

APPENDIX

This Appendix contains three tables. **Table I** provides the free exercise protections found in the early colonial charters. **Table II** provides the free exercise guarantees and the provisos found in the early state constitutions. **Table III** provides comparisons of each state government's expressed *raison d'être* and the provisos that were attached to that state's free exercise guarantee.

TABLE I: CHARTER RIGHTS

| Colony | Charter (or Equivalent) Provision |
|--------------------|--|
| CT ¹ | [Securing the] Liberties and Immunities . . . [guaranteed] within the realm of England. |
| DE ² | Freedom of [the people's] Consciences, as to their Religious Profession and Worship [shall be protected, provided that] no Person . . . who shall confess and acknowledge One almighty God . . . shall be in any Case molested or prejudiced, in his or their Person or Estate, because of his or their conscientious Persuasion or Practice, nor be compelled to frequent or maintain any religious Worship, Place or Ministry, contrary to his or their Mind, or to do or suffer any other Act or Thing, contrary to their religious Persuasion. |
| GA ³ | [T]here shall be a liberty of conscience allowed in the worship of God, to all persons inhabiting, or which shall inhabit or be resident within our said provinces and that all such persons, except papists, shall have a free exercise of their religion, so they be contented with the quiet and peaceable enjoyment of the same, not giving offence or scandal to the government. |
| MD ⁴ | [N]oe person or persons whatsoever . . . professing to beleive in Jesus Christ, shall from henceforth bee any waies troubled, Molested or discountenanced for or in respect of his or her religion nor in the free exercise thereof . . . nor any way compelled to the beleife or exercise of any other Religion against his or her consent, soe as they be not unfaithfull to the Lord Proprietary, or molest or conspire against the civill Governement established or to bee established in this Province under him or his heires. |
| MA ⁵ | [T]here shall be a liberty of Conscience allowed in the Worshipp of God to all Christians (Except Papists) Inhabiting or which shall Inhabit or be Resident within our said Province or Territory. |
| NJ ⁶ | That no men, nor number of men upon earth, hath power or authority to rule over men's consciences in religious matters, therefore it is consented, agreed and ordained, that no person or persons whatsoever within the said Province, at any time or times hereafter, shall be any ways upon any presence whatsoever, called in question, or in the least punished or hurt, either in person, estate, or priviledge, for the sake of his opinion, judgment, faith or worship towards God in matters of religion. But that all and every such person, and persons may from time to time, and at all times, freely and fully have, and enjoy his and their judgments, and the exercises of their consciences in matters of religious worship throughout all the said Province. |
| NH ⁷ | We do hereby will, require & command ye liberty of conscience shall be allowed unto all protestants; & ye such especially as shall be conformable to ye rites of ye Church of England, shall be particularly countenanced & encouraged. |
| NY | n/a |
| NC/SC ⁸ | [The proprietors may dispense] full and free license, liberty and authority, by such legal ways and means as they shall think fit, to give and grant unto such person or persons, inhabiting and being within the said province, or any part thereof, who really in their judgments, and for conscience sake, cannot or shall not conform to the said liturgy and ceremonies, and take and subscribe the oaths and articles aforesaid, or any of them, such indulgencies and dispensations in that behalf, for and during such time and times, and with such limitations and restrictions as they . . . shall in their discretion think fit and reasonable |
| PA ⁹ | That all persons living in this province, who confess and acknowledge the one Almighty and eternal God, to be the Creator, Upholder and Ruler of the world; and that hold themselves obliged in conscience to live peaceably and justly in civil society, shall, in no ways, be molested or prejudiced for their religious persuasion, or practice, in matters of faith and worship, nor shall they be compelled, at any time, to frequent or maintain any religious worship, place or ministry whatever. |
| VA ¹⁰ | [A]ll and every the Persons being our Subjects, which shall dwell and inhabit within every or any of the said several Colonies and Plantations, and every of their children, which shall happen to be born within any of the Limits and Precincts of the said several Colonies and Plantations, shall HAVE and enjoy all Liberties, Franchises, and Immunities, within any of our other Dominions, to all Intents and Purposes, as if they had been abiding and born, within this our Realm of England, or any other of our said Dominions. |
| RI ¹¹ | [N]oe person within the sayd colonye, at any tyme hereafter, shall bee any wise molested, punished, disquieted, or called in question, for any differences in opinione in matters of religion, and doe not actually disturb the civill peace of our sayd colony; but that all and everye person and persons may, from tyme to tyme, and at all tymes hereafter, freelye and fullye have and enjoye his and their owne judgments and consciences, in matters of religious concernments . . . they behaving themselves peaceable and quietlie, and not using this libertie to lycentiousnesse and profanenesse, nor to the civill injurye or outward disturbance of others; any lawe, statute, or clause, therein contayned, or to bee contayned, usage or custome of this realme, to the contrary hereof, in any wise, notwithstanding. |

TABLE II: EARLY STATE CONSTITUTIONAL FREE EXERCISE GUARANTEES AND PROVISOS

| State | Right | Proviso: Peace/Safety | Proviso: Licentiousness | Proviso: Civil Injury/ Outward Disturbance of Others |
|------------------|--|--|--|--|
| CT | n/a | | | |
| DE*12 | <p>SECT. 2. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings; and that no man ought or of right can be compelled to attend any religious worship or maintain any ministry contrary to or against his own free will and consent, and that no authority can or ought to be vested in, or assumed by any power whatever that shall in any case interfere with, or in any manner controul the right of conscience in the free exercise of religious worship.</p> | <p>SECT. 3. That all persons professing the Christian religion ought forever to enjoy equal rights and privileges in this state, unless, under colour of religion, any man disturb the peace, the happiness or safety of society.</p> | | |
| GA ¹³ | <p>ART. LVI. All persons whatever shall have the free exercise of their religion.</p> | <p>ART. LVI. [P]rovided it be not repugnant to the peace and safety of the State.</p> | | |
| MD*14 | <p>ART. XXXIII. That, as it is the duty of every man to worship God in such manner as he thinks most acceptable to him; all persons, professing the Christian religion, are equally entitled to protection in their religious liberty; wherefore no person ought by any law to be molested in his person or estate on account of his religious persuasion or profession, or for his religious practice.</p> | <p>ART. XXXIII. [U]nless, under colour of religion, any man shall disturb the good order, peace or safety of the State.</p> | <p>ART. XXXIII. [O]r shall infringe the laws of morality.</p> | <p>ART. XXXIII. [O]r injure others, in their natural, civil, or religious rights.</p> |
| MA ¹⁵ | <p>ART II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great creator and preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments.</p> | <p>ART. II. [P]rovided he doth not disturb the public peace.</p> | | <p>ART. II. [O]r obstruct others in their religious worship.</p> |
| NH ¹⁶ | <p>ART IV–V. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the RIGHTS OF CONSCIENCE.</p> <p>Every individual has a natural and unalienable right to worship GOD according to the dictates of his own conscience, and reason; and no subject shall be hurt, molested, or restrained in his person, liberty or estate for worshipping GOD, in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments or persuasion.</p> | <p>ART. V. [P]rovided he doth not disturb the public peace.</p> | | <p>ART. V. [O]r disturb others, in their religious worship.</p> |

| State | Right | Proviso: Peace/Safety | Proviso: Licentiousness | Proviso: Civil Injury/ Outward Disturbance of Others |
|------------------|---|---|---|--|
| NJ ¹⁷ | <p>ART. XVIII–XIX. That no person shall ever, within this Colony, be deprived of the inestimable privilege of worshipping Almighty God in a manner, agreeable to the dictates of his own conscience; nor, under any presence whatever, be compelled to attend any place of worship, contrary to his own faith and judgment...[and that] no Protestant inhabitant of this Colony shall be denied the enjoyment of any civil right, merely on account of his religious principles,</p> | <p>ART. XIX. [W]ho shall demean themselves peaceably under the government.</p> | | |
| NY ¹⁸ | <p>ART. XXXVIII. And whereas we are required, by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind, this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed, within this State, to all mankind.</p> | <p>ART. XXXVIII. Provided that the liberty of conscience, hereby granted, shall not be so construed as to...justify practices inconsistent with the peace or safety of this State.</p> | <p>ART. XXXVIII. [Or] excuse acts of licentiousness.</p> | |
| NC ¹⁹ | <p>ART. XIX. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences.</p> <p>ART. XXXIV. Neither shall any person, on any presence whatsoever, be compelled to attend any place of worship contrary to his own faith or judgment, nor be obliged to pay, for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, of has voluntarily and personally engaged to perform; but all persons shall be at liberty to exercise their own mode of worship</p> | <p>ART. XXXIV. Provided, That nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses, from legal trial and punishment</p> | | |

| State | Right | Proviso: Peace/Safety | Proviso: Licentiousness | Proviso: Civil Injury/ Outward Disturbance of Others |
|------------------|---|--|---|--|
| PA ²⁰ | <p>ART. II. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understanding; And that no man ought or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against, his own free will and consent: Nor can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments or peculiar mode of religious worship: And that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship.</p> | | | |
| RI ²¹ | n/a | | | |
| SC ²² | <p>CONSTITUTION OF 1778, ART. XXXVIII. That all persons and religious societies who acknowledge that there is one God, and a future state of rewards and punishments, and that God is publicly to be worshipped, shall be freely tolerated...That all denominations of Christian Protestants in this State, demeaning themselves peaceably and faithfully, shall enjoy equal religious and civil privileges.</p> | <p>CONSTITUTION OF 1778, ART. XXXVIII. [D]emeaning themselves peaceably and faithfully.</p> | | |
| | <p>CONSTITUTION OF 1790, ART. VIII, SEC. 1. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this State to all mankind: Provided, that the liberty of conscience thereby declared shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.</p> | <p>CONSTITUTION OF 1790, ARTICLE VIII, SEC. 1. Provided, that the liberty of conscience thereby declared shall not be so construed as to...justify practices inconsistent with the peace or safety of this State.</p> | <p>CONSTITUTION OF 1790, ART. VIII, SEC. 1. [Nor e]xcuse acts of licentiousness.</p> | |
| VA ²³ | <p>DECLARATION OF RIGHTS, SEC. 16. That religion, or the duty which we owe to our Creator and the manner of discharging it, can be directed by reason and conviction, not by force or violence; and therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.</p> | | | |

| State | Right | Proviso: Peace/Safety | Proviso: Licentiousness | Proviso: Civil Injury/ Outward Disturbance of Others |
|-------|--|--|----------------------------|--|
| | <p>ACT FOR ESTABLISHING RELIGIOUS FREEDOM (1785). That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.</p> | <p>PREAMBLE [W]hen principles break out into overt acts against peace and good order.</p> | | |

TABLE III: COMPARING THE PROVISOS TO THE SCOPE OF LEGISLATIVE POWER

| State | Purpose of Government | Peace/Safety Proviso |
|-------------------|--|---|
| CT | n/a | |
| DE* ²⁴ | <p>SEC. 1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.</p> | <p>SEC. 3. That all persons professing the Christian religion ought forever to enjoy equal rights and privileges in this state, unless, under colour of religion, any man disturb the peace, the happiness or safety of society.</p> |
| GA ²⁵ | <p>PREAMBLE. Whereas the conduct of the legislature of Great Britain for many years past has been so oppressive on the people of America that of late years they have plainly declared and asserted a right to raise taxes upon the people of America, and to make laws to bind them in all cases whatsoever, without their consent; which conduct, being repugnant to the common rights of mankind, hath obliged the Americans, as freemen, to oppose such oppressive measures, and to assert the rights and privileges they are entitled to by the laws of nature and reason; and accordingly it hath been done by the general consent of all the people of the States...where no government, sufficient to the exigencies of their affairs, hath been hitherto established, to adopt such government as may, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular and America in general...We, therefore, the representatives of the people, from whom all power originates, and for whose benefit all government is intended, by virtue of the power delegated to us, do ordain and declare, and it IS hereby ordained and declared, that the following rules and regulations be adopted for the future government of this State</p> | <p>ART. LVI. [P]rovided it be not repugnant to the peace and safety of the State.</p> |
| MD* ²⁶ | <p>ART. I. . . . [F]or the sure foundation and more permanent security thereof, declare, . . . I. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.</p> | <p>ART. XXXIII. [U]nless, under colour of religion, any man shall disturb the good order, peace or safety of the State.</p> |

| State | Purpose of Government | Peace/Safety Proviso |
|------------------|---|--|
| MA ²⁷ | <p>PREAMBLE, ART. I. The end of the institution, maintenance and administration of government, is to secure the existence of the body-politic; to protect it; and to furnish the individuals who compose it, with the power of enjoying, in safety and tranquillity, their natural rights, and the blessings of life: And whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.</p> <p>The body-politic is formed by a voluntary association of individuals: It is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a Constitution of Government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them.</p> <p>We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the Great Legislator of the Universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new Constitution of Civil Government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, DO agree upon, ordain and establish, the following Declaration of Rights, and Frame of Government, as the CONSTITUTION of the COMMONWEALTH of MASSACHUSETTS.</p> <p>Part the First. A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts, ART. I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.</p> | <p>ART. II. [P]rovided he doth not disturb the public peace.</p> |
| NH ²⁸ | <p>ARTICLES I–IV. I. All men are born equally free and independent; therefore, all government of right originates from the people, is founded in consent, and instituted for the general good. II. All men have certain natural, essential, and inherent rights. among which are –the enjoying and defending life and liberty –acquiring, possessing and protecting property –and in a word, of seeking and obtaining happiness. III. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to insure the protection of others; and, without such an equivalent, the surrender is void. IV. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the RIGHTS OF CONSCIENCE.</p> | <p>ART. V. [P]rovided he doth not disturb the public peace.</p> |

| State | Purpose of Government | Peace/Safety Proviso |
|------------------|---|--|
| NJ ²⁹ | <p>PREAMBLE. WHEREAS all the constitutional authority ever possessed by the kings of Great Britain over these colonies, or their other dominions, was, by compact, derived from the people, and held of them, for the common interest of the whole society; allegiance and protection are, in the nature of things, reciprocal ties; each equally depending upon the other, and liable to be dissolved by the others being refused or withdrawn. And whereas George the Third, king of Great Britain, has refused protection to the good people of these colonies; and, by assenting to sundry acts of the British parliament, attempted to subject them to the absolute dominion of that body; and has also made war upon them, in the most cruel and unnatural manner, for no other cause, than asserting their just rights-all civil authority under him is necessarily at an end, and a dissolution of government in each colony has consequently taken place.</p> <p>And whereas, In the present deplorable situation of these colonies, exposed to the fury of a cruel and relentless enemy, some form of government is absolutely necessary, not only for the preservation of good order, but also the more effectually to unite the people, and enable them to exert their whole force in their own necessary defence: and as the honorable the continental congress, the supreme council of the American colonies, has advised such of the colonies as have not yet gone into measures, to adopt for themselves, respectively, such government as shall best conduce to their own happiness and safety, and the well-being of America in general:-We, the representatives of the colony of New Jersey, having been elected by all the counties, in the freest manner, and in congress assembled, have, after mature deliberations, agreed upon a set of charter rights and the form of a Constitution, in manner following, viz.</p> | <p>ART. XIX. [W]ho shall demean themselves peaceably under the government.</p> |
| NY ³⁰ | <p>PREAMBLE. By virtue of which several acts, declarations, and proceedings mentioned and contained in the afore-cited resolves or resolutions of the general Congress of the United American States, and of the congresses or conventions of this State, all power whatever therein hath reverted to the people thereof, and this convention hath by their suffrages and free choice been appointed, and among other things authorized to institute and establish such a government as they shall deem best calculated to secure the rights and liberties of the good people of this State, most conducive of the happiness and safety of their constituents in particular, and of America in general</p> | <p>ART. XXXVIII. Provided that the liberty of conscience, hereby granted, shall not be so construed as to...justify practices inconsistent with the peace or safety of this State.</p> |
| NC ³¹ | <p>ARTICLES I–II. I. That all political power is vested in and derived from the people only. II. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.</p> | <p>ARTICLE XXXIV. Provided, That nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses, from legal trial and punishment.</p> |
| PA ³² | <p>PREAMBLE. WHEREAS all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals who compose it to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man; and whenever these great ends of government are not obtained, the people have a right, by common consent to change it, and take such measures as to them may appear necessary to promote their safety and happiness.</p> | |
| RI | n/a | |
| SC ³³ | <p>CONSTITUTION OF 1778, PREAMBLE. [T]hat it is become indispensably necessary that during the present situation of American affairs, and until an accommodation of the unhappy differences between Great Britain and America can be obtained, (an event which, though traduced and treated as rebels, we still earnestly desire,) some mode should be established by common consent, and for the good of the people, the origin and end of all governments, for regulating the internal polity of this colony. The congress being vested with powers competent for the purpose, and having fully deliberated touching the premises, do therefore resolve:</p> | <p>ART. XXXVIII. [D]e meaning themselves peaceably and faithfully.</p> |

| State | Purpose of Government | Peace/Safety Proviso |
|------------------|--|--|
| | <p>CONSTITUTION OF 1790, ART. IX, SEC. 1. All power is originally vested in the people; and all free governments are founded on their authority, and are instituted for their peace, safety, and happiness.</p> | <p>ART. VIII, SEC. 1. Provided, that the liberty of conscience thereby declared shall not be so construed as to...justify practices inconsistent with the peace or safety of this State.</p> |
| VA ³⁴ | <p>DECLARATION OF RIGHTS, SEC. I-III.</p> <p>I. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.</p> <p>II. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.</p> <p>III. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation or community; of all the various modes and forms of government that is best, which is capable of producing the greatest degree of happiness and safety and is most effectually secured against the danger of maladministration; and that, whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.</p> | <p>VIRGINIA ACT FOR ESTABLISHING RELIGIOUS FREEDOM(1785) [W]hen principles break out into overt acts against peace and good order.</p> |

- ¹ CONN. CHARTER OF 1662, *reprinted in* 1 THE FEDERAL AND STATE COLONIAL CHARTERS, AND OTHER ORGANIC LAWS OF THE STATES, TERRITORIES, AND COLONIES NOW OR HERETOFORE FORMING THE UNITED STATES OF AMERICA 529, 533 (Francis N. Thorpe ed., 1909) [hereinafter THORPE]. This presumably included the limited religious liberty enjoyed in England after the Toleration Act.
- ² DEL. CHARTER OF 1701, *reprinted in* 1 FEDERAL AND STATE CONSTITUTIONS, COLONIAL CHARTERS, AND OTHER ORGANIC LAWS OF THE UNITED STATES 270–71 (B. Poore 2d ed., 1878) [hereinafter POORE].
- ³ GA. CHARTER OF 1732, *reprinted in* 1 POORE, *supra* note 2, at 369, 375.
- ⁴ MD. TOLERATION ACT OF 1649, *reprinted in* 5 THE FOUNDERS' CONSTITUTION 49, 50 (P. Kurland & R. Lerner eds., 1987) [hereinafter KURLAND & LERNER].
- ⁵ MA. BAY CHARTER OF 1691, *reprinted in* 1 POORE, *supra* note 2, at 942, 950, 952.
- ⁶ WEST N.J. CHARTER, OR FUNDAMENTAL LAWS, OF 1676, ch. 16, *reprinted in* 5 THORPE, *supra* note 1, at 2548, 2549; *see also* THE CONCESSION AND AGREEMENT OF THE LORDS PROPRIETORS OF THE PROVINCE OF NEW CAESAREA, OR NEW JERSEY, TO AND WITH ALL AND EVERY THE ADVENTURERS AND ALL SUCH AS SHALL SETTLE OR PLANT THERE OF 1664, *reprinted in* 5 THORPE, *supra* note 1, at 2535, 2537 (providing that “no person qualified as aforesaid within the said Province, at any time shall be any ways molested, punished, disquieted or called in question for any difference in opinion or practice in matte of religious concernments, who do not actually disturb the civil peace of the said Province; but that all and every such person and persons may from time to time, and at all times, freely and fully have and enjoy his and their judgments and consciences in matters of religion throughout the said Province[,] they behaving themselves peaceably and quietly, and not using this liberty to licentiousness, nor to the civil injury or outward disturbance of others; any law, statute or clause contained, or to be contained, usage or custom of this realm of England, to the contrary thereof in any wise notwithstanding”); FUNDAMENTAL CONSTITUTIONS FOR THE PROVINCE OF WEST N.J. OF 1681, art. X, *reprinted in* 5 THORPE, *supra* note 1, at 2565–2567 (“That liberty of conscience in matters of faith and worship towards God, shall be granted to all people within the Province aforesaid; who shall live peaceably and quietly therein; and that none of the free people of the said Province, shall be rendered incapable of office in respect of their faith and worship.”); FUNDAMENTAL CONSTITUTION FOR THE PROVINCE OF EAST N.J. OF 1683, *reprinted in* 5 THORPE, *supra* note 1, at 2574, 2579–80 (“All persons living in the Province who confess and acknowledge the one Almighty and Eternal God, and hold[] themselves obliged in conscience to live peaceably and quietly in a civil society, shall in no way be molested or prejudged for their religious persuasions and exercise in matters of faith and worship; nor shall they be compelled to frequent and maintain any religious worship, place or ministry whatsoever.”).
- ⁷ COMMISSION OF JOHN CUTT OF 1680, *reprinted in* 4 THORPE, *supra* note 1, at 2446, 2448; *see also* AGREEMENT OF THE SETTLERS AT EXETER IN NEW HAMPSHIRE OF 1639, *reprinted in* 4 THORPE, *supra* note 1, at 2445 (evincing intent to erect society comporting with God’s will and incorporating in by reference the liberties of the Massachusetts colony and England).
- ⁸ *See* CHARTER OF CAROLINA OF 1663, *reprinted in* 5 THORPE, *supra* note 1, at 2743, 2752–53; CONCESSIONS AND AGREEMENTS OF THE LORDS PROPRIETORS OF THE PROVINCE OF CAROLINA OF 1665, 5 THORPE, *supra* note 1, at 2756, 2757 (prohibiting any protected individual from being “molested[,] punished[,] disquieted[,] or called in question for any differences in opinion or practice matters of religious concernment [provided he] does not actually disturb the civil peace” and guaranteeing that such person shall “freely and fully have and enjoy his . . . judgments and consciences in matters of religion”); *see also* FUNDAMENTAL CONSTITUTIONS OF N.C. OF 1669, *reprinted in* 5 THORPE, *supra* note 1, at 2772, 2783–84.
- ⁹ PENNSYLVANIA FRAME OF GOVERNMENT OF 1682, *reprinted in* 5 THORPE, *supra* note 1, at 3052–3063; *see also* PA. FRAME OF GOVERNMENT OF 1696, *reprinted in* 5 THORPE, *supra* note 1, at 3070–71; PENN’S CHARTER OF LIBERTIES OF 1701, *reprinted in* 5 THORPE, *supra* note 1, at 3076, 3080 (prohibiting any of the liberties in the Charter from being “infringed or broken”).
- ¹⁰ FIRST CHARTER OF VIRGINIA OF 1606, *reprinted in* 7 THORPE, *supra* note 1, at 3783, 3788.
- ¹¹ CHARTER OF R.I. AND PROVIDENCE PLANTATIONS OF 1663, *reprinted in* 6 THORPE, *supra* note 1, at 3211–13.
- ¹² DEL. DECLARATION OF RIGHTS AND FUNDAMENTAL RULES OF 1776, §§ 2, 3, *reprinted in* 5 KURLAND AND LERNER, *supra* note 4, at 70.
- ¹³ GA. CONST. OF 1777, art. LVI, *reprinted in* 1 POORE, *supra* note 2, at 377, 383.
- ¹⁴ MD. DECLARATION OF RIGHTS OF 1776, art. XXXIII, *reprinted in* 1 POORE, *supra* note 2, at 817, 819.
- ¹⁵ MASS. CONST. OF 1780, art. II, *reprinted in* 1 POORE, *supra* note 2, at 956–57.
- ¹⁶ N.H. CONST. OF 1784, pt. 1, art. IV–V, *reprinted in* 2 POORE, *supra* note 2, at 1280–81.
- ¹⁷ N.J. CONST. OF 1776, art. XVIII–XIX, *reprinted in* 2 POORE, *supra* note 2, at 1310, 1313.
- ¹⁸ N.Y. CONST. OF 1777, art. XXXVIII, *reprinted in* 2 POORE, *supra* note 2, at 1328, 1338.
- ¹⁹ N.C. CONST. OF 1776, art. XIX, XXXIV, *reprinted in* 2 POORE, *supra* note 2, at 1409–1410, 1413–14.
- ²⁰ PA. CONST. OF 1776, art. II, *reprinted in* 2 POORE, *supra* note 2, at 1540–41.
- ²¹ Rhode Island’s constitution would arise much later than the other colonies.
- ²² S.C. CONST. OF 1778, art. XXXVIII, *reprinted in* 2 POORE, *supra* note 2, at 1620, 1626–27. *Cf.* S.C. CONST. OF 1790, art. VIII, § 1, *reprinted in* 2 POORE, *supra* note 2, at 1628, 1632–33.
- ²³ VA. BILL OF RIGHTS. OF 1776, § 16, *reprinted in* 2 POORE, *supra* note 2, at 1908–09; VIRGINIA ACT FOR ESTABLISHING RELIGIOUS FREEDOM OF 1785, *reprinted in* 12 STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA 84–85 (photo. reprint 1969) (William Waller Hening ed., 1823) [hereinafter HENING].
- ²⁴ DEL. DECLARATION OF RIGHTS AND FUNDAMENTAL RULES OF 1776, §§ 1, 3, *reprinted in* 5 KURLAND AND LERNER, *supra* note 4, at 70.
- ²⁵ GA. CONST. OF 1777, pmbl., art. LVI, *reprinted in* 1 POORE, *supra* note 2, at 377–378, 383.
- ²⁶ MD. DECLARATION OF RIGHTS OF 1776, art. I, XXXIII, *reprinted in* 1 POORE, *supra* note 2, at 817, 819.
- ²⁷ MASS. CONST. OF 1780, pmbl., art. I–II, *reprinted in* 1 POORE, *supra* note 2, at 956–57.
- ²⁸ N.H. CONST. OF 1784, pt. 1, art. I–V, *reprinted in* 2 POORE, *supra* note 2, at 1281.
- ²⁹ N.J. CONST. OF 1776, pmbl., art. XIX, *reprinted in* 2 POORE, *supra* note 2, at 1310–1311, 1313.

³⁰ N.Y. CONST. OF 1777, pmbl., art. XXXVIII, *reprinted in 2 POORE, supra note 2*, at 1328–1332, 1338.

³¹ N.C. CONST. OF 1776, art. I–II, XXXIV, *reprinted in 2 POORE, supra note 2*, at 1409–1410, 1413–14.

³² PA. CONST. OF 1776, pmbl., *reprinted in 2 POORE, supra note 2*, at 1540–41.

³³ S.C. CONST. OF 1778, pmbl., art. XXXVIII, *reprinted in 2 POORE, supra note 2*, at 1620–21, 1626–27; S.C. CONST. OF 1790, art. IX, § 1, art. VIII, § 1, *reprinted in 2 POORE, supra note 2*, at 1628, 1632–33.

³⁴ Compare VA. BILL OF RIGHTS OF 1776, §§ 1–3, *reprinted in 2 POORE, supra note 2*, at 1908–09, with VIRGINIA ACT FOR ESTABLISHING RELIGIOUS FREEDOM OF 1785, *reprinted in 12 HENING, supra note 23*, at 84–85.