A book review

William Lee Miller, *The First Liberty: Religion and the American Republic.* (373 pages, Index; Knopf $24.95)

Reviewers do not usually expect much from books published to coincide with an anniversary. *The First Liberty* appears on 16 January 1986, the two hundredth anniversary of the enactment of the Virginia Statute for Religious Freedom, and it is a far more substantial work than Knopf's anniversary publication hoopla might lead one to anticipate. Miller is, after all, a Professor of Religious Studies and chairman of the Department of Rhetoric and Communications Studies at the University of Virginia, and a scholar of long experience with religious and political issues. Although often too glib and snappy, his writing is witty, stylish, and eminently quotable; unfortunately, his historical and philosophical judgements are not always on a par with his writing, leaving some points unclear and unconvincing.

The first section of Miller's book is an extended analysis of the composition of and wrangling over the plan of Jefferson and Madison for revising Virginia's law code, a calendar of bills which included Bill Number 82, the original version of the Virginia Statute for Religious freedom. The second, related, section studies the thought and career of James Madison. In these chapters, besides providing a good account of events, Miller addresses many modern misconceptions about the Revolutionary era and seems especially intent on refuting the myths of conservative fundamentalists in favor of an emphasis on the rationalism and strict separationism of such men as Jefferson and Madison — a tack which this reviewer finds both convincing and congenial. Miller also notes the sorry state of religion in Revolutionary America, coming in a trough between the Great Awakening and the new revivalism that would emerge in the 1790s. Protestant sects such as the Baptists were actually Madison's allies in the political struggle for separation of

church and state — though for reasons quite different from those of Jefferson and Madison. Jefferson, in fact, hoped that church-state separation would allow the withering away of what he considered the more superstitious beliefs of his religious allies, to be replaced in some measure by republican virtue; his companion bills to secure the republican faith in Virignia failed of passage, even as Bill 82 passed, leaving, in Miller's view, a vacuum in government where Christianity had once been. Jefferson's rationalistic Deism notwithstanding, Miller argues (and it should be obvious) that modern fundamentalists are mistaken in their belief that strict separation of church and state is both symptom and cause of government hostility to all religion. Seeing strict separation as thus incompatible with any degree of Christian or even Deist belief, too many modern Christians seize upon even the most superficial and conventional references to "Providence" or "the Creator" by important Americans of the Revolutionary era as proof positive that they could not have favored the supposedly anti-religious idea of strict separation. As Miller suggests, these references by Jefferson, Madison, et al. are consistent with Deism, and were often conscioius efforts to allay the fears of their sectarian friends.

The chapter on Madison deals well with Madison's development from a progressive Presbyterianism to passionate commitment to religious freedom and church-state separation. In this chapter, Miller was aided by Thomas A. Mason of the Madison papers; indeed, much of the material in these chapters is openly derived from the works of Thomas E. Buckly (who also read drafts), Merrill Peterson, Rhys Isaac, Dumas Malone, and other scholars. There is certainly nothing wrong with a dependence upon such standard works. The problem is that Miller seems to feel that the general reader would be bored or confounded by footnotes, or even bibliography, so his debts are acknowledged in the text, often awkwardly and intrusively. There are, furthermore, at least a half dozen pertinent works which he did not feel merited a reference in the text, but which he must have or should have used; without a bibliography it would take the closest possible textual analysis to determine whether they formed part of his background reading.

Even in these tightly focused chapters, Miller sometimes introduces material that he does not analyze. He quotes Franklin's famous remarks on the necessity for prayer before sessions of the Constitutional Convention without offering an explanation of why the none-too-pious Mr. Franklin would take the lead in that cause, nor does he seem to be using Franklin's oft-quoted arguments to make a point. Rather confusingly, he often skips ahead to twentieth-century court cases. Still, Miller succeeds in showing that Jefferson and Madison, more on the basis of republicanism than libertarianism, were strict separationists who believed in full and comprehensive religious liberty.

The third chapter, on Roger Williams of colonial Rhode Island, seems, to one not familiar with all of the pertinent historiography, to be the most original of the first three sections. Miller's contribution here is finding a theological basis

for Williams' advocacy of religious freedom (embracing all beliefs, even those he considered wrong) and separation of church from state. That is, Williams was not, as a contemporary New England Puritan was, an advocate of freedom only for himself, only when his (true) religion was threatened by the established one; nor was he a seventeenth-century Thoreau, a radical individualist retreating into the wilderness unsatisfied with the purity of anyone but himself. Instead, he believed in the common humanity and equality of all nations and faiths, as shown by his respect for the Native Americans in his region. For him, the "chosen" status of the ancient state of Israel was unique, making any modern claim to divine preference a blasphemous presumption. No state or even organized church could be so pure as to be able to claim any authority over religion. Thus, there should be no Pope, no state prosecution of heretics, no "city on a hill." On the other hand, the state should have extensive civil powers because of its obligations to protect and improve society. More immediately, Williams was impressed and disgusted by the sad history of religious persecution in Europe, for its futility as well as its violation of what he saw as the true Christian principles of love and understanding. Always careful to note the various misconceptions about Williams, such as those he has encountered from students who expect Williams to think just as they do, Miller gives a sympathetic portrait of a shrewd politician and sincere partisan of full religious liberty.

It is in the final section, 130 pages of "Reflections After Two Centuries," that Miller is least satisfying, as, indeed, might be expected from a chapter which covers almost all relevant matters since the period covered by the early chapters. Because there were few court cases relating to religious liberty in the nineteenth century, Miller almost skips that period, implying that church-state issues were pretty much settled by consensus until the 1940s. Needless to say, then, he devotes insufficient attention to the often explicitly religious ethnocultural issues which played such an important role in nineteenth-century politics, although he does recognize a *de facto* Protestant establishment. Still criticizing all sides for misinterpreting our old friends the Founding Fathers, he seems to retreat from his own separationist interpretation of them by his curmudgeonly dismissal of almost all church-state cases of the past forty years as trivial matters, involving harmless customs and forms which gave no significant aid to religion and could not threaten long-secured religious liberty. While he seems to be leaning towards "accomodation," he says he believes most of the decisions were right, but for the wrong reasons. Much of this is not clear, and, in fact, that may be the point; he wants to show how complex and contradictory the issues are today. Many of these contradictions are, however, not as baffling as he implies. Miller correctly notes that there can be apparent conflict between the establishment and free exercise clauses of the First Amendment, but seems too sympathetic to Frankfurter's dissent in the *Barnette* flag-salute case, in which the justice argued that to exempt Jehovah's Witnesses from saluting the flag on the basis of "free exercise" would "establish" their religion. Miller's discussions of court cases is not helped by

a ridiculous and supposedly humorous fictional case involving a Bible verse on a water fountain in a city softball park; put simply, in this case he paints all involved as jerks, with separationists raising unfounded warnings of religious tyranny and fundamentalists linking their opponents to Communism in a grand (and familiar) conspiracy theory. What is he trying to prove with this case?

The First Liberty is not, as the subtitle suggests, a history of "Religion and the American Republic," but a meditation on the origin and meaning of religious liberty in the American Republic. For Miller, America's "Christian" heritage lies less in the actual beliefs on which the government is based (though some of his comments on this question could be misinterpreted out of context) than in the paradigm it provides of what a religion is, an idea applied in Supreme Court cases involving conscientious objectors who were not members of recognized pacifist sects or any conventional Christian group. Republicanism was meant to fill the place of religion in the government, giving a sense of public virtue, communitarian values, and national goals; as Miller sees it, the supposed radical individualism of American Protestants has left the nation with a vacuum of values in its civic life, values which can be derived only from communitarian religions such as Catholicism and Judaism. The notion that American Protestants are antisocial libertarians is plainly absurd to anyone who grew up in (or knows anything about) small-town Protestant America. Surely one does not have to look only to Catholicism, or Christianity in general, for that matter, to find "personalistic communitarianism."

Miller's intelligence and wit make this book worthwhile, but do not guarantee that it is always clear and convincing. It flits uneasily between past and present, always assuming that constitutional questions should be decided by the framers' original intentions. Historians will find it stimulating, if often unsatisfying and irritating, and it will probably supply pithy quotations for quite a few lectures and books.

— *Scott Burnet*