civil society," for only it could prevent "that immorality, and dissipation of manners, which we have great reason to fear would take place, if there should no provision be made by law for the support and maintenance of public worship and the teachers of religion."[28] Article 3 would not only ensure a virtuous citizenry, but also that the parochial minister could speak for a civic community that shared the same morals and interests. Under the new constitution, ministers were considered civil servants.[29]

Massachusetts's ruling Federalist Party was committed to the vision of civil society outlined in the new constitution. They supported what John L. Brooke calls a "consensual public sphere," in which the institutions of civil society reinforce the values and interests of the people.[30] By managing the public sphere, Federalists hoped to create a citizenry with shared values that would consent to policies that served the common good. Federalists anticipated that the state would play an active role in promoting the common good. The new government incorporated dozens of corporations, each of which was justified on communitarian grounds.

28. Boston *Gazette*, Nov. 27, 1780.

29. Donald M. Scott, *From Office to Profession: The New England Ministry, 1750–1850* (Philadelphia, 1978); Neem, "Politics and the Origins of the Nonprofit Corporation."

30. Brooke, "Ancient Lodges and Self-Created Societies." See also Linda K. Kerber, *Federalists in Dissent: Imagery and Ideology in Jeffersonian America* (Ithaca, NY, 1970), 173–215; James M. Banner, Jr., *To the Hartford Convention: The Federalists and the Origins of Party Politics in Massachusetts, 1789–1815* (New York, 1970), chapters 1 and 2; Brown, *Strength of a People*; David Waldstreicher, "The Constitution of Federal Feeling," in *In the Midst of Perpetual Fetes*, 53–107. The consensual public sphere is not simply a product of the early national era, but arises often in times of crisis when consent is valued over dissent. See, for examj → Christopher Capozzola, "The Only Badge Needed Is Your Patriotic Fervor: Vigilance, Coercion, and the Law in World War I America," *Journal of American History*, 88 (Mar. 2002), 1354–82; Margaret Kolb Holden, "Freedom of Association in the Judicial Balance: The Ku Klux Klan, the NAACP and Liberal Jurisprudence in Modern America" (M.A. thesis: University of Virginia, 1989).

Federalists chartered turnpikes, bridges, and banks, as well as academies, learned societies, and charities. They increased support for Harvard College.[31] They encouraged the proliferation of Freemasonic lodges, hoping that the values of Masonry—fraternal love—would foster unity among the people.[32] Federalists likewise supported the public church as the state's primary moral institution. Dissenting voluntary churches did not fit into this vision of civil society. Federalists worried that such churches would divide the community into distinct groups with different values.

Soon after the constitution went into effect, Baptists decided to test article 3. In the 1783 Balkcom case, a Baptist churchgoer sued the tax assessor in his parish for collecting taxes from him to support the parochial church. At issue was whether colonial certificate laws, which required dissenters to file certificates with the tax collector, were still in effect. The county court ruled that certificates implied the subordination of one sect under another in violation of the constitution.[33] Isaac Backus and other Baptists were exuberant, proclaiming that the decision "overthrows the superstructure" of the establishment.[34] Their joy was short-lived. In the 1785 case *Cutter* v. *Frost*, the state supreme court determined that only churches incorporated by the legislature were recognized by article 3. All other bodies were purely voluntary.[35] The ruling allowed town and parish officials to deny exemption to voluntary associations while forcing Baptist churches to seek incorporation if they wished

31. Handlin and Handlin, *Commonwealth*, 51–133; Daniel B. Klein, "The Voluntary Provision of Public Goods? The Turnpike Companies of Early America," *Economic Inquiry*, 28 (Oct. 1990), 788–8[illegible] W. C. Kessler, "Incorporation in New England: A Statistical Study, 1800–1875," *Journal of Economic History*, 8 (1948), 43–62.

32. Steven C. Bullock, *Revolutionary Brotherhood: Freemasonry and the Transformation of the American Social Order, 1730–1840* (Chapel Hill, NC, 1996), 138–273.

33. William G. McLoughlin, "The Balkcom Case (1782) and the Pietistic Theory of Separation of Church and State," *William and Mary Quarterly*, 24 (April 1967), 267–83. For an earlier example, see Isaac Backus's essay in the *Independent Chronicle*, Apr. 20, 1780.

34. Quoted in McLoughlin, *New England Dissent*, 1: 639.

35. John D. Cushing, "Notes on Disestablishment in Massachusetts, 1780–1833," *William and Mary Quarterly*, 26 (April 1964), 169–90; McLoughlin, *New England Dissent*, 1: 642–48.

to receive legal recognition. Baptists had to choose between their commitment to the separation of church and state and their need to hold property and to receive taxes that would otherwise support the parish.[36] The *Cutter* v. *Frost* decision drew on an earlier case concerning Universalists. In that case, Theophilus Parsons attempted to argue that Universalists posed a threat to morality, a claim the court discarded. But the court agreed that only incorporated churches should be recognized under article 3. Arguing against Parsons was the future Republican governor James Sullivan. Sullivan believed that the court's decision unfairly excluded religious minorities "from all the benefits arising from the third article."[37]

In 1786 the court overruled its original decision in the Murray case, but the legal environment for dissenters remained precarious. By 1804, at least six court rulings had upheld the rights of voluntary churches under article 3. Nonetheless, Baptists were dependent on the whims of local parish officers. In 1796, for example, Baptists in Harwich were imprisoned and their property was seized to pay the ministerial tax.[38] In 1800, Federalists passed a law to clarify any confusion, stating explicitly that only incorporated societies should receive the benefits of article 3.[39] The state's control over civil society was affirmed.

In the 1790s, Federalists also faced another challenge to their vision of civil society: the emergence of organized political opposition. Members of the Republican Party organized themselves into "democratic societies," which Federalists condemned for promoting faction and

36. Isaac Backus, *The Diary of Isaac Backus*, 3 vols., ed. William G. McLoughlin (Providence, RI, 1979), 3: 1173, 1326.

37. James Sullivan to Rufus King, June 1785, in Thomas C. Amory, *Life of James Sullivan*, 2 vols. (Boston, 1859), 1:184. See also *An Appeal to the Impartial Public by the Society of Christian Independents* (Boston, 1785); *Independent Chronicle*, Jan. 1, 1789; Jan. 29, 1789.

38. *Diary of Isaac Backus*, 3: 1395. It is clear that this was not an isolated incident from the petitions Baptists sent to the General Court when seeking incorporation. See Massachusetts Acts, ch. 31 (1790); ch. 32 (1790), both in Massachusetts State Archives, Boston, Massachusetts.

39. "An Act providing for the Public Worship of God, and other purposes therein mentioned, and for repealing Laws heretofore made, relating to this subject" (Mar. 4, 1800), *Acts and Laws, Passed by the General Court of Massachusetts*, Jan. 1800, ch. 52, pp. 405–7. See Cushing, "Disestablishment in Massachusetts," 183.

rebellion. Republicans countered that they were organizing to protect the common good from the machinations of leaders who placed their own interests ahead of the people's interests. Republicans claimed that their private political associations better represented the true interests of the people than the Federalist-controlled state.[40] For Federalists, this was unacceptable. As the people's elected leaders, they represented the people's will. How could a "self-created" group claim to protect the people from their elected leaders? The result would be an impossible "*Imperium in imperio.*" Federalists reminded citizens that the people, "having freely delegated *a part* to act for the *whole*," through the principle of representation, "no *individual man*, and *no body of men*, is *independent of that sovereign will.*"[41] Republicans, like Baptists, threatened consensus.

Despite challenging Federalist hegemony, Massachusetts Republicans did not initially seek to create a civil society in which private groups proliferated. Instead, they hoped to ensure that all corporations served the common good. They believed that Federalists had used their political power to serve their own interests at the people's expense.[42] One of the most divisive issues concerned the status of banks. In the immediate postrevolutionary decades, banks, like other corporations, were considered public institutions. Federalists, however, refused to grant banking charters to their Republican rivals. In 1810, Republicans hoped to create a new public bank that would be more firmly under the state's control. As Oscar and Mary Handlin argue, Republican efforts failed for two reasons. First, Federalists continued to defend their own corporate interests. Second, many Republicans preferred receiving their own charters

40. See Brooke, "Ancient Lodges and Self-Created Societies"; Elkins and McKitrick, *Age of Federalism*, 451–88; Koschnik, "The Democratic Societies of Philadelphia"; Neem, "Freedom of Association in the Early Republic." The classic work on the emergence of political parties is Richard Hofstadter, *The Idea of a Party System: The Rise of Legitimate Opposition in the United States, 1780–1840* (Berkeley, CA, 1969). See also *Independent Chronicle*, Jan. 16, 1794; "Circular Letter from the Massachusetts Constitutional Society," *Independent Chronicle*, Sept. 8, 1794.

41. Boston *Columbian Centinel*, Aug. 7, 1793.

42. On Republican attitudes toward corporations, see Neem, "Politics and the Origins of the Nonprofit Corporation"; Paul Goodman, *The Democratic-Republicans of Massachusetts: Politics in the New Republic* (Cambridge, 1964), 166–81; Handlin and Handlin, *Commonwealth*, 106–33.

to allowing the state to create a new public monopoly. As both Republicans and Federalists gained a stake in banks, they concluded that in a partisan environment it was better to limit the state's oversight of corporations than to permit their own corporations to fall under the control of the opposing party.[43]

Similar debates took place over civic institutions. For example, Republicans accused the Federalist-dominated Massachusetts Medical Society of using its corporate status to serve its members instead of the common good. Because Republicans were also invested in banks and other corporations, they preferred not to threaten the society's existing charter. Instead, Governor Elbridge Gerry urged his party to incorporate a new institution to compete with the old.[44] When given the option, Republicans preferred public oversight of civic corporations. Thus, when some Federalists petitioned the General Court for a charter for the Massachusetts General Hospital, Republicans insisted that the new hospital be under public supervision.[45] An impasse developed over Harvard. In the 1780 constitution, the governor, the lieutenant-governor, the council, and the entire senate were placed on Harvard's Board of Overseers, continuing a tradition of public oversight that dated back to the college's founding. After losing the 1810 elections, Federalists removed the senate from Harvard's Board of Overseers in order to prevent the incoming Republican majority from controlling the college. To Republicans, it was anathema that a political minority should retain control of a public institution. They altered Harvard's charter back in order to reimpose public oversight. Federalists countered, paradoxically, that although Harvard was a public corporation, its charter shielded it from

43. Dodd, *American Business Corporations*, 205–10; Bruce A. Campbell, "Law and Experience in the Early Republic: The Evolution of the *Dartmouth College* Doctrine, 1780–1819" (Ph.D. diss.: Michigan State University, 1973), 198–211; Goodman, *Democratic-Republicans*, 40–41, 170–81; Handlin and Handlin, *Commonwealth*, 114–22.

44. Hall, *Organization of American Culture*, 137–42; Joseph F. Kett, *Formation of the American Medical Profession: The Role of Institutions, 1780–1860* (New Haven, CT, 1968), 75–77; Goodman, *Democratic-Republicans*, 167–69.

45. *Ibid.*, 168–69; Peter Dobkin Hall, "What the Merchants Did with Their Money: Charitable and Testamentary Trusts in Massachusetts, 1780–1880," in *Entrepreneurs: The Boston Business Community, 1700–1850*, ed. Conrad Edick Wright and Katheryn P. Viens (Boston, 1997), 365–421.

the state. The issue was not resolved until Federalists returned to power in 1814, mitigating the need to distinguish between the state's and the college's rulers. Nonetheless, the debate over Harvard, in tandem with those over other corporations, illustrates how members of both parties were discovering that in a partisan era the state could be a fickle ally and a possible threat.[46]

It is in this context that we must think about the relationship between dissenters, particularly Baptists, and Republicans. Republicans saw Federalist interpretations of article 3 as further proof that Federalists were using the state and its institutions to serve the interests of one group at the expense of the majority's liberty. In 1807, voters gave Republicans control of the legislature and elected James Sullivan governor. Dissenters hoped that Sullivan would clarify the legal status of churches under article 3 by allowing voluntary churches to receive corporate privileges. Although Republicans believed that freedom of conscience was a fundamental right, neither Sullivan nor his party supported disestablishment. Instead, according to William G. McLoughlin, Sullivan sought a path "squarely between" Federalists and dissenters. In June, a bill was introduced granting all churches corporate privileges "whether incorporated or unincorporated." The proposal would have altered the structure of civil society by extending legal recognition to self-created associations. Federalists dubbed it the "infidel bill." It was rejected. In 1807, neither Federalists nor Republicans were willing to accept the theoretical ramifications of permitting voluntary groups—even churches—to receive corporate privileges.[47]

These debates came to a head in 1810. That year, in the case of *Barnes* v. *Falmouth*, Federalist chief justice Theophilus Parsons denied the right of a Universalist minister of an unincorporated church to receive any taxes collected by the parish. Since the collection and distribu-

46. Neem, "Politics and the Origins of the Nonprofit Corporation."

47. This paragraph relies on William G. McLoughlin's discussion of Sullivan's term in *New England Dissent*, 2: 1065–83. See also Cushing, "Disestablishment in Massachusetts," 183–84. Despite Federalist hostility to a private corporations, Kirk Gilbert Alliman has demonstrated that Congregational churches sought charters for ministerial funds in order to insulate their endowments from the public will of the parish. See Alliman, "The Incorporation of Massachusetts Congregational Churches, 1692–1833: The Preservation of Religious Autonomy" (Ph.D. diss.: University of Iowa, 1970), 139–70.

tion of taxes was a state prerogative, it applied only to churches granted a charter. To assume any group of persons legally could form a public body was "too absurd to be admitted." The state supported public churches to secure "all the social and civil obligations of man to man, and of citizen to the state." A voluntary church with no sanction from the state could not be recognized.[48]

To Republicans, *Barnes* v. *Falmouth*, in tandem with debates over banks, the Massachusetts Medical Society, and Harvard, was proof that Federalists were manipulating corporate law to perpetuate their power. Moreover, by 1810 the Baptists were an attractive voting bloc. Hoping to capitalize on outcry over *Barnes* v. *Falmouth*, Republicans argued that if every church "must make application to the government for civil incorporation, would not this place it in the power of political rulers to determine whether there should be such a public body in the Commonwealth as a church of Christ?"[49] They pointed out that in 1780 there had been no incorporated religious societies; the Framers could not have limited article 3's application to what they could not anticipate.[50] In his address to the legislature, Governor Elbridge Gerry noted that the court "has limited the right of protestant teachers" under article 3 to "incorporated societies." Republicans should take action to protect "the liberty of conscience."[51]

Republicans argued that the state should not determine which churches were legitimate. In doing so, Republicans stretched traditional understandings of civil society to embrace voluntary churches. During the two sessions in which they controlled the legislature, they chartered twenty Baptist and sixteen other dissenting churches, compared to the previous Federalist session in which only one charter was granted to Baptists. Between 1790 and 1810, an average of only 2.5 Baptist churches were chartered annually.[52] More importantly, in 1811 Republi-

48. 6 Tyng 334 (1810). See also Alliman, "Incorporation of Massachusetts Congregational Churches," 202–206; Cushing, "Disestablishment in Massachusetts," 169–90; McLoughlin, *New England Dissent*, 2: 1084–106.

49. *Independent Chronicle*, May 20, 1811. See also *Independent Chronicle*, May 15, 1811; May 27, 1811; June 13, 1811; July 4, 1811.

50. *Ibid.*, May 15, 1811.

51. *Columbian Centinel*, June 8, 1811.

52. *Acts and Laws, Passed by the General Court of Massachusetts*, 1809–1814; see McLoughlin, *New England Dissent*, 2: 1088, footnote 5, for average.

cans passed the Religious Freedom Act. The act reiterated the constitutional right of citizens to determine which church received their tax support, but added that a church need not be incorporated. With the passage of this act, religious freedom of association was extended to all citizens. Rather than being dependent on the whims of town clerks, legislators, and judges, dissenters could form voluntary associations with the privileges of incorporated ones.[53] After 1811, voluntary churches proliferated and could no longer be considered abhorrent; yet, voluntary churches continued to challenge the important connection between church and state implied by article 3. Despite their commitment to the public oversight of such institutions as Harvard, Republicans helped free corporations from state control in the realm of religion. But, if all churches were legitimate, how could there be a unified civic community committed to the same moral ideals? Although Republicans and dissenters had constructed a sphere of free associational activity, it existed in tension with the parochial system.

Orthodox Congregationalists were also beginning to turn against the parochial system. Orthodox ministers were becoming increasingly frustrated at religious liberals (Unitarians) who dominated the Federalist Party and controlled many parishes and institutions such as Harvard. Orthodox ministers sought greater control over their own churches. They first attempted to gain control without destroying the existing system. When that failed, they joined forces with dissenters to advocate disestablishment.

Tensions between orthodox and liberal Congregationalists date back to before the Revolution. By the early nineteenth century, the line between the two camps was becoming more defined. After a liberal was appointed to teach theology at Harvard, orthodox ministers founded Andover Seminary in 1808. Under the leadership of Jedidiah Morse, Andover challenged Harvard's monopoly in ministerial education, opening a rift in the communal spirit public religion was supposed to culti-

53. "An Act Respecting Public Worship and Religious Freedom" (June 18, 1811), *Laws of the Commonwealth of Massachusetts, Passed by the General Court*, May 1800 session, ch. 6, 387. See also McLoughlin, *New England Dissent*, 2: 1099–103.

vate.[54] Federalists condemned the new seminary for placing sectarian interests over the common good. One writer argued that although "the multiplicity of colleges may tend to the diffusion of knowledge . . . it likewise tends to disperse the rays." The seminary threatened the common good by dividing the population into sects rather than collecting it "into one focus."[55] The institutions in civil society were supposed to reinforce consensus, not fragment the community.

In many parishes, the majority of church members—those who had experienced conversion and been admitted to full membership—were orthodox, but liberals were able to form parochial majorities by recruiting uncommitted residents.[56] Orthodox leaders hoped to end this practice by distinguishing between the church and the parish. For Federalists, the church was a part of the civic community, and thus there should be no distinction between the public it represented and the minority who became full members. In theory, however, the distinction between church and parish had existed since the colonial era. The church was a spiritual institution made up of visible saints; the corporate status of the church via the parish was a means to give a spiritual entity worldly form. In colonial times, the line differentiating the church and the parish was rarely contested. Parishioners usually deferred to church members. After the Revolution, however, parishioners increasingly sought to determine church affairs, especially the choice of a minister, making it more difficult for members to control their churches.[57]

Orthodox leaders turned to the courts to try to demarcate a line between the church and the parish. In the first case to reach the state supreme court, orthodox Congregationalists found themselves in a situation remarkably similar to that of Baptists before 1811. In 1812, the court invalidated a voluntary orthodox church's effort to receive a be-

54. Conrad Wright, *The Beginnings of Unitarianism in America* (Boston, 1955); Joseph W. Phillips, *Jedidiah Morse and New England Congregationalism* (New Brunswick, NJ, 1983); Field, *Crisis of the Standing Order*, 141–79.

55. [Robert H. Gardiner], "The Multiplicity of Our Literary Institutions," *Monthly Anthology and Boston Review* (March 1807), in *The Federalist Literary Mind*, ed. Lewis P. Simpson (Baton Rouge, LA, 1962), 70–72.

56. McLoughlin, *New England Dissent*, 2: 1207–29.

57. Conrad Wright, "The Dedham Case Revisited," in *The Unitarian Controversy*, 111–35; Alliman, "Incorporation of Massachusetts Congregational Churches."

quest made to the parish. According to the court, because the orthodox Calvinistic Congregational Society was voluntary, "there existed no society" for the state to recognize. Orthodox leaders, relying on the distinction between the church and parish, countered that all churches are "voluntary associations of christians united in discipline and worship." The court refused to overturn the *Barnes* v. *Falmouth* precedent; in the absence of a charter, voluntary churches could receive no legal benefits.[58]

The 1812 case was the first in which commonwealth principles worked against orthodox Congregationalists. That same month, a more controversial decision was handed down in *Burr* v. *Sandwich*. Burr, the settled minister in Sandwich, argued that he had been illegally dismissed by his parish. The central issue was whether the parish or the church had final authority over hiring ministers. Theophilus Parsons, who wrote the court's opinion, was aware that his opinion "may have a general influence." He ruled that the parish was a municipal body that served the interests of the community. While the church may be considered a corporation in order to hold property, it had "no power to contract with or to settle a minister; that power resting wholly in the parish, of which the members of the church, who are inhabitants, are a part." In other words, since the parish was a public body, all citizens residing within its jurisdiction and not attending other churches should be permitted to elect the minister.[59]

In the nine years following *Burr* v. *Sandwich*, orthodox Congregationalists tried four cases before the supreme court and lost every one.[60] The most important of these cases, *Baker* v. *Fales*, or the *Dedham* case, was decided in 1821. Like those before it, *Dedham* concerned the property of a parish.[61] The plaintiffs were liberal church officers who sued to regain control of church property following the separation of orthodox

58. *Kendall Boutell* v. *Thomas Cowden, Administrator*, 9 Tyng 229 (1812).

59. *Jonathan Burr* v. *First Parish in Sandwich*, 9 Tyng 250 (1812).

60. *Inhabitants of the First Parish in Shapleigh* v. *Zebulon Gilman*, 13 Tyng 155 (1816); *Jewett* v. *Burroughs*, 15 Tyng 412 (1819); *Edward Sparrow* v. *Wilkes Wood*, 16 Tyng 379 (1820); *Eliphalet Baker and Another* v. *Samuel Fales*, 16 Tyng 403 (1820).

61. For interesting discussions of the case, see Howe, *The Garden and the Wilderness*, 32–60; Wright, "Dedham Case Revisited." Both Howe and Wright argue that the court's decision did not account for the spiritual nature of the church as a covenanted community independent of the parish.

church members into a separate voluntary society. The defense argued that since they represented Dedham's original church, they should retain control over its property. The new chief justice Isaac Parker upheld *Burr* v. *Sandwich*. The parish was a public body, and thus the people "must have the right to have the minister of their choice set over them." If the church were allowed to control parochial affairs, it "would tend more directly to break up the whole system of religious instruction. For the people would never consent to be taxed for the support of men, in whose election they had no voice." As representatives of the people, the parochial officers retained control of their property.[62] *Dedham* convinced orthodox leaders that their interests might be better served without the public system.

The debate over the corporate rights of churches spilled over into Massachusetts's 1820–1821 constitutional convention. Dissenters and some Republicans urged disestablishment. Orthodox leaders had the more limited goal of extending the provisions of the 1811 Religious Freedom Act to themselves. Federalists countered that the public church was intended to serve the common good by teaching shared moral values. Unitarian minister Leverett Saltonstall worried that if all individuals could associate, it would offer "every inducement to people to cherish discontent and division," whereas the purpose of the constitution was to "promote harmony."[63] Like the men who wrote the constitution, Saltonstall believed that without shared institutions and values nothing would hold the civic community together. The enemies of the establishment did not prevail. The convention proposed incorporating the Religious Freedom Act into article 3 and allowing Congregationalists to gain its benefits. Balancing this enlarged freedom of association, the amendment authorized the state to compel unincorporated churches to support "public teachers," thus making voluntary churches subject to the state's

62. At the same time that *Dedham* was handed down, Federalists were making the opposite claims about the trustees of Dartmouth College, claims that Republicans denied. Federalists argued that Dartmouth's trustees, unlike parochial officers, were not civil servants but private actors. Federalist Chief Justice John Marshall sided with his party in the U.S. Supreme Court decision, *Dartmouth College* v. *Woodward*, 17 U.S. 518 (1819).

63. *Journal of the Debates and Proceedings of the Convention of Delegates Chosen to Revise the Constitution of Massachusetts* (Boston, 1853: reprint, New York, 1970), 457–58.

oversight. The delegates combined the principles of both *Barnes* v. *Falmouth* and the Religious Freedom Act. Counties with large dissenting or orthodox populations such as Bristol, Worcester, Hampshire, and Berkshire opposed the amendment by large margins, perhaps because it granted the state new authority over voluntary churches, undermining the very benefits they desired.[64]

In the 1820s, orthodox ministers redoubled their efforts to gain greater control over the state's churches. Lyman Beecher sought to convince his colleagues to seek disestablishment rather than to allow their churches to be controlled by the public. Beecher arrived in Massachusetts from Connecticut in 1826 to take over the Park Street Church in the heart of Unitarian Boston. Beecher believed that a voluntary regime served orthodox interests. As a member of the Standing Order in Connecticut, Beecher had vociferously opposed disestablishment in 1818. However, Beecher concluded that voluntarism was a blessing in disguise. Despite being worried that the "injury done to the cause of Christ was irreparable," he later described disestablishment as "*the best thing that ever happened to the State of Connecticut.*" Following disestablishment, Connecticut's ministers could no longer rest on their laurels, but, "cut loose from dependence on state support," they had to rely "wholly on their own resources and on God." Beecher hoped to bring some of the same spirit of self-reliance to Massachusetts.[65]

Beecher wasted little time entering the fray. As early as 1819, in a sermon preached in Salem, he had argued against *Burr* v. *Sandwich*. In various essays and sermons over the next decade, Beecher and his orthodox allies claimed that both ancient and colonial churches had been "*religious societies*, or *voluntary associations* for religious purposes, possessing, like all other associations, the power and the right of self-organization, preservation, deliberation, and government."[66] Without the privileges granted other corporations, no church "could preserve itself,

64. *Ibid.*, 613–14, 633.

65. Lyman Beecher, *Autobiography of Lyman Beecher*, ed. Barbara Cross, 2 vols. (Cambridge, 1961) 1:252.

66. "The Congregational Churches of Massachusetts," *Spirit of the Pilgrims* (Feb. 1828), 57–74. Since the distinction between the voluntary church as a spiritual institution and its corporate manifestation had always been unclear before the American Revolution, both the orthodox argument and that of liberal jurists such as Parsons and Parker had legitimate historical roots.

and its interests." Would the Supreme Court, Beecher inquired, allow an incorporated bank to be governed by borrowers? Religious freedom necessitated that churches be autonomous self-governing institutions.[67] To the orthodox, the right of a church to choose its own minister was "coeval with our existence as a community."[68] Orthodox leaders concluded that their religious freedom required the freedom of association in civil society.

Unitarians and Federalists defended the public church. They argued that the parish was no different than the militia or public schools. The question was how to render men "better citizens" and to "secure the good order and preservation of the government."[69] Without a common church, citizens "would be guided by their own perverse and depraved appetites."[70] While orthodoxy railed against the Unitarian elite, Unitarians responded that the people should not allow "a perpetual and odious aristocracy, a never dying house of lords and bishops in the church." How could citizens permit a small elite "to have a negative on the votes of the parish," a public body?[71] The parish represented the people; orthodox leaders wanted control of a public institution for private sectarian purposes.

Orthodox leaders continued to try their hand in court, with mixed results. They won an important victory in 1822 when the court ruled that an orthodox citizen could join a church in a neighboring parish and be excused from paying his local taxes. By allowing people to join churches without regard to residence, the court challenged the parish's claim to be the moral voice for a geographical community. In a rare occurrence, the chief justice dissented. Parker noted that the 1811 Religious Freedom Act had not intended to allow citizens to join different

67. Lyman Beecher, *A Sermon Delivered at the Installation of the Rev. Elias Cornelius as Associate Pastor of the Tabernacle Church in Salem, July 21, 1819* (Andover, 1819); "The Congregational Churches of Massachusetts."

68. "Examination of Some Laws and Judicial Decisions in Relation to the Churches of Massachusetts," *Spirit of the Pilgrims* (Mar. 1829), 128–46.

69. "Constitution of Massachusetts," *North American Review* (Oct. 1820), 359–84.

70. *Columbian Centinel* (1820), quoted in McLoughlin, 2: 1151–52.

71. "The Rights of the Congregational Churches of Massachusetts—the Result of an Ecclesiastical Council . . . Boston, 1827 (Review)," *Christian Examiner* (Mar.–Apr. 1827), 124–63.

churches of the same denomination. The current decision could completely undermine the public church by altering the parish's municipal status.[72]

Soon after the decision, Baptist minister Charles Train introduced a bill in the House amending the Religious Freedom Act to permit Congregationalists to form legally recognized voluntary churches. Train hoped "to place all denominations upon an equal and satisfactory ground." This statement can be read in two ways. Baptists wanted to do away with the establishment altogether. On the other hand, it was now the Congregationalists whose liberties were threatened. Thus, speaking to both denominations, Train claimed, "the old practice of vesting towns with corporate powers as a parish is one of the greatest evils that ever infested Massachusetts." The founding religious principles of the commonwealth were misguided because they relied on a geographical conception of religious community instead of a voluntary one.[73] In 1823, Republicans took advantage of orthodox frustration to elect a governor. Federalists made the decision easier by nominating Harrison Gray Otis, a participant in the Hartford Convention, a Unitarian, and a member of the Harvard Corporation. Republicans painted the Federalists as "connected with a Boston and Harvard College aristocracy," who were "acquiring a religious as well as political control . . . dangerous to the civil and religious privileges of the great body of Congregational, Baptist, Methodist and Episcopal friends of true religion." Republicans convinced voters that Federalists used their control of the state's civic and religious institutions to serve the interests of a small minority.[74] Upon election Republicans passed a law extending the Religious Freedom Act to all residents. Congregationalists could now form voluntary churches and receive corporate privileges.[75] The parish might still claim to be the moral voice of the community, but anybody could form a church.

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72. *Holbrook* v. *Holbrook et al*, 1 Pickering 248 (1822). Justice Samuel Wilde, who wrote the opinion in the case, had supported extending the Religious Freedom Act to orthodox Congregationalists during the 1820–1821 convention and now did so from his position on the bench. See *Journal of the Debates and Proceedings*, 372–75, 450, 584.

73. McLoughlin, *New England Dissent*, 2: 1202–3.

74. For elections and quotes, see Ronald P. Formisano, *The Transformation of Political Culture: Massachusetts Parties, 1790s–1840s* (New York, 1983), 120–21.

75. "An Act in addition to an Act entitled 'An Act respecting Public Worship and Religious Freedom,'" (Feb. 16, 1824), *Laws of the Commonwealth of Massachusetts*, Jan. 1824 session, ch. 106, 347.

Following their defeat in 1823, Federalists joined with moderate Republicans to form the National Republican Party. In the 1820s, the National Republicans attempted to regain some control over civil society. Nationals hoped for an "era of good feelings" in which the common good would prevail after decades of partisanship. A debate over the composition of civil society emerged immediately. Orthodox ministers had established a seminary at Amherst and, in 1823, asked for a charter. The petitioners framed their request around the freedom of association: Amherst should be incorporated "not merely as a favor from Government, but as a *right*, which all free citizens, enjoying equal rights and privileges, might under similar circumstances reasonably expect would be granted."[76] Federalists and then Nationals criticized such hubris. The state had an interest in supporting "the institutions founded under their authority, on such a footing that they may be reputable and useful." Colleges were chartered to serve the common good, not sectarian interests. They denied that "any body of men" could form an association and, "under the plea of claiming equal privileges, demand *as a right* that the government shall lend its countenance." Incorporation was a privilege, not a right.[77] In 1824, Amherst's proprietors again asked for a charter. This time, they couched their request in traditional terms, "the broad basis of the public good."[78] The petition produced an intense debate in the House. Most Nationals argued that Amherst would weaken the current colleges. One legislator noted that, "by multiplying colleges beyond what the exigency of the community demands, you destroy the unity of effort in the public, which is necessary to their success."[79] Nationals continued to seek "unity" in civil society. In 1825, Amherst received a charter, but it contained a clause stating that the state took no responsibility for the college's success.[80]

76. "Petition for the Incorporation of Amherst College," Boston *Daily Advertiser*, June 13, 1823.

77. *Ibid.*

78. *Ibid.*, Mar. 16, 1824.

79. *Ibid.*, Jun. 24, 1824. See also *Daily Advertiser*, Aug. 13, 1824; Boston *Courier*, Aug. 14, 1824.

80. "An Act to establish a College in the town of Amherst" (Feb. 22, 1825), *Laws of the Commonwealth of Massachusetts, Passed by the General Court*, Jan. 1825 session, ch. 84, 535.

A similar battle was fought in 1830 over the American Temperance Society (ATS). The ATS was founded by orthodox leaders who had abandoned the existing Society for the Suppression of Intemperance. When the ATS sought incorporation, a legislator proposed permitting any residents who paid their fees to become members. His goal was to prevent the ATS from serving orthodox interests by opening membership to the general public, like the parish. Representative Horace Mann agreed, noting that corporations were supposed to serve the public and not "any sect or party." The ATS's supporters responded that all citizens should be allowed to form their own associations. One legislator urged the state to permit "every Society the privilege of managing their concerns as they judge expedient." "When fair men ask for incorporation, are their motives to be arraigned? I think not." The amendment passed, leading ATS secretary John Tappan to plead for postponement. The Senate postponed until May. In the interim, the ATS deleted the clause limiting its membership.[81] The debate illustrates the Nationals' hostility to all efforts by orthodox ministers to form private societies that challenged consensus in civil society.

In the same period, orthodoxy had little success gaining control over their churches. They lost two cases in 1830. In the first, the new chief justice, Lemuel Shaw, vigorously defended the municipal status of the parish, upholding the doctrines of *Burr* v. *Sandwich* and *Dedham*, leading the orthodox to respond that Shaw's decision would lead to "legal dependence and vassalage."[82] In the other, Democrat Marcus Morton also upheld precedent, but with reservations.[83] At issue in the case was whether a parish could deny the vote to a resident who had joined an

81. The debates in the Massachusetts House of Representatives are reprinted in *Daily Advertiser*, Mar. 27, 1830; Mar. 30, 1830. See also Robert L. Hampel, *Temperance and Prohibition in Massachusetts, 1813–1852* (Ann Arbor, MI, 1982), 31–32.

82. *Stebbins* v. *Jennings*, 10 Pickering 171 (1830). Quotation from "[Review of] Decision of the Supreme Judicial Court of Massachusetts, in a case relating to the Sacramental Furniture of a Church in Brookfield; with the entire Arguments of Hon. Samuel Hoar, Jr., for the Plaintiff, and of Hon. Lewis Strong, for the Defendant (Boston, 1832)," *Spirit of the Pilgrims* (July 1832), 402–24. For a discussion of Shaw's ruling and the orthodox response, see Leonard Levy, *The Law of the Commonwealth and Chief Justice Shaw* (Cambridge, 1957), 29–42.

83. *Oakes* v. *Hill*, 10 Pickering 333 (1830).

orthodox voluntary church and then left it. The parish's attorneys argued that parishes ought to have the "same rights as other corporations," including the right to "refuse to admit him as a member." Otherwise, "the liberty granted to citizens, of forming themselves into separate associations . . . would be rendered of little value." At issue was the freedom to associate in civil society. Morton's ruling was "adopted reluctantly," and only because "the law will admit of no other reasonable construction." Morton considered the parochial system "better suited to the early state of the country," when the community was more homogeneous. In 1830, all individuals who "happen to reside upon the same territory" did not attend the same church, the basis for the 1780 "constitution of civil society." Morton and other Democrats urged the state to acknowledge the existence of religious diversity and cease efforts to force an artificial common system upon the people.

Following 1830, orthodox Congregationalists and dissenters started to call for disestablishment. Ending tax support for the church also meant the end of the commonwealth experiment, an end to the idea that Massachusetts was "one moral whole." Citizens of Massachusetts would have to accept the existence of moral conflict in civil society. In 1830, petitions from Congregationalists of both camps, from Baptists, and from Universalists started to pour into the legislature calling for disestablishment. In 1831, a legislative committee supported disestablishment. The House, composed of about sixty to seventy Democrats, a few Antimasons, and a majority of National Republicans, approved an amendment, but the Senate, dominated by National Republicans, voted it down.[84] Disestablishment became central to that fall's elections. Democrats wholeheartedly supported disestablishment as part of their larger program against monopolies, while Nationals defended the public system.[85] Even on the eve of disestablishment in 1833, the Unitarian *Christian Examiner* argued that taxpayers should support the public church because "you are so unfortunate as to belong to a nation."[86] Antimasons echoed Democrats and condemned Nationals for their willingness to tax the majority to support a minority.[87] The orthodox *Spirit of the Pilgrims*

84. McLoughlin, *New England Dissent*, 2: 1217–19.

85. Boston *Statesman*, Feb. 19, 1831.

86. "Defence of Article Three," *Christian Examiner* (January 1833), 351–63.

87. Paul Goodman, *Towards a Christian Republic: Antimasonry and the Great Transition in New England, 1826–1836* (New York, 1988), 166–67; Formisano, *Transformation of Political Culture*, 219.

argued that disestablishment would better serve orthodox churches by freeing them from the parish's control.[88] During 1832, more petitions came in. Nationals, who were reorganizing into the Whig Party in 1833, must have understood that it was better to rid themselves of the issue than to have voters turn to the Democrats or Antimasons. As a result, the Senate confirmed the amendment on March 1, 1833, and voters ratified it 32,234 to 3,273. In 1833 there remained little popular support for the public church.[89] In accord with the amendment, the legislature passed a law granting voluntary churches corporate privileges.[90] Having lost the battle over the public church, the three key elements in Massachusetts politics—Democrats, Whigs, and the orthodox—would now try to make sense of how to reconcile the common good with the reality of pluralism in civil society.

Disestablishment was premised on the separation of church and state and the freedom to associate and receive corporate privileges in civil society. It marked the symbolic end of the "consensual public sphere." In civil society, individuals would now be permitted to organize themselves into private moral communities. The state was no longer the sole moral voice of the people. Democrats and Whigs responded differently to the new climate. For Democrats, disestablishment was part of their larger campaign against corporate monopolies. They supported increasing access to corporate privileges to all groups in the market and in civil society. Democrats had two aims. The first was to promote equality by preventing the state from favoring special corporate interests. The second was to promote economic and civic prosperity by fostering competition.[91] In their 1830 address, Democrats argued:

88. "Third Article in the Declaration of Rights," *Spirit of the Pilgrims* (Dec. 1831), 629–48.

89. The narrative on disestablishment is taken from McLoughlin, *New England Dissent*, 2: 1245–62.

90. "An Act relating to Parishes and Religious Freedom" (Apr. 1, 1834), *Laws of the Commonwealth of Massachusetts, Passed at the Several Sessions of the General Court*, Jan. 1834 session, ch. 183, 265.

91. This ideology can be seen most clearly in the controversy over the Charles River Bridge. Whigs urged protecting the bridge's monopoly, while Democrats supported chartering a new bridge that would compete with the old one. The controversy resulted in the important U.S. Supreme Court case, *Proprietors of Charles River Bridge* v. *Proprietors of Warren Bridge*, 36 U.S. 420 (1837). See Stanley I. Kutler, *Privilege and Creative Destruction: The Charles River Bridge*

Monopolies of various grades and characters, from exclusive privilege in banking, to an exclusive right to bridge navigable streams—from a compulsory support of a religious order, to unfair exemptions and exclusive privileges to members of the learned professions—from *entails* by literary and religious mortmains, to private entails in life annuities and life Insurance offices, have been the favourite means by which the federal party has built up an Aristocracy, and sought to establish its permanency. Their banking monopoly crumbled beneath the democratic power in 1811: and by the wisdom of that measure which brought life into the State Bank, and established the principle that all were alike entitled to bank Corporations. . . . At the same period and by the same party, the link which in some degree bound together Church and State, was broken assunder.[92]

Whether in the market or civil society, whether banks or churches, state-granted monopolies threatened democratic equality and stifled progress. Ideally, "there would be no monopolies or exclusive privileges. For his standing and wealth, each man would rely on his own integrity and industry. Each would enjoy his freedom of religion unmolested, content that his neighbor, whether Christian, Jew, Mahometan, or Pagan, should do the same."[93] In religion and economics, the common good would best be promoted by competition between groups.

Nationals and then Whigs responded differently to disestablishment and pluralism. They attempted to restore some civic unity by supporting a more effective public school system.[94] They also continued to believe that disinterested statesmen were the most capable leaders. As Daniel Walker Howe argues, Whigs believed that virtuous leaders needed to be self-governing and autonomous, and thus capable of acting independent of interest.[95] They applied the same logic to their institutions. Harvard's

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Case (Philadelphia, 1971); Formisano, *Transformation of Political Culture*, 191–96. On the Democrats' ideology, in addition to the above, see Arthur Darling, *Political Changes in Massachusetts, 1824–1848: A Study of Liberal Movements in Politics* (New Haven, CT, 1925).

92. Boston *Statesman*, Feb. 13, 1830.

93. "The Government and its Duties," Boston *Statesman*, Aug. 20, 1831.

94. Rush Welter, *Popular Education and Democratic Thought in America* (New York, 1962); Michael B. Katz, *The Irony of Early School Reform: Educational Innovation in Mid-Nineteenth Century Massachusetts* (Cambridge, 1968).

95. Daniel Walker Howe has developed this thesis in several works: *The Unitarian Conscience: Harvard Moral Philosophy, 1806–1861* (Cambridge, 1970); *The Political Culture of the American Whigs* (Chicago, 1979); *Making the Ameri-*

president Josiah Quincy suggested removing all state oversight in order to insulate the college from the "politico-theological sea" of democracy.[96] Rather than maintain close ties to the state, Whigs increasingly turned to private corporate institutions that they managed independently.[97] Both enlightened leaders and enlightened institutions must be shielded from special interests. Like Democrats, Whigs accepted a division between the affairs of corporate institutions and the state, albeit for different reasons.

Orthodox leaders had no intention of losing public influence. Although they had long argued that the freedom of association was necessary for religious liberty, they remained committed to promoting their vision of the good society, as Jonathan Sassi has recently demonstrated.[98] Ministers like Lyman Beecher anticipated exerting great influence in civil society. One of the sources of orthodox confidence was their own success in forming and managing moral reform societies. By 1833, orthodox ministers were involved with the reform associations that made up the Benevolent Empire, and they had recruited thousands of middle-class women and men into local auxiliaries.[99] They realized that they could

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can Self: Jonathan Edwards to Abraham Lincoln (Cambridge, 1997); and "Protestantism, Voluntarism, and Personal Identity in Antebellum America," in *New Directions in American Religious History*, ed. Harry S. Stout and D. G. Hart (New York, 1997), 206–38. See also Katz, *Irony of Early School Reform*; David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (1971; reprint, New York, 2002); D. H. Meyer, *The Instructed Conscience: The Shaping of the National Ethic* (Philadelphia, 1972); Joseph F. Kett, *Rites of Passage: Adolescence in America, 1790 to the Present* (New York, 1977); J. B. Schneewind, *The Invention of Autonomy: A History of Modern Moral Philosophy* (New York, 1998).

96. Quincy quoted in Robert McCaughey, *Josiah Quincy, 1772–1864: The Last Federalist* (Cambridge, 1974), 190–94.

97. Robert F. Dalzell, *Enterprising Elite: The Boston Associates and the World They Made* (Cambridge, MA, 1987), 113–63; Hall, "What the Merchants Did with Their Money."

98. Jonathan D. Sassi, "The First Party Competition and Southern New England's Public Christianity," *Journal of the Early Republic*, 21 (Summer 2001), 261–99, and *A Republic of Righteousness: The Public Christianity of the Post-revolutionary New England Clergy* (New York, 2001).

99. Clifford S. Griffin, *Their Brothers' Keepers: Moral Stewardship in the United States, 1800–1865* (New Brunswick, NJ, 1960); Perry Miller, *The Life of the Mind in America from the Revolution to the Civil War* (New York, 1965), 3–95; Donald G. Mathews, "The Second Great Awakening as an Organizing Process,

rely on a broad public, including many people who had been converted at revivals, to support their reform goals. These societies would diffuse the right moral principles among the public. In time, Beecher hoped, the moral diversity that had forced disestablishment would itself disappear: "By voluntary efforts, societies, missions, and revivals," ministers could "exert a deeper influence" than by state coercion.[100]

Orthodox voters continued to believe that they represented the moral voice of the community. As a result, many were drawn to the Antimasonic party, which claimed to represent the values of "the people" and accused both parties of being hopelessly corrupted by Freemasonry.[101] Antimasons attacked Masonry for two reasons, its secret influence over political leaders and its moral principles. Orthodox minister Nathanael Emmons stated in 1832 that Masonry was the "darkest and deepest plot ever formed in this wicked world against the true God, the true religion, and the temporal and eternal interests of mankind."[102] Antimasons demanded that the state revoke the Boston Grand Lodge's charter. In response, Whigs defended the Masons' freedom to associate. They ac-

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1780–1830: An Hypothesis," *American Quarterly*, 21 (Spring 1969), 23–43; Conrad Edick Wright, *The Transformation of Charity in Postrevolutionary New England* (Boston, 1992).

100. Beecher, *Autobiography*, 1: 253.

101. There are clear links between orthodox Congregationalism and Antimasonry's electoral success. See Formisano, *Transformation of Political Culture*, 213, 217–21; Goodman, *Towards a Christian Republic*, 54–79, 163–7; Mark Voss-Hubbard, "The 'Third Party Tradition' Reconsidered: Third Parties and American Public Life, 1830–1900," *Journal of American History*, 86 (June 1999), 121–50. Many historians have noted the importance of evangelical ministers to the spread of Antimasonry. In western New York, where Antimasonry originated, evangelical churches were one of the central nodes in the communication of Antimasonic sentiment, according to Kathleen Smith Kutolowski, "Antimasonry Reexamined: Social Bases of the Grass-Roots Party," *Journal of American History*, 71 (Sept. 1984), 269–93, esp. 279–82. Brooke, *Heart of the Commonwealth*, 319–52, argues that in Worcester County, Antimasonry was strongest among those orthodox voters who remained committed to the communitarian ideals of the commonwealth. Many of these voters were less likely to be involved in evangelical reform and may have opposed disestablishment.

102. Goodman, *Towards a Christian Republic*, 54–79, 147–76. Emmons quoted in *ibid.*, 57. Similar arguments to those of the Antimasons were made to oppose the Ku Klux Klan's freedom of association in the 1920s and the NAACP's in the 1950s. See Holden, "Freedom of Association in the Judicial Balance."

cused Antimasons of attempting "to erect a majority into a despotism" by organizing in civil society.[103] (In 1833, however, after the Antimasons threatened the Whigs' control of the state, Whigs convinced the Grand Lodge to voluntarily surrender its charter.[104]) The Antimasonic attack on the Masons' charter illustrates the shallowness of many orthodox leaders' commitment to the freedom of association in civil society when that freedom threatened what they considered moral truth.

In 1833, Antimasons proclaimed that they sought not "the mere triumph of party," but of "moral and political principles."[105] This antiparty language struck a deep chord among orthodox voters who remained committed to the ideals of the commonwealth.[106] Nationals responded that if the Antimasons "are not a party, what are they? They are not the whole community."[107] Antimasons, like Federalists and Republicans in the 1790s, conflated themselves and "the people." By the 1830s, both Democrats and Whigs had abandoned such language and had even accepted the benefits of conflict. In 1829, Democrats stated: "Strong collisions between the parties, like some violent diseases in the human system, which when once overcome by a good constitution, often tend to purify the body."[108] Whigs agreed. Governor George Briggs noted that "the security of liberty is increased by such divisions," continuing, "differences of opinion upon measures best calculated to promote the

103. *Daily Advertiser*, Oct. 3, 1831 (reprinted from the *National Gazette*). Arguments similar to those of the Whigs were used to limit the actions of labor unions in the early republic, suggesting that unions may associate but they may not impose their will on others through coerced collective bargaining. See Levy, "Labor Law. Trade Unions and Criminal Conspiracy," in *Law of the Commonwealth and Chief Justice Shaw*, 183–206; Christopher L. Tomlins, *Law, Labor, and Ideology in the Early American Republic* (Cambridge, 1993); Neem, "Freedom of Association in the Early Republic."

104. *Daily Advertiser*, Jan. 1, 1834.

105. Quoted in Goodman, *Towards a Christian Republic*, 108.

106. Goodman, *Towards a Christian Republic*; Brooke, *Heart of the Commonwealth*, 347–49.

107. *Daily Advertiser*, Oct. 4, 1831.

108. Boston *Statesman*, Jan. 31, 1829. For changing conceptions of party competition, see Michael Wallace, "Changing Concepts of Party in the United States, 1815–1828," *American Historical Review*, 74 (Dec. 1968), 453–91; Hofstadter, *The Idea of a Party System*; Ralph Ketcham, *Presidents above Party: The First American Presidency, 1789–1829* (Chapel Hill, NC, 1984). For Massachusetts, see Formisano, *Transformation of Political Culture*.

public good, lead to discussion, and discussion leads to the discovery of truth."[109] Both parties concluded that partisan competition was better suited to democracies than allowing any one group to speak exclusively for the people.

Whigs considered orthodox evangelicals a private interest that threatened the common good. Especially after disestablishment, orthodox churches and their reform associations could no longer claim to speak for the community.[110] The most elaborate critique of evangelicals came from future Whig William Ellery Channing in 1829. Observing the rise of the Benevolent Empire, Channing commented, "everything is done now by Societies." In such societies, citizens would defer to the judgment of the group instead of relying on themselves. In contrast, virtuous citizens should learn "resistance of social influences, or of impressions from our fellow beings." Religious revivalism combined with evangelical associationalism was a "contagion" that swept individuals away. In time, civil society would be controlled by a few ministers, who, "by an artful multiplication of Societies, devoted apparently to different objects," would dominate public life and create "despotism." Echoing comments made by Federalists about Republicans in the 1790s, Channing accused the orthodox of forming "a kind of irregular government."[111] Channing's accusations were not entirely misguided. As their support of Antimasonry demonstrates, orthodox ministers and many of their followers believed that they represented the moral majority against a political elite hostile to their values.

Democrats agreed with Channing. In 1839, one writer praised Channing's comments, stating that evangelical voluntary associations posed "a greater danger to the freedom of our political institutions than standing armies." Associations threatened "independence of thought and action" and enabled "designing men" to control public opinion.[112] Evangelicals

109. *Resolves of the General Court* (1844). See also "Origin and Character of the Old Parties," *North American Review*, 34 (July 1834), 208–68.

110. See, for example, the debates over public education and Horace Mann's critique of orthodox sectarians, in Raymond B. Culver, *Horace Mann and Religion in the Massachusetts Public Schools* (New Haven, CT, 1929).

111. [William Ellery Channing], "Associations," *Christian Examiner* (Sept. 1829), 105–40. Reprinted in William Ellery Channing, *The Works of William E. Channing*, ed. by the American Unitarian Association (Boston, 1890), 138–58.

112. *Democratic Review* (Mar. 1839), as quoted in Lawrence F. Kohl, *The Politics of Individualism: Parties and the American Character in the Jacksonian Era* (New York, 1989), 29.

now posed the same threat to liberty as corporate monopolies; in both cases, a powerful (private) elite exerted disproportionate control over public life. "Matters have come to such a pass," commented one Democrat, "that a peaceable man can hardly venture to eat or drink, to go to bed or to get up, to correct his children or kiss his wife, without obtaining the permission and the direction of some moral or other reform society."[113] Having supported disestablishment, Democrats now worried that evangelicals were gaining too much power in civil society.

Orthodox evangelicals disagreed with the attacks coming from both parties. In response to Channing's essay, an orthodox writer noted that Channing sought to make all individuals "islands" cut loose from their social relations. The result would be rabid individualism, exactly the opposite of what most Whigs desired. Moreover, the writer argued, Channing's comments on revivalism were religious prejudice. "Revivals are the work of the Holy Spirit," and the various causes evangelicals promoted—from missionary work, to Bible distribution, to observance of the Sabbath—were not private interests but communal ones, derived from the will of their god.[114] Far from being a special interest in civil society, evangelicals believed that were acting out their god's plan, and thus the best interests of the people.[115] They did not accept the concessions both parties had made to pluralism. From a philosophical standpoint, pluralism requires one to accept that there exists no monopoly on truth and that truth-seeking is aided by the expression of and competition between competing ideas.[116] To evangelicals, there was one truth. Although they used similar arguments as Democrats to disestablish the church, they ultimately hoped to reform society in their own image. Like Whigs, evangelicals believed that the state must promote the common

113. "Ultraism," Boston *Quarterly Review*, 1 (July 1838), 377–84.

114. "An Article on Associations in the Christian Examiner, September 1829," *Spirit of the Pilgrims*, 3 (Mar. 1830), 129–41.

115. Griffin, *Their Brothers' Keep* → John L. Thomas, "Romantic Reform in America, 1815–1865," *American Quarterly*, 17 (Winter 1965), 656–81; Ronald G. Walters, *American Reformers, 1815–1860* (New York, 1978); Robert H. Abzug, *Cosmos Crumbling: American Reform and the Religious Imagination* (New York, 1994); Mark Y. Hanley, *Beyond a Christian Commonwealth: The Protestant Quarrel with the American Republic, 1830–1860* (Chapel Hill, NC, 1994).

116. On this issue, see Louis Menand, *The Metaphysical Club: A Story of Ideas in America* (New York, 2002), esp. 377–408.

good. However, they reversed the Whigs' framework. Rather than seeing the state and its leaders as above the private interests of civil society, they accused the state of promoting the interests of a particular party and sect. The voice of the people could be heard in civil society.

These issues were brought to a head in various conflicts over moral reform during the second party system. Because of limited space, this essay will not go into detail.[117] However, some suggestions can be made. By creating a mass social movement in civil society oriented around particular visions of the good society, evangelicals raised new questions about the relationship between citizens acting in the public sphere and the state.[118] All involved were uncertain how a social movement in civil society ought to behave. Should voluntary associations be allowed to promote political change, thus threatening the boundary between civil society and the state? Or should associations advocate only voluntary remedies, relying on persuasion but not coercion? When and how could a special interest prove that it is the public interest?

Disestablishment had stripped the state of its transcendent justification. Instead, political leaders accepted the importance of the freedom of association in civil society to religious liberty. Evangelicals did not always accept this distinction. In debates over sabbatarianism, they claimed that the state should enforce their god's laws.[119] Democrats were extremely

117. On debates over the role of voluntary associations in the antebellum era, see Oscar Handlin and Mary Handlin, "Restrictive Associations," in *The Dimensions of Liberty*, ed. Oscar Handlin and Mary Handlin (Cambridge, 1961), 113–32; David Brion Davis, ed., *Ante-bellum Reform* (New York, 1967). On evangelicalism and moral reform in antebellum politics, s➡ Bertram Wyatt-Brown, "Prelude to Abolitionism: Sabbatarianism and the Rise of the Second Party System," *Journal of American History*, 58 (Sept. 1971), 316–4➡ Richard R. John, "Taking Sabbatarianism Seriously: The Postal System, the Sabbath, and the Transformation of American Political Culture," *Journal of the Early Republic*, 10 (1990), 517–5➡ Daniel Walker Howe, "The Evangelical Movement and Political Culture in the North during the Second Party System," *Journal of American History*, 77 (Mar. 1991), 1216–39; Richard J. Carwardine, *Evangelicals and Politics in Antebellum America* (Knoxville, TN, 1997).

118. Eugene E. Leach, "Social Reform Movements," in *Encyclopedia of American Social History*, ed. Mary Kupiec Cayton, 3 vols. (New York, 1993), 3: 2201–30.

119. *Spirit of the Pilgrims*, 28 (Mar. 1829), 142–66. For a discussion of the tension between religious communitarianism and liberalism in the new republic,

hostile to any effort to link church and state. As a writer argued, "to construe one's own liberty of conscience, so as to interfere with another's liberty of conscience, is to misconstrue it."[120] By seeking to reimpose moral uniformity through the use of public policy, whether by compelling citizens to observe the Sabbath or by prohibiting the sale of alcohol, and by claiming to speak for "the people," evangelicals risked destroying the boundary between civil society and the state that made their organizing possible. Orthodox leaders had helped expand the freedom of association in civil society in order to free their churches from the state. By employing religious arguments, however, they implied that a private movement in civil society now had the moral authority once held by the state. Moreover, they argued that the state should impose their vision of morality on the public, replicating the very problem that led them to support disestablishment.[121]

In addition to church-state questions, the reformers raised an entirely different issue about democratic politics: what role should citizens in civil society play in public life? Both parties depicted the moral reformers as private interests that were gaining too much power. Yet, by bringing thousands of previously inactive citizens into public life, evangelicals, like political parties, helped create mass democracy. Evangelicals believed that public opinion was on their side, and thus they had every right to seek political change. They wondered why citizens in civil society should not be allowed to promote what they consider to be the common good.

Evangelicals created America's first mass protest movement, and taught thousands how to organize. The same strategies, and many of the same people, would be involved in the abolitionist and later the female

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see Mark D. McGarvie, *One Nation Under Law: America's Early National Struggles to Separate Church and State* (DeKalb, IL, 2005).

120. "Religion and Politics," *Boston Quarterly Review*, 1 (Jul. 1838), 310–33, at 323.

121. In *Beyond a Christian Commonwealth*, Mark Hanley argues that Protestant evangelicals had a "quarrel with the American republic." They opposed the liberal, morally lax, and acquisitive society that was emerging in Jacksonian America. However, orthodox Congregationalists in Massachusetts helped create that world by pushing for the freedom of association as a necessary correlate to the freedom of conscience. By continuing to speak as if they held a monopoly on moral authority, they contradicted their own arguments.

suffrage movements. Again, the same objections would be made: slavery is not a proper issue for legislation; women are not proper political actors. Abolitionists and suffragists would be criticized for attempting to force their agendas onto the political stage by forming associations, holding conventions, publishing papers, and pressuring policymakers, all tools used by activists on behalf of sabbatarianism and temperance. Historians who have traced the emergence of liberalism in American law and politics have tended to condemn such reformers for seeking "social control" instead of coming to terms with the pluralistic nature of liberal democracy.[122] However, the communitarian impulses of the revolutionary era lived on and reformers used their new associations to promote them. The same can be said for subsequent reform movements in American history, including those during the Populist and Progressive eras as well as in more recent history.[123] On the one hand, by definition movements in civil society are private. Unlike elected leaders, they cannot speak for the people of their jurisdiction. On the other hand, the new civil society opened up an arena for citizens to debate the public interest. Citizens claimed their right to take part in deliberations over public polices and public values. The challenge of American democracy is how to sustain these debates over the common good without recreating the problems faced by leaders and citizens during the decades following the Revolution.

122. Griffin, *Their Brothers' Keepers*; Charles Foster, *An Errand of Mercy: The Evangelical United Front, 1790–1825* (Chapel Hill, NC, 1960); Paul S. Boyer, *Urban Masses and Moral Order in America, 1820–1920* (Cambridge, 1978); Paul E. Johnson, *A Shopkeeper's Millennium: Society and Revivals in Rochester, New York, 1815–1837* (New York, 1978); R. J. Morris, "Voluntary Societies and British Urban Elites, 1780–1850: An Analysis," *Historical Journal*, 26 (1983), 95–118. For a critique, see Lois W. Banner, "Religious Benevolence as Social Control: A Critique of an Interpretation" *Journal of American History*, 60 (June 1973), 23–41.

123. See Michael Kazin, *The Populist Persuasion: An American History* (New York, 1995); Elisabeth S. Clemens, *The People's Lobby: Organizational Innovation and the Rise of Interest Group Politics in the United States, 1890–1925* (Chicago, 1997).