

FREEDOM OF EXPRESSION AND THE ENLIGHTENMENT

by
Alison Guider

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Approved by

Adviser: Professor Jeffrey Watt

Reader: Professor Marc Lerner

Reader: Professor Molly Pasco-Pranger

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ABSTRACT
ALISON GUIDER: Freedom of Expression and the Enlightenment
(Under the direction of Jeffrey Watt)

This thesis concerns Enlightenment and pre-Enlightenment views of freedom of expression, including topics such as toleration, freedom of religion, freedom of speech, and freedom of the press. It then looks at how these views shaped some of the ideas that emerged from the American and French Revolution. The conclusions drawn here are drawn from document-based research, both primary and secondary sources. The Enlightenment, although primarily concentrated in the eighteenth century, actually had what one might call precursors in the seventeenth century, including John Locke, Benedict de Spinoza, and Pierre Bayle. These thinkers helped set the stage for Enlightenment thinkers such as Voltaire, Charles de Secondat, Baron de Montesquieu, and Karl Friedrich Bahrdt. All of these thinkers wrote on freedom of expression, but they did not always agree on how far this freedom should be extended, which represented a division between moderate and Radical Enlightenment. Both strains of the Enlightenment, however, were read by both the American and French Revolutionaries and shaped the ideas of freedom of expression that came out of these two revolutions, including protections of free press. Although the Enlightenment does have a bit of a complicated legacy, modern day protections of freedom of expression would not exist without it; therefore, an in-depth study of the origins of these protections is worthwhile.

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Introduction

The Enlightenment is not “a historical period that has come and gone nor an ideal to be achieved in the future. Rather, it is a particular way of living in history, a way that has its own history.”¹ The Enlightenment is generally regarded as a movement during the late seventeenth and eighteenth centuries that focused on the use of reason, but the Enlightenment has its own unique history and it produced many remarkable intellectuals. Furthermore, the Enlightenment had major impact on future events, continuing to this day. Some of the key themes of the Enlightenment include the belief in progress and tolerance and faith in reason. One historian notes that Enlightenment thinkers were trying to take Isaac Newton’s discoveries concerning light and focus that light inward in order to “banish the darkness from human minds long trapped by conventions, superstitions, and prejudices.”² Granted, not all historians agree about what the Enlightenment accomplished or even what it was about, which is why one can trace so many different “strains” of Enlightenment thought.

Enlightenment contemporaries also had different ideas about what the Enlightenment was and what ideas were a part of it. Philosopher Moses Mendelssohn argued that the Enlightenment was a process, and that that process was far from complete in his own

¹Lee Morrissey, “Toward an Archaeology of the First Amendment’s Free Speech Protections,” in *Freedom of Speech: The History of an Idea*, ed. Elizabeth Powers (Lewisburg: Bucknell University Press, 2011), 166.

² Margaret C. Jacob, *The Enlightenment: A Brief History with Documents*, (Boston: Bedford/St. Martins, 2001), 3.

day.³ In this case, Mendelssohn agreed with Immanuel Kant, who in “What is Enlightenment?” asked “are we now living in an enlightened age?” He believed that it was not an enlightened age, but “an age of enlightenment,” in that man had not yet reached the point where progress should stop and much was still to be learned, but society was in the process of learning.⁴ Kant, in a reply, went on to state that the barriers to becoming enlightened were being dismantled and that freedom was necessary for true enlightenment. Freedom and protection of that freedom were two big ideas to come out of the Enlightenment, and they are two ideas that resonate centuries later. Therefore, this thesis will focus on Enlightenment ideas of freedom, particularly ideas about freedom of expression (such as free speech and free press), but also ideas about freedom of religion and toleration, the thinkers who produced these ideas, and how these ideas impacted other events in history.

Since many thinkers of the Enlightenment were trying to share their ideas with others, they consistently tried to publish their works. They had to deal with strict censorship, from both religious and governmental institutions in the late seventeenth and eighteenth centuries; therefore, censorship and press freedom were key topics because “press freedom. . . is the foremost instrument of human enlightenment” and “the root of all political and social evil. . . was lack of freedom of expression and the press.”⁵ Freedom of the press was essential for the spread of reason and enlightened ideals, but in order to reach this step, many *philosophes* believed in the necessity of freedom of

³Dorinda Outram, *The Enlightenment* (Cambridge: Cambridge University Press, 1995), 1.

⁴ Immanuel Kant, “What is Enlightenment,” Columbia University, accessed March 29, 2014, <http://www.columbia.edu/acis/ets/CCREAD/etscc/kant.html>.

⁵Jonathan Israel, *Enlightenment Contested: Philosophy, Modernity, and the Emancipation of Man 1670-1752* (Oxford: Oxford University Press, 2006), 338-9.

conscience. This led to Enlightenment thinkers writing on a wide variety of subjects, including religious toleration and freedom of speech, as well as freedom of the press and freedom to criticize the government. In order to see how these ideas came about and gained influence, it is important to look at precursors to the Enlightenment, or early Enlightenment thinkers, such as John Locke, Benedict de Spinoza, and Pierre Bayle. They and other early thinkers influenced a lot of the work of the main Enlightenment period. Three prominent thinkers of this period include Voltaire; Charles de Secondat, the Baron de Montesquieu; and Karl Friedrich Bahrdt. By analyzing the works of these six thinkers, one can get a well-rounded understanding of Enlightenment ideas.

All of these thinkers were (and still are) important in their own right, but the Enlightenment did not happen in isolation. It was shaped by various prior events in history, most notably the Scientific Revolution, and it influenced many events that came after it, including the American and French Revolutions. The Enlightenment's impact on the American Revolution is fairly easy to see through an evaluation of the arguments for Revolution, the arguments for a Constitution and Bill of Rights, and most importantly, through an analysis of these documents themselves. The Enlightenment's impact on the French Revolution is much more contested, with some historians claiming that it had little to no influence whatsoever. By breaking the French Revolution into phases and analyzing various constitutional documents, however, one can begin to see how the Enlightenment shaped the ideas of the Revolution. Understanding how and why these events (the Enlightenment and the American and French Revolutions) connect to each other is essential for any student of history, and understanding the legacy of the

Enlightenment and its impact on two of the most famous revolutions in history can help one understand how ideas regarding freedom of expression are shaped today.

Chapter One: Precursors to the Enlightenment

In the United States, freedom of speech is regarded as one of the most fundamental rights. People must be allowed to express their opinions, even if the speech in question is considered heinous and repulsive (granted, there are conditions to this expression, but generally it is a pretty broad freedom). The freedom to express one's opinions, be it in speech or writing is enshrined in the first amendment to the United States Constitution, and the general consensus is that the framers of the Constitution and the Bill of Rights were steeped in Enlightenment thought. The Enlightenment was an intellectual movement starting in the late seventeenth century characterized by the use of reason to tackle problems of philosophy, government, and society. The Enlightenment, however, did not just happen. Many people and events contributed to the buildup of knowledge and thinking that led to the Enlightenment. One such development was the Scientific Revolution (approximately 1540-1690), which promoted the belief that people were capable of discovering new ideas on their own and of developing rational ideas. This period was characterized by discoveries in mathematics, physics, astronomy, biology, and chemistry, and these discoveries would not have been possible without the use of reason.

Of primary importance to the development of the Enlightenment were various seventeenth-century philosophers who applied reason to problems of toleration as well as freedom of speech and expression. Several early thinkers promoted these ideas prior to

the Enlightenment, and one of the most notable precursors was the well-known empiricist, John Locke, who wrote primarily about religious toleration. On the more radical side were thinkers such as Baruch Spinoza, the Dutch philosopher often associated with his work regarding Descartes, himself a pioneer in the Enlightenment ideals regarding freedom of speech and expression.⁶ Another pre-Enlightenment supporter of these freedoms was Pierre Bayle, a French thinker who supported freedom of speech and could even be said to be “obsessed” with Spinoza’s work.⁷ Without these three early thinkers, the ideals of the Enlightenment would not have formed as they did. This chapter examines these precursors to the *philosophes*.

Locke was slightly more accepted than either Spinoza or Bayle at the time due to the fact that he was a “Christian rationalist” who tried to present freedom as compatible with standard religious and church practices.⁸ Locke was an Englishman born in 1632 to a Puritan family with a lawyer for a father. He studied at Westminster School, and his education there may have set Locke on his path to his future of liberalism as it purged him of his “unquestioning Puritan faith.”⁹ After leaving Westminster, he attended Christ Church, Oxford, where his curriculum covered the classics, experimental medicine, and philosophy.¹⁰ While at Christ Church, Locke embraced science in response to what he saw as two “sources of human error”: “unreflective adherence to tradition” and “reliance on emotional conviction as a basis of truth,” both of which would shape his future

⁶Israel, *Enlightenment Contested*, 43.

⁷Ibid, 44.

⁸Ibid, 155.

⁹Maurice Cranston, *John Locke: A Biography* (Oxford: Oxford University Press, 1985), 19-20.

¹⁰Lewis J Walker, “John Locke, Rebel With a Cause,” *On Wall Street* 9, no. 7 (July 1999): 78. *Business Source Complete*, EBSCOhost.

philosophy.¹¹

After Locke finished his education, he remained at Oxford as a tutor, then spent some time dabbling in diplomacy and also worked as a personal physician in London. However, it is his writings that earned him his most lasting fame. Some of these works include “A Letter Concerning Toleration,” *Two Treatises of Government*, “An Essay Concerning Human Understanding,” “Some Thoughts Concerning Education,” and “The Reasonableness of Christianity, as Delivered in the Scripture.” Although many of his works are still widely read and praised, those of primary concern for this study are “A Letter Concerning Toleration,” *Two Treatises of Government*, and to some extent, “An Essay Concerning Human Understanding.”

“A Letter Concerning Human Toleration” was first published in 1689 in Latin. In it, Locke addressed the people’s fear that Catholicism was “taking over England.” In this work, he claimed that because the state and religion have different functions, they should be separate entities. Therefore, not only should there not be a state-sponsored religion, there should also be religious toleration. Although this work is concerned with religious toleration and not free speech directly, these two topics are certainly related, and this work accordingly merits a deeper evaluation. Freedom of religion means the freedom to practice whichever religion one chooses. However, in seventeenth-century Europe, it usually meant whatever acceptable type of Christianity one chose. So although this religious toleration was still very limited, this mode of thinking nonetheless allowed freedom of thought and freedom of practice at least within certain parameters. Locke started this treatise by stating that he believed “toleration to be the chief characteristic

¹¹Cranston, *Locke*, 40.

mark of the true Church.”¹² He then stated that many Christians spend more time being concerned about what other groups or sects have to say (i.e., their opinions) rather than discouraging moral vices that the Bible strictly condemns. Additionally, some of these Christians were cruel to those with dissenting opinions while tolerating “such iniquities and immoralities as are unbecoming the name of a Christian.”¹³ These were not the marks of a true Christian; a true Christian must be tolerant of other views, insofar as he or she must not commit acts of violence and forcibly act to prevent others from practicing their beliefs. The way to convert someone to Christianity, according to Locke, was to use reason to persuade that person.

Furthermore, Locke asserted that “no private person has any right in any manner to prejudice another person in his civil enjoyments because he is of another church or religion. All the rights and franchises that belong to him as a man, or as a denizen, are inviolably to be preserved to him. These are not the business of religion. No violence nor injury is to be offered him, whether he be Christian or Pagan.”¹⁴ Additionally, no “civil rights [are] to be either changed or violated upon account of religion.”¹⁵ These points constitute the foundation of his arguments that religion is not a sound basis for denying someone’s rights. Neither the state nor individuals can justify taking someone’s rights away in the name of religion. Locke had already established that people should be free to form their own opinions and that the only legitimate way to change someone’s opinion is through the use of reason. This raises the question, though, of whether freedom of speech,

¹²John Locke, “A Letter Concerning Toleration,” accessed April 9, 2014, <http://socserv2.socsci.mcmaster.ca/econ/ugcm/3ll3/locke/toleration.pdf>, 3.

¹³Ibid, 5.

¹⁴Ibid, 12.

¹⁵Ibid, 27

the ability to spread a perhaps unconventional opinion, is a protected civil right.

Another work by Locke that deals with the government and rights is *Two Treatises of Government*. The first treatise deals with patriarchy and Locke's disapproval of the system, whereas the second treatise discusses natural rights and how and why people organize themselves into civilized society. This latter treatise is the more commonly referenced of the two, and it is of primary importance when discussing freedom of speech and expression, including censorship. He began this treatise by defining political power as the power a magistrate has over subjects, which is the "right of making laws, with penalties of death, and consequently all less penalties for the regulating and preserving of property, and of employing the force of the community in the execution of such laws, and in the defense of the commonwealth from foreign injury, and all this only for the public good."¹⁶ This statement mentions property, not freedom of thought or speech; however, one could argue that "man has a property in his rights," such as freedom of religion and freedom of speech, or at least that is how the American Revolutionaries later interpreted Locke.¹⁷ The last phrase of the above statement is of particular interest and relevance. The magistrate can make the laws with penalties for breaking them, but they can be only for the public good. Therefore, if a law does not promote the public good, it should not be made. If a law prohibiting free speech does not harm the public good—if it does not hurt an individual and does not disrupt society—then the law can be made.

As Locke continued with his treatise, he claims that the purpose of the law is "not

¹⁶John Locke, *Two Treatises of Government*, accessed March 22, 2014, <http://www.efm.bris.ac.uk/het/locke/government.pdf>, 106.

¹⁷George M Stephens, *Locke, Jefferson, and the Justices : Foundations and Failures of the US Government* (New York: Algora Pub, 2002), 79-80, eBook Collection (EBSCOhost), EBSCOhost.

to abolish or restrain, but to preserve and enlarge freedom,” and Locke reiterated that the law is to be for the public good: “the power of the society or legislative constituted by them can never be supposed to extend farther than the common good,” and “all this [lawmaking is] to be directed to no other end but the peace, safety, and public good of the people.”¹⁸ Laws are supposed to enlarge freedom and protect the public good but not suppress the people, which can easily be interpreted as supporting freedom of speech in this pre-Enlightenment period.

This treatise also focuses on the state of nature and the rational nature of human beings. Humans are originally in the state of nature in which no one is subject to any government. To avoid anarchy, humans give up some of their freedoms to join together in society and create a government. That government has the power to make laws, but it has power only over the rights that the people give up to create it, no more. Thus, the laws must be limited in scope, and if the people do not give up their right to think and speak freely when joining society, then the government has no right to make any laws regarding thought and speech, so long as that speech does not infringe upon anyone else’s rights, property, or security, the protection of which is the driving force for creating societies. This ties in with the argument that opinions are one’s property, and it is property that the people did not give to the government.

The motivation for this philosophy is a rational one, as human beings are basically rational. Locke claimed that “we are born free as we are born rational,” suggesting that the two are linked.¹⁹ Human beings are free in the state of nature, and they are essentially free in a well-formed civil society as well. They are also rational beings, although they

¹⁸Locke, *Two Treatises of Government*, 128, 161.

¹⁹Ibid, 130.

are not able to exercise either freedom or rationality when they are born. Both come with age. However, it is because humans are rational beings that they are able to exercise their freedom. Because of this, laws should not overly restrict people; the laws need to be in balance with the rationality and freedom of the people. Thus, as long as speech or expression is not harming another person or society as a whole (and harm to the society must be narrowly defined), it should not be prevented by law.

Another work of Locke's that deserves some attention is "An Essay Concerning Human Understanding." This work is not necessarily political, and it may seem odd to consider it when discussing Locke as a proponent of free speech. This essay discusses human knowledge and understanding and how knowledge is formed. It is here that Locke developed his theory of the human mind as a "tabula rasa" or blank slate. At birth, the mind is a blank slate, which is later filled by experience. This work is one of Locke's most famous empiricist works, which influenced many other philosophers. However, the fourth book of this work deals with knowledge, including moral philosophy, natural philosophy, faith, and opinion as well as the sources of this knowledge. Additionally, Locke intended the book to be read by "ordinary educated readers of common sense" in order that they "be able to lead more rational lives and shape a more rational society."²⁰ As previously stated, rationality and freedom are closely related, and as such, laws need to be as unrestrictive as possible while still protecting the rights and property of the people. Moreover, Locke's essay was designed for people of common sense, in this case primarily educated men, probably landowners. In order for these men to implement Locke's ideas, they had to undergo educational therapy to enable them to discard "the

²⁰Neal Wood, *The Politics of Locke's Philosophy: A Social Study of "An Essay Concerning Human Understanding"* (Berkeley: University of California Press, 1983), 2.

spectacles of false ideas generated by the social groups to which they belong,” and this therapy required “the existence of a political order that guaranteed freedom of thought, speech, and association and provided conditions of security, legality, and moderation.”²¹ This educational therapy would enable the educated elites to create an organized society, in which men could behave rationally. Finally, in “An Essay Concerning Human Understanding,” Locke created a picture of the ideal rational man. This work “yields a portrait of an individual who is commonsensical and pragmatic, aware of his own fallibility, sociable and tolerant.”²² In addition to having a political order with guaranteed freedom of speech, the ideal man is tolerant of others’ opinions, even if he disagrees.

Locke exhibited remarkable continuity in his writings. One is able to trace a line of thought about tolerance and freedom of speech in each of the works discussed, even if it is somewhat indirect. However, Locke was not always a proponent of toleration and free speech. In his earlier years, Locke argued that a “policy of toleration was not practicable,” at least in regard to the religious freedom for Catholics; in 1659, he was cautious towards these ideas, because he feared that Catholics would be serving two different masters (the church and the government), which could potentially lead to anarchy.²³ Locke was cautious about arguing that people should be given too much leeway in practicing religion, because the views expressed by non-state religions could potentially be contrary to the views of the state. One can assume that this cautiousness extended to other areas as well, such as tolerance of dissenting opinions and freedom of speech. Nevertheless, Locke came around to the cause of toleration, and these views were

²¹Ibid, 5-6.

²²Ibid.

²³Cranston, *John Locke*, 45.

shaped by many different experiences and people he came into contact with. Locke grew up during the English Civil War. He watched as the Puritans took power and again when England restored the monarchy. He also saw these governments impose their views on schools. Although some dissenters (i.e., monarchists during the Puritan government) were allowed to stay if they kept quiet, other people who did not agree with the government or refused to take an oath of loyalty to the government were forced to leave their jobs at Oxford. Was this the start of Locke's support of toleration? Perhaps, but his views were also shaped by his experiences and the people he came into contact with. For example, when he was serving as the secretary for the diplomatic mission of Sir Walter Vane to Brandenburg in 1665 and 1666, he wrote a letter to a friend in which he claimed that in that German land, the members of the Calvinist, Lutheran, and Roman Catholic religions

quietly permit one another to choose their way to heaven; and I cannot observe any quarrels or animosities amongst them on account of religion. This good correspondence is owing partly to the power of the magistrates, and partly to the prudence and good nature of the people, who, as I find by enquiry, entertain different opinions without any secret hatred or rancor.²⁴

Locke was already forming the basis for some of his later works while serving as a diplomat.

It was Lord Anthony Ashley Cooper, whom Locke worked for as a personal physician not long after this diplomatic mission, who "made Locke give systematic attention to the subject [of toleration]."²⁵ Lord Ashley had an interesting history, fighting first for the Royalist Army during the English Civil War before changing to the winning

²⁴Ibid 82.

²⁵Ibid 111.

side and eventually becoming commander-in-chief of the troops in Dorset. He served in the House of Commons during Cromwell's reign, but he was arrested by his successors for plotting to invite the King back to England. Although this was somewhat true, he was acquitted of the charges. Once the King returned, he was awarded noble status. It was then that Lord Ashley became a proponent of toleration. He was a noble who supported toleration, primarily because he thought that toleration could help promote trade which would make him richer. Although Ashley had reasons for promoting toleration, particularly because of his changing allegiances, he was still a member of the upper class who supported religious toleration. This is notable, because many members of the upper classes feared that freedom for the lower classes would create mayhem. Nevertheless, he was not alone. Even King Charles II supported toleration, at least as it pertained to religion.

Spinoza was probably one of the most extreme thinkers in the seventeenth century regarding toleration and freedom and the scope of religion. Baruch or Benedict de Spinoza was a Dutch Jew born in November 1632. His family had been Sephardic Jews who fled to Amsterdam to escape persecution on the Iberian Peninsula. He had a traditional Jewish education and then worked with his family until he was excluded from Jewish society at the age of twenty-three. He was excommunicated for his controversial writings, and the leaders of the Dutch Jewish community did not want to draw the government's ire, which might threaten their position in the community. Nevertheless, Spinoza was in an ideal place to explore new ideas, as Amsterdam and Rotterdam were both cosmopolitan shipping centers and thus were relatively tolerant of new and sometimes controversial ideas. Overall, Spinoza argued for a philosophy of tolerance and

freedom; he even refused to take a professorship at the University of Heidelberg out of fear that it “might compromise his philosophical principles and freedom.”²⁶

Over the course of his life, Spinoza wrote multiple works, but many were not published until after his death due to his concern with censorship. Although Spinoza started his career by analyzing Descartes’ works, he also covered many other issues, including freedom of speech and expression. However, his most famous work is arguably his *Ethics*, first published in 1677. This book is essentially a list of various propositions, and it also includes some of Spinoza’s criticism of Descartes. Some of the claims that Spinoza makes include that God is nature, the mind and the body are the same (a refutation of Descartes’s view that the mind and body are distinct substances), and reason is the only way that the mind can distinguish passions and emotions that are not beneficial to virtue from those that are. Although this is one of the most famous of Spinoza’s works and one that generated much criticism, particularly from the church, it actually built on Spinoza’s earlier *Tractatus Theologico-Politicus* or *A Theologico-Political Treatise*.

A Theologico-Political Treatise, although not the clearest or most organized of Spinoza’s works, began by discussing superstition as a product of human emotion and misleading religious authority.²⁷ Some of the goals of this work included trying to argue against the so-called prejudices of organized religion and the leaders of it (particularly in regard to his own Jewish past) and attempting to defend the “freedom to philosophize.” However, it was also extremely controversial, and the criticism Spinoza faced for this

²⁶Baruch Spinoza, *The Ethics and Selected Letters*, ed. Seymour Feldman, trans. Samuel Shirley (Cambridge, MA: Hackett Publishing Company, 1982), 4.

²⁷Baruch Spinoza, *A Theologico-Political Treatise*, Part 1, http://www.constitution.org/bs/theo_poll.htm.

work could potentially be one of the reasons he chose not to publish most of his works during his lifetime. One critic, Frans Burman, went so far as to urge one of his friends to join with him to “attack and destroy this utterly pestilential book.”²⁸

What was it that made this work so reprehensible to these critics, many of whom were also educated philosophers? In regard to religion, Spinoza attempted to discredit scripture to some extent by demonstrating some of the inconsistencies in it. He also attempted to disprove the existence of miracles and the worthiness of exalting prophets. Because scripture is inconsistent and does not offer truth buttressed by reason, it cannot be a source of knowledge; by contrast, philosophy is that source, because “prophecy is just fantasy” and “geometrical ‘reason’ is the only criterion of truth.”²⁹ Furthermore, because scripture is not a source of true knowledge, the commandments of scripture and even of religious authorities must fall to the state. Therefore, he comes to three conclusions: “civil stability requires that ecclesiastical power be limited”; “it is disastrous for religious leaders to govern speculative matters”; and “the sovereign must remain the sole legislator.”³⁰ Ultimately, philosophy and reason are separate from religion or faith, and thus religious leaders should have little sway over political matters.

Another aspect of Spinoza’s *Theologico-Political Treatise* that puts him squarely into the thick of the debate on freedom is the aspect of toleration, promoted particularly in chapter twenty of this work. According to Spinoza, men have the right to free speech: “No one can abdicate his freedom of judgment and feeling; since every man is by

²⁸Jonathan Israel, *Radical Enlightenment: Philosophy and the Making of Modernity 1650-1750* (New York: Oxford University Press, 2001), 276.

²⁹Israel, *Enlightenment Contested*, 49.

³⁰Justin Steinberg, "Spinoza's Political Philosophy," *The Stanford Encyclopedia of Philosophy* (Winter 2013), <http://plato.stanford.edu/archives/win2013/entries/spinoza-political/>.

indefeasible natural right the master of his own thoughts, it follows that men thinking in diverse and contradictory fashions, cannot, without disastrous results, be compelled to speak only according to the dictates of the supreme power.”³¹ Since it is impossible to control someone’s thoughts, it is not within the right of the state even to attempt to control someone’s thoughts. Because the state cannot control one’s thoughts, it cannot control one’s abilities to express those thoughts or opinions. This expression could be speech or publication. Spinoza claims:

when setting up the state, . . . every individual surrenders . . . his or her natural right to act unrestrictedly, as he or she pleases—but not his or her right to reason, judge, and express opinions. . . . It follows that it remains everyone’s right to express whatever views one wishes, . . . provided such freedom is exercised without undermining the law.³²

As long as the opinions and the expression thereof did not interfere with the running of the state (i.e., prevent government officials from doing their necessary duties) or serve seditious purposes, such as inciting unwarranted rebellion (Spinoza thought that rebellion could be justified in many cases) the expression of those opinions must be allowed, even if they were quite controversial. Although what could be considered seditious varied, Spinoza erred on the side of a narrow definition of what speech could be limited.

For example, Spinoza argued that this freedom extended to virtually any form of expression, and to him the freedom to publish was of the utmost importance. Spinoza also alluded to this in his 1677 *Political Treatise*, which confirmed that toleration “is chiefly

³¹Baruch Spinoza, *A Theologico-Political Treatise*, Part 4, http://www.constitution.org/bs/theo_pol4.htm.

³²Israel, *Enlightenment Contested*, 158.

intended to ground individual freedom of opinion, as well as of speech and writing.”³³ Furthermore, as Jonathan Israel observes, “A key aim of [Spinoza’s] toleration theory, consequently, was to ground freedom to publish one’s views however much these are decried by theologians and by the majority.”³⁴ Some historians even go so far as to claim that Spinoza is the Enlightenment thinker who most broadly promoted freedom of the press, particularly due to his argument that “efforts to curb expression of opinion and freedom to write and publish . . . not only subvert the sphere of legitimate freedom but spell constant danger of instability for the state.”³⁵

One may notice that Spinoza rarely mentioned the freedom to worship. Spinoza’s view of toleration “is essentially philosophical, republican, and explicitly anti-theological.”³⁶ For Spinoza, the freedom of thought and freedom of the press were of the utmost importance. Freedom of belief and liberty of worship faded into the background and were only briefly mentioned.³⁷ This is one of the key differences between John Locke and Spinoza. Locke focused almost exclusively on the freedom to worship as one chose, largely within the Christian community only. He believed that the church should use reason to convince people of its rightness and that the church still had a significant place in society. Spinoza’s thoughts differ markedly from Locke’s in all three of these areas. First of all, Spinoza was only tangentially concerned with freedom of worship. Additionally, he did not care for the church and thought that freedom of worship served to “weaken ecclesiastical sway over the ‘multitude.’”³⁸ Further, Spinoza was much more

³³Ibid, 155.

³⁴Ibid, 160.

³⁵Ibid.

³⁶Israel, *Radical Enlightenment*, 265.

³⁷Israel, *Enlightenment Contested*, 155.

³⁸Ibid, 157.

likely to promote freedom for all religions, not just Christianity.

In regard to Locke's argument that the church should use reason to convince people of its rightness, as put forth in "A Letter Concerning Toleration," Spinoza vehemently disagreed, due to his separation thesis in his *Theologico-Political Treatise*. Spinoza argued that there is a complete separation between reason, the only basis for truth, and faith, which is fully conjecture and prophesizing with no grounds for validity. Yes, people have the right to believe what they like, and he was not even opposed to a state-sanctioned religion, as long as it discussed God in the most general sense, left most matters of faith to interpretation by the individual, and promoted solely charity and justice. Moreover, only state leaders should have the right to lead worship, because it should just promote obedience to the state. Giving religious leaders authority over large groups gave them too much power to control the masses on the basis of no substantial truths. Lastly, on a related note, while Locke thought that the church still had a significant place in society, Spinoza did not think that the traditional church was right for the success of society. The traditional church was simply brainwashing the masses with beliefs not backed by reason. Certainly people had the right to think as they wished and to share those thoughts with others, but religion should not be state-sanctioned. The church should not have occupied the privileged place in society that it did. Although Locke was certainly one of the best-known proponents of toleration, Spinoza was one who truly promoted freedom of speech and the circulation of ideas within society, making him one of the most radical thinkers of the Early Enlightenment.

It was not just Jews (even excommunicated Jews) who produced works on toleration. Rather, one could claim that "the Huguenots produced a body of toleration

theory such as had no precedent and no parallel in subsequent European history.”³⁹ The Huguenots were French Protestants, many of whom fled France. One such person was Pierre Bayle, who was born in 1647 and promoted toleration of divergent ideas and beliefs and believed in a separation between faith and reason. He was educated first by his father, a Calvinist minister, before attending an academy and finally, a Jesuit college. At that college, he dabbled in Catholicism before returning to Calvinism. In France, he worked as a tutor before serving as the chair of philosophy at the Protestant Academy of Sedan. This academy was eventually repressed by the French government, but shortly before, Bayle fled to the Dutch Republic, where he remained for the rest of his life. He served as the chair of philosophy and history at the Ecole Illustre in Rotterdam until he lost his position in 1693 due to controversy surrounding his works.

Bayle has often been lumped together with Spinoza, and anti-philosophes later labelled the two of them as “chief inspirers of the movement to undermine religion and the existing social order and as perpetrators of a universal *tolerantisme* anchored in philosophical determinism and materialism.”⁴⁰ Even after their deaths, many saw them as a threat to the existing social order due to their perceived influence on later philosophes of the Enlightenment. But what did Bayle say that linked him to Spinoza to such a degree? Certainly, Bayle tried to convince his readers that he was still a believer and rejected Spinoza’s philosophy, but many came to believe he was supporting Spinozism.⁴¹ This was because Bayle’s views on toleration shared some similarities with Spinoza, but Bayle did think that reason had some limits. For example, it was not and could not be the

³⁹Ibid, 145.

⁴⁰Jonathan Israel, *Democratic Enlightenment: Philosophy, Revolution, and Human Rights 1750-1790* (New York: Oxford University Press, 2011), 164.

⁴¹Ibid, 165.

basis for faith. Furthermore, Bayle's theory of toleration was "non-theological and universal," with the goal of "detach[ing] morality from faith."⁴²

Bayle first began his "attack on superstition, intolerance, bad philosophy, and bad history" in his work *Miscellaneous thoughts on the Comet*.⁴³ He promoted his theory of toleration in his *Historical and Critical Dictionary* and *Philosophical Commentary*. In these works, Bayle tried to persuade his reader that any church persecuting another is wrong, because one cannot reasonably verify religion; there is no way to ascertain which religion is the true religion, because adherents of any religion think that their religion is the true one. According to one source, Bayle frequently claimed "faith. . . is built on the ruins of reason."⁴⁴ Originally, the *Dictionary* was supposed to be a "critical dictionary that would contain a list of all the errors in other available dictionaries," but it became a work that "would offer factual accounts and criticism of errors with commentary, and philosophical discussions."⁴⁵ Bayle's method was to analyze a theory and point out the "logical consequences" that it entailed, which led to the theory dissolving into contradictions. Bayle's goal was to "show the hopeless abyss into which all human intellectual endeavors lead."⁴⁶ It was not possible to justify faith through reason; therefore, people who tried to force their religion on others because they believed their religion was "true" were in the wrong.

In his *Commentary*, Bayle argued that the Catholic persecution of Huguenots was wrong because everyone had the right to his personal belief.⁴⁷ He gave the example of the

⁴²Israel, *Enlightenment Contested*, 146.

⁴³Richard H. Popkin, *The History of Scepticism: From Savonarola to Bayle* (New York: Oxford University Press, 2003), 284.

⁴⁴*Ibid*, 292.

⁴⁵*Ibid*, 286.

⁴⁶*Ibid*, 289.

⁴⁷*Ibid* 297.

Wars of Religion. Israel notes, “by showing that religious persecution and efforts to impose religious uniformity by force wreak terrible havoc on life and property, he persuades the reader that the religious intolerance which justified the Wars of Religion is morally wrong and cannot therefore be advocated.”⁴⁸ Furthermore, “every individual should act according to his private conscience” and because of that, “no prince can justifiably coerce that individual conscience—except where political sedition flows directly from heterodox belief.”⁴⁹ People have the right to choose what to believe, even if that belief is wrong. The only authority that rulers have over a person’s belief comes when or if that belief causes sedition.

Does this right to believe as one likes extend to freedom of speech and of the press? One would think that Bayle would support freedom of the press since he suffered censorship for his work, but he did not go as far as Spinoza did in that regard, as he remained silent on the subject. Nevertheless, freedom to believe as one pleases is often tied to the freedom to share that belief. Bayle went farther than Locke, however, because his toleration extended to all views, “including those of Jews, Muslims, Socianians, Hindus, Spinozists, and any other view,” not just those of Christians.⁵⁰ Although Bayle claimed he was a Christian throughout his life, one cannot conclusively determine whether he was a Calvinist, deist, or atheist. Nevertheless, as Richard Popkin notes, he provided “the arsenal of the Enlightenment, the weapons and the ammunition that were to be fired at all of the opponents of the Age of Reason.”⁵¹ Even though Bayle was willing to attack any theory and was skeptical about what reason could accomplish, he was still a

⁴⁸Israel, *Enlightenment Contested*, 149.

⁴⁹Ibid, 153-4.

⁵⁰Popkin, *The History of Scepticism*, 297.

⁵¹Ibid, 301.

strong proponent of toleration and freedom.

Perhaps one could argue that Bayle was an intermediary between Locke and Spinoza—he went beyond Locke’s version of toleration, but he was not as radical as Spinoza. However, all three of these thinkers were more radical than most of their peers, and they helped set the stage for future thinkers of the Enlightenment, particularly thinkers like Voltaire and Montesquieu. Locke, Spinoza, and Bayle all promoted toleration of divergent ideas. Locke was the proponent of religious toleration who claimed that freedom of speech belonged to people in the state of nature and that the people did not give control of it to the government when they organized themselves into society. Although Locke’s toleration came with certain limits, he is one of the best known and most read seventeenth-century thinkers, which makes him worthy of a lengthy analysis. Spinoza, however, went much farther. His toleration had little to do with religion, as he believed reason was completely separate from faith. Additionally, as the government could not control people’s thoughts, it should not control the expression of thoughts, which made him one of the greatest Enlightenment or pre-Enlightenment proponents of freedom of press. Finally, Bayle bridged the gap between the two as someone who continually claimed his Christianity while questioning the rationality of faith. His religious toleration, unlike Locke’s, extended to all religions. This toleration of ideas and beliefs is what led to freedom of speech. What is the point of believing something if one is not able to share that belief, be it in speech or writing? Without these three thinkers and their varying views of toleration and freedom of speech, the later philosophers of the Enlightenment would not likely have been able to produce their works on freedom of speech.

Chapter Two: Enlightenment Thinkers

As previously demonstrated, the Enlightenment was not a spontaneous movement—many factors contributed to the buildup of this burst of reason and intellectual development; however, the central period of the Enlightenment occurred during the eighteenth century. This was a period of “fundamental transformation, challenging [of] accepted values, and revolution.”⁵² One of the challenges of this century was the debate over the “right” to freedom of speech, which was expanded over the course of the Enlightenment. Of course, the eighteenth century did not witness the birth of liberty, but it was “a time in which freedom of expression was first subject to relatively widespread public debate.”⁵³ This freedom of expression encompassed both freedom of speech and freedom of the press, as historians have concluded that the *philosophes* typically did not distinguish between the two and used similar arguments to defend both freedoms.⁵⁴ Many different *philosophes* contributed to the Enlightenment debate on freedom of expression and an analysis of all the different works available would be impossible in this chapter; however, a few key thinkers stood out as central to the debate. These thinkers all contributed a number of writings defending toleration and freedom of speech. They were both influenced by other thinkers and in turn influenced others. An

⁵²Israel, *Democratic Enlightenment*, 6.

⁵³Joris van Eijnatten, “In Praise of Moderate Enlightenment: A Taxonomy of Early Modern Arguments in Favor of Freedom of Expression,” in *Freedom of Speech: The History of an Idea*, ed. Elizabeth Powers (Lewisburg: Bucknell University Press, 2011), 40.

⁵⁴*Ibid.*, 20.

analysis of the works of Voltaire (born Francois-Marie Arouet), Charles de Secondat, Baron de Montesquieu, and Karl Friedrich Bahrtd offers considerable insight into the Enlightenment view of freedom of expression.

Voltaire and Montesquieu were both French, while Bahrtd was German. According to one historian, French policy at the end of the seventeenth century and during the eighteenth century was designed to “keep philosophy subordinate to theology.” Furthermore, the king “desired uniformity, order, and hierarchy, intellectual as well as political social, and ecclesiastical.”⁵⁵ This desire for control of the minds of the people led to strict censorship laws designed to prevent the publication of works that could damage the church or state. Although the nature of censorship in France, Germany, and elsewhere, shifted from primarily being directed by the church to censorship by the state of “politically undesirable texts, erotica, unorthodox fringe theology, and radical philosophy advocating Naturalism, fatalism, and Spinozism,” censorship was still prevalent.⁵⁶ Thus, even though the shift from ecclesiastical to secular censorship was seen as “liberalization,” it did not actually bring about greater freedom of thought, since the state became more efficient at censoring authors than the church had been.⁵⁷ Despite these censorship laws, many banned works were still published because “perceptions of what was ‘illicit’ were shifting,” and there was a “burgeoning market for illicit books” as people were more willing to flout conventional laws.⁵⁸ The book market, in France and elsewhere, was booming, so much so that it was referred to as “the age of print.” Between 1701 and 1775 in France, book production tripled; there were hundreds of newspaper

⁵⁵Israel, *Radical Enlightenment*, 40.

⁵⁶Ibid, 106.

⁵⁷Ibid, 104

⁵⁸Israel, *Democratic Enlightenment*, 136.

titles whereas before there had been only three; the number of pamphlets published “grew exponentially”; the number of people able to read doubled; and more and more people owned books.⁵⁹ So, despite the censorship laws, many *philosophes* were able to get their work published, though they had to be secretive and were still often punished for what they wrote. Therefore, it is not surprising that many called for a widening of toleration and freedom.

Many *philosophes* argued for greater toleration and freedom of expression, but these *philosophes* can be divided into two different “Enlightenment parties.” On one side, philosophes such as Voltaire and Montesquieu were part of the Moderate Enlightenment, whereas Bahrtdt argued in the vein of the Radical Enlightenment. In general, the moderates were in favor of keeping some restrictions on freedom of expression. They wanted changes in the current system of censorship and often favored toleration and freedom for elite thinkers only out of a fear that the masses were incapable of using reason. On the other hand, radicals wanted complete freedom of expression for everyone, allowing only the minimum restraints required to maintain order. As Jonathan Israel puts it, “[the] Radical Enlightenment unreservedly endorsed freedom of expression, thought, and the press, seeing this as what best aids discussion and investigation, through debate, law-making, and social amelioration” for every individual.⁶⁰ Essentially, radicals were in favor of a complete overhaul of the censorship system that existed at the time. Moderate and radical thinkers had vastly different ideas of what should be allowed and for whom, which meant that they often were not fond of each other’s ideas. Be that as it may, both

⁵⁹Helena Rosenblatt, “Rousseau, Constant, and the Emergence of the Modern Notion of Free Speech,” in *Freedom of Speech: The History of an Idea*, ed. Powers, 133.

⁶⁰Israel, *Democratic Enlightenment* 19-20.

groups were strongly opposed to censorship, and it is censorship that helped shape these two strains of thought, because “all across the continent, albeit with varying degrees of intensity, unacceptable views were suppressed and publishers, printers, and booksellers, as well as authors of books embodying illicit ideas punished.”⁶¹

Despite their differences, both moderates and radicals had a common foe, and they had to work within the system to make their arguments for toleration and freedom of expression. Some of those arguments include several appeals to religion as well as the promotion of commerce. For example, some arguments said that the “free circulation of ideas leads to the finding of (Protestant) truth and the refutation of (Roman Catholic) error.”⁶² If people were sure that what they believed is true, then they had nothing to fear from a free press, because debate would lead to “the public affirmation of truth.”⁶³ Other arguments claimed that censorship of the press could lead to cultural stagnation; freedom to read what one likes would lead to knowledgeable and disciplined subjects; books would still be published illegally and people might read something simply because it was forbidden; government control of the press could lead to expensive and bad books; a free press could prevent arbitrary government because it enabled the people to be informed; and giving people some freedom could prevent more extreme action, such as rioting and rebellion.⁶⁴ Of course, this is just a sampling of some of the types of arguments used by the *philosophes* of both the moderate and radical Enlightenment. It is certainly not an inclusive list, and when various thinkers used these arguments, they went into much greater detail to establish their points. Nevertheless, these arguments show how the

⁶¹Israel, *Radical Enlightenment*, 97.

⁶²Eijnatten, “In Praise of Moderate Enlightenment,” 23.

⁶³Ibid, 27

⁶⁴Ibid, 21-35.

philosophes tried to appeal to the rational side of their rulers by trying to convince them that there is a greater good that eclipses the desire to control expression. Voltaire, Montesquieu, and Bahrdt all used these types of arguments.

When one thinks of the Enlightenment, one of the first thinkers to come to mind for most people is none other than Voltaire. One historian claims that Voltaire is “much admired, or at least much invoked, as a haggard, quixotic knight of tolerance.”⁶⁵ Additionally, he was “widely acclaimed the foremost champion of toleration, liberty of thought, and ‘philosophy’” during his own time.⁶⁶ Today, one can argue that the French Enlightenment was the “Age of Voltaire,” but few who invoke his name as the “champion” of freedom of speech know much about his life or his works, an understanding of which is crucial to understanding Voltaire’s significance to the Enlightenment.⁶⁷ Born Francois-Marie Arouet in 1694 to a noble mother and a lawyer father, Voltaire was a prolific writer as well as a historian and a philosopher known for his wit as well as his attacks on the Catholic Church. During his lifetime, he wrote over twenty thousand letters and two thousand books and pamphlets, including novels, plays, poetry, and political works. He used these works to criticize intolerance, religious dogma, and institutions of both the church and state. As a young man, he was educated by Jesuits at the College Louis-le-Grand. His father wanted him to be a lawyer, but he was more interested in writing. Even as a child, Voltaire was already developing his position as a free thinker.⁶⁸ After leaving school, Voltaire began his career, but he had trouble with the

⁶⁵Peter Gay, “Editor’s Introduction,” in *Philosophical Dictionary*, Voltaire, ed. Peter Gay (New York: Basic Books Publishing Co., Inc., 1962), 8.

⁶⁶Israel, *Enlightenment Contested*, 782.

⁶⁷Rosenblatt, “Rousseau, Constant, and the Emergence of the Modern Notion of Free Speech,” 135.

⁶⁸J. M. Robertson, *A Short History of Freethought: Ancient and Modern* (New York: Russell and Russell Inc., 1957), 337.

authorities for his critiques of the government and religious intolerance and was imprisoned and exiled multiple times during his life. It was while in prison as a young man that he changed his name, turning his back on his father's goals for his son and his religious schooling.

Voltaire primarily championed religious toleration and freedom of thought, much like his idol John Locke, placing him squarely within the bounds of the Moderate Enlightenment. For Voltaire, the "revolution of the mind," that introduction of reason, "must be introduced gently and gradually lest the latent religious bigotry, hostility to toleration and Protestantism, scholasticism of the universities, and anxieties of the court be aroused against his great project for reforming France."⁶⁹ Voltaire took issue with the radicals in that their strategy "of attacking kings as well as priests, was neither desirable or feasible and must have disastrous consequences, not least for the *philosophes* themselves," aptly seen in Louis XV's "actively opposing" the *philosophes* and their works.⁷⁰ Voltaire was walking a thin line. He supported the monarchy, but he still wanted an increase in freedom and toleration and believed that progress and the dissemination of information were being spread and accelerated because of printing and the increasing availability of books.⁷¹ On the other hand, he did not want to anger those who could put a stop to the philosophes publishing and distributing their works. Therefore, he thought that the radicals who angered the officials were doing a disservice to their contemporaries by making it harder for everyone to publish. He was in favor of moderation because it enabled the great writers to continue spreading their ideas and pushing for gradual

⁶⁹Israel, *Enlightenment Contested*, 754.

⁷⁰Jonathan Israel, "Libertas Philosophandi in the Eighteenth Century: Radical Enlightenment versus Moderate Enlightenment (1750-1776)," in *Freedom of Speech*, ed. Powers, 8.

⁷¹Israel, *Democratic Enlightenment*, 27.

change, but he still supported his more radical counterparts. For example, he was outraged over the French government's response to and crackdown on the *Encyclopedie* produced by the radical Diderot, and he was enthusiastic when Denmark-Norway became the first state to remove all censorship.⁷²

Voltaire was not only discussing works by others but was also writing prolifically himself. Not everything he wrote was on toleration, government, or religion, but these were frequent topics, even in his personal correspondence. For example, in a 1765 letter to Helvetius, he claimed that "however unrelenting the strife, freedom of thought and toleration would emerge victorious and be proclaimed indispensable to mankind."⁷³ Even his poetry exhibited evidence of his views on toleration: his epic poem *Henriade* made King Henry IV into a hero for the Edict of Nantes which attempted to establish religious tolerance. Nevertheless, three of his works stand out above the rest. These include his *Philosophical Letters* or *Letters Concerning the English Nation*, the *Treatise on Tolerance*, and the *Philosophical Dictionary*. All of these works demonstrate Voltaire's commitment to tolerance and expanding freedom.

The *Philosophical Letters* were published in French in 1734 and were quickly banned and burned as they were seen as an attack on the French government. In these letters, Voltaire examined the English nation from his view as an outsider. This work is based on his experience living in England while out of favor in France, and Voltaire was also a professed anglophile and Lockean (Voltaire even devotes a full letter to Locke and his ideas). According to Israel, Voltaire's time in England "exerted a lasting influence on

⁷²Ibid, 125.

⁷³Israel, "Libertas Philosophandi," in *Freedom of Speech*, ed. Powers, 11.

⁷³Israel, *Democratic Enlightenment*, 115.

his views about God, toleration, philosophy, and science” and “set in motion a process of philosophical maturing and development.”⁷⁴ Voltaire was such a fan of England because that country was “flourishing amid toleration, Latitudinarianism, and freedom of the press, and dominated by Lockean-Newtonian ideas, while the latter [France] languished under censorship, relative intolerance, and reverence for outdated authorities and old quarrels,” a view which comes across when one reads the letters.⁷⁵

Voltaire starts his *Philosophical Letters* by writing about the Quakers. Although he used this work to make fun of the Quaker religion and was not interested in adapting their religious practices, a few things that he mentioned were quite remarkable. When he visited the Quaker meeting house for a service, Voltaire observed that everyone was allowed to talk, even though their “talking” was sometimes babbling. When asked why they sat through anyone saying virtually anything, a Quaker responded, “We are obliged . . . to suffer it, because no one knows when a man rises up to hold forth whether he will be moved by the Spirit or by folly. In this doubt and uncertainty we listen patiently to everyone; we even allow our women to hold forth.”⁷⁶ Furthermore, God “leaves thy affections at full liberty. . . . After this thou needest only but open thine eyes to that light which enlightens all mankind, and it is then thou will perceive the truth and make others perceive it.”⁷⁷ Although Voltaire thought the Quakers were a strange group, he admired their willingness to allow anyone to speak. This freedom to speak should be something emulated by governments. One cannot know the merit of a work before it is written and distributed; thus the author must be allowed to present it. The next point can be tied back

⁷⁴Israel, *Enlightenment Contested*, 751.

⁷⁵Ibid, 756.

⁷⁶Voltaire, *Letters on England*, ed. Henry Morley, (Project Gutenberg Ebook, 2005), 5.

⁷⁷Ibid, 6.

to one of the common arguments previously mentioned. God gave men the power to reason and think, so people must be allowed to use these faculties. Once people use their reason, the nature of the debate will lead to the truth being made known. This was not the most radical argument, but in a time of censorship, subtlety was needed. Furthermore, “true greatness consists in having received from heaven a mighty genius, and in having employed it to enlighten our own mind and that of others.”⁷⁸ Again, reason comes from God, so people should be allowed to use it. When they use it, the truth will be made known to all.

Another key theme in Voltaire’s letters is the praise of English freedom. First, he claimed that liberty was natural to the English and that all sects were welcome to settle in England.⁷⁹ This plurality of religions prevented one religion from becoming dominant over the others, and mutual toleration was the order of the day. This kept religious leaders from becoming “head of a party” because of their puffed up religious ambitions. It is those religious leaders who were responsible for disturbing the peace; *philosophes*, on the other hand, will never form a sect or “disturb the peace and tranquility of the world.”⁸⁰ Therefore, toleration kept society from becoming unstable. England’s liberty and the peace that liberty brought was the result of the English Civil War, an incident that would not be repeated because now the “prince is all-powerful to do good, and, at the same time, is restrained from committing evil.”⁸¹ The English learned from their struggles; they “waded through seas of blood to drown the idol of arbitrary power.”⁸²

⁷⁸Ibid, 23.

⁷⁹Ibid, 11, 13.

⁸⁰Ibid, 29.

⁸¹Ibid, 15.

⁸²Ibid, 16.

All of this was extremely complimentary of the English, but France had not had the same experiences. French officials ordered that this work be burned because they found it insulting. Voltaire, however, was not praising the English without reason, even if his praise was overly complimentary. England was leading the way in providing freedom to its people and creating an “Enlightened” state. One of the results of this state was that “every man has the liberty of publishing his thoughts with regard to public affairs, which shows that all the people in general are indispensably obliged to cultivate their understandings,” meaning that the freedom of the press enjoyed in England led to a more educated, reasonable public.⁸³ In his praise of England, Voltaire made some clear arguments in favor of wider freedom of expression in France.

Voltaire’s *Treatise on Tolerance* focused less on freedom of speech and more on toleration, particularly religious toleration, which is nevertheless linked to freedom of speech. This work was published in 1763 and called for religious tolerance while condemning religious fanaticism. Voltaire started this work with the story of Jean Calas. Calas was a Huguenot living in Toulouse in France. Protestantism, however, was officially illegal in France. Calas’ son hanged himself due to a series of unfortunate events outside of his father’s control. When the son was discovered, however, a rumor spread that claimed Calas had killed his son (with the help of a few others) because he was going to convert to Catholicism. The son was turned into a Catholic martyr, and the father was put to death by the state. Voltaire’s *Treatise on Tolerance* defended Calas, and eventually helped get the conviction overturned; however, Voltaire’s ultimate goal in this work was to condemn religious fanaticism. As this particular situation played out, he was

⁸³Ibid, 51.

able to condemn the superstitions of the Catholics as well as the harsh punishment that was imposed notwithstanding the lack of evidence. If Calas actually had killed his son for converting to Catholicism, Voltaire would have condemned Protestant intolerance; in either case, his arguments would have been similar. According to Voltaire, “Toleration, in fine, never led to civil war; intolerance has covered the earth with carnage;” furthermore, he gave the example of Carolina, where “liberty gave rise to no disorder.”⁸⁴

Another argument Voltaire put forward in this work was the common claim that giving some freedoms prevents more extreme actions by the public. He said, “it seems to me an illogical piece of reasoning to say: ‘These men rebelled when I treated them ill, therefore they will rebel when I treat them well’”; he then invited high-ranking government officials “to reflect carefully whether one really has ground to fear that kindness will lead to the same revolts as cruelty.”⁸⁵ For Voltaire, common sense seemed to dictate that being tolerant of people with differing views would deter them from retaliating against the state in the future. Voltaire added, “do I propose, then, that every citizen shall be free to follow his own reason, and believe whatever this enlightened or deluded reason shall dictate to him? Certainly, provided he does not disturb the public order.”⁸⁶ The “enlightened or deluded” seems similar to the Quaker of Voltaire’s *Letters*. One cannot know whether the person is enlightened or simply foolish, but the person must be allowed to speak. Furthermore, Voltaire believed that everyone should be allowed to follow his own reason, as long as he did not disturb the public order. If reason led someone to speak or write on some subject, that person should be allowed to do so

⁸⁴Voltaire, *Toleration and Other Essays*, trans. Joseph McCabe (New York: G.P. Putnam’s Sons, 1912), 25, http://lf-oll.s3.amazonaws.com/titles/349/0029_Bk.pdf.

⁸⁵Ibid, 19.

⁸⁶Ibid, 54.

without fear of censorship. Even though primarily a work on tolerance, this treatise also defended freedom of speech.

The work that was the culmination of all of Voltaire's learning and writing was his *Philosophical Dictionary*, published first in 1764 and revised in following years. He used this work to criticize various institutions, and he employed much of the irony and wit that he was known for. The idea for the *Philosophical Dictionary* first arose in the early 1750s and was encouraged by Frederick II, who was a fan of Voltaire, at least at the time; however, Voltaire put the work on hold due to his circumstances at the time. The *Philosophical Dictionary* was in a sense a small, one-man version of Diderot's *Encyclopedie*, containing articles on multiple different subjects, including atheism, Christianity, equality, liberty of thought, laws, tyranny, toleration, and torture. These were subjects that Voltaire had often written on before, and he in fact incorporated some of his previous ideas into this masterful work.

Two of the articles in the *Philosophical Dictionary* stand out as representing the standard of Voltaire's views on toleration and freedom of speech. These two articles are "Toleration" and "Freedom of Thought." Voltaire started off the former by claiming that toleration is "the endowment of humanity."⁸⁷ It is something that is necessary to human life and that "every individual who persecutes a man, his brother, because he is not of his opinion, is a monster"; furthermore, "dissension" or discord "is the great evil of mankind, and toleration is its only remedy."⁸⁸ According to Voltaire "we should all mutually tolerate each other, because we are all weak, inconsistent, a prey to change and error."⁸⁹

⁸⁷Voltaire, "Toleration," in *Philosophical Dictionary*, trans. Peter Gay (New York: Basic Books Publishing Co., Inc., 1962), 482.

⁸⁸Ibid, 487.

⁸⁹Ibid, 489.

These are all arguments that readers of Voltaire were familiar with, because he had already used them. All men are subject to error, so one cannot know for sure that he is right. Thus, men should tolerate one another instead of fighting over their differing opinions, because every man has equal chance of being correct.

The article on “Freedom of Thought” starts off as a dialogue between an English officer and a Dominican. Voltaire used these characters to make the argument that freedom of thought had allowed Christianity to become a religion. Boldmind, the English officer, stated that “if Tiberius and the first emperors had been Jacobins who would have prevented the first Christians from having pen and ink; if these had not been permitted to think freely in the Roman Empire for a long time, it would have been impossible for the Christians to establish their doctrines.”⁹⁰ Since Christianity was able to grow and spread only because the Romans allowed freedom of speech, Voltaire argued that it would stand to reason that Christians should allow freedom of thought when they are in positions of power. Voltaire also added that “the tyrants of the mind have caused the misfortunes of the world,” and Boldmind claimed that “we have been happy in England only since everyone has freely enjoyed the right of speaking his mind.”⁹¹ Intolerance and prohibition of speech caused only unhappiness, and the true “Christian” thing to do was to allow freedom of speech, because that was what led to the spread of the religion in the first place.

Voltaire was and still is one of the best-known thinkers of the French Enlightenment, particularly when one thinks about toleration and freedom of expression, but he was certainly not the only thinker of the French Enlightenment to write about these

⁹⁰Voltaire, “Freedom of Thought,” in *Philosophical Dictionary*, trans. Gay, 355.

⁹¹Ibid, 356.

subjects. Another member of the moderate French Enlightenment to do so was Charles de Secondat, Baron de Montesquieu. Voltaire and Montesquieu, among others, argued that the state needed to promote toleration and make society better. Additionally, they thought that “British mixed monarchy, toleration, science, philosophical empiricism, and even English law were. . . the best available example and package of values transforming society for the better.”⁹² Montesquieu shared some of Voltaire’s love of the English, but the two did not always agree. They were “simultaneously ‘allies and enemies,’ eyeing each other, as has been aptly observed, with a distrust verging on outright animosity.”⁹³ They had to respect, even praise, each other in public, because they had similar ideas, but having ideas in common did not necessarily lead to friendship between Voltaire and Montesquieu.

Montesquieu was born in 1689 and was a lawyer, man of letters, and political philosopher. His father was a soldier with a noble ancestry. After the death of Montesquieu’s mother, he was sent to the Catholic College of Juilly, receiving a standard religious education. He eventually withdrew from practicing law to study and write. Montesquieu is probably best known for his doctrine of separation of powers, which stated that government should have separate branches with distinct functions to prevent any one part from becoming too powerful; however, he also wrote on toleration and freedom of expression and was regarded as a champion of liberty. His two most important works displaying his views are the *Persian Letters* and the *Spirit of the Laws*.

Written in 1721, *The Persian Letters* described the experiences of a group of fictitious Persians during their first trip to Europe. It offered an outsider’s perspective on

⁹²Israel, *Democratic Enlightenment*, 12.

⁹³Israel, *Enlightenment Contested*, 783.

French society and culture, much as Voltaire offered his outside opinion on the English through his *Letters*. The two differ significantly, though, as Voltaire praised the English and only implicitly criticized France whereas Montesquieu used the *Persian Letters* to offer an outright critique of French religion and society. The *Persian Letters* used these outside views to attack “errors and vices that will last as long as humanity.”⁹⁴ The use of letters was essential to this, because with letters, “the author has had the advantage of being able to introduce philosophy, politics, and ethics into a romance.”⁹⁵ Montesquieu was able to write a story that was interesting enough to the general public while also weaving threads of his political views into the work.

In the first letter of the work, Usbek, one of the Persians, claimed that he had “renounced the pleasures of a quiet life in order to toil painfully in search of wisdom.”⁹⁶ This seems to be a view that many *philosophes* would have agreed with: knowledge, and the search for knowledge, is painful. Various *philosophes* were thrown in prison or punished in other ways for sharing their knowledge. Nevertheless, spreading these views was worth the punishment and the loss of that quiet life. In a letter Usbek received from one of his wives, however, it appears that the Europeans were not quite as enlightened as they would like to be; to outsiders, the Europeans were the barbarians.⁹⁷ The Persians had several other less-than-flattering things to say about the French, but a few stand out in particular. For example, one of the eunuchs left in Persia to maintain order in Usbek’s

⁹⁴“Introduction” in *The Persian Letters: With Introduction and Notes*, (London: Athenian Publishing Company, 1901), xix, <http://0-babel.hathitrust.org.umiss.lib.olemiss.edu/cgi/pt?id=uva.x000527745;view=1up;seq=12>.

⁹⁵Ibid, 2.

⁹⁶Charles de Secondat, Baron de Montesquieu, *The Persian Letters: With Introduction and Notes*, (London: Athenian Publishing Company, 1901), <http://0-babel.hathitrust.org.umiss.lib.olemiss.edu/cgi/pt?id=uva.x000527745;view=1up;seq=12>.

⁹⁷Ibid, 10.

harem worried about his comrade accompanying their master. These men were not Christians; they believed their own religion, Islam, was the only true one. Because they were wandering “through lands inhabited by Christians,” it would be “impossible for you [the eunuch] to entirely avoid pollution.”⁹⁸ They were just as convinced in the truth of their religion as Christians were in theirs, and their view of Christianity was similar to the Christians’ view of other religions. Usbek even employed one of the common arguments in favor of freedom of speech in a letter to his cousin. He knew the Christians did not believe as he did, and he thought they were wrong. He did, however, see similarities between Christian and Muslim teachings and rituals and did not think harm would come from allowing the practice of this different religion. He went on to write that “truth will triumph, and always pierce the darkness that surrounds it. Time, which consumes all things, will annihilate even error.”⁹⁹ Freedom of speech and freedom of the press would help in the discovery of the truth. Furthermore, Rica, one of the other travelers, called the French king a “great magician” because “even the minds of his subjects are subject to his dominion; he makes them think what he wishes.”¹⁰⁰ The lack of freedom of thought was so widespread that an outsider noticed and remarked upon it. France truly did not allow its subjects freedom of thought, something that Montesquieu wanted to change.

The *Spirit of the Laws* was and still is probably one of the best-known of Enlightenment works, and it was especially important to the founding fathers of the United States, as will be discussed later. When outlining his doctrine of the separation of powers, Montesquieu also discussed how arbitrary power harmed liberty of the people.

⁹⁸Ibid, 33.

⁹⁹Ibid, 65.

¹⁰⁰Ibid, 46.

According to Montesquieu, “there would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.”¹⁰¹ Montesquieu thought that control of these three different powers by one individual or by one particular group resulted in arbitrary power, which, he believed, was a threat to liberty. Arbitrary power causes apprehensions between individuals, and liberty can be defined as “a tranquility of mind arising from the opinion each person has of his safety.”¹⁰² This arbitrary power could lead to unjust laws, including the prohibition of speech.

Montesquieu went on to give more specifics about freedom of expression. First, he claimed that “laws do not take upon them to punish any other than overt acts.”¹⁰³ Thus, controlling the thoughts of individuals was unacceptable. When it came to expressing those thoughts in speech, Montesquieu declared: “Speech is so subject to interpretation; there is so great a difference between indiscretion and malice; and frequently so little is there of the latter in the freedom of expression, that the law can hardly subject people to a capital punishment for words unless it expressly declares what words they are.”¹⁰⁴ According to Montesquieu, unless the individual makes it explicitly clear what he meant, others are not capable of condemning him for his words. Furthermore, Montesquieu stated that words were still just an idea, the meaning of which was often conveyed in tone, making it even harder to determine the true meaning of what

¹⁰¹Charles De Secondat, Baron de Montesquieu, *The Spirit of Laws* Book 11, translated by Thomas Nugent (London: G. Bell & Sons, Ltd., 1914), http://www.constitution.org/cm/sol_11.htm.

¹⁰²Ibid.

¹⁰³Montesquieu, *The Spirit of Laws* Book 12, http://www.constitution.org/cm/sol_12.htm#011.

¹⁰⁴Ibid.

was said. Finally, he discussed writings. He simply stated that “in writings there is something more permanent than in [spoken] words, but when they are in no way preparative to high treason they cannot amount to that charge.”¹⁰⁵ Although he believed freedom of speech should be limited, he was still supportive of freedom of speech as long as it did not promote treason. Regardless, he thought that it was unwise to punish people for their speech, because it was easy too misconstrue what one meant. Montesquieu was one of the preeminent defenders of freedom of speech in the French Enlightenment.

Although France was certainly central to the Enlightenment, the Enlightenment had many thinkers and followers across Europe, and it was not just limited to moderate thinkers. One radical thinker was the German born Karl Friedrich Bahrdt. He is an important thinker to consider because he offered a radical, non-French perspective and showed how the Enlightenment progressed in other countries, He also spent time in what some might call the freest state in Europe at the time—Prussia under Frederick the Great. He experienced, however, varying degrees of censorship under Frederick the Great and Frederick William II and was thus able to comment on government censorship. He was born in 1741 to a father who was a professor and a preacher. He followed in his father’s footsteps by studying theology beginning at sixteen. He then worked as a preacher and professor, but as he aged, he gradually drifted towards natural religion, eventually abandoning Protestantism and organized religion in general. This, as well as several other scandals, caused him to lose several teaching positions. He was forced to earn a living by writing and even by being an innkeeper. Nevertheless, he was the “pre-eminent figure of German radical thought.”¹⁰⁶ In fact, Bahrdt was following in Spinoza’s footsteps with his

¹⁰⁵Ibid.

¹⁰⁶Israel, *Democratic Enlightenment*, 310.

radical views on toleration and freedom.¹⁰⁷ The two works that best express Bahrdr's views on freedom of speech were "On Freedom of the Press" and *The Edict of Religion*.

In "On Freedom of the Press," published in 1787, Bahrdr offered several different arguments as to why the government should allow freedom of speech and press.

Interestingly enough, even though Bahrdr had abandoned Christianity, he still based many of his arguments on God in order to convince his audience. He began by stating that Enlightenment requires an individual to think for himself. Furthermore, "freedom to think and to judge independently from authority, independently from the pronouncements of the priests, monks, popes, church councils, the Church—this is the holiest, most important, most inviolable right of man."¹⁰⁸ Freedom to think is a fundamental right, but does freedom to think necessitate the freedom to speak? According to Bahrdr, it does: "The freedom to share one's insights and judgments verbally or in writing is, just like the freedom to think, a holy and inviolable right of man that, as a universal right of man, is above all the rights of princes." For Bahrdr, regardless of who the prince was, people's freedom to speak their thoughts was of primary importance, and because God gave men the power to reason and speak, no man, not even a prince, could take that away.¹⁰⁹ These arguments, among others, defended freedom of speech and the press. Bahrdr concluded by stating that "everything that does not harm the state must be able to be freely spoken and written," even if the content seemed ridiculous or contrary to most reason.¹¹⁰

Another work in which Bahrdr put forth his views on toleration and freedom of

¹⁰⁷Ibid, 12-3.

¹⁰⁸Karl Friedrich Bahrdr, "On Freedom of the Press and Its Limits: For Consideration by Rulers, Censors, and Writers," in *Early French and German Defenses of Freedom of the Press*, ed. John Christian Laursen, Elie Luzac, and Johan Van Der Zande (Leiden: Brill Publishing, 2003), 99.

¹⁰⁹Ibid, 100-1.

¹¹⁰ Ibid, 107

expression is *The Edict of Religion*. Bahrdt had moved to Prussia to escape persecution for his views. Although Frederick II had expanded freedom in Prussia, Frederick William II wanted to “turn back the clock” and re-institute much of the censorship with an edict on religion. Bahrdt’s work was actually a comedic play satirizing Frederick William. Bahrdt was imprisoned for this work, but he was released as the government did not want him to die in prison and become a martyr. In this work, a preacher was working on what would become Prussia’s new edict on religion. The preacher, however, was incredibly corrupt, as was everyone who supported the work. The people with common sense in this play became disgusted with what was happening. This work was essentially a satire on the corrupt intolerance of both the church and the Prussian government. For example, the preacher, when deciding what to write, thought that the edict “should curb the new enlighteners, and yet it should also be written so that it keeps up an appearance of tolerance,” because “reason is the most harmful thing in the world. And if it rages on as it has until now, we preachers will lose every bit of credibility.”¹¹¹ For the preacher, everything was about keeping his own power, but one of the few individuals with common sense viewed the pastor as nothing but “a drunken pig.”¹¹² Conservative Christians were worried because they thought that Frederick II had given “free rein to atheism since he let freethinkers say and write whatever they wanted,” forgetting, of course, that he had not hampered Christianity in any significant way.¹¹³ The arguments put forth in *The Edict of Religion* were designed to make the Christians and the government, which were responsible for taking away the freedom to think and write,

¹¹¹Karl Friedrich Bahrdt, *The Edict of Religion, A Comedy and The Story and Diary of my Imprisonment*, ed. John Christian Laursen and Johan van der Zande (New York: Lexington Books, 2000), 22.

¹¹²Ibid, 25.

¹¹³Ibid, 26-7.

appear backwards, cruel, and intolerant.

The Enlightenment was a long period of burgeoning thought and writing. Numerous thinkers contributed a wide variety of works in this period, and it would be impossible to catalog them all. Voltaire, Montesquieu, and Bahrdr were all well known, but they were not the sole thinkers who contributed to the literature on toleration and freedom of the press. They were in contact with their contemporaries and read many of the same earlier works. Additionally, regardless of whether thinkers were part of the moderate or radical Enlightenment or were French, German, or some other nationality, they all had to work within the existing framework of censorship so that they had to present semi-veiled arguments to pass muster with government and church officials. Therefore, many arguments stayed within the frame of the moderate Enlightenment by pushing for toleration or by tying arguments for freedom of expression to the spread of Christianity. Regardless of how the arguments were presented, these philosophes certainly made some enemies, but if it were not for them, the freedoms that so many in the developed world enjoy would not be allowed. These philosophes made the world think and even contributed to radical and revolutionary ideas that changed the world.

Chapter Three: Enlightenment Influence on the Ideas of Eighteenth-Century Revolutions

“The Enlightenment, both moderate and radical together, constituted a great revolution in the history of mankind. It was a revolution on many levels and in all spheres of human activity which then, in turn, was very closely linked to the revolutionary wave that transformed both sides of the Atlantic politically.”¹¹⁴ The Enlightenment changed many modes of thinking, including thinking about toleration, religious freedom, and freedom of speech and press. The ideas put forth by Enlightenment thinkers (and the precursors to the Enlightenment) had broad impact on two of the most widely known and discussed events in history: the American and French Revolutions. An argument can be made that the Enlightenment led to these two events; for example, Spinoza, one of the precursors to the Enlightenment, thought that the state was supposed to protect individuals’ freedom, and if it failed, revolution was acceptable. In fact, revolution was “sometimes inevitable, sometimes to be recommended, and, in itself, beyond blame.” The aim here, however, is simply to show how the leaders of the American and French Revolutions appropriated ideas concerning freedom and toleration and applied them to their Revolutions, both as justification for revolution and as goals for the new system they were attempting to create.¹¹⁵

Before one can delve into the ideas that influenced and were promoted by the

¹¹⁴Israel, *Democratic Enlightenment*, 950.

¹¹⁵Israel, *Radical Enlightenment*, 76.

leaders of these two revolutions, one needs to understand a bit about the background and context of these two events. The American Revolution was a period of political upheaval and a rejection of British monarchy and authority. The war itself ran from 1775 until 1783 when the two sides signed the Treaty of Paris, but the Revolution started building in the 1760s with the British passing various acts that the colonists thought violated their rights. The fighting started with the “shot heard ‘round the world” at Lexington and Concord on April 19, 1775. Fighting escalated and the Declaration of Independence was issued on July 4, 1776. The colonies declared themselves free from British rule, and they set about establishing their own national government, as outlined by the Articles of the Confederation in March of 1781. Although fighting ended in 1783, the Revolution was not over. The Articles of the Confederation proved insufficient for the new country, and the Constitution was signed by the delegates to the Constitutional Convention in 1787 and was ratified by the States in 1788; it was shortly followed by the Bill of Rights, which was ratified in 1791. The Constitution and the Bill of Rights still serve as the foundations for the government of the United States, and they continue to balance the power of the national government with both the power of the states and individual liberties.

The French Revolution had a much more complicated backstory. The starting point of the French Revolution is generally understood to be the calling of the Estates General in 1789, but many factors led to this, including the financial crisis that France found itself in due to the massive debt it had accrued in the wars of the late seventeenth and eighteenth century. Louis XVI wanted to reform the financial system, but he could not garner enough public support and was forced to call the Estates General, which

convened in 1789. The deputies of the third estate (representing all non-clergy and non-noble Frenchmen), however, were unhappy with their status at the Estates General, and they declared themselves the National Assembly with the authority to make a constitution for France. There are several key dates to remember in regard to the French Revolution. The first example of mass political participation in France occurred on July 14, 1789 when the crowds in Paris stormed the Bastille. On August 26, 1789, the National Assembly issued the Declaration of the Rights of Man and Citizen which borrowed language from the American Declaration of Independence and set the stage for later revolutionary acts. In September 1791, the first constitution of the revolutionary period was approved by the King, but in August of 1792, he was arrested and imprisoned. In September of 1792, the National Convention took the stage and voted to abolish the monarchy. Louis XVI was executed in early 1793, and France had its second constitution in June of that year. It was followed by the infamous Terror from September of 1793 until July of 1794. Finally, 1795 saw the winding down of the main phases of the Revolution in Europe and France's third constitution of the period. Some consider 1795 as the end of the radical French Revolution, with the following years simply wrapping up the Revolution, but arguments can be made that it lasted until Napoleon's takeover in 1799 or even until the end of his rule in 1815.

For clarity, one can consider this period in France as having several distinct phases. The first was the prerevolutionary crisis that lasted from January 1, 1787 until May 5, 1789, the meeting of the Estates General. The next phase was the Liberal Revolution, which lasted from May 5, 1789 until August 10, 1792. The Radical Revolution started on August 10, 1792 when the king was forced to seek refuge in the

Legislative Assembly, which ultimately led to the election of the National Convention and the end of the monarchy. This phase lasted until the Convention voted to arrest Robespierre on July 27, 1794. The fourth phase could be called the Thermidorian and Directory Period, which lasted until November 9, 1799, when the Directory was overthrown by Napoleon. Finally, the last period was the Napoleonic Period, ending on June 18, 1815, when the French were defeated at Waterloo.¹¹⁶

With an understanding of the events of the American and French Revolutions, one can begin to look at how the Enlightenment influenced these two major events and how the ideas produced by these revolutions borrowed from the ideas of the Enlightenment. Although it is a generally accepted fact that the Enlightenment had a major impact on the American Revolution, it is still important to look at how it did so in order to understand the chain of events of the American Revolution and the ideas that came out of it. The American Revolution was the result of many social tensions, political tensions, and intellectual changes. These intellectual changes were spurred by the Enlightenment, and without them, the American Revolution would not have been possible.

Since America had been a British colony, the leaders of the American Revolution were quite familiar with English history (including events such as the Glorious Revolution, where the people had some say in selecting their monarch) and English thinkers, John Locke in particular. In fact, one historian went so far as to claim that “Lockeanism may be the dominant strand of thought in the Declaration of Independence and Constitution,” which were both part and parcel of the American Revolution.¹¹⁷ Prior

¹¹⁶Jeremy D. Popkin, *A Short History of the French Revolution* (Boston: Prentice Hall, 2010), 152-6.

¹¹⁷George Thomas, “John Locke’s America,” *Society* 50, no. 5 (October 2013): 464, SPORTDiscus with Full Text, EBSCOhost.

to the war, when the tensions with the British were building, many thinkers, both in the colonies and in England, were contemplating the likelihood and justifiability of war. For example, one British supporter of revolution thought that “government is just an agency for executing the will of the people in the interest of the majority” and that “Britain sought to tyrannize over the American colonies.”¹¹⁸ So, if the colonists were not happy with their government, they should be able to change to a government that was responsive to their will, much as Spinoza suggested. John Adams, one of the founders, sought to justify, even encourage, a revolution. He was an “American pro-Revolution conservative” who used Locke to shape his “doctrine of justified resistance” against what he believed was an unlawful tyranny of the British.¹¹⁹ Thomas Jefferson, framer of “The Declaration of Independence,” was also opposed to what he called the “many unwarrantable encroachments and usurpations, attempted to be made by the legislature of one part of the empire, upon those rights which God and the laws have given equally and independently to all.”¹²⁰ Even before the war, the notable thinkers of America were already concerned with protecting their rights, the rights to which the Enlightenment had told them they were entitled. Just a few short years after that statement, Jefferson rephrased some of Locke’s words from *Two Treatises of Government* in the opening statements of “The Declaration of Independence”: “we hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of

¹¹⁸Israel, *Democratic Enlightenment*, 447-8.

¹¹⁹Ibid, 448-9.

¹²⁰Ibid.

Happiness.”¹²¹

Liberty and rights were two of the optimal terms in frequent use in this period. After the Articles of the Confederation proved to be inadequate and the new Constitution was proposed, arguments both for and against the constitution used these words to defend their positions. One common argument was that too much blood was shed and too much effort was put into the war to let the rights that were fought for be lost; thus, Americans needed something stronger to protect those rights. For example, one anonymous writer claimed that “American blood and treasure have been lavished [for liberty].”¹²² Another writer similarly claimed that a new constitution was needed because “Americans will not consent that the fair fabric of Liberty, which they have established with their blood, shall be endangered.”¹²³ Americans were proud of the rights that they had fought hard for and believed that “by the revolution [they] have regained all their natural rights, and possess their liberty neither by grant nor contract.”¹²⁴ The Enlightenment endowed the residents of the new country with the belief that their rights were important and inalienable and that they should not be taken away. Freedom of expression was one such right, and the framers of the United States Constitution agreed on the importance of these rights concerning expression.

The framers got some of their ideas about freedom of expression from reading many Enlightenment writers. They also incorporated many Enlightened ideas in the Constitution. In fact, if the Enlightenment had not promoted new ways of thinking and

¹²¹“The Declaration of Independence,” in *The Debate on the Constitution: Part One*, ed. Bernard Bailyn (New York: Literary Classics of the United States, Inc., 1993), 949.

¹²²“The Republican to the People,” in *Debate on the Constitution: Part One*, ed. Bailyn, 710.

¹²³“A Revolution Effected by Good Sense and Deliberation,” in *Debate on the Constitution: Part One*, ed. Bailyn, 13.

¹²⁴James Wilson, “James Wilson and John Smilie Debate the Need for a Bill of Rights,” in *Debate on the Constitution: Part One*, ed. Bailyn, 808.

greater toleration of new ideas, the Constitution and the new American government would not have taken the shape that they did.¹²⁵ One could go so far as to say that the American Constitution is “the greatest monument of the Moderate Enlightenment in any country,” particularly due to the frequency with which the founding fathers invoked thinkers such as Locke and Montesquieu.¹²⁶ Within the body of the Constitution itself, there was not much that directly addresses rights, but the preamble stated that one of the goals of the Constitution was to “secure the Blessings of Liberty to ourselves and our Posterity.”¹²⁷ Furthermore, the first three articles divide the government into three branches—the legislative, executive, and judicial—following the outline Montesquieu proposed in *The Spirit of Laws*. This separation of powers prevented arbitrary power, which was a threat to liberty, because if one person or group was able to make, execute, and judge the laws, no law would ever be overturned or ruled unconstitutional. This person or group in power would be able to run the government as they saw fit, including making unjust laws, without having to consider the rights of the people. Another part of the Constitution that bears some discussion comes at the end of Article VI: “no religious test shall ever be required as a Qualification to any Office or public Trust under the United States.”¹²⁸ Regardless of what religion one professed, anyone was able to hold office. Religious toleration became embedded in the American constitution with this statement, as well as with the first part of the first amendment.

Much of the discussion of the rights of the people centered around the Bill of Rights. In fact, many people were opposed to the Constitution without a Bill of Rights.

¹²⁵Outram, *Enlightenment*, 29.

¹²⁶Israel, *Democratic Enlightenment*, 459.

¹²⁷“The Constitution of the United States,” in *Debate on the Constitution: Part One*, ed. Bailyn, 968.

¹²⁸*Ibid*, 981

Central to this discussion is the first amendment, which states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”¹²⁹ This amendment is about freedom of expression, a central issue of the Enlightenment. There was no established religion, a major change from many of the monarchies of Europe, but people were able to practice any religion they would like. Additionally, people were free to say what they liked, be it in speech or in writing. Censorship in particular was a major issue for the Enlightenment thinkers, but the first amendment protects the right to publish. The First Amendment could easily be considered “one of the culminating achievements of the Enlightenment,” as it “codifies the emerging eighteenth-century commitment to freedom of expression.”¹³⁰

Furthermore, the Fifth Amendment contains the due process clause, which states that no one shall “be deprived of life, liberty, or property, without due process of law.”¹³¹ Although this certainly followed the moderate strain of the Enlightenment, in that liberty could be restricted if it was necessary, it was still a step forward for freedom in that government officials could not simply deprive someone of their rights on a whim. Even if one spoke out or wrote against the government, one’s freedom could not be limited without following a legal process. The Ninth Amendment also deserves some consideration. It states that “the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.” If something was

¹²⁹Ibid, 982.

¹³⁰Lee Morrissey, “Toward an Archaeology of the First Amendment’s Free Speech Protections,” 166-70.

¹³¹“The Constitution of the United States,” 983.

not explicitly stated in the Constitution, then the people still have that right, including rights of expression.

As previously stated, Locke had a major impact on the ideas of the American leaders, so it is necessary to consider how the framers incorporated his works into the Constitution and Bill of Rights. In *Two Treatises of Government*, Locke argued that in the state of nature men were in a “state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man” and were in a state of equality.¹³² Although it can be argued that this belief in equality was what led the framers of the Constitution to eschew a monarch in favor of an elected President and to forbid grants of nobility, it is some of Locke’s other ideas that come into play in this discussion of rights. Essentially, all men are free to do what they like, and they are governed only by the law of nature, which says to preserve mankind. In order to do this, they must give up some of their liberty to a government and work in conjunction with one another. Even though they are giving up some freedom, the government is supposed to protect their rights. People have certain rights, and these rights cannot be taken away by the government, and these amendments were attempting to put that into words.

Another way to see the American founders’ concern with freedom of expression and their commitment to Enlightenment ideals is to evaluate the arguments surrounding the adoption of the Constitution. James Madison went so far as to claim that the new government was “the only substitute for those military establishments which have subverted the liberties of the old world.”¹³³ For Madison, the monarchies of Europe

¹³²Locke, *Two Treatises of Government*, 106.

¹³³James Madison, “The Federalist XIV,” in *The Debate on the Constitution: Part One*, ed. Bailyn, 431.

oppressed their people and prevented them from exercising their rights, but this new government would prevent the deterioration of America. Another argument concerned the distinction between “free” and “arbitrary” governments: in a free government the people are able to accept the laws they have, whereas in an arbitrary government the people have no say in their own laws. Furthermore, the reason why a free government has the ability to protect the rights of the people is that the people would not be willing to give their consent to laws that were oppressive.¹³⁴ If the people were able to choose their own government, as they were doing in America, their government would protect their rights. This is the key to understanding Enlightenment influence on the American Revolution. The American people believed that they were capable of reasoning for themselves and improving upon old institutions. The American Revolution truly embodied the enlightened spirit.

The French Revolution had a much more complicated legacy. France, of course, had intervened in the American Revolution and had helped the colonies achieve their independence. This helped spread new ideas among the French, but the war also contributed to France’s mounting debt. Once the French Revolution started, many Americans were supportive, at least in the early years. Thomas Jefferson and Thomas Paine had high hopes for the French Revolution, thinking it had a “good prospect of extending liberty throughout the greatest part of Europe.”¹³⁵ Of course, part of the support came from Americans’ belief that the French Revolution emulated the American Revolution and would not have been possible without it: “would the parliament of Paris have resisted the edicts of their monarch, and justified this step in a language that would

¹³⁴“The Republican to the People,” 712-3.

¹³⁵Israel, *Democratic Enlightenment*, 946.

do honor to the freest people? Nay, I may add, would a becoming sense of liberty, and of the rights of mankind, have so generally pervaded that kingdom, had not the knowledge of America led them to the investigation?"¹³⁶ Americans believed that they were in part responsible for the French Revolution, at least before the Terror, but the Enlightenment also played a large role in the ideas of the French Revolution.

The French Revolution is not easy to classify. According to Jonathan Israel, there are two common myths that need to be dispelled in regard to the French Revolution. The first myth is that the French Revolution was not an Enlightened Revolution. The second and related myth is that the *philosophes* had little to no influence on the Revolution, even if it did follow enlightened ideals. In order to disprove the first myth, the belief that the French Revolution was not enlightened at all, it is important to understand that the Revolution had several distinct phases, as outlined earlier. Israel maintains that the Enlightenment and the Revolution should together be viewed as a process that "was set in train in the late eighteenth century, a democratic enlightenment based on liberty, equality, and the 'general good,' which was then arrested by kings, aristocracy, and Robespierre's Counter-Enlightenment and driven back, but which resumed after a fashion."¹³⁷

During the pre-revolutionary crisis (January 1787-May 1789), the monarchy was losing respect and control. Press freedom was established, and the king eventually called the Estates General, in part due to the public outcry that was made possible by the free press. This period was a transition between monarchy and absolutism and Enlightened Revolution. This was followed by the Liberal Revolution (May 1789-August 1792).

¹³⁶Charles Pinckney, "Charles Cotesworth Pinckney Explains America's Unique Structure of Freedom," in *The Debate on the Constitution: Part Two*, ed. Bernard Bailyn (New York: Literary Classics of the United States, Inc., 1993), 579.

¹³⁷Israel, *Democratic Enlightenment*, 951.

Perhaps the crowning achievement of this period was the “Declaration of the Rights of Man and Citizen,” which was, in a sense, a French version of the Declaration of Independence. This was passed by the National Assembly in August of 1789, and it eventually became the preamble of the new constitution. Some of the key elements include the claim that “ignorance, neglect, or contempt of the rights of man are the sole causes of public misfortunes and governmental corruption.” With reason and knowledge, these rights will be protected and society will function better. Furthermore, “men are born and remain free and equal in rights,” and “these rights are liberty, property, security, and resistance to oppression.” Additionally, “liberty consists in the ability to do whatever does not harm another; hence the exercise of the natural rights of each man has no other limits than those which assure to other members of society the enjoyment of the same rights.” The Declaration also included protections for the press, one of the first times the press was extended such liberal protections in Europe. The Declaration stated “the free communication of thoughts and opinions is one of the most precious of the rights of man. Every citizen may therefore speak, write, and print freely.” This was the first time in history that “freedom of thought and expression for everyone was enshrined as a basic principle and right of enlightened and morally justified human society.”¹³⁸ Finally, the Declaration stated that “any society in which the guarantee of rights is not assured or the separation of powers not settled has no constitution.”¹³⁹ This was a radical document in that it claimed universal principles applicable to all nations. These principles included strong protections for rights and freedoms. This “Liberal Revolution” was still an

¹³⁸Ibid, 908.

¹³⁹“Declaration of the Rights of Man and Citizen,” Liberty, Equality, Fraternity: Exploring the French Revolution, accessed February 15, 2015, <http://chnm.gmu.edu/revolution/d/295/>.

Enlightened Revolution (following the line of the Radical Enlightenment), at least in words.

The Liberal Revolution was followed by the Radical Revolution (August 1792-July 1794), which witnessed the infamous Terror, which is what many people tend to remember about the French Revolution. Although the Constitution of 1793 still guaranteed “all Frenchmen equality, liberty, security, property, public debt, freedom of worship, public schooling, public relief, unrestricted freedom of the press, the right to assemble in groups, and the enjoyment of all the rights of man,” this did not work out in practice.¹⁴⁰ By 1793, the leaders of this phase had reinstated censorship and were more restrictive than the former monarchy.¹⁴¹ The main person responsible for this “betrayal” of the Revolution’s basic principles of freedom and liberty and the return to tyranny was Maximilien Robespierre, a French lawyer and politician who had served in the National Assembly and then on the Committee of Public Safety during the Terror.¹⁴² Israel maintains that this phase of the French Revolution was actually a Counter Revolution and Counter Enlightenment, and it occurred because the “disciples” of the *philosophes* “had failed to retain control of the Revolution and . . . had been ousted by the faction headed by Robespierre.” This led to “a reconstitution of the basic values of the Revolution, that the rights of man were overthrown, freedom of the press and expression ended, and the Terror began.”¹⁴³

The Radical Revolution also came to an end, though, and order was restored.

¹⁴⁰“Constitution of 1793,” Liberty, Equality, Fraternity: Exploring the French Revolution, accessed February 15, 2015, <https://chnm.gmu.edu/revolution/d/430/>.

¹⁴¹Elizabeth Powers, “Introduction: Freedom of Speech: Contemporary Issues and a History,” in *Freedom of Speech: The History of an Idea*, ed. Powers, xx.

¹⁴²Israel, *Democratic Enlightenment*, 947.

¹⁴³*Ibid*, 931.

France received another constitution in 1795, which included the provisions—unlike similar provisions in the previous constitution, these were not completely ignored—that “no one may be prevented from speaking, writing, printing, or publishing his ideas,” that “writings may not be subjected to any censorship before their publication,” and that “there shall be neither privilege, nor mastership, nor wardenship, nor limitation on the liberty of the press, of commerce, or of the practice of industry or arts of any kind.”¹⁴⁴ Despite the detour the French Revolution took in the early 1790s, it ultimately returned to respecting the freedom of the people and allowed freedom of expression, particularly freedom of the press.

Although it is clear that the French Revolution was an enlightened revolution and borrowed from the language of the Enlightenment, at least in part, another common myth is that the *philosophes* of the Enlightenment had little to no impact on the Revolution. This belief is false; Israel persuasively argues that it is a “historical delusion” that separates Enlightenment from Revolution, even though “philosophy was everywhere and overwhelmingly deemed the mainspring of the Revolution in a way that nothing else was”; the belief that the Enlightenment played a part is still “just as valid and unimpeachable today.”¹⁴⁵ When the leaders of the French Revolution attributed their ideas to the *philosophes*, modern historians should accept their words.¹⁴⁶ Furthermore, the revolutionary journals present in France “deliberately fostered not just liberty of the press and debate but also the diffusion of extracts of the work of the *philosophes*. . . [so that] philosophy should become familiar to more readers”; one journal’s aim was “to spread

¹⁴⁴“Constitution of the Year III (1795),” Liberty, Equality, Fraternity: Exploring the French Revolution, accessed February 15, 2015, <https://chnm.gmu.edu/revolution/d/450/#>.

¹⁴⁵Israel, *Democratic Enlightenment*, 926.

¹⁴⁶*Ibid*, 945.

the enlightened ideas or ‘Lumieres’ needed to ‘prepare a nation to receive a free constitution.’”¹⁴⁷

Granted, there is debate over whether the French Revolution should be attributed to specific writers or “new habits of mind and behavior.”¹⁴⁸ There is certainly evidence either way, as the “principal heroes” or *philosophes* were seen as having served society during their lifetimes and leading the French Revolution from the tomb.¹⁴⁹ These heroes included *philosophes* such as Voltaire and Montesquieu and others who have not been discussed, such as Rousseau, who famously claimed that “man is born free; and everywhere he is in chains.”¹⁵⁰ Some revolutionaries even saw Voltaire as one of the Revolution’s key philosophical heroes; he was interred at the Pantheon because many believed that “the Revolution was partly the fruit of his writings.”¹⁵¹ Although there certainly was some individual hero worship, general Enlightenment philosophy and the spirit of the Enlightenment played a huge role in the French Revolution as well, so much so that “there is no scope for ignoring the universal conviction during the revolutionary age, beginning in the early 1780s, that it was ‘philosophy’ which had demolished the ancient regime.”¹⁵² Furthermore, Israel insists on giving the Enlightenment’s philosophy pride of place when analyzing the Revolution’s main goals and characteristics. Without the Enlightenment, the idea that the people had the power to overthrow the government and create their own would not have been present.¹⁵³ Philosophy was “the sole

¹⁴⁷Ibid, 899 and 919.

¹⁴⁸Popkin, *Short History*, 15.

¹⁴⁹Israel, *Democratic Enlightenment*, 920.

¹⁵⁰Jean Jacques Rousseau, *The Social Contract*, accessed April 9, 2014, <http://www.constitution.org/jjr/socon.htm>.

¹⁵¹Israel, *Radical Enlightenment*, 715-6.

¹⁵²Ibid, 715.

¹⁵³Israel, *Democratic Enlightenment*, 927.

transformative agent ready and able to sweep away the old regime and forge the new order,” and without the changes the Enlightenment worked in the minds of the leaders of the French Revolution by inspiring them to make changes in society, the French Revolution would not have happened the way it did. Therefore, one can truly say that the French Revolution was an enlightened event that was inspired by many different Enlightenment (and pre-Enlightenment) thinkers. The leaders of the Revolution incorporated the ideas of the Enlightenment into their arguments.¹⁵⁴

The Enlightenment was not an isolated event. Two major events that are generally linked to Enlightenment thought include the American and French Revolutions. The Enlightenment’s impact on the American Revolution is generally uncontested; one can see this by evaluating arguments that called for or attempted to justify war with the British and arguments for both the Constitution and the Bill of Rights. The most obvious way in which one can see the Enlightenment’s influence on the American Revolution is by evaluating the Constitution and Bill of Rights themselves, particularly the First Amendment’s protections for freedom of expression. The French Revolution is much more complicated. Many Americans supported the French Revolution, at least at first, in part because they thought the French were emulating them. The Enlightenment, however, strongly influenced the French Revolution. One can trace the strands of the Enlightenment in the Revolution by looking at the “Declaration of the Rights of Man and Citizen” as well as the constitutions from 1793 and 1795. Even when the terror was out of control, these documents still claimed some basic Enlightenment principles. The writings and opinions of the actual revolutionaries show that they truly thought that they

¹⁵⁴Ibid, 929.

were trying to carry on the Enlightenment and put its ideals into practice. Without the Enlightenment, neither revolution would have happened the way they did, and both promoted the freedom of expression championed by the thinkers previously discussed.

Epilogue

The Enlightenment was a period of reflection, and “the subjects of such reflection included religious toleration, freedom of print, and the development of more practical and secular forms of politics and political philosophy.”¹⁵⁵ This reflection, however, is still not over. These subjects remain regular hot button issues, from the Charlie Hebdo attack in Paris in January 2015 in retaliation for the newspaper publishing a satirical cartoon of Muhammad to the ever-recurring debate concerning allowing prayer in public schools to the racist chant by fraternity members at the University of Oklahoma in March 2015. Despite the calls for free speech and toleration that started during the Enlightenment and pre-Enlightenment periods, freedom of expression is still contested and debated today. How much “speech” is too much? The ideas of the thinkers previously discussed have had far reaching influence beyond the American and French Revolutions. In fact, two U.S. Supreme Court cases of the latter half of the twentieth century come to mind when thinking about Enlightenment implications on freedom of speech in the current era. These two cases are *Brandenburg v. Ohio* in 1969 and *Cohen v. California* in 1971.

In *Brandenburg v. Ohio*, Clarence Brandenburg was a Ku Klux Klan leader convicted under an Ohio law, adopted in 1919, for "advocat[ing] . . . the duty, necessity, or propriety of crime, sabotage, violence, or unlawful methods of terrorism as a means of accomplishing industrial or political reform" and for "voluntarily assembl[ing] with any

¹⁵⁵ Christopher S. Grenda, “Thinking Historically about Diversity: Religion, the Enlightenment, and the Construction of Civic Culture in Early America,” *Journal of Church & State* 48 (2006), 567-8, Academic Search Premier.

society, group or assemblage of persons formed to teach or advocate the doctrines of criminal syndicalism."¹⁵⁶ Although there have been several laws similar to the one in question in this case, most had been struck down and discredited prior to the ruling here. The Supreme Court ruled that merely advocating an action, even violent resistance to the government, is protected under the first and fourteenth amendments. Freedom of speech is protected unless it directly triggers that violent action. The Supreme Court ruled that “the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.”¹⁵⁷ Furthermore, the court ruled in a prior case that “the mere abstract teaching . . . of the moral propriety or even moral necessity for a resort to force and violence, is not the same as preparing a group for violent action and steeling it to such action.” Even though Brandenburg was racist and advocating violence, because he was only advocating, not inciting or creating an imminent danger, his speech was protected under the first amendment, and because the law did not attempt to distinguish between these categories and simply ruled any similar speech unlawful, it was struck down.

Another famous case occurred just two years later. The case of *Cohen v. California* is more commonly known as the “F” the draft case.” In this case, Paul Robert Cohen wore a jacket with that explicit phrase in a California courthouse. He was arrested for “maliciously and willfully disturb[ing] the peace or quiet of any neighborhood or

¹⁵⁶“*Brandenburg v. Ohio*,” findlaw, accessed March 11, 2015, <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=395&invol=444>.

¹⁵⁷*Ibid.*

person . . . by . . . offensive conduct” where offensive conduct was defined as “behavior which has a tendency to provoke others to acts of violence or to in turn disturb the peace.”¹⁵⁸ In a lower appeal, the court held that the state had sufficiently proven that the wearing of the jacket was capable of inciting violence by causing others to “rise up to commit a violent act against the person of the defendant or attempt to forcibly remove his jacket.”¹⁵⁹ The Supreme Court, however, ruled that the only act in question was that of “communication.” The defendant was communicating his feelings; he was not attempting to disrupt the draft, and “so long as there is no showing of an intent to incite disobedience to or disruption of the draft, Cohen could not, consistently with the First and Fourteenth Amendments, be punished for asserting the evident position on the inutility or immorality of the draft his jacket reflected.”¹⁶⁰ Even though the words on his jacket could be considered offensive by some, they should still be allowed, following the thoughts of the Enlightenment writers.

The Supreme Court, however, was careful to provide qualification. It stated that “the First and Fourteenth Amendments have never been thought to give absolute protection to every individual to speak whenever or wherever he pleases, or to use any form of address in any circumstances that he chooses.” Even though the Constitution and Bill of Rights protected the rights of the people to express themselves, they are not unlimited, and restrictions can be placed on freedom of expression. Perhaps, as several of the Enlightenment thinkers believed, restrictions can be placed on speech that harms the government or violates the rights of others. One must be careful, however, in placing

¹⁵⁸“Cohen v. California,” findlaw, accessed March 11, 2015, <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=403&invol=15>.

¹⁵⁹Ibid.

¹⁶⁰Ibid.

these restrictions on freedom of expression. For example, the Supreme Court stated that if a law wants to promote “decorous” behavior in certain places, the statute must be worded specifically. Additionally, even though there are certain fighting words that could incite someone to violence if said to them directly, if they are indirectly stated, as in the use of the “F” word in this case, the speech cannot be outlawed. Furthermore, although people have a right to a modicum of privacy and protection from views they find offensive in their own homes, that protection does not extend to public places. Still, freedom of expression can be limited if it creates danger to society, assuming danger is defined properly.

Some believe that freedom of expression has eroded over time, and in the age of political correctness, some say it is becoming even more difficult to express oneself. Freedom of expression, however, is still considered one of the inalienable rights of man and is enshrined in the First Amendment. If not for the thinkers discussed previously who first promulgated the ideas of toleration, religious freedom, and freedom of expression, this would not be so. The Enlightenment made these ideas known to the world, and these ideas helped change the course of history, and that influence continues to this day.

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