Debunking David Barton’s
JEFFERSON LIES

Exposing the Lies of a Devout Revisionist’s Teachings in which Everything You’ve Heard About Thomas Jefferson is a Myth

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CHRIS RODDA

Published by the author
2013
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ISBN-10: 1492396745
Dedicated to the
REAL
Thomas Jefferson

and

to my minions,
I’m not saying it was aliens ...
but ...
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I think it goes without saying that what pseudo-historian David Barton attempts to prove in this chapter of his book *The Jefferson Lies* is that Jefferson was not a secularist, and that he did believe in mixing religion and government. But there's a little more to it than that.

One of the main premises of *The Jefferson Lies* is that nobody ever thought of Jefferson as a secularist until recently, and that people only think of him as a secularist today because of what Barton alleges is modern historical revisionism. Beginning with his introduction and throughout every chapter of his book, he repeatedly drums into the heads of his readers his assertion that it is “modern academics,” “modern writers,” and “modern critics” who are revising history with what he claims are “modern disparagements,” “modern claims,” and “modern Jefferson lies.”

As I showed with a number of examples in book #2 of this series, the opinion that Jefferson was a secularist is not modern revisionism. It was the general opinion during Jefferson’s own lifetime and for decades after his death. Jefferson was consistently portrayed as an ardent secularist by the writers of his own day.
His contemporaries who didn’t like his secularism didn’t lie about him or attempt to claim that he wasn’t a secularist; they criticized him, often quite harshly, for being a secularist.

In the 1850s, however, biographers and other writers set out to improve Jefferson’s image, making him more religious and less secular than he really was. It was actually during this time period, over a century and a half ago, that some of the Christian nationalist myths and lies heard today about Jefferson were born.

By the early 1900s there were two camps of history writers — those who continued and expanded upon the revisionism begun in the mid-1800s and those who began to correct this revisionism. It is the writings of the historians who were trying to correct the earlier revisionism that Barton now claims was the revisionism.

Not surprisingly, the criteria by which David Barton defines an historian or author as an early historian or a modern historian seems to have absolutely nothing to do with when they lived or the dates of their writings. To Barton, modern writers and historians are anyone who disagrees with his claims, and early writers and historians are anyone who supports his claims.

While Barton incessantly claims to use only the original writings of the founders, one glance at his endnotes in The Jefferson Lies reveals that many of his sources are much later secondary sources and even websites. He also obscures the dates of the later writers he quotes, implying that their writings were from a much earlier time. For example, in a section of the chapter of his book that this volume debunks, he writes about a number of clergymen who lived from the 1500s through the 1700s. For all of these early clergymen, he includes the dates that they lived in parentheses next to their names. But several times in this section, he relies on quotes from another clergyman who he does not give dates for, but describes only as “early Methodist Bishop Charles Galloway,” implying that Galloway was from the period of the 1500s to the 1700s like other clergymen he’s writing about. If you check the endnotes for these quotes, however, you find out that Bishop Galloway’s book, from which Barton is quoting, was written in 1898. If you go further and actually take a look at Bishop Galloway’s book, titled Christianity
and the American Commonwealth: or, The Influence of Christianity in Making this Nation, you find out that it’s one of the revisionist history books written in the latter part of the 1800s containing many of the same lies still used by Barton and the other revisionists of today.

In this volume, as in all of my writings about Barton’s historical revisionism, we’ll be looking not only at the lies themselves, but the tricks and tactics used by Barton to make his lies sound believable to his readers. Of particular importance in this volume are dates, as in the above example of Bishop Galloway.

The reason that dates are particularly important in looking at this chapter of The Jefferson Lies is that a good part of it is about court cases. Because of this, a definition of what Barton defines as “modern” needs to be kept in mind. When talking about historical and other writings, Barton typically deems history books written from the 1920s forward as “modern.” When talking about court cases, however, what he defines as the beginning of “modern” shifts to 1947, the year that the Supreme Court popularized the term “separation of church and state” in the case of Everson v. Board of Education. But, as I’ve explained, these dates are not written in stone because Barton selectively uses them depending on whether or not something agrees with whatever claim he is making at the moment.

Now, on to the lies!
DEBUNKING BARTON’S JEFFERSON LIES
The One About
the Definition of Secularist

BARTON'S LIE: The term *secularist* didn’t exist until modern times.

THE TRUTH: The term *secularist* has been widely used to mean exactly what it means today for over a century and a half.

Barton begins his selective use of dates by claiming that even the term *secularist* is a modern invention, writing:

But before determining whether Jefferson really was a secularist, it is important to define that term – a term that did not exist until modern times. By definition, *secularist* means:

- holding a system of political or social philosophy that rejects all forms of religious faith and worship

- embracing the view that public education and other matters of civil policy should be conducted without the introduction of a religious element

- having indifference to, or rejection or exclusion of, religion and religious considerations
believing that religious considerations should be excluded from civil affairs

Barton’s claim that secularist is “a term that did not exist until modern times” is simply not true. The word secularist has been appearing in dictionaries for well over two hundred years, and has been used to mean exactly what it means today since the mid-1800s. At first, a secularist was defined simply as someone who rejected everything religious and concerned themselves only with worldly things. By the mid-1800s, however, the word had taken on the meaning it has today – someone who wants religion kept out of civil policy and public education.

By the second half of the 1800s, this “modern” usage of the word had become so common and widespread that it was added to the definition in all of the various Webster’s dictionaries as new editions of each dictionary were published.

For example, the definition that appeared in the 1887 edition of Webster’s Condensed Dictionary was:

**Secularist, n.** One who theoretically rejects forms of religious faith and worship, and accepts only facts and influences derived from the present life; one who would exclude religious influences from civil policy, esp. education.¹

When a new edition of Webster’s High School Dictionary was published in 1892, the definition was updated to:

**Secu-lar-ist, n.** One who theoretically rejects every form of religious faith; also, one who opposes church intervention in education, civil affairs.²

For the dictionary definition of a word to be updated, as the definition of secularist was by Webster’s in the latter part of the

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1800s, it means that the new usage of the word has become commonplace over a long enough period of time to be certain that the new usage wasn’t just some fleeting, ephemeral use of the word, but a permanent change or addition to the meaning of the word. By the time Webster’s formally updated its definition of *secularist* in the 1880s, England’s secularist movement, whose primary cause was removing religion from that country’s public schools, had been around for nearly five decades, becoming an actual political party called the Secularist Party.

It’s very clear from American writings that by the 1870s the term *secularist* had permanently taken on the same meaning in America that it had in England – someone who wanted religion kept out of civil affairs, and particularly out of public schools. All you have to do to see this is to look at the newspapers, magazines, and books of that time.

This is from a letter to the editor of the *Cincinnati Gazette*, written in 1872:

> I have repeatedly attempted to show, what every standard writer on human government has always affirmed, that to deny the dependence of a national government on God, and its duty to conform to its highest acknowledged standard of morality in its public character and legislation, is to knock away all substantial foundations of human society, and bring in political and social anarchy. If I understand the positions of the “secularists,” they repudiate the obligations of a government, as government, to recognize religion in any form, maintaining that it is outside the sphere of religion altogether. I have the right to argue that such a position, logically, lands the State in public atheism and anarchy. I have seen no satisfactory answer to that argument.³

And this one is from an 1876 book containing two lectures from that year – one delivered by a Catholic bishop (from which the excerpt below is taken), and the other by Francis E. Abbot, a leader

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³.“The Religious Amendment Question,” *Cincinnati Daily Gazette*, February 8, 1872, 3.
of the secularist movement in America:

WHAT IS SECULARISM?

Our argument is now with the Secularists, pure and simple. They point to their work accomplished and bid us to the feast of rejoicing. We do not answer to the call, and stand ready to give the reason that is in us.

What is meant by Secularism in schools? President Grant defines it to mean the exclusion from the schools of the teaching of any religious, atheistic or pagan tenet. Evidently the President has never been a school-teacher, or has never tried to teach anything save the multiplication table to a bright, intelligent boy, brought up in a Christian family, on the plan here laid down. Commanding armies, handling a hundred thousand armed men, is child's play in comparison. God, Christ, sin, conscience, religion, heaven, hell, would meet him at every turn, and to flank them successfully, without insinuating a Christian, a pagan, or an atheistic tendency of thought, would give him more trouble than he experienced in outflanking the strongest army that ever met him on his onward marches.

The *Rochester Democrat and Chronicle*, a staunch and zealous defender of Secularism, gives its explanation as follows: “Strictly speaking, a secular school should not inculcate the belief in an overruling Providence.”

Barton, who incessantly claims to use only original historical sources, doesn’t go to the dictionaries of the 1800s to get his definitions of *secularist*. He instead gets his definitions from the internet,

4. Bishop McQuaid was here referring to and paraphrasing President Grant’s 1875 Annual Message to Congress (State of the Union speech), in which Grant called for a constitutional amendment forbidding any teaching of religion in public schools.

listing websites like dictionary.com and thefreedictionary.com in his endnotes. Obviously, if he wants his readers to believe his claim that the term *secularist* is a modern invention (for whatever reason he even thinks that this is an important point), citing websites as his sources would naturally work much better than citing dictionaries from the 1800s – sources whose age alone would instantly debunk his claim. He also completely ignores all of the very easy-to-find nineteenth century writings, like the two examples from the 1870s that I’ve included in this section, that clearly show that the term *secularist* meant exactly the same thing back then as it does today.

While not the modern invention that Barton claims it to be, the widespread use of the term *secularist* to apply to a person didn’t begin until a bit after Jefferson’s time. But this doesn’t matter. He was just criticized for secular views and policies with the terms of his day. When he founded the University of Virginia as a secular institution, for example, he was called an infidel, an enemy of religion, and was accused of using the university to spread his atheistical views. I think it’s safe to say that if the term *secularist* had been in fashion at the time, he would have been called a secularist, making the date that this term started to be used altogether irrelevant.

The more important term that needs to be defined is “public square.” The title of Barton’s chapter in *The Jefferson Lies* that this book will examine is “Lie #5: Jefferson Advocated a Secular Public Square through the Separation of Church and State.” But what does Barton mean by *public square*? Does he literally mean a public square in the sense of public property or a public forum? Or does he mean it figuratively – referring to religion in politics and legislation? It’s hard to tell. Barton spends several pages listing a plethora of alleged instances of the oppression of Christians in the *literal* public square, but his evidence that Jefferson wasn’t “a secularist who wanted a stridently religion-free public square” is a list of Jefferson’s alleged actions in the *figurative* public square – the making of laws and other official government actions. In other words, he’s trying to prove that Jefferson would have supported apples by saying that Jefferson supported oranges.
But, the bottom line is that it doesn’t really matter if Barton’s examples are apples or oranges because almost none of them are true to begin with. So, for the purposes of this book, it’s not important to figure out what Barton means by the *public square*. This book will simply debunk his claims, whether they are about alleged instances of modern-day Christian persecution in the literal public square (which is the subject of the appendix at the end of the book) or Jefferson’s actions in the figurative public square (which are examined in the body of the book).
The One About
Jefferson and the First Amendment

BARTON’S LIE: There is a widespread belief among secularists – and even the courts – that Jefferson personally wrote the First Amendment.

THE TRUTH: Modern scholars, writers, and the courts are well aware that Jefferson was not in America when the Bill of Rights was written. There is no widespread belief that he personally had a hand in the actual writing of the First Amendment. Barton’s claim is nothing but a straw man.

Referring to the four internet dictionary definitions of secularist that he presented in the last section, Barton claims to have already demonstrated by this point in his book that Jefferson did not fit the first three of these definitions. He then claims that in this chapter he will demonstrate that Jefferson “definitely did not embrace the fourth point, that religious considerations should be excluded from civil affairs.”

Barton begins his demonstration of his straw man with this:

But for those who maintain otherwise, since they already believe that he was a secularist it is logical to further assert that Jefferson was also the father of the modern separation
of church and state doctrine. In fact, they actually believe that Jefferson personally placed the separation of church and state into the First Amendment of the Constitution in order to secure public secularism. Consequently, these modern proponents claim:

Jefferson can probably best be considered the founding father of separation of church and state.

Jefferson … is responsible for the precursor to the First Amendment that is almost universally interpreted as the constitutional justification for the separation of church and state.

The First Amendment was Jefferson’s top priority.

Thomas Jefferson – the father of the First Amendment.

So, who are these modern writers quoted by Barton for his four examples above? Do these statements come from the works of scholars and historians? Well, no. Barton just grabbed them off the internet.

According to Barton’s endnotes, the first one comes from a 2007 post by a blogger named “Deuce,” who blogs on a website called ModernGhana.com, where you can find all the latest news from Ghana, ads to find women in Ghana to date, and, apparently, the occasional blog post about America’s founders.

The second one is from “Sembj,” writing on hubpages.com. While this is a more scholarly blog post than the one from “Deuce” on ModernGhana.com (which basically just consists of a bunch of founders’ quotes that “Deuce” said he collected on Google), it’s still

just a blog post from some obscure blogger who doesn’t even go by their real name.

But even the blog posts from “Deuce” and “Sembj” don’t support Barton’s claim that people think Jefferson “personally placed the separation of church and state into the First Amendment.” Both of these blog posts correctly state that the words “separation between church and state” come from Jefferson’s letter to the Danbury Baptists, and not from the First Amendment. And, what Barton quotes from “Sembj’s” post is just a statement saying that Jefferson was responsible for writing the “precursor” to the First Amendment, meaning Jefferson’s Virginia Statute for Religious Freedom, which is completely accurate.

Barton’s third example comes from the About.com entry on the First Amendment. At least this one is from someone who goes by his real name and has written a number of books on constitutional issues. What Barton does here is to misquote what Tom Head, About.com’s “Civil Liberties” guide, said. Barton chops off the first half of one of the sentences from a one-paragraph blurb titled “Origins of the First Amendment” on the About.com page. This is Head’s full sentence:

It was Jefferson who ultimately persuaded James Madison to propose the Bill of Rights, and the First Amendment was Jefferson’s top priority. ⁸

Obviously, this statement in no way claims or even implies that Jefferson was personally responsible for writing the First Amendment. Barton just cuts off the first part of the sentence, which clearly says that all Jefferson did was persuade Madison to propose it, leaving only the part that says “[T]he First Amendment was Jefferson’s top priority” to make it sound as if Head were saying that Jefferson was personally involved in writing the First Amendment. Clearly, he said nothing of the kind. He was obviously just referring to the

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series of letters between Jefferson and Madison from late 1787 to early 1789, in which Jefferson made his case to Madison that a bill of rights was absolutely necessary. At the beginning of this series of letters, Madison didn’t see the necessity of a bill of rights at all, but then progressed to weighing the pros and cons of a bill of rights, and eventually, of course, he proposed the Bill of Rights. This isn’t to say that I completely agree with Head’s statement, which implies that Jefferson was solely responsible for persuading Madison to introduce the First Amendment, but that’s not the point. The point is that Barton edits Head’s sentence to make it say something that it absolutely does not say.

For his fourth example – that people call Jefferson “the father of the First Amendment” – Barton really has to reach. In his endnote, he cites two instances of someone’s using these words to describe Jefferson. The first comes from a 1920 House of Representatives committee hearing on immigration. What Barton cites had absolutely nothing to do with the First Amendment’s religion clauses; it was about its freedom of the press clause. The quote is found in a brief submitted in this 1920 committee hearing by a man named Louis Marshall, on behalf of the Interracial Council for Business Opportunity and the American Association of Foreign Language Newspapers, in opposition to a bill that would have excluded foreign language newspapers from second-class mailing privileges. Mr. Marshall, quoting Jefferson on the importance of the freedom of the press, referred to him as “the father of the First Amendment.”

Barton’s endnote for this one says to also see a 2010 post on a blogspot.com blog called the “KintlaLake Blog,” written by another anonymous blogger, who describes themself as “An Independent citizen patriot, singing in the shower.” This blog post consists of nothing but the text of Jefferson’s letter to the Danbury Baptists, with the title “A few words from the father of the First Amendment.”

So, to recap, the evidence presented thus far by Barton to demonstrate that there’s a widespread modern belief that Jefferson personally wrote the First Amendment consists of three obscure blog posts from anonymous bloggers and an About.com entry, none of which, without Barton’s editing, even remotely imply that their authors think that Jefferson personally wrote the First Amendment, and a line from a brief submitted in a 1920 immigration committee hearing that had nothing to do with the First Amendment’s religion clauses. Not very convincing so far, is it?

But Barton’s not done yet. He claims that it isn’t only modern writers who have said that Jefferson was responsible for the First Amendment, but also “many modern courts.”

According to Barton:

Others\textsuperscript{11} similarly claim that Jefferson is responsible for the First Amendment, and many modern courts also espouse this position – a trend that began in 1947 when the US Supreme Court asserted:

>This court has previously recognized that the provisions of the First Amendment, in the drafting and adoption of which … Jefferson played such [a] leading role.

Here, Barton is selectively quoting and editing a sentence from the 1947 Supreme Court case *E\textsuperscript{\textregistered}ver\textsuperscript{\textregistered}on v. Board of Education*. This is the complete sentence, with the parts omitted by Barton in bold:

>This Court has previously recognized that the provisions of the First Amendment, in the drafting and adoption of which Madison and Jefferson played such leading roles, had the same objective,

\textsuperscript{11} Barton has an endnote for the “others” he mentions here, in which he cites three more websites. Like the blogs he cites for his previous examples, nothing at any of these three additional websites says or implies in any way that Jefferson wrote the First Amendment: http://religioustolerance.org/amend_1.htm; http://mediamatters.org/research/200612150010; and http://www.firstamendmentcenter.org/farewell-justice-souter-defender-of-mr-jefferson’s-wall.
and were intended to provide the same protection against governmental intrusion on religious liberty as the Virginia statute.¹²

As you’ll see in the next section, many other court cases that Barton quotes or cites in his chapter require some editing to make Jefferson the only name that appears in them. He also completely ignores the context in which Jefferson was brought up in this case, as well as other cases he cites – which is as one half of the team of James Madison and Jefferson, whose fight for religious freedom in Virginia is often brought up when discussing the history of the First Amendment. For example, the above sentence from Everson that Barton quotes comes immediately after several paragraphs that quote from Jefferson’s Virginia Statute for Religious Freedom and explain the roles played by both Jefferson (in the writing of the statute) and Madison (in getting it passed by the Virginia legislature).

Unless otherwise noted, in the rest of this section and in the section that follows, all references to “the Court” mean the Supreme Court, and “the Court said” means that something appears in some opinion in the case. The reason for this is that Barton makes no distinction between citing the opinion of the court, a concurring opinion, or a dissenting opinion. There are even cases in which, quite ironically, he cites in a negative way an opinion (either concurring or dissenting) from the side that he would presumably agree with, but this will be overlooked here to keep things as simple as possible.

After his butchered quote from Everson, Barton continues:

In subsequent cases the Court even described Jefferson was [sic] indeed “the architect of the First Amendment.”

Again, Barton omits the Court’s mention of James Madison to make this quote appear to support his claim that Jefferson has been the only founder whose opinions the Court has relied upon. But, more importantly, what the Court was clearly saying in this instance

was the exact opposite of what Barton is claiming. The Court was saying that it wasn’t relying upon Jefferson. This is what Barton plucks his six-word snippet from:

But an awareness of history and an appreciation of the aims of the Founding Fathers do not always resolve concrete problems. The specific question before us has, for example, aroused vigorous dispute whether the architects of the First Amendment – James Madison and Thomas Jefferson particularly – understood the prohibition against any “law respecting an establishment of religion” to reach devotional exercises in the public schools. It may be that Jefferson and Madison would have held such exercises to be permissible – although, even in Jefferson’s case, serious doubt is suggested by his admonition against

putting the Bible and Testament into the hands of the children at an age when their judgments are not sufficiently matured for religious inquiries.

But I doubt that their view, even if perfectly clear one way or the other, would supply a dispositive answer to the question presented by these cases.13

The above quote, from Abington Township v. Schempp (1963), isn’t the only part of that case that Barton cites. In his endnote, he also lists a second page, which says this:

This is not to say, however, that religion has been so identified with our history and government that religious freedom is not likewise as strongly imbedded in our public and private life. Nothing but the most telling of personal experiences in religious persecution suffered by our forebears ... could have planted our belief in liberty of religious opinion any more deeply in our heritage. It is true that

this liberty frequently was not realized by the colonists, but this is readily accountable by their close ties to the Mother Country. However, the views of Madison and Jefferson, preceded by Roger Williams, came to be incorporated not only in the Federal Constitution but likewise in those of most of our States.¹⁴

So now Barton is not only removing Madison to make it appear that Jefferson is the only authority that the Court ever invokes; he’s also removing Roger Williams, the minister who dissented from the Congregationalists in Massachusetts and, in 1636, founded the Providence Plantation colony in Rhode Island – the first colony to separate religion from the affairs of civil government. It was from Williams’s “wall of separation between the garden of the church and the wilderness of the world” that many believe Jefferson got his “wall of separation” metaphor. Does Barton also think that the Court shouldn’t invoke Roger Williams as part of the history of religious freedom because, being dead at the time and all, he didn’t happen to be in the room when the First Amendment was written?

Barton also cites a footnote from another case in his endnote for this one, although there is nothing whatsoever in the footnote he cites that is even remotely close to the phrase “the architect of the First Amendment.” Here’s the entire footnote:

The struggle for separation of church and state in Virginia, which influenced developments in other States – and in the Federal Government – was waged by others in addition to such secular leaders as Jefferson, Madison, and George Mason; many clergymen vigorously opposed any established church. See Stokes 366-379. This suggests the imprecision of any assumption that, even in the early days of the Republic, most ministers, as legislators, would support measures antithetical to the separation of church and state.¹⁵

Can you find the word “architect,” or even the words “First

Amendment,” in that quote? No? Well, that doesn’t stop Barton from citing it in his endnote as a source for his claim that “In subsequent cases the Court even described Jefferson was [sic] indeed ‘the architect of the First Amendment.”

The case that footnote comes from is *McDaniel v. Paty* (1978), a case in which the Court unanimously ruled that a Tennessee law barring members of the clergy from public office was unconstitutional. The reason that Jefferson was brought up in this case had nothing to do with the First Amendment. He was brought up in an earlier footnote because of the change in his opinion on allowing clergymen to serve in the Virginia legislature. From 1776 into the 1780s, Jefferson was opposed to allowing clergymen into the legislature, fearing that they might attempt to undo the measures that had been taken towards disestablishing religion in the state. By 1800, however, Jefferson thought that enough time had passed since religion had been disestablished for there to be no danger in allowing clergymen to serve in the state legislature. So, once again, the Court was referring to what Jefferson did in Virginia, and was in no way saying that he was “responsible for the First Amendment.”

But Barton is far from done with citing cases that *don’t* support his claim that “modern courts” think that Jefferson was “responsible for the First Amendment.” He continues:

So firmly does the Court believe this that, in the six decades following its 1947 announcement, in every case addressing the removal of religious expression from the public square it used Jefferson either directly or indirectly as its authority.

Barton, of course, includes an endnote with lots of sources for this claim, listing forty-three different Supreme Court cases! He knows his followers aren’t going to take the time to actually look up and check to see if these cases support his claim. They’ll just be extremely impressed by how scholarly this ridiculously long endnote looks. I, on the other hand, *did* look up every one of the forty-three cases listed in Barton’s endnote. Not wanting to digress
into these forty-three cases here, however, I decided to do a case by case debunking of this endnote as a separate section, which follows this one.

So, moving right along, this is Barton’s next claim:

Interestingly, however, the current heavy reliance on Jefferson as the primary constitutional voice on religion and the First Amendment is a modern phenomenon not a historic practice. Why? Because previous generations knew American history well enough to know better than to invoke Jefferson in such a manner.

Quite amusingly, the example Barton proceeds to use to support his claim that “previous generations knew American history well enough to know better than to invoke Jefferson in such a manner” completely contradicts this claim! This is Barton’s evidence that previous generations knew history so well:

Two centuries ago a Jefferson supporter penned a work foreshadowing modern claims by declaring Jefferson to be a leading constitutional influence. When Jefferson read that claim, he promptly instructed the author to correct that mistake, telling him:

One passage in the paper you enclosed me must be corrected. It is the following, “and all say it was yourself more than any other individual, that planned and established it,” i.e., the Constitution.

What did Jefferson see wrong in stating the very claim repeated today? He bluntly explained:

I was in Europe when the Constitution was planned and never saw it until after it was established.

So, let’s get this straight – Barton is saying that Jefferson himself
having to correct someone living in his own lifetime who said that “all say it was yourself more than any other individual, that planned and established” the Constitution is proof that “previous generations knew American history well enough to know better than to invoke Jefferson in such a manner?” Huh? This example shows exactly the opposite – that it was widely believed by people in Jefferson’s own lifetime that he was responsible for the Constitution!

Something else should be noted here. Barton describes the person whom Jefferson was having to correct about who wrote the Constitution as merely “a Jefferson supporter,” giving the impression that this was just some nobody of a writer. It wasn’t. Barton’s unnamed “Jefferson supporter” was Joseph Priestley, the renowned scientist and one of the most prominent Unitarian writers of Jefferson’s day. Now, why would Barton omit such an interesting fact, especially when he brings up Priestley for other reasons just a few pages later in his book? Oh, maybe it’s because he brings up Priestley for other reasons just a few pages later in his book!

And what about the people of other previous generations? Did they know “American history well enough to know better than to invoke Jefferson in such a manner” as Barton claims? Well, apparently not – not even the people on the Supreme Court. What Barton fails to mention when quoting Everson v. Board of Education is that one of the previous cases referenced at the end of the paragraph he quotes was the 1878 Supreme Court case Reynolds v. United States. In that case, the Court quoted the letter in which Jefferson used the phrase “separation between church and state” to describe the First Amendment, and then said:

> Coming as this does from an acknowledged leader of the advocates of the measure, it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured. 16

So, a hundred and thirty-five years ago – nearly seven decades before the 1947 Everson case – the Supreme Court called Jefferson

“an acknowledged leader of the advocates of the measure,” and described his opinion on the meaning of the First Amendment as “authoritative.” Obviously, this invoking of Jefferson by the Supreme Court in 1878 is completely contrary to Barton’s claim that the Court invoking Jefferson in First Amendment cases is some sort of modern revisionist phenomenon that only began in 1947.

Barton does eventually get around to mentioning *Reynolds v. United States* ten pages later, but in a completely different context in which he can twist the case’s use of Jefferson’s “wall” metaphor to make it suit his purposes.

Now, let’s go back even further than 1878. Let’s look at how Jefferson was repeatedly invoked by many of the other founders as an authority during the fight to ratify the Constitution.

Let’s start with James Madison, the “father of the Constitution.” Who was it that Madison invoked in Federalist No. 48 as the “authority” when explaining the importance of the separation of powers? Yeah, you got it – Madison invoked Jefferson:

> The first example is that of Virginia, a State which, as we have seen, has expressly declared in its constitution, that the three great departments ought not to be intermixed. The authority in support of it is Mr. Jefferson, who, besides his other advantages for remarking the operation of the government, was himself the chief magistrate of it. In order to convey fully the ideas with which his experience had impressed him on this subject, it will be necessary to quote a passage of some length from his very interesting “Notes on the State of Virginia”...17

As the quote indicates, Madison then continued by quoting Jefferson to explain the importance of this part of the Constitution.

Then there was the Virginia ratifying convention. Not only was Jefferson invoked by a number of his fellow Virginians during the convention; his opinion on ratifying the Constitution was actually lied about by some of the anti-federalists to make it appear that he

was on their side! Yes, contrary to what David Barton wants his readers to believe, the opinions of Jefferson carried a great deal of weight with the other founders at his state’s convention, even though he was communicating those opinions through letters from France rather than in person at the convention.

The Virginia convention took place in June 1788, by which time Jefferson had made his opinions on the Constitution known to several correspondents. One of these correspondents was, of course, James Madison, to whom Jefferson had written at length about every article of the Constitution, as well as on the issue of a bill of rights, but there were also others. One of these others was Alexander Donald, a lifelong friend of Jefferson’s from the time the two were teenagers.

Something that needs to be understood in order to understand what follows is what the deal-breaker issue was at the Virginia convention. The issue was whether the Constitution should be amended before it was ratified or if it should be ratified as it was and then amended by the first Congress after the new government was in place. So important was this issue that two separate votes were taken at the end of the convention – the vote on ratification itself, and a separate vote on the question of whether the Constitution should be amended before or after ratification.

In one of his letters to Alexander Donald, Jefferson had described a plan to ensure that a bill of rights would be added. Jefferson wanted the first nine state ratifying conventions to approve the Constitution as it was, which would assure that it had the nine states needed to go into effect, but for the last four states to refuse to ratify it without the addition of a bill of rights, which would force the first Congress to add a bill of rights in order to get the final four states to ratify.

The contents of this letter from Jefferson to Donald, written in February 1788, somehow became public prior to Virginia’s ratifying convention, and the anti-federalists attempted to use what Jefferson had written as evidence that he was on their side.

On June 9, 1788, a week into the Virginia convention, anti-federalist Patrick Henry invoked Jefferson, referring to him as “an
illustrious citizen of Virginia, who is now in Paris.” Obviously, everyone knew he was talking about Jefferson. This is what Henry said:

... I might say, not from public authority, but good information, that his opinion is, that you reject this government. His character and abilities are in the highest estimation; he is well acquainted in every respect, with this country, equally so with the policy of the European nations. This illustrious citizen advises you to reject this government, till it be amended. His sentiments coincide entirely with ours. His attachment to, and services done for, this country are well known. At a great distance from us, he remembers and studies our happiness. Living in splendour and dissipation, he thinks yet of bills of rights – thinks of those little, despised things called maxims. Let us follow the sage advice of this common friend of our happiness.18

The “good information” referred to by Henry was, of course, Jefferson’s letter to Alexander Donald. But ironically, Henry, a devout Christian, was doing a bit of revisionism to what Jefferson actually wrote. In no way had Jefferson advised that the Constitution be rejected until it was amended, and his sentiments most certainly did not “coincide entirely” with the anti-federalists.

Jefferson absolutely wanted a bill of rights to be added, and had a few other issues with the Constitution as written, such as having no limit on how many terms the president could serve, but he was very clear in his letter to Alexander Donald that he wanted the Constitution to be ratified as it was and for the amendments to be done after ratification:

I wish with all my soul that the nine first Conventions may accept the new Constitution, because this will secure to us the good it contains, which I think great and important. But I equally wish that

the four latest conventions, whichever they be, may refuse to accede to it till a declaration of rights be annexed. This would probably command the offer of such a declaration, and thus give to the whole fabric, perhaps as much perfection as any one of that kind ever had. By a declaration of rights I mean one which shall stipulate freedom of religion, freedom of the press, freedom of commerce against monopolies, trial by juries in all cases, no suspensions of the habeas corpus, no standing armies.\textsuperscript{19}

How Patrick Henry thought he was going to get away with lying about what Jefferson said in his letter is a bit of a mystery since he certainly would have known that others, on both sides of the debate, had also seen the letter and knew what Jefferson had really said in it.

A few days later, Edmund Pendleton, the president of the convention, corrected Henry’s distortion of Jefferson’s letter. Pendleton, while saying he wished with all his heart that Jefferson could have been at the convention, did not think it was proper to be using his letter, saying, “As to his letter, impressed as I am with the force of his authority, I think it was improper to introduce it on this occasion.”\textsuperscript{20} Although Pendleton, who had also seen the letter, didn’t think it was proper to bring up a private letter written by someone who wasn’t at the convention, no matter who that someone was, he proceeded to address it once Henry had brought it up and lied about it, saying:

But, admitting that this opinion ought to be conclusive with us, it strikes me in a different manner from the honorable gentleman [Henry]. I have seen the letter in which this gentleman has written his opinion upon this subject – it appears that he is possessed of that constitution, and has in his mind the idea of amending it – he has in his mind the very question, of subsequent or previous


amendments, which is now under consideration. His sentiments on this subject are as follows, “I wish, with all my soul, that the nine first conventions may accept the new constitution, because it will secure to us the good it contains, which I think great and important. I wish the four latest which ever they be, may refuse to accede to it, till amendments are secured.” He then enumerates the amendments which he wishes to be secured, and adds, “We must take care, however, that neither this, nor any other objection to the form, produce a schism in our union. That would be an incurable evil; because friends falling out never cordially reunite.” Are these sentiments in favor of those who wish to prevent its adoption by previous amendments? He wishes the first nine states to adopt it. What are his reasons? Because he thinks it will secure to us the good it contains, which he thinks great and important, and he wishes the other four may refuse it, because he thinks it may tend to obtain necessary amendments. But he would not wish that a schism should take place in the Union on any consideration. If then we are to be influenced by his opinion at all, we shall ratify it, and secure thereby the good it contains.²¹

But Patrick Henry didn’t back down. Even after Pendleton quoted what Jefferson’s letter really said, Henry continued to insist that Jefferson would reject the Constitution if he were there. He just tried to twist what Jefferson wrote in a different way to say that Jefferson would have wanted Virginia to be one of the four states to reject the Constitution until a bill of rights was added:

The honourable gentleman has endeavoured to explain the opinion of Mr. Jefferson, our common friend, into an advice to adopt this new government. What are his sentiments? He wishes nine states to adopt, and that four states may be found somewhere to reject it. Now, sir, I say, if we pursue his advice, what are we to do? To prefer form to substance? For, give me leave to ask, what is the

substantial part of his counsel? It is, sir, that four states should reject. They tell us that, from the most authentic accounts, New Hampshire will adopt it. When I denied this, gentlemen said they were absolutely certain of it. Where, then, will four states be found to reject, if we adopt it? If we do, the counsel of this enlightened and worthy countryman of ours will be thrown away; and for what? He wishes to secure amendments, and a bill of rights, if I am not mistaken. I speak from the best information, and if wrong, I beg to be put right. His amendments go to that despised thing, called a bill of rights, and all the rights which are dear to human nature—trial by jury, the liberty of religion and the press, &c. Do not gentlemen see that, if we adopt, under the idea of following Mr. Jefferson's opinion, we amuse ourselves with the shadow, while the substance is given away? If Virginia be for adoption, what states will be left, of sufficient respectability and importance to secure amendments by their rejection? 22

Like Edmund Pendleton, James Madison also thought it was improper for a private letter written by Jefferson to have been brought up at the convention, but once it was he wasn’t going to let the anti-federalists get away with twisting what Jefferson said.

Madison was the one person to whom Jefferson had written at length about the Constitution, going through it article by article, so he knew what Jefferson’s opinions were on every part of it, which again begs the question: how on earth did Patrick Henry think he could get away with lying about what Jefferson said? It’s one thing for David Barton to think he can get away with lying about Jefferson two centuries later, but Henry actually tried to get away with it with James Madison, the one person who would know exactly what Jefferson thought, right there in the same room.

In addition to correcting Henry’s spurious claim that Jefferson would side with the anti-federalists on Virginia’s rejecting the Constitution if he were present at the convention, and making it clear

that he knew what Jefferson’s opinions were on other parts of the Constitution where he disagreed with Henry, Madison said did not want what had been said about Jefferson to be printed in the record of the debates.  

At least five of the most prominent delegates at the Virginia convention – those already mentioned plus George Mason and Virginia’s governor, Edmund Randolph – were involved in this debate over which side Jefferson would have been on if he had been there. Afterwards, both James Madison and James Monroe wrote to Jefferson about it.

According to Madison’s letter, Jefferson was invoked not only at the convention in his home state of Virginia, but also at Maryland’s convention:

Among a variety of expedients employed by the opponents to gain proselytes, Mr. Henry first and after him Col. Mason introduced the opinions, expressed in a letter from a correspondent [Mr. Donald or Skipwith I believe] and endeavored to turn the influence of your name even against parts, of which I knew you approved. In this situation I thought it due to truth as well as that it would be most agreeable to yourself and accordingly took the liberty to state some of your opinions on the favorable side. I am informed that copies or extracts of a letter from you were handed about at the Maryld. Convention with a like view of impeding the ratification.

Monroe told Jefferson that his letter had been “the subject of much inquiry and debate”:

In the discussion of the subject an allusion was made I believe in the first instance, by Mr. Henry to an opinion you had given on this subject, in a letter to Mr. Donald. This afterwards became the subject of much inquiry and debate in the house, as to the

construction of the contents of such letter and I was happy to find the great attention and universal respect with which the opinion was treated; as well as the great regard and high estimation in which the author of it was held.25

So, if Jefferson wasn’t considered a constitutional authority until modern times, as Barton claims, why did the delegates at Virginia’s ratifying convention think it was so important to have him on their side in the debate on the Constitution? Why did some of them even go as far as lying to make it appear that Jefferson was on their side? Did this previous generation – the generation that was making the history – just not know American history “well enough to know better than to invoke Jefferson in such a manner?”

Barton’s claim is, of course, ridiculous. Every generation, from Jefferson’s own generation to the present, has considered Jefferson’s opinion to be important, regardless of the fact that he happened to be serving as minister to France at the time that the Constitution and Bill of Rights were being written.

When the Supreme Court has invoked Jefferson, it’s never been because the “modern courts” think that Jefferson was responsible for writing the First Amendment, which is the most ridiculous part of Barton’s ridiculous claim, but because Jefferson was an important figure in the history that led to the First Amendment, as we’ll see in the next section when we go through that endnote where Barton lists those forty-three Supreme Court cases.

The One About
Jefferson and the “Modern Courts”

BARTON’S LIE: In a lengthy endnote, Barton lists forty-three First Amendment cases decided by the Supreme Court to support his claim that “modern courts” think that Jefferson was personally responsible for the First Amendment. Barton claims that these were all cases “addressing the removal of religious expressions from the public square.”

THE TRUTH: Not a single one of the forty-three cases listed by Barton supports his claim that “modern courts” think that Jefferson was personally responsible for the First Amendment. And, almost none of these cases had anything to do with “the removal of religious expressions from the public square.” In fact, one of them didn’t even have anything to do with religion at all!

As I said in the middle of the last section, I didn’t want to digress into a lengthy examination of all forty-three of the cases listed in Barton’s endnote there, so I decided to go through the list case by case in this separate section to see whether or not they actually support the claim that Barton is making.

If you recall, Barton’s claim was that “many modern courts” think that “Jefferson is responsible for the First Amendment,” and that after using a heavily edited quote from the 1947 Everson v.
Board of Education case as his evidence to support that claim, he continued by claiming:

In subsequent cases the Court even described Jefferson was [sic] indeed “the architect of the First Amendment.” So firmly does the Court believe this that, in the six decades following its 1947 announcement, in every case addressing the removal of religious expression from the public square it used Jefferson either directly or indirectly as its authority.

Barton’s endnote for this claim is a list of forty-three\textsuperscript{26} Supreme Court cases since 1947, divided into three sections, the first of which begins with this description:

**Forty-three major decisions on religion have been delivered since 1947, and Jefferson was cited authoritatively in sixteen**

Two of the sixteen cases cited by Barton in this section of his endnote – Everson v. Board of Education and Abington Township School District v. Schempp – have already been addressed in the previous section. But what about the other fourteen? Was Jefferson “cited authoritatively” in any of these cases?

Well, six of the cases simply quote the following paragraph from Everson to describe the various things that the First Amendment prohibits:

Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force or influence a

\textsuperscript{26} There have actually been about thirty other Supreme Court cases regarding religion in the six decades following 1947 besides the forty-three listed by Barton. Many of these other cases that aren’t included by Barton actually \textit{do} fit the description of cases “addressing the removal of religious expression from the public square,” while many of the forty-three cases that he does list \textit{don’t} fit this description at all. For example, there have been three Ten Commandments cases, McCrory County v. ACLU (2005), Van Orden v. Perry (2005), and Stone v. Graham (1980), but for some reason Barton only lists one of the three, Stone v. Graham. For the purposes of this book, however, only the forty-three cases that Barton does list will be addressed.
JEFFERSON ADVOCATED A SECULAR PUBLIC SQUARE

person to go to or to remain away from church against his will, or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or nonattendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups, and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect “a wall of separation between church and State.” 27

As you can see, all this paragraph does is list the most basic things that are prohibited by the First Amendment. It includes Jefferson’s “separation” metaphor simply because the court was quoting a paragraph from Everson and that’s what the paragraph being quoted said. This paragraph doesn’t address anything regarding “the removal of religious expression from the public square.” In fact, only one of these six cases was really even about religious expressions in the public square, and the pro-religious expression side won that case, with the Court finding it completely constitutional for the KKK to place a cross in a public forum.

Of the remaining eight of the sixteen cases in Barton’s first batch, four merely refer to and/or quote some part of the same paragraph from Everson quoted in the other six. For example, Barton includes Lee v. Weisman (1992) because of this paragraph, which quotes a part of the Everson paragraph:

This Court first reviewed a challenge to state law under the Establishment Clause in Everson v. Board of Education, 330 U.S. 1

(1947). Relying on the history of the Clause and the Court’s prior analysis, Justice Black outlined the considerations that have become the touchstone of Establishment Clause jurisprudence: neither a State nor the Federal Government can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither a State nor the Federal Government, openly or secretly, can participate in the affairs of any religious organization and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect “a wall of separation between church and State.”

Another of the four, Zelman v. Simmons-Harris (2002), simply said that the paragraph from Everson “cataloged” what the First Amendment’s Establishment Clause was designed to do. This mention of Everson was then followed by a number of quotes from both James Madison’s Memorial and Remonstrance Against Religious Assessments and Jefferson’s Bill for Establishing Religious Freedom, describing what “freedom of conscience” meant in regard to being taxed for religious purposes:

I anticipated these objectives earlier … in discussing Everson, which cataloged them, the first being respect for freedom of conscience. Jefferson described it as the idea that no one “shall be compelled to … support any religious worship, place, or ministry whatsoever,” … even a “teacher of his own religious persuasion,” … and Madison thought it violated by any “authority which can force a citizen to contribute three pence … of his property for the support of any … establishment.”

The other two of the four, Epperson v. Arkansas (1968) and Marsh v. Chambers (1983), just contain similar references to the paragraph from Everson.

So, in ten of the sixteen cases listed by Barton in this section

of his endnote, what was “cited authoritatively” was a paragraph from a previous case that “cataloged” the basic things that the First Amendment’s Establishment Clause prohibits. But, because this often quoted paragraph ended with Jefferson’s “wall” metaphor, Barton lists these as ten separate cases in which Jefferson was “cited authoritatively,” even though Jefferson’s metaphor wasn’t the reason that this paragraph was quoted or mentioned in these cases. Some of them didn’t even include the part of the paragraph containing Jefferson’s metaphor.

Two of the six remaining cases in this batch of sixteen said nothing more than that Jefferson’s “wall” metaphor was “useful,” one saying that “the concept of a ‘wall’ of separation is a useful signpost,” 30 and the other saying the “concept of a ‘wall’ of separation is a useful figure of speech probably deriving from views of Thomas Jefferson.” 31

Yes, Barton is claiming that saying someone came up with a useful metaphor is the same thing as citing them authoritatively!

Another case in this part of Barton’s list quoted a few sentences from the opinion of the lower court, which said nothing more than that Jefferson, among others, thought that prayers were religious, noting that nobody on either side of the case disagreed with this highly unusual notion:

The nature of such a prayer has always been religious, none of the respondents has denied this, and the trial court expressly so found:

The religious nature of prayer was recognized by Jefferson, and has been concurred in by theological writers, the United States Supreme Court, and State courts and administrative officials, including New York’s Commissioner of Education. A committee of the New York Legislature has agreed. 32

The final case in this batch of sixteen did mention Jefferson and did use the phrase “separation between Church and State,” but this was definitely not to cite Jefferson “authoritatively.” It was for the completely opposite reason – to say that it wasn’t “possible or desirable” to have a total separation:

James Madison, in his Memorial and Remonstrance Against Religious Assessments, admonished that a “prudent jealousy” for religious freedoms required that they never become “entangled ... in precedents.” His strongly held convictions, coupled with those of Thomas Jefferson and others among the Founders, are reflected in the first Clauses of the First Amendment of the Bill of Rights, which state that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” Yet, despite Madison’s admonition and the “sweep of the absolute prohibitions” of the Clauses, this Nation’s history has not been one of entirely sanitized separation between Church and State. It has never been thought either possible or desirable to enforce a regime of total separation, and as a consequence cases arising under these Clauses have presented some of the most perplexing questions to come before this Court.33

That last one almost makes it sound as if the Supreme Court has ruled in some cases that whatever religious issue was before it did violate the First Amendment, but ruled in other cases that whatever religious issue was before it didn’t violate the First Amendment, doesn’t it? And that, of course, is because that’s exactly what the Court has done. While Barton tries to give the impression that the courts always rule against the religious side, they don’t. In fact, in eight of the sixteen cases cited by Barton in this first section of his endnote – including Everson, the big 1947 bugaboo case that popularized Jefferson’s “wall” metaphor – the side that Barton would presumably have wanted to win did win.

Now, let’s not lose sight of what Barton’s original claim was.

Barton was going to demonstrate that the “modern courts” think that “Jefferson is personally responsible for the First Amendment.” His claim is that this belief is the reason that the Supreme Court has “used Jefferson either directly or indirectly as its authority.” But none of the cases cited by Barton so far have said anything indicating that the Court thinks Jefferson is “personally responsible for the First Amendment.” All of these cases referred either to what Jefferson did in Virginia prior to the writing of the First Amendment or to the “wall” metaphor that he used to describe the First Amendment after it was written. None of them makes any claim that Jefferson was personally responsible for the amendment itself.

But we’re only a little over a third of the way through Barton’s list of forty-three cases, so what about the rest of them?

Barton describes the next batch of ten cases in his endnote like this:

Jefferson’s “wall of separation between Church and State” metaphor (or some slight modification thereof) was cited in an additional ten:

Sure, Jefferson’s “wall” metaphor, or a variation of it, was cited in these cases, but it was cited to say the exact opposite of what Barton claims this list of cases is supposed to support! The metaphor was not cited because the Court “used Jefferson either directly or indirectly as its authority” in these cases, which was Barton’s claim. It was cited to say that there was disagreement about the “wall” metaphor, that the “wall” had not been viewed by the Court as absolute, or that total separation wasn’t possible!

In the first of this batch of ten cases, Zorach v. Clauson (1952), Jefferson’s “wall” metaphor was mentioned to note that there was disagreement over its meaning after a prior case that was similar to the case then before the Court:

I am aware that our McCollum decision on separation of Church and State has been subjected to a most searching examination throughout the country. Probably few opinions from this Court in
recent years have attracted more attention or stirred wider debate. Our insistence on “a wall between Church and State which must be kept high and impregnable” has seemed to some a correct exposition of the philosophy and a true interpretation of the language of the First Amendment to which we should strictly adhere. With equal conviction and sincerity, others have thought the McCollum decision fundamentally wrong, and have pledged continuous warfare against it.\(^3^4\)

Another of the ten cases in this section, *Aguilar v. Felton* (1985), citing *Zorach v. Clauson*, also said that the separation of church and state is *not* absolute:

We have frequently recognized that some interaction between church and state is unavoidable, and that an attempt to eliminate all contact between the two would be both futile and undesirable. Justice Douglas, writing for the Court in *Zorach v. Clauson*, 343 U.S. 306, 343 U. S. 312 (1952), stated:

“The First Amendment ... does not say that, in every and all respects, there shall be a separation of Church and State. ... Otherwise, the state and religion would be aliens to each other – hostile, suspicious, and even unfriendly.” \(^3^5\)

Barton also includes *Lemon v. Kurtzman* (1971) – a case in which the reason that Jefferson’s “wall” metaphor was cited was not only to say that total separation *wasn’t* possible, but to say that the Court’s prior rulings did *not* call for a total separation between church and state:

Our prior holdings do not call for total separation between church and state; total separation is not possible in an absolute

sense. Some relationship between government and religious organizations is inevitable.\textsuperscript{36}

and:

Judicial caveats against entanglement must recognize that the line of separation, far from being a “wall,” is a blurred, indistinct, and variable barrier depending on all the circumstances of a particular relationship.\textsuperscript{37}

Now, pay particular attention to that line from \textit{Lemon} saying that the line of separation \textit{wasn’t} a wall, but a “blurred, indistinct, and variable barrier.” In three of the other cases that Barton lists in this section, the reason that Jefferson’s “wall” metaphor was cited was to repeat that line from \textit{Lemon}.

For example, Barton includes \textit{Wolman v. Walter} (1977), which says:

We have acknowledged before, and we do so again here, that the wall of separation that must be maintained between church and state “is a blurred, indistinct, and variable barrier depending on all the circumstances of a particular relationship.”\textsuperscript{38}

The two other cases in Barton’s endnote that similarly quote the “blurred, indistinct, and variable barrier” line from \textit{Lemon} are \textit{Roemer v. Board of Public Works of Maryland} (1976) and \textit{Committee for Public Education v. Regan} (1980).

Barton just completely ignores that far from citing Jefferson’s metaphor as an authoritative doctrine, these four cases were all saying the exact opposite – that in previous cases the “wall” had \textit{not} been viewed by the Court as absolute!

Other cases in this section of Barton’s endnote say the same

37. Ibid.
thing in different ways, like *County of Allegheny v. ACLU* (1989), yet another case that used the phrase “wall of separation” to say that this wall isn’t absolute:

A categorical approach would install federal courts as jealous guardians of an absolute “wall of separation,” sending a clear message of disapproval. In this century, as the modern administrative state expands to touch the lives of its citizens in such diverse ways and redirects their financial choices through programs of its own, it is difficult to maintain the fiction that requiring government to avoid all assistance to religion can, in fairness, be viewed as serving the goal of neutrality.39

And he also includes *Santa Fe Independent School Dist. v. Doe* (2002), which quoted the following from *Lynch v. Donnelly*, one of the cases he already listed in the first section of his endnote:

Nor does the Constitution require complete separation of church and state; it affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any.40

So, we’re up to eight out of the ten cases listed by Barton in this section of his endnote, and all of them so far have cited Jefferson’s “wall of separation” metaphor to say that the Court did not view it as an absolute, authoritative doctrine – the exact opposite of what Barton claims these cases demonstrate.

What about the other two cases in this section?

Well, one of them is *Bowen v. Kendrick* (1988), a case challenging the *Adolescent Family Life Act*, a 1981 act that provided federal funding for abstinence programs. The phrase “separation between church and state” appeared in this case because the Court quoted a Senate committee report – a report saying that the opinion of the committee was that the act did “not violate the constitutional

separation between church and state.” The Court agreed. This was yet another case that the religious side won.

Barton also cites another page from this same case, apparently deeming the phrase “a total separation between secular teaching and religious doctrine” to be what he describes in his introduction to this section of his endnote as “some slight modification” of the “wall of separation” metaphor. Both phrases do contain the word “separation,” after all.

The last of this batch of ten cases is another that, like most of the cases in Barton’s endnote, had absolutely nothing to do with “the removal of religious expressions from the public square.” (Don’t forget that this is what Barton claimed all forty-three of the cases in this endnote were about.)

This last case, Texas Monthly, Inc. v. Bullock (1989), was about a Texas state law that exempted only religious publications from sales tax. Texas Monthly, a non-religious magazine, successfully sued in state court to recover the sales taxes it had paid, but the state appeals court reversed that ruling, saying that giving the tax exemption only to religious publications passed the “Lemon Test,” the three-pronged test that the Supreme Court came up with in Lemon v. Kurtzman to determine if legislation regarding religion is constitutional. In describing the state appeals court ruling, the first prong of the Lemon Test was paraphrased as “served the secular purpose of preserving separation between church and state.”

Barton also cites a second page from the Texas Monthly case. On that page, a previous case – Walz v. Tax Commission (1970), a case that the religious side won – was quoted to say that the purpose of tax exemptions to religious organizations was not to advance religion but to “restrict[t] the fiscal relationship between church and state’ and to ‘complement and reinforce the desired separation insulating each from the other.’” Apparently, that sentence is another one of those “slight” modifications of Jefferson’s metaphor.

42. Ibid., 638.
44. Ibid., 43.
Like the sixteen cases in the first section of Barton’s endnote, the victory rates for the “religious” side and the “secular” side were exactly equal in these ten cases. Each side had four outright wins, and in the remaining two cases both sides won in part and lost in part. This outcome shouldn’t seem surprising given that in eight out of the ten cases Jefferson’s “wall of separation” was brought up to say that the Court did not consider it to be an absolute wall.

The third and last section of Barton’s endnote is prefaced with this statement:

Of the remaining seventeen cases, all of them relied on a case in which Jefferson had already been invoked by the Court as a primary authority in reaching its decision to restrict or remove religious expressions:

Like most of the cases in the previous two sections, most of the cases in this section had nothing to do with “religious expressions,” let alone restricting or removing them. Almost none of the cases listed by Barton was about religious expressions (i.e., the display of the ten commandments and crosses, religious speech, etc.). The majority of them were about money (i.e., tax exemptions, public funding of religious schools or religious programs, etc.).

For example, Barton lists among this batch of seventeen cases Walz v. Tax Commission of City of New York (1970), a case that upheld a tax exemption for property used for religious worship. He also lists Zobrest v. Catalina Foothills School District (1993), in which the Supreme Court reversed the lower court’s ruling that the state’s providing a sign language interpreter for a Catholic school student was unconstitutional.

But the most outrageously irrelevant case in Barton’s list is Norwood v. Harrison (1973). This case not only had nothing to do with “religious expressions,” it didn’t even have anything to do with religion! It was about racial discrimination. It was a case in which the Court ruled that a state can’t provide aid to a private school that discriminates on the basis of race, not religion.

As already mentioned, about half of the cases listed in Barton’s
endnote were won by the *religious* side and about half by the *secular* side, and there were a few in which both sides won in part and lost in part. Two examples of these cases, which are in this third section of Barton’s endnote, are *Tilton v. Richardson* (1971) and *Meek v. Pittenger* (1975).

In *Tilton v. Richardson*, the court ruled that an act providing federal construction grants for non-religious facilities at religious colleges was not unconstitutional, so the *religious* side won on the main issue. But the Court did rule one provision of the act unconstitutional – a time limit provision that would allow the federally funded buildings to be used for religious purposes after twenty years.

*Meek v. Pittenger* was a case about a Pennsylvania law that authorized the state to provide a variety of services and loans of textbooks and equipment to private religious schools. The Court ruled that all of the services, such as counseling, testing, and remedial education, were secular services that were permissible for the state to pay for. The loans of textbooks and other educational materials were also ruled constitutional. The only thing that was determined to be impermissible was the loaning of equipment that would be used for both secular and religious teaching.

As you can see, not only did these cases have nothing to do with “religious expressions,” but the *religious* side essentially won in both of them. Both laws were ruled constitutional, with the exception of one small part of each them.

Of the seventeen cases in this section, the *religious* side won six and was essentially the winner in the two described above, for a total of eight, and the *secular* side also won eight. (*Norwood v. Harrison*, of course, can’t be counted as a win or loss for either side because it wasn’t even a case about religion, but a case about racial discrimination.)

Barton concludes his endnote by saying:

“Therefore, Jefferson has been evoked either directly or indirectly as the constitutional authority in all forty-three major Supreme Court Cases on religion.”
So, what does he mean by Jefferson’s being “evoked either directly or indirectly” in these cases? Well, by “indirectly,” he’s apparently referring to the seventeen cases in the third section of his endnote. Thirteen of these seventeen cases didn’t contain any mention whatsoever of Jefferson or his “wall” metaphor. But, as Barton says in his description of that section of his endnote, these are cases that merely “relied on a case in which Jefferson had already been invoked by the Court.”

See what Barton has done here? Look at how his endnote evolved. Some of the cases at the beginning of the endnote mentioned Jefferson or his “wall” metaphor, but most of these, as I’ve explained, were either quoting the paragraph from Everson that “cataloged” the things that the First Amendment prohibits or using the “wall” metaphor to say that this wall was not absolute. Then, to come up with the seventeen cases for the last section, he takes any case that merely cited one of the cases in the first two parts of his endnote and lists it as a case that “relied on a case in which Jefferson had already been invoked by the Court.” Pretty slick, huh?

Not a single one of the forty-three cases listed in Barton’s endnote supports his claim that the Supreme Court has considered Jefferson’s “wall” metaphor to be “authoritative,” and he certainly hasn’t supported his original claim – that the reason Jefferson is invoked in court cases regarding religion is because the “modern courts” think he was “responsible for the First Amendment.”

Barton’s goal is clearly just to present such an overwhelmingly long endnote with so many examples that his readers – guided by his descriptions of each batch of cases – are left with the impression that every time Jefferson has been “invoked” by the Court it’s been the deciding factor in the case, allowing the secularists to move one step closer to destroying America.
The One About
Jefferson and the “Wall” Metaphor

One thing the Christian nationalist history revisionists find it very important to do is to explain away Jefferson’s “wall of separation between church and state” metaphor. This is usually done by lying about what the Baptists of Danbury, Connecticut were talking about when they wrote to Jefferson in 1801. If they lie about why the Baptists wrote to Jefferson, they can then lie about what he meant by his reply to them. Barton, of course, does this in his chapter, and that’s the subject of the next section of this book, but he does something else in The Jefferson Lies before getting to the usual lies about the Danbury Baptists’ letter. He spends four pages explaining that the “wall of separation” metaphor was nothing new when Jefferson used it.

What Barton seems to be trying to prove in these four pages of his book is that Jefferson got his “wall of separation” metaphor from theological sources, and that these sources meant that the wall was only a one-way wall – a wall that kept the state out of the church, but not the church out of the state. Most of the examples that Barton uses here are completely irrelevant to a discussion of Jefferson’s letter, but just like the rest of Barton’s history, these four pages contain quite a few historical inaccuracies. So, in the interest of being thorough, let’s take a look at some of the claims Barton makes in this section.
Barton begins:

Historically speaking, Jefferson was a latecomer to the separation phrase. The famous metaphor so often attributed to him was introduced in the 1500s by prominent ministers in England. And throughout the 1600s it was carried to America by Bible-oriented colonists who planted it deeply in the thinking of Americans, all long before Jefferson ever repeated it. So what was the historic origin of that now-famous phrase?

Jefferson was familiar with the writings of the Reverends John Wise, Joseph Priestly [sic], and many others who divided the history of Christianity into three periods. In Period I (called the Age of Purity), the followers of Jesus did just as He had taught them and retained Bible teaching uncorrupted. In Period II (the Age of Corruption), State leaders declared themselves also to be the Church leaders and seized control of the Church, assimilating it into the State and thus merging the two previously separate institutions into one. But in Period III (the Age of Reformation), Bible-centered leaders began loudly calling for reinstating the Bible-ordained separation between the two entities.

This second paragraph is one of those where it’s hard to know where to begin.

First of all, what John Wise and Joseph Priestley wrote was not the same thing and not for the same reasons. But using two examples that have nothing to do with each other never stops Barton from using both of them as examples to support the same thing. Both Wise and Priestley were writing about the corruption of what they referred to as “primitive” Christianity, but these two men meant very different things by primitive Christianity. Wise was defending the way the Congregationalists in New England ran their churches, while Joseph Priestley was writing about the theological corruptions of
Christianity and making an argument for Unitarianism. And, while Jefferson read both Wise and Priestley, he didn’t read them until after his views on church and state were already well established, so neither could have been what influenced him and formed his views on this subject.

Let’s start with John Wise. The work of John Wise that Barton is referring to was a treatise titled A Vindication of the Government of New-England Churches, originally published in 1717. This treatise was republished in 1772 and was widely read during the period just before the Revolutionary War, for reasons that will be explained in a minute. But first, let’s look at what this treatise was about and why Wise wrote it.

When the Puritans first came to America, they still considered themselves to be part of the Church of England, but with the view of reforming that church. By the mid-1600s, however, they had so radically changed the way their churches were run that they had become an entirely new denomination – the Congregationalists. The reason they were called Congregationalists was that each individual church was autonomous and run as a democracy, with the lay members of the congregation, and not just the clergy, having a say in how their church was run. In 1648, the Massachusetts General Assembly – the civil government – called for a synod of all the individual Congregationalist churches in Massachusetts and Connecticut. Out of this synod came the “Cambridge Platform.” This platform did not separate the church from the state. The civil government still had the power to enforce religious laws and to convene synods. It just couldn’t interfere with the internal governance of the individual churches, which was left up to the congregation of each church. The Congregationalists hadn’t changed theologically from the Church of England; they had just set up a different form of church government, one with no hierarchy or central authority – no bishops like the Anglicans, and no presbytery like the Presbyterians. Each individual church was its own little democracy.

Everything was fine until 1684, when Massachusetts had its charter revoked because of the colony’s refusal to comply with new British trade and navigation laws. The Massachusetts General
Assembly continued to operate as usual for two more years, but in 1686 a new royal government was instated by Great Britain. The political changes also led to the emergence of two factions within the Congregationalist Church – one that thought the Church should have some kind of central authority and one that wanted things to stay as they were. And, as was typical in those days, the battle played out in the form of pamphlets and treatises, with numerous writings defending the democratic government of the Congregationalist churches.

Now, fast forward about twenty years. John Wise writes his treatise *A Vindication of the Government of New-England Churches*, which, as its title indicates, was a defense of the democratic government of the Congregationalist churches. But it was now 1717. The crisis had passed, so Wise’s treatise was barely noticed. It wasn’t until 1772 that anybody really paid attention to it. At that time, it was reprinted and widely read throughout the colonies. Why? Because, in defending the form of government of the Congregationalist churches, Wise had laid out an argument against monarchies and aristocracies that really resonated with the colonists on the eve of the Revolutionary War. Like everybody else, Jefferson would almost certainly have read Wise’s treatise at this time.

How Wise had gone about defending the Congregationalist Church’s form of government was to first make the case for a democracy being superior to either a monarchy or an aristocracy for a civil government. He then applied the same arguments he had used in the part of his treatise about civil government to their parallels in church government – the Catholic Church was run as an “Ecclesiastical Monarchy” that had “subverted all good Christianity in it,” a church that was run by a “Select Company of choice Persons,” like the Anglicans or Presbyterians, was an aristocracy. Wise argued that while an aristocracy “might do to support the Church in its most valuable Rights,” even good men can become corrupted by power, and that “Christianity by the foresaid Principle has been peel’d, rob’d and spoiled.”

46. Ibid., 56-57
an aristocracy as a form of church government by saying, “In a word, an Aristocracy is a dangerous Constitution in the Church of Christ, as it possesses the Presbytery of all Church Power.”

Wise’s ultimate point, of course, was that a democracy was the best form of government for a church, but beyond that he argued that a democracy was the form of government adopted by the earliest Christian churches, and therefore the Congregationalist churches were run like the churches of “primitive Christianity.”

So, that’s what John Wise meant when he referred to “primitive Christianity.” He was talking about church government, not the theological beliefs of Christianity, in which the Congregationalists differed little from the other trinitarian denominations.

When Joseph Priestley referred to “primitive Christianity,” however, he meant something entirely different than what John Wise meant.

The work of Joseph Priestley that Barton is referring to was his 1782 book *A History of the Corruptions of Christianity*. In this work, Priestley, a Unitarian, was arguing against what Unitarians considered to be the *theological* corruptions of Christianity – the deification of Jesus, the trinity, and many other beliefs held by the trinitarian Christian sects. To Priestley, “primitive Christianity” was Unitarian Christianity, and trinitarian Christianity was a corruption of what the early Christians believed.

Both Wise’s and Priestley’s works naturally traced the corruption of Christianity back to union of church and state under Constantine, but to Wise this was the beginning of the corruption of the *form of government* of the church, while to Priestley it was the beginning of the corruption of the *theological beliefs* of the Christian religion itself – the beliefs that Wise, as a trinitarian Christian, still held. In what Barton calls “Period III” or “the Age of Reformation” (terms that Barton seems to have come up with himself, and not terminology used by Wise or Priestley), Priestley still considered Christianity to be totally corrupted by trinitarian doctrines, and Wise still

considered the forms of government of all the major Christian denominations except the Congregationalists to be corruptions of primitive Christianity.

Barton’s claim also contains one of the many anachronisms found throughout The Jefferson Lies, and that is that Jefferson could not possibly have developed his views on the separation of church and state from reading Priestley’s A History of the Corruptions of Christianity because that work wasn’t even published until six years after Jefferson formally launched his fight for the disestablishment of religion in Virginia.

Unfortunately, Barton’s readers don’t notice inconsistencies like this, and Barton counts on their lack of knowledge of history and the unlikelihood that they will actually check his sources and read them for themselves. All Barton needs to say is that Jefferson read stuff by these two guys who were clergymen, stick an endnote number somewhere in his claim, and his readers will be sure that their favorite historian just proved that Jefferson’s views on the separation of church and state were based on the Bible.

So, what does Barton’s endnote for his John Wise and Joseph Priestley claim actually lead to?

Well, his first source is an item from an 1888 issue of The Nation saying that a catalog of the books that Jefferson sold to Congress from his personal library in 1814 should be printed because it would be a valuable historical resource. 48 As one example of why the catalog would be useful, the author said that Jefferson’s own handwritten catalog listed a “pamphlet” by Wise that fit the description of A Vindication of the Government of New-England Churches, but Jefferson didn’t list a title in his catalog. There was a line in Wise’s 1717 treatise that was very similar to a line in the Declaration of Independence, so the author thought it would be interesting to know if the Wise pamphlet that Jefferson owned was in fact the 1772 reprint of that treatise. So, basically, all Barton’s first source says is that Jefferson probably owned a copy of Wise’s treatise, a part of his claim that nobody would dispute.

Barton’s second source is an 1803 letter from Jefferson to his daughter, Martha Jefferson Randolph. Jefferson told his daughter that he wanted his family to know what his real religious views were so they could “estimate the libels published against” him. To explain his real religious views, he was sending her a copy of Priestley’s *A History of the Corruptions of Christianity*, saying that he wanted her to give it “an attentive perusal, because it establishes the groundwork of my view of this subject.” So, all Barton’s second source does is confirm the part of his claim that Jefferson read Priestley, again a part of his claim that nobody would dispute.

This particular claim is a good example to show a couple of tricks that Barton does with endnotes to make it appear that his work is much more well-documented than it actually is.

First, neither of Barton’s sources supports his actual claim. This is a trick that Barton uses a lot. He sticks in an endnote for some true part of a claim that really doesn’t need an endnote. In this case, it’s that Jefferson read John Wise and Joseph Priestley. There’s really no need for Barton to prove that Jefferson read Wise and Priestley. Nobody would dispute this. But it’s the one true thing in Barton’s claim, so this is what he can provide actual sources for. He does not provide any sources for the rest of his claim – the part that isn’t true and would be disputed. To his readers, seeing the endnote number gives the appearance that he has documented his claim, even though all he’s documented is some little part of his claim that’s true and doesn’t need to be documented.

Second, he bulks up his endnotes to give the impression that he has multiple independent sources for his claims. In this case, he lists two separate sources for the same letter. He lists a handwritten letter on the Library of Congress website, which he says in his endnote is Jefferson’s letter to Martha Jefferson Randolph. Then he adds another source – a book by Jefferson’s great-granddaughter, for which he gives only the book information and a page number. But if you look up this additional source and go to that page, you find out

that it’s just the same letter to Martha Jefferson Randolph that he already cited on the Library of Congress website. This little trick, of course, makes his endnotes longer and more impressive looking to his readers. And it works. If you read the customer reviews on Amazon from Barton’s followers, you’ll see quite a few of them saying that everything in his book must be true because the book has forty-five pages of endnotes!

For Barton’s next claim, he goes to the Bible because, you know, he ended that last one by saying that the separation between church and state was “Bible-ordained.” Ironically, Barton’s claim here directly contradicts what John Wise said in that very same treatise that he just claimed a paragraph earlier was such a big influence on Jefferson’s views on the separation between church and state. Wise said that “there is no particular Form of Civil Government described in God’s Word,” making the observation that if the form of governments were the work of God or natural law, all governments would be the same, and that even the ancient Jews changed their government five times. Barton argues that “God Himself weighed in” to change the government of the Jews to reaffirm what he claims was the “Bible-ordained” separation of church and state. Wise used the Jews’ changing of their government as evidence that God didn’t prescribe any particular form of government. I’m no theologian, but somebody’s got to be wrong here, and my money’s on that somebody being Barton.

Barton’s next two claims are completely off the wall, even for Barton. Here’s the first one:

It is important to note that it was not secular civil leaders who emphasized the separation of the Church from the


51. A theological tip from one of my proofreaders, who, unlike me, is qualified to explain why Barton is wrong on this Jews changing their government thing: “Barton is very easy to prove wrong here. Go to I Samuel 8. The Israelites (they weren’t called Jews yet) had been under a system of judges, and the current one, Samuel, was getting old. So the Israelites said to God, ‘We want a king like everybody else around here.’ And God says, ‘No, you aren’t like everybody else. You should stick with trusting me to find judges for you.’ So the Israelites throw a hissy fit and demand to have a king. And God relents, and says, ‘Okay, you can have your king, but you’re going to be sorry.’”
control of the State but rather Bible-based ministers. In fact, it was English Reformation clergyman Reverend Richard Hooker who first used the phrase during the reign of England's King Henry VIII, calling for a “separation of... Church and Commonwealth.” (Recall that Henry wanted a divorce, but when the Church refused to give it, he simply started his own national church – the Anglican Church – and gave himself the divorce under his new state-established doctrines.)

Here we have another anachronism. Henry VIII was king of England from 1509 to 1547. Richard Hooker wasn’t even born until 1554. I don’t think any further comment is necessary on this point.

And what about Barton’s quote from Hooker? Did Hooker really call for a “separation of... Church and Commonwealth.” Well, no. Hooker was arguing against the dissenter’s. The dissenters in general weren’t actually seeking any kind of separation between church and state at all. They just sought to reform the church. The only exception was a minority of separatists who didn’t think that any person should hold both a civil and an ecclesiastical office at the same time. It was this minority, and even just this one little step towards a separation between church and state, that Hooker was arguing against.

Barton’s endnote for his snippet of a quote from Hooker is one of his endnotes to nowhere. There is nothing on the page of the book he cites, or even in that whole volume, that could even possibly be the quote he’s butchering here. The closest thing I can find in any of Hooker’s writings – looking for any quotes containing the words “separation” and “church and commonwealth” – are a few quotes like the following, in which Hooker was using those words to say what the separatists he was arguing against were saying:

... there are which do imagine, that Kings being mere lay-persons, do by this means exceed the lawful bounds of their callings; Which thing to the end that they may persuade, they first make a
necessary separation perpetual and personal between the Church and the commonwealth.52

Barton’s next claim is even crazier:

From Holland they went to America where they boldly advocated separation of church and state, affirming that government had no right to “compel religion, to plant churches by power, and to force a submission to ecclesiastical government by laws and penalties.”

Yes, he’s actually claiming that the Pilgrims “boldly advocated separation of church and state.”

Does it even really need to be said here that the Puritans who came to America absolutely did compel religion and force a submission to their established church by laws and penalties? It’s just mind-boggling that even someone who’s as brazen a liar as Barton is would think that he could get away with such a completely absurd claim!

What Barton claims to be a quote from the Puritans who came to America does not come from any of the Puritans who came to America. The quote comes from English clergyman Robert Brown’s A Treatise of Reformation without tarrying for any, and of the wickedness of those preachers who will not reform them and their charge, because they will tarry till the magistrate command and compel them. By me, Robert Brown 1582.” Brown was a separatist, and he did go from England to Holland like many other separatists. He is also often described as the founder of Congregationalism because he was the first person in England to write anything advocating the idea of the autonomy of each individual congregation. But the connection between Brown and the Puritans who came to America ends there. Brown constantly butted heads with the Puritans in England, and was even booted out of his own separatist

congregation in Holland in 1583 – nearly four decades before the Pilgrims came to America. Brown returned to England, and eventually agreed to conform to the Church of England. Also, Brown did not advocate a real separation between church and state. He believed that the internal governance of each individual church should be left to that church (Congregationalism), but that the civil government should still have control over the external enforcing of religious laws, such as Sabbath laws. Brown’s views fell somewhere in between a real separation of church and state and the complete theocracy set up by the Puritans who came to America.

Barton, of course, doesn’t care about any of this. Why would he? He’s already making the utterly ludicrous claim that the Puritans who came to America advocated a separation of church and state!

The irony of his next statement is almost too much:

Many other Reformation-minded ministers and colonists traveling from Europe to America also openly advocated the institutional separation of State and Church, including the Reverends Roger Williams (1603-1683), John Wise (1652-1725), William Penn (1614-1718), and many others.

Yes, Barton is using Roger Williams – a man who was kicked out of Massachusetts for his dissenting religious beliefs by those very same Puritans who he just said didn’t “force a submission to ecclesiastical government by laws and penalties” – as an example in his very next paragraph!

Once Barton has sufficiently convinced his readers that, among other things, Jefferson got his “wall of separation” metaphor from Richard Hooker (who apparently time-traveled back to the reign of Henry VIII) and that the Puritans in Massachusetts advocated the separation of church and state, he moves on to the thing that all of these ridiculous claims have been leading up to – Jefferson’s letter to the Danbury Baptists in which he used that famous metaphor.
BARTON’S LIE: The Danbury Baptists wrote to Jefferson because they were worried that the First Amendment might give the federal government the power to interfere with religion, and Jefferson’s “wall of separation metaphor” in his reply to them was just to assure them that the federal government would not interfere with their practicing of their religion.

THE TRUTH: The Danbury Baptists were not at all concerned about the First Amendment. The government they were writing about in their letter to Jefferson was their state government in Connecticut, not the federal government.

Barton begins the section of his chapter about Jefferson’s famous “wall of separation” letter with a little bit of stage setting. His claim is going to be that the Connecticut Baptists who wrote to Jefferson were worried that the First Amendment could open the door to interference with religion by the federal government, so he starts off with a paragraph about how the Baptists in America had been persecuted, writing:

When Jefferson, the head of the Anti-Federalists, became president in 1801, his election was particularly well
received by the Baptists. This political disposition was understandable, for from the early settlement of Rhode Island in the 1630s to the time of the writing of the federal Constitution in 1787, the Baptists had often found their free exercise limited by state-established government power. Baptist ministers had often been beaten, imprisoned, and even faced death from the government church, so it was not surprising that they strongly opposed centralized government power. For this reason the predominantly Baptist state of Rhode Island refused to send delegates to the Constitutional Convention; and the Baptists were the only denomination in which a majority of its clergy across the nation voted against ratification of the Constitution.

Yes, it is absolutely true that the Baptists had been persecuted. They had been and continued to be discriminated against by the theocratic Congregationalist government in Connecticut, and Baptist ministers had been beaten and jailed under the established Anglican Church in Virginia. But that is the only part of Barton’s paragraph that is true. This persecution was not the reason that Rhode Island opposed a strong central government and refused to send delegates to the Constitutional Convention, and the reason that the majority of Baptist ministers who were delegates to their state’s ratifying conventions voted against ratification had much more to do with geography than with their religion.

Let’s start with Barton’s claim that religious persecution was the reason that Rhode Island opposed a strong central government and refused to send delegates to the Constitutional Convention. This is completely untrue. The reason that Rhode Island opposed a strong central government and refused to send delegates to the Constitutional Convention was that the state had turned into a haven for smugglers and criminals run by a completely corrupt legislature that didn’t want a strong central government. Such a strong central government would put a stop to the legislature’s money scams and the other illegal activities going on in the state. Rhode Island in 1787 was not at all the same Rhode Island that
Roger Williams had founded in the 1630s as a haven for religious dissenters. In addition to its utterly corrupt legislature, Rhode Island had become a haven for criminals of all sorts. It had become a national joke that if you were trying to find someone who was wanted by the law, the place to start was Rhode Island.

To explain how Rhode Island became so out of sync with the rest of the states that it refused to send delegates to the Constitutional Convention, we have to start in 1781.

The story begins with the impost of 1781, proposed when the Continental Congress desperately needed money to pay the public debt from the Revolutionary War. Under the Articles of Confederation, the Continental Congress had the power to borrow money, but had no power to levy taxes to pay that money back. The voluntary contributions, known as requisitions, that the states were supposed to be making were not enough, and often weren’t paid at all. The Congress didn’t even have the money to pay the interest on America’s debts to France and Holland, let alone pay these debts off. So, in 1781, an amendment to the Articles of Confederation was proposed to allow the Congress to levy a five percent duty on imports until the war debt was paid off.

An amendment to the Articles of Confederation required the consent of all thirteen states. By the middle of 1782, all of the states had granted their consent to the impost except for Georgia and Rhode Island. Georgia was thought likely to consent, but had not formally done so yet. Rhode Island, on the other hand, had made it abundantly clear that there was no way in hell that it was going to consent. In October 1782, the Congress passed a resolution demanding an definite answer from Georgia and Rhode Island. Georgia gave assurances that it was going to consent even though it hadn’t done so yet, but Rhode Island, as expected, flat out refused. Rhode Island’s refusal caused several other states to revoke their consent after having initially granted it. Maryland’s act granting its consent, for example, contained a proviso that the impost would not go into effect unless all of the other states concurred, so Rhode Island’s refusal meant that Maryland was out, too.

The failure of the 1781 impost was the beginning of what would
become the utter economic chaos of the 1780s. The states were imposing taxes on imports from the other states to protect their own economic interests, and once trade was restored with Britain after the war, the states were levying their own import duties on goods coming from Britain both as a protective measure against the flood of imported goods that were cheaper than domestically manufactured goods and also to pay off their own states’ war debts. When Connecticut and Massachusetts doubled their import duties on British goods and Rhode Island tripled theirs, the British just started coming into ports in the other states and distributing their goods from those states. The Continental Congress was powerless to do anything about any of this because, under the Articles of Confederation, it had no power to regulate interstate commerce. The devaluation of the paper money that had been issued by both the Continental Congress and the individual states, which eventually got to the point of barely being worth the paper it was printed on, led to inflation and widespread foreclosures on property because farmers couldn’t pay their property taxes. America had won the war, but was an economic mess. And it was because the country was such a mess that people began to see the need for a stronger federal government that had powers beyond those that had been granted to the Continental Congress under the Articles of Confederation. This, of course, brings us up to the Constitutional Convention – and Barton’s claim that the convention was boycotted by Rhode Island because the Baptists were afraid that a strong federal government might infringe upon their religious freedom.

Barton’s claim is a complete load of bull. Religion was the furthest thing from the minds of the members of the Rhode Island legislature when they refused to send delegates to the convention.

Rhode Island had essentially become a state run by criminals that, in addition to passing legislation that was actually a scam for debtors to legally pay off their debts with paper money that was virtually worthless, had become more of a haven for smugglers and other criminals than a haven for religious dissenters. By 1787, Rhode Island was so corrupt and so reviled by the other states that it had been nicknamed “Rogues’ Island.”
How corrupt was Rhode Island at this time? Just take a look at what was being said about it by people from the other states.

The following quotes are all from letters written by some of the prominent founding fathers in the months leading up to the Constitutional Convention and while the convention was taking place.

Francis Hopkinson to Thomas Jefferson:

Rhode Island is at present govern’d by Miscreants void of even the external appearances of Honour or Justice.\(^{53}\)

Edward Carrington to Thomas Jefferson:

All the States have elected representatives except Rhode Island, whose apostasy from every moral, as well as political, obligation, has placed her perfectly without the views of her confederates ...\(^{54}\)

James Madison to Colonel James Madison:

Rhode Island alone has refused her concurrence. A majority of more than twenty in the Legislature of that State has refused to follow the general example. Being conscious of the wickedness of the measures they are pursuing, they are afraid of everything that may become a controul on them.\(^{55}\)

James Madison to Edmund Randolph:

Rhode Island has negatived a motion for appointing deputies to the Convention, by a majority of twenty-two votes. Nothing can exceed the wickedness and folly which continue to reign there. All


\(^{54}\) Edward Carrington to Thomas Jefferson, June 9, 1787. Ibid., 407.

\(^{55}\) James Madison to Colonel James Madison, April 1, 1787. *Letters and Other Writings of James Madison*, vol. 1, (New York: R. Worthington, 1884), 286.
sense of character as well as of right is obliterated. Paper-money is still their idol, though it is debased to eight for one.\textsuperscript{56}

George Washington to David Stuart:

Rhode Island, from our last accts still perservere in that impolitic – unjust – and one might add without impropriety scandalous conduct, which seems to have marked all her public Councils of late; – Consequently, no Representation is yet here from thence.\textsuperscript{57}

The newspapers in the other states were full of Rhode Island bashing. The following item from a Philadelphia newspaper, quoting a letter printed in a Massachusetts newspaper, was typical of what was seen in papers throughout the states once people found out that Rhode Island hadn’t sent any delegates to the Constitutional Convention:

Rhode-Island seems to have run the gauntlet of contempt through all the states; her conduct has been severely reprobated, and the most reproachful epithets bestowed on her, even by her neighbours of Massachusetts – ‘From her anti-federal disposition,’ say they, ‘Nothing better could have been expected. To that state it is owing, that the continental impost did not take place. To her may be charged the poverty of the soldiers of the late army, the heavy taxes of our citizens, and the embarrassed state of the public finances. It is, however, sincerely hoped and wished, that her dissent will never more be permitted to defeat any federal measure. Rather let her be dropped out of the union, or apportioned to the different states that surround her. Nor will the American constellation lose one gem thereby. – The state of


Vermont shines with far superior lustre, and would more than compensate for the loss.\textsuperscript{58}

The paper money and “wickedness of the measures” of Rhode Island’s legislature in the quotes from the letters of the founders were all references to the same thing – a series of laws passed by the corrupt Rhode Island legislature in 1786.

While other states had their share of problems because of the economic crisis – most famously Shays’ Rebellion in Massachusetts, where the raising of property taxes to pay the state’s war debt had led to an armed uprising by farmers who were losing their farms because they couldn’t pay the taxes – Rhode Island went completely off the rails.

The members of Rhode Island’s legislature who, in 1785, had opposed the printing of what would be nearly worthless paper money as a solution to the debt crisis were voted out of office and replaced by a group of men who were debtors themselves and wanted an easy way out of their own debts. These new members of the legislature formed a majority that in May 1786 proceeded to approve what can best be described as a scam – the printing of a hundred thousand pounds in paper money, most of which would be put into circulation by loaning it, at four percent interest, to unsuspecting farmers on a mortgage of their land, with the mortgage being twice what the land was worth. These corrupt legislators knew that this new currency would depreciate almost instantly, but their law required that it must be accepted by all creditors and merchants at face value. The issuing of this new currency was never intended to benefit the small farmers and merchants who were in desperate need of money to pay their debts.

\textsuperscript{58} \textit{The Pennsylvania Packet}, Philadelphia, PA, July 17, 1787, 2.

The state of Vermont, referenced in the last sentence of this article, was not yet a state in 1787, but was expected to become one soon. Vermont had separated from Great Britain in 1777, written its own constitution, and fought in the Revolutionary War, but was still a separate republic, primarily due to an unresolved border dispute with New York. Once the federal Constitution was ratified and the border dispute with New York resolved, Vermont was admitted to the union according to the process layed out in the Constitution, becoming the 14th state in 1791.
As opponents of the scheme described it:

Notwithstanding the specious pretences under which this bill has been introduced, as if it was intended thereby to RELIEVE THE DISTRESSED, we conceive it to be calculated only to accommodate certain persons, who being deeply in debt for real estates and other property, purchased under contracts to be paid for in solid coin, and who have now promoted this measure to serve their own private purposes.\(^{59}\)

When the farmers who had mortgaged their land for the loans from the legislature tried to spend the new currency, they found out how little it was really worth. In response to having to accept this money at its face value despite its almost instant depreciation, the merchants in the cities had drastically raised their prices. The farmers blamed the merchants for the outrageous prices, although the merchants had actually been opposed to the printing of the money. In the summer of 1786, most of the merchants just closed up shop. In retaliation, the farmers decided to starve the merchants, refusing to send any food from their farms to the cities. Within months of the legislature’s issuing the new paper money, there was chaos on the streets of the cities, where one of the only types of businesses that had remained open was the bars, and farmers were being threatened by armed city dwellers.

All over the state, creditors were doing anything they could to evade the people who owed them money. The creditors did not want to accept the devalued paper money, but if a debtor caught up to them and offered the money to them they had to accept it. But the legislature had obviously anticipated that this would happen, and had provided for an alternate way to force the creditors to take the money. All a debtor had to do was go to a judge’s house and deposit the money with the judge. The judge was then required to publish a notice in all the newspapers in the state for three consecutive weeks informing the creditor that the debtor had deposited

\(^{59}\) *Providence Gazette*, Providence, RI, May 13, 1786, 3.
the money with them and that their debt was considered paid in full. The judges became known as “Know Ye men” from the notices that filled the newspapers, all published using the fill-in-the-blanks language prescribed by the legislature that began with the words “Know Ye.”

State of Rhode-Island, &c.
TO ALL WHOM IT MAY CONCERN.

KNOW YE, That Joseph Smith, of Barrington, Merchant, on the 12th Day of March, 1787, at my Dwelling-House at Barrington, lodged with me the Sum of One Hundred and Seventy-five Pounds Five Shillings, Lawful Money, being in full of the Principal and Interest of a Sum of Money, due from the said Joseph Smith to John Brown, of Providence, Esq; on a Note of Hand: that the said Joseph Smith hath in all Respects complied with the Law Respecting the Paper Currency; and that the said John Brown hath been legally and duly notified thereof.

Witness, Elkanah Humphrey, J.C.P.
Barrington, March 30, 1787.60

A second law that had gone into effect in June 1786 imposed a heavy fine on anyone who refused to accept the paper money at its face value. (Ironically, this fine could be paid with the funny money.)

Another law passed in August 1786 added a further punishment, making compliance with the law a test for political eligibility by barring anyone who committed a second offense from holding political office or being an elector.

The August 1786 law also did something else; it deprived those accused of refusing to accept the paper money of a trial by jury. The legislature created a new kind of court for paper money cases. These courts were required to convene three days after a complaint was made just to hear that case, and had no jury. The cases were to be decided by the judges alone.

60. Providence Gazette, Providence, RI, April 14, 1787, 4.
In September 1786, a cabinetmaker named John Trevett decided to take his case to one of these paper money courts. Trevett had attempted to buy some meat from a butcher named John Weeden and pay for it with the paper money. Weeden refused to accept the money. Weeden was acquitted because the judges decided that the act of the legislature that created this special court was unconstitutional because it did not provide for a trial by jury.

The judges who had declared the law unconstitutional were summoned to appear before the legislature to explain their conduct, and although not removed from the bench immediately, were replaced when their terms were up the following spring.

This case made national news, and was even brought up by James Madison at the Constitutional Convention in a debate on whether or not the federal government should be able to nullify a state law if it violated the federal Constitution or a treaty made by the federal government. Some of the delegates did not think it necessary to explicitly state this, with Roger Sherman arguing that “the Courts of the States would not consider as valid any law contravening the Authority of the Union.” Madison disagreed, using Rhode Island as one of his examples, saying: “In R. Island the Judges who refused to execute an unconstitutional law were displaced, and others substituted, by the Legislature who would be willing instruments of the wicked & arbitrary plans of their masters.”

The following poem is an excerpt from The Anarchiad, an epic satirical political poem written by the “Hartford Wits,” published in installments in the New-Haven Gazette and Connecticut Magazine.

62. Ibid., 28.
63. The “Hartford Wits” began as a literary society at Yale College in the 1770s, writing satires about subjects like the school’s outdated curriculum. Some of its members continued writing together long after leaving Yale. The Anarchiad was the work of four members of the Hartford Wits – Lemuel Hopkins, John Trumbull (cousin of the painter of the same name), Joel Barlow (whose name may be familiar to some as the author of the 1797 Treaty with Tripoli containing the often discussed line “the government of the United States of America is not in any sense founded on the Christian Religion”), and David Humphreys (who at the time of the writing of The Anarchiad was a member of the Connecticut legislature, and later, as Commissioner Plenipotentiary in Lisbon, was the official who approved Barlow’s translation of the 1797 Treaty with Tripoli and submitted it for ratification).
JEFFERSON ADVOCATED A SECULAR PUBLIC SQUARE

during 1786 and 1787. In the months following its publication in the December 28, 1786 issue of the *New-Haven Gazette*, this excerpt about Rhode Island was reprinted in all the states, including Rhode Island, where it was published in the *Providence Gazette* – on the very same page on which ten “Know Ye” notices appeared:

Hail, realm of rogues, renown’d for fraud and guile,
All hail, ye knav’ries of yon little isle;
There prowls the rascal cloth’d with legal power,
To snare the orphan, and the poor devour;
The crafty knave his creditor besets,
And advertising paper pays his debts;
Bankrupts their creditors with rage pursue.
No stop – no mercy from the debtor crew.
Arm’d with new tests, the licens’d villain bold
Presents his bills and robs them of their gold;
Their ears though rogues and counterfeiteers lose,
No legal robber fears the gallows-noose.
“Look through the State, th’ unhallow’d ground appears
A den of dragons, and a cave for bears;
A nest of vipers mix’d with adders foul,
The screeching night-bird, and the greater owl:
For now unrighteousness, a deluge wide,
Pours round the land an overwhelming tide;
And dark injustice, wrapped in paper sheets,
Rolls a dread torrent thro’ the wasted streets.
While net of law the unwary fry draw in
To damning deeds, and scarce they know they sin:
New paper struck, new tests, new tenders made,
Insult mankind, and help the thriving trade.
Each weekly print new list of cheats proclaims,
Proud to enroll their knav’ries and their names;
The wiser race, the snares of law to shun,
Like Lot from Sodom, from R--- I--- run.64

64. *Providence Gazette*, Providence, RI, April 14, 1787, 4.
Now, knowing the real story of why Rhode Island’s legislature refused to send delegates to the Constitutional Convention, let’s go back and look at Barton’s claim again:

... from the early settlement of Rhode Island in the 1630s to the time of the writing of the federal Constitution in 1787, the Baptists had often found their free exercise limited by state-established government power. Baptist ministers had often been beaten, imprisoned, and even faced death from the government church, so it was not surprising that they strongly opposed centralized government power. For this reason the predominantly Baptist state of Rhode Island refused to send delegates to the Constitutional Convention ...

Yep, in Barton’s version of history, it was because they were Baptists and feared that their free exercise of religion might be hampered by a strong federal government.

So, what about the other part of Barton’s Baptist claim?

... and the Baptists were the only denomination in which a majority of its clergy across the nation voted against ratification of the Constitution.

Barton also attributes this to a fear among the Baptists that their free exercise of religion might be hampered by a strong federal government. Well, this claim isn’t true either. It is true that of the thirteen Baptist ministers who were delegates to their states’ ratifying conventions, eight voted against ratification, but the reason wasn’t a fear that a federal government might infringe on their free exercise of religion. Their reasons were primarily geographical, just like the reasons of numerous other delegates who weren’t ministers who voted against ratification.

Barton’s source for this claim is another revisionist historian, John Eidsmoe. In his 1987 book *Christianity and the Constitution*, Eidsmoe misrepresents what religious historian James H. Smylie
said in his 1958 doctoral dissertation, “American Clergymen and the Constitution of the United States of America, 1780-1796.” Eidsmoe presents two charts from Smylie’s dissertation,65 but omits a third one – the one that would make his claims, which are essentially the same as the ones used by Barton, seem obviously questionable.

The first of the two charts included by Eidsmoe in his book shows the total number of all clergymen in each state (regardless of denomination) and how many voted for and how many against ratification. The second chart shows the number of clergymen by denomination (regardless of state) and how many voted for and how many against ratification. What’s missing? The chart in Smylie’s dissertation that shows how many of each denomination were in each state.

With even just a quick glance at this other chart, one thing immediately jumps out – of the total of thirteen Baptist clergymen in all the states, six were in a single state, North Carolina, and five of those six voted against ratification.66 So, the Baptists from just this one single state accounted for five out of the eight of all Baptist votes against ratification. And Smylie gives an explanation for this voting pattern among the Baptist ministers in North Carolina. They voted just like the delegates in their state who weren’t ministers, with the ones who represented the anti-federalist-leaning rural districts typically voting against ratification, and the ones who represented the more federalist-leaning commercial districts typically voting for ratification.67 Of the six Baptist ministers at North Carolina’s convention, five represented rural districts and voted against ratification and the one who represented a commercial district voted for it. It had nothing to do with their religion or a fear that a strong federal government might infringe upon their religious freedom.

Smylie also points out that “the oldest and most conservative of the Baptists, calling themselves the Philadelphia Association”

67. Ibid., 183.
sent a message to all the churches in their association in support of ratification, urging the people of those congregations to “lay hold on this favourable opportunity offered to establish an efficient government, which, we hope, may, under God, secure our invaluable rights, both civil and religious.” That certainly doesn’t sound like that Association of Baptists, who were in the central states, were afraid that a strong federal government was going to infringe on their religious freedom, does it?  

But what about in the states known for their persecution of Baptists? Well, Smylie addresses one of those states on the next page of his dissertation, quoting the statement of the General Committee of Baptists in Virginia. They weren’t as favorable towards the Constitution as the Baptists in the central states, writing that they didn’t think it had “made sufficient provisions for the secure enjoyment of religious liberty.” In other words, the Baptists in Virginia wanted a bill of rights. They weren’t afraid that having a religious freedom amendment would open the door for the federal government to one day restrict their religion freedom, which, as we’ll see in a minute, is what Barton is about to claim the Danbury Baptists were afraid of. The Baptists of Virginia, who had faced some of the worst persecution of any Baptists in America, wanted a religious freedom amendment because it would protect their religious freedom.

The purpose of Barton’s claims that Rhode Island’s not sending delegates to the Constitutional Convention and the Baptist ministers’ voting against ratification were both due to a fear among Baptists that a strong federal government might take away their freedom of religion is, of course, to set the stage for the claim he’s about to make about the Danbury Baptists. It’s the same basic claim found in all Christian nationalist American history books – that the Danbury Baptists were afraid that since the federal government had the power to guarantee the free exercise of religion, which it had

69. Ibid., 170.
done with the First Amendment, it also had the power to take away that freedom. In Barton’s and other revisionist history books, this is the reason that the Danbury Baptists wrote to Jefferson. Once their readers think that this was the reason that the Baptists wrote to Jefferson, they can claim that Jefferson’s famous “wall of separation between church and state” line in his reply to the Baptists was merely a reassurance that the federal government would never interfere with the free exercise of religion. What they’re doing, you see, is making it all about the free exercise of religion so that they can claim that Jefferson did not intend his “wall” to apply to the Establishment Clause part of the First Amendment. In other words, it was a one-way wall, and Jefferson didn’t intend it to mean that the government shouldn’t endorse or promote religion, but only that the government couldn’t stop anyone’s free exercise of religion.

According to Barton, referring to the Danbury Baptists’ letter to Jefferson:

They then expressed grave concern over the proposed government protections for their free exercise. As they explained:

Our sentiments are uniformly on the side of religious liberty – that religion is at all times and places a matter between God and individuals; that no man ought to suffer in name, person, or effects on account of his religious opinions; that the legitimate power of civil government extends no further than to punish the man who works ill to his neighbors; But, sir, our constitution of government is not specific. ... Religion is considered as the first object of legislation; and therefore what religious privileges we enjoy (as a minor part of the state) we enjoy as favors granted, and not as inalienable rights.

These ministers were troubled that their “religious privileges”
were being guaranteed by the apparent generosity of the government.

Many citizens today do not grasp their concern. Why would ministers object to the State guaranteeing their enjoyment of religious privileges? Because to the far-sighted Danbury Baptists, the mere presence of governmental language protecting their free exercise of religion suggested that it had become a government-granted right (and thus alienable) rather than a God-given one (and hence inalienable). Fearing that the inclusion of such language in governing documents might someday cause the government wrongly to believe that since it had “granted” the freedom of religious expression it therefore had the authority to regulate it, the Danbury Baptists had strenuously objected.

There are so many things wrong with these few paragraphs that it’s hard to know where to begin.

First of all, why is Barton saying that the Baptists were afraid of “the proposed government protections for their free exercise”? The First Amendment was not “proposed” in 1801 when the Baptists wrote to Jefferson. It had been ratified for a decade!

Second, the Baptists had no fear of the First Amendment, and they had not “strenuously objected” to it. They hadn’t objected to it at all. In fact, they weren’t even talking about the federal government or the federal Constitution in their letter to Jefferson, and they weren’t talking about “someday.” They were talking about the current laws of their state government!

But Barton chops out a big chunk of the paragraph he quotes from their letter to hide from his readers that they were talking about their state government and not the federal government.

This is the section of the Danbury Baptists’ letter quoted by Barton, with the parts edited out by Barton in bold:

Our Sentiments are uniformly on the side of Religious Liberty – That Religion is at all times and places a Matter between God and
Individuals – That no man aught to suffer in Name, person or effects on account of his religious Opinions – That the legitimate Power of civil Goverment extends no further than to punish the man who works ill to his neighbour: But Sir, our constitution of goverment is not specific. **Our antient charter, together with the Laws made coincident therewith, were adopted as the Basis of our goverment, At the time of our revolution; and such had been our Laws & usages, & such still are; that religion is consider’d as the first object of Legislation; & therefore what religious privileges we enjoy (as a minor part of the State) we enjoy as favors granted, and not as inalienable rights:** and these favors we receive at the expence of such degrading acknowledgements as are inconsistant with the rights of freemen. \(^{70}\)

In 1801, when the Danbury Baptists wrote to Jefferson, the state of Connecticut was a theocracy. Connecticut’s state “constitution” was still its Fundamental Orders of 1638-1639 and its Charter of 1662. The 1662 charter, while considered by some to be the second “constitution” of Connecticut, had not changed the government that existed under the Fundamental Orders, but had merely confirmed the legality of that government.

By “our constitution of government is not specific,” the Baptists were referring to their state’s government under its “antient charter,” not the federal Constitution, as Barton’s cutting off the sentence after the word “specific” makes it appear to his readers.

When they said that this government was adopted “at the time of our revolution,” they were referring to the Connecticut General Assembly’s declaring by its act of 1776 that the state would remain under its existing government.

At the time of the Revolutionary War, most of the states needed to form new state governments. But, unlike the rest of the states, Connecticut and Rhode Island, both of which had state governments that would not be affected by the separation from England, saw no

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need to write state constitutions at this time. Connecticut did not have a royal governor who needed to be ousted. Its governor, Jonathan Trumbull, had not only been elected by the people, but sided with the Americans. He would be one of only two colonial governors to remain in office.

With no need to form a new state government, the Connecticut General Assembly simply declared in an act of 1776:

> That the ancient form of Civil Government contained in the Charter from Charles the Second, King of England, and adopted by the people of this state, shall be and remain the Civil Constitution of this State, under the sole authority of the People hereof, independent of any King or Prince whatever.  

So, Connecticut remained under the same government it had since 1738, which was a Congregationalist theocracy under which dissenters like the Baptists were persecuted.

What the Baptists meant by “degrading acknowledgements,” in the other part of this section of their letter that Barton edits out, were the certificates required to exempt those of dissenting religions from paying taxes to support the established Congregationalist Church. By this time, Connecticut did allow non-Congregationalists of certain government approved denominations to have their religious taxes go to their own churches, but the process of obtaining and filing the necessary exemption certificate was made as difficult and demeaning as possible.

It was under their state government that the Baptists were saying “religious privileges” were not an “inalienable right.” This was not some possibility that the “far-sighted” Baptists foresaw happening in the future because of the First Amendment as Barton claims. They were telling Jefferson what was happening right then in their state.

Now, knowing what the Baptists were actually talking about,

read this part of Jefferson’s famous reply to them:

Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should “make no law respecting an establishment of religion, or prohibiting the free exercise thereof,” thus building a wall of separation between Church & State.72

Jefferson was indeed saying that the First Amendment – the “act of the whole American people” as opposed to the laws of a single state – had built a wall of separation between church and state in the federal government.

Jefferson’s letter continued:

adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties.73

It would take another sixteen years, but Jefferson did eventually “see with sincere satisfaction” the disestablishment of the Congregationalist Church in Connecticut. In the election of 1817, the Republican candidates for governor and lieutenant governor narrowly defeated the Federalists. In the next election, the Federalists lost their majority in the Assembly. In August and September of 1818, Connecticut was finally able to hold a constitutional convention and write a real state constitution.

Upon hearing of the Republican victory in the 1817 Connecticut

73. Ibid.
election, and knowing this meant that the disestablishment of the Congregationalist Church was imminent, Jefferson wrote to John Adams:

I join you therefore in sincere congratulations that this den of the priesthood is at length broken up, and that a protestant popedom is no longer to disgrace the American history and character.

After he’s done completely distorting the Danbury Baptists’ letter and what Jefferson’s reply to it meant, Barton launches into a litany of all the unthinkable ways in which today’s Christians are being persecuted. But rather than digressing into these stories here, I decided to make them the subject of an appendix at the end of this book.

Barton then sets out to show that Jefferson’s actions prove that he wasn’t a secularist, claiming that Jefferson “has an extremely long and consistent record of deliberately and intentionally including rather than excluding religious expressions and activities in the public arena.” So, let’s take a look at all of these many alleged examples of Jefferson’s “deliberately and intentionally including” religion in the public arena and see how they stand up to a little scrutiny.

Jefferson as a Member of the Virginia Legislature
1769 – 1779

From 1769 to 1776, Jefferson was a delegate to Virginia’s House of Burgesses for Albemarle County. Towards the end of his time in the House of Burgesses, he also attended the Continental Congress, in the summer and fall of 1775, and also, of course, in the summer of 1776.

Barton gives only one example of Jefferson’s “deliberately and intentionally including” religion in the public arena from this phase of his career – a 1774 resolution issued by the Virginia legislature for a day of fasting and prayer.

The One About
Jefferson and the 1774 Day of Prayer

BARTON’S LIE: It was Jefferson who introduced the measure in the Virginia legislature calling for a day of fasting and prayer in 1774. The language of the legislature’s resolution was Jefferson’s.

THE TRUTH: Jefferson was just one of a number of the younger members of the Virginia legislature who formed an impromptu
committee that, as he put it, “cooked up” a resolution for a fast day. What Jefferson meant by “cooked up” was that, since neither he nor any of his cohorts actually knew how to go about writing a resolution for a fast day, they had to get out an old history book to see how they were worded. The reason that none of these young members of the legislature knew how to write a fast day resolution was that the last time one had been issued in Virginia they were only children. This is what Jefferson was referring to in a quote that you’ll see later in this section, in which he said that they needed “the help, therefore, of Rushworth.”

John Rushworth was a seventeenth century English lawyer and historian who, in the 1640s, compiled a work called the Historical Collections of Private Passages of State. This work contained a compendium of various acts and other documents from the time period leading up to the English Civil War, including proclamations for days of fasting and prayer. Jefferson and the other committee members simply borrowed some language from a proclamation they found in Rushworth’s Historical Collections and adapted it to the purpose of the resolution that they were writing. This is why the language of the 1774 resolution that Barton quotes can’t be attributed to Jefferson.

Also, it wasn’t Jefferson who introduced the fast day resolution in the legislature as Barton claims. Why? Because the committee members were concerned that their suggestion of a fast day might not pass if it came from them. They knew that nobody was going to buy that these young radicals, not even the quite religious Patrick Henry, were proposing this fast day out of genuine religious devotion. It would be obvious that they were merely using a fast day as a way of jolting the people of Virginia into an awareness of the seriousness of what was going on in Massachusetts. So, they got an older member of the legislature to introduce it, one who Jefferson described as having a “grave and religious character” that was “more in unison” with the tone of the resolution that he and the younger members of the legislature had cooked up.

Referring to the Trade Act of 1774, also known as the Boston Port Act, under which the British were about to shut down the Port of
Boston in response to the Boston Tea Party, Barton writes:

The blockade was to take effect on June 1, 1774. Upon hearing of this Jefferson introduced a measure in the Virginia legislature calling for a day of fasting and prayer to be observed on that same day “devoutly to implore the Divine interposition in behalf of an injured and oppressed people.” He also recommended that legislators “Proceed with the Speaker and the Mace to the Church...and that the Reverend Mr. Price be appointed to read prayers, and the Reverend Mr. Gwatkin to preach a sermon suitable to the occasion.” Additionally, Jefferson went home to his local church community in Monticello urging them also to arrange a special day of prayer and worship at “the new church on Hardware River” – a service which Jefferson attended.

Barton, of course, makes this all about Jefferson. In his version of the story, this fast day resolution was solely Jefferson’s idea, with Jefferson writing it, and Jefferson introducing it in the Virginia legislature. He also has Jefferson urging “his local church community in Monticello” (whatever he means by that) to hold a fast day, as if this were something separate or in addition to the fast day proclaimed by the legislature.

Not surprisingly, Jefferson’s own account of how this fast day came about is quite a bit different from Barton’s version.

When the Boston Port Act was passed by the British Parliament in 1774, the Virginia legislature needed to make the people of Virginia understand that the actions of the British against the distant colony of Massachusetts affected all of the colonies, not just Massachusetts.

Jefferson and six or seven other members of the legislature got together and decided that proclaiming a fast day would be the best way to wake the people up and get their attention. The reason that proclaiming a fast day would be so effective was that it would be so unusual. There would be Virginians who were then adults who wouldn’t even have been born yet or would have been too young to remember the last time it was done. Jefferson himself had only
been about twelve years old. While proclamations of fast days and thanksgiving days were a common tradition in New England, they were a rare occurrence in the south. The last time it had been done in Virginia was when the French and Indian War began and the legislature needed to get the word out that the war had started even though it hadn’t officially been declared yet. Jefferson and his fellow committee members knew that if the Virginia legislature called for a fast day – something it hadn’t done in two decades – the people would know that something really big was happening.

As Jefferson described it in his autobiography:

The next event which excited our sympathies for Massachusetts, was the Boston port bill, by which that port was to be shut up on the 1st of June, 1774. This arrived while we were in session in the spring of that year. The lead in the House, on these subjects, being no longer left to the old members, Mr. Henry, R. H. Lee, Fr. L. Lee, three or four other members, whom I do not recollect, and myself, agreeing that we must boldly take an unequivocal stand in the line with Massachusetts, determined to meet and consult on the proper measures, in the council chamber, for the benefit of the library in that room. We were under conviction of the necessity of arousing our people from the lethargy into which they had fallen, as to passing events; and thought that the appointment of a day of general fasting and prayer would be most likely to call up and alarm their attention. No example of such a solemnity had existed since the days of our distresses in the war of ’55, since which a new generation had grown up. With the help, therefore, of Rushworth, whom we rummaged over for the revolutionary precedents and forms of the Puritans of that day, preserved by him, we cooked up a resolution, somewhat modernizing their phrases, for appointing the 1st day of June, on which the port-bill was to commence, for a day of fasting, humiliation and prayer, to implore heaven to avert from us the evils of civil war, to inspire us with firmness in support of our rights, and to turn the hearts of the King and Parliament to moderation and justice.75

JEFFERSON ADVOCATED A SECULAR PUBLIC SQUARE

Barton, in his attempt to make this entire fast day thing solely about Jefferson, claims that it was Jefferson who introduced the measure, but according to Jefferson it was introduced by Robert Carter Nicholas, for the reasons already explained:

To give greater emphasis to our proposition, we agreed to wait the next morning on Mr. Nicholas, whose grave and religious character was more in unison with the tone of our resolution, and to solicit him to move it. We accordingly went to him in the morning. He moved it the same day; the 1st of June was proposed; and it passed without opposition.76

The royal governor, Lord Dunmore, certainly saw this fast day resolution for what it was, as is clear from his letters to the Earl of Dartmouth. The Earl of Dartmouth, William Legge, was Britain’s Secretary of State for the Colonies, a position created in 1768 specifically to deal with the increasingly problematic American colonists. As Dunmore wrote to Legge, the fast day resolution was, more than anything, a declaration of support for the rebellious colonists of Massachusetts, and it being “intended by the solemnity of a public fasting and praying” was:

... to prepare the minds of the people to receive other resolutions of the house, the purport of which I am not informed of, but from such a beginning may be naturally concluded could tend only to inflame the whole country, and instigate the people to acts that might rouse the indignation of the mother country against them ...77

Was Lord Dunmore right? Was the real purpose of this fast day to gain support for the more radical resolutions that Jefferson and the other young members of the House of Burgesses were trying to

gain support for? Well, it certainly seems so from the actions of Jefferson and John Walker, the other member of the House of Burgesses from Albemarle County, once the fast day resolution was issued. We’ll get to that in a minute, but first, there is something else in Dunmore’s letter to Legge that supports what Jefferson wrote about getting an older, more conservative and religious member of the legislature to introduce the fast day idea out of concern that it would not pass if it came from one of the younger radicals. Dunmore told Legge that many of the members of the legislature told him that “the hasty manner the measure was proposed and agreed to, did not advert to the whole force of the terms” of the resolution, and “if it had, it is believed a strong opposition would have been made to it, and probably that it might have met a different fate.”

Starting to get the picture? This fast day resolution was not an act of religious devotion on the part of Jefferson or anyone else who was in on the scheme. It was a purely political move, and one that even required a bit of trickery to get it passed by the House of Burgesses. It was a strategy to get the people of Virginia riled up in order to gain support for the drastic measures that Jefferson and his fellow radicals wanted to take. In addition to getting an older, more conservative member of the House, who had a “grave and religious character,” to introduce it, it had to be done so fast that those who might vote against it didn’t really have time to think too much about what they were actually voting for.

Lord Dunmore was absolutely right when he speculated that the real goal of the fast day was “to prepare the minds of the people to receive other resolutions of the house.” So, in order to stop the kind of resolutions that he feared the fast day was designed to “prepare the minds of the people” for – such as revolutions to cut off trade with Britain in retaliation against the closing of the Port of Boston and the other Intolerable Acts – Lord Dunmore immediately dissolved the House of Burgesses. The House, however, had no intention of ceasing to meet, which brings us up to the part of Barton’s version of the

story where Jefferson “went home to his local church community in Monticello urging them also to arrange a special day of prayer and worship at ‘the new church on Hardware River.”

Barton’s version of the story makes it sound as if this day of prayer in Jefferson’s home county was something separate from and in addition to the fast day called for by the House of Burgesses. It wasn’t. What Barton is quoting is the notice that Jefferson and John Walker put out to their constituents telling them where and when the fast day called for by the House of Burgesses would be observed in their county, just as the representatives from all of the counties did in their home counties.

As Jefferson wrote in his autobiography:

We returned home, and in our several counties invited the clergy to meet assemblies of the people on the 1st of June, to perform the ceremonies of the day, and to address to them discourses suited to the occasion. The people met generally, with anxiety and alarm in their countenance, and the effect of the day thro’ the whole colony was like a shock of electricity, arousing every man and placing him erect and solidly on his centre. They chose, universally, delegates for the convention. Being elected one for my county, I prepared a drought of instructions to be given to the delegates whom we should send to the Congress, which I meant to propose at our meeting.79

Although Jefferson gives the date of June 1 in his autobiography, the fast day was observed in the various counties on different days through June and July. Jefferson and John Walker chose Saturday, July 23 for their county. Why a date so long after June 1? Because the county election was July 26. That’s why, as you’ll notice in what he wrote, Jefferson jumps right from describing the effect of the fast day to his being elected as one of the delegates for the convention as if they were a cause and effect. They were. That was the plan.

When Lord Dunmore dissolved the House of Burgesses for declaring its support for the rebellious colonists of Massachusetts via its fast day resolution, the members of the House decided to reconvene on August 1 at the Raleigh Tavern in Williamsburg for the first of what would end up being five conventions that were held over the next two years. Jefferson and Walker not only had to be chosen to represent their county at this convention, but needed the county freeholders to agree to their radical agenda. Unlike today, representatives back then took the obligation to act according to the wishes of the people who elected them very seriously. The goal was to get the freeholders of their county to be all fired up by Charles Clay’s “sermon suited to the occasion” – “to prepare the minds of the people to receive other resolutions of the house,” as Lord Dunmore put it. The only thing that changed was that, with the House of Burgesses dissolved by Dunmore, these resolutions were going to come from the August 1 convention.

The plan worked like a charm. On July 26, three days after the observation of the fast day, the freeholders of Albemarle County passed their own resolutions (drafted by Jefferson), which included stopping imports from Great Britain until the act closing the port of Boston and all of the other objectionable acts of Parliament were repealed. In addition to the specific resolutions, the freeholders agreed to “concur in these or any other measures which such convention or such congress shall adopt as most expedient for the American good.”80 And, naturally, Jefferson and Walker were chosen to represent their county at the convention.

Now, knowing the real story of this 1774 call for a day of fasting, let’s take another look at Barton’s version to see how many things he distorts in his one short paragraph about it.

He turns Jefferson into the sole person behind writing and introducing the fast day, although Jefferson clearly states in his autobiography that he was only one of a group of six or seven who “cooked up” the fast day resolution, and that it was Robert Carter

Nicholas who introduced it. The only reason he gives for Jefferson’s wanting to hold the fast day was “devoutly to implore the Divine interposition in behalf of an injured and oppressed people,” although the writings of both Jefferson and Lord Dunmore make it quite clear that the real motivation behind the fast day was political and not religious. He implies that the observation of the fast day in Jefferson’s home county was an unrelated, additional fast day called for by Jefferson, although the notice put out by Jefferson and Walker makes it clear that this was just that county’s observance of the fast day called for by the House of Burgesses, with that notice beginning: “The members of the late house of Burgesses having taken into their consideration the dangers impending over British America from the hostile invasion of a sister colony, thought proper that it should be recommended to the several parishes in this colony...” He implies that Jefferson was a devout member of his local church by saying that Jefferson “went home to local church community in Monticello,” although there was no church community in Monticello. The “new church on Hardware River” was the Forge Church, about ten miles away from Monticello, and the reason stated by Jefferson and Walker for choosing this church was because it was “thought the most centrical to the parishioners in General.”

Barton doesn’t quote that part of the sentence, although it immediately follows the only words he does quote from that part of the notice – “the new church on Hardware River.” Now, why would Barton make a specific point of quoting only these completely insignificant words? Well, because putting this unnecessary fact in quotation marks lets him stick an endnote number next to it, which helps keep up the impression that everything he’s saying is coming from original sources. See how easily Barton changes an entire story in just a single paragraph?

Now, the two sources I’ve mentioned and cited that make it completely obvious that this 1774 fast day was a political strategy that had nothing to do with religious devotion are the letters written

by Lord Dunmore, the royal governor of Virginia, when the House of Burgesses issued the fast day resolution, and Thomas Jefferson’s autobiography. Is it possible that Barton is just unaware of these sources and is just making an honest mistake? The answer to that question in an unequivocal no.

In his endnotes, Barton cites *The Papers of Thomas Jefferson* published by Princeton University Press as the edition of Jefferson’s writings that he used for the snippets he quotes from the notice about the fast day in Jefferson’s county – like “the new church on Hardware River” and “devoutly to implore the Divine interposition in behalf of an injured and oppressed people.” He also cites the same edition for what he quotes from the resolution of the House of Burgesses. This is the same edition of Jefferson’s writings as I’m using.

As anyone familiar with this edition of Jefferson’s writings knows, it is full of lengthy notes that not only cite but often quote the other documents related to the document you’re looking at. In other words, you can’t miss that these other documents explain in detail the document you’re looking at. For example, the notes at the end of the notice that Jefferson and John Walker put out about the date and place of the fast day observation in their county contains the following:

TJ’s Autobiography gives this general account of the proceedings in the counties:

“We returned home, and in our several counties invited the clergy to meet assemblies of the people on the 1st of June [actually at various times in June and July], to perform the ceremonies of the day, and to address to them discourses suited to the occasion. The people met generally, with anxiety and alarm in their countenances, and the effect of the day thro’ the whole colony was like a shock of electricity, arousing every man and placing him erect and solidly on his centre.”

Though the document is conjecturally dated in June by Ford, the Albemarle fast day was evidently fixed by TJ and Walker for
23 July, which was a Saturday. The delay was probably more expedient than necessary, for though TJ did not return to Albemarle very promptly after the Williamsburg proceedings, the fixing of the fast on 23 July was very likely owing to a desire to make a strong impression on the popular mind just before the county election on the 26th.\textsuperscript{82}

So, as you can see, Barton was looking right at the quote from Jefferson’s autobiography that clearly says the fast day in his county was the same one called for by the House of Burgesses, and yet he words his version of the story to turn it into Jefferson’s calling for a separate, additional fast day. As you can also see, this note gives an explanation for Jefferson and Walker’s delaying their county’s observation of the fast day until July 23, which is also ignored by Barton because it doesn’t fit the story he wants to tell. So, Barton quotes only a completely insignificant phrase from the notice – “the new church on Hardware River” – and another snippet about devoutly imploring Divine interposition, inserting endnote numbers after each of these out of context quotes.

In addition to the two selectively quoted snippets from the notice about the fast day observation in Jefferson’s county, Barton includes a third quote, also accompanied by an endnote number. Here is that sentence from Barton’s paragraph so you don’t have to flip back and find it:

He also recommended that legislators “Proceed with the Speaker and the Mace to the Church ... and that the Reverend Mr. Price be appointed to read prayers, and the Reverend Mr. Gwatkin to preach a sermon suitable to the occasion.”

What Barton is quoting from here is the resolution of the House of Burgesses calling for the fast day. Again, he cites The Papers

of Thomas Jefferson as his source, and again there is a lengthy note on the page in The Papers of Thomas Jefferson following the document that he completely ignores because it doesn’t fit his version of the story. That note is where you’ll find the source for the letters written by Lord Dunmore that I’ve been quoting throughout this section. Those letters, as you have seen, concur with what Jefferson himself wrote, and provide even more information about the real motivation behind the fast day. Barton could not be unaware of this source because it’s right there on the same page of The Papers of Thomas Jefferson that he would have been looking at to quote the snippet from that page that he selectively quotes.

For anyone who tries to claim that Barton’s factual inaccuracies are not deliberate, intentional lies, but merely innocent mistakes, this is the kind of evidence that proves that they are absolutely not merely innocent mistakes. In writing just this one short paragraph of his book, he not once but twice ignored quotes and information that he had to have seen because they are right there on the very same pages of the book that he is quoting and citing as his source.

Now, getting back to the actual history of this fast day, the reason that The Papers of Thomas Jefferson quotes a letter written by Lord Dunmore in its notes on the House of Burgesses resolution for the fast day was to note that the Reverend Mr. Gwatkin, the minister whom the House of Burgesses said in its resolution was to preach a “sermon suitable to the occasion” on the fast day, refused to preach the sermon. Dunmore, of course, applauded Reverend Gwatkin for his refusal to support the rebellious colonists, writing to William Legge:

... I think it necessary to let your lordship know, that [Gwatkin’s] name was made use of entirely without his knowledge, and that he civilly but with firmness declined being employed for such a purpose, and which proved no little mortification to the party who dictated the measure.  

The reason I bring up Lord Dunmore’s letter about the refusal of Rev. Gwatkin to preach a sermon on the fast day is not only to point out that Barton ignores what Dunmore wrote about the fast day resolution, but because it’s important to note that Gwatkin wasn’t the only loyalist minister in Virginia who declined to preach on this fast day.

As we’ll get to in the section on the laws of Virginia, it was the problem of loyalist ministers like Rev. Gwatkin that, in 1777, led Jefferson to do something very un-Jefferson-like – drafting a bill requiring all ministers in Virginia to deliver a sermon suited to the occasion on any day of prayer proclaimed by the legislature or the governor. As you can imagine, Barton has a bit of a different take on Jefferson’s reason for drafting that bill than what was the reality.

But first, since the lies in Barton’s book go in chronological order, we’re off to the Continental Congress, where Jefferson wrote the Declaration of Independence, a document that Barton claims was really a declaration of “dependence on God.”
In the summer of 1776, Jefferson was, of course, a member of the Continental Congress.

Barton gives two examples of Jefferson’s “deliberately and intentionally including” religion in the public arena during this phase of his career – his proposal for the seal of the United States, and his writing of the Declaration of Independence, which, according to Barton, was really a declaration of “dependence on God.”

The One About
Jefferson and the Declaration of Independence

**BARTON’S LIE:** Jefferson’s Declaration of Independence was not only a declaration of independence from England, but a declaration of “dependence on God.”

**THE TRUTH:** There was nothing in the Declaration of Independence as written by Jefferson that made it a declaration of “dependence on God.” Neither of the two phrases in the final version of the Declaration that would be considered statements of dependence
on God were written by Jefferson. Both of these phrases were added by the Continental Congress.

According to Barton:

In 1776, while serving in the Continental Congress, he was placed on a committee of five to draft the Declaration of Independence. He was the principal author of that document, and he incorporated four explicit, open acknowledgements of God, some made by his own hand and some added by Congress. Jefferson’s Declaration was actually a dual declaration: of independence from England and dependence on God.

Using the same tactic that he uses throughout his book, Barton carefully words his claim in a way that makes it sound like Jefferson had far more to do with the god references in the Declaration than he actually did. Jefferson did not put “some” of the four god references into the Declaration; he only put one of them in. The only one of the four references to a god that was in Jefferson’s original draft before any changes were made by either the committee or Congress was “the Laws of Nature and of Nature’s God.” That any of the other references were “made by his own hand,” as Barton puts it, does not mean that they were his words. It just means that he was the one who wrote down the changes on his draft.

So, let’s look at the four of the Declaration’s references to a god and see how many can actually be attributed to Jefferson.

As already mentioned, the first one, the “Laws of Nature and of Nature’s God,” definitely came from Jefferson. These were the words used by Jefferson in his original draft before any changes were made by either the committee or Congress.

But, what about the other three? These were changes made on Jefferson’s original draft and were written in between the lines in Jefferson’s handwriting, but so were changes that we know were not made by Jefferson. So how can we know whose changes they were? Fortunately, there are other copies made by Jefferson, and one
made by Adams, that can answer most of the questions.

The first question that needs to be asked is how can we be sure that Jefferson didn’t just change his mind and make these changes himself as he was writing. This is where the Adams copy comes in.

John Adams made a copy of Jefferson’s draft after he finished writing it. This means that any changes made by Jefferson himself as he was writing his draft would have to be in the copy that Adams made. With that in mind, let’s look at the other three god references that appear in the final version of the Declaration and compare them to both Jefferson’s draft and the Adams copy.

Final version as adopted by Congress:

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 ...

Jefferson’s draft:

We hold these truths to be sacred & undeniable; that all men are created equal & independant, that from that equal creation they derive rights inherent & inalienable ...

Adams copy:

We hold these Truths to be self evident; that all men are created equal & independent, that from that equal Creation they derive Rights inherent & unalienable ...

As you can see, the only change to Jefferson’s draft that appears in the Adams copy is that “sacred & undeniable” is changed to “self evident.” So, that change was either made by Jefferson as he was writing, or possibly suggested by Adams before he made his copy.

85. Ibid., 60.
and written in by Jefferson on his draft at that time. The “endowed by their Creator” phrase, however, is not in the Adams copy, which means that this change was definitely not made by Jefferson as he was writing.

Final version as adopted by Congress:

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States ...

Jefferson’s draft:

We therefore the representatives of the United States of America in General Congress assembled do, in the name & by authority of the good people of these states, reject and renounce all allegiance & subjection to the kings of Great Britain & all others who may hereafter claim by, through, or under them; we utterly dissolve & break off all political connection which may have heretofore subsisted between us & the people or parliament of Great Britain; and finally we do assert and declare these colonies to be free and independant states ... 86

Adams copy:

We therefore the Representatives of the united States of America in General Congress assembled do, in the Name, and by Authority of the good People of these States, reject and renounce all Allegiance and Subjection to the Kings of Great Britain, and all others who may hereafter claim by, through, or under them; We utterly

dissolve and break off all political connection which may have heretofore subsisted between us and the People or Parliament of Great Britain; and finally we do assert and declare these Colonies to be free and independant States ...\(^{87}\)

As you can see, neither Jefferson’s draft or the Adams copy contain the phrase “appealing to the Supreme Judge of the world for the rectitude of our intentions,” meaning that this phrase was not added by Jefferson to his draft as he was writing it.

Final version as adopted by Congress:

And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

Jefferson’s draft:

And for the support of this declaration we mutually pledge to each other our lives, our fortunes, & our sacred honour.\(^{88}\)

Adams copy:

And for the Support of this Declaration, We mutually pledge to each other our Lives, our Fortunes, & our Sacred Honour.\(^{89}\)

Neither Jefferson’s draft nor the Adams copy contain the words “with a firm reliance on the protection of divine Providence,” meaning that this phrase was also not added by Jefferson as he was writing.

So, we know that none of these other three god references were changes made by Jefferson while he was writing his draft. But we still

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88. Ibid., 71.
89. Ibid., 63.
don’t know whether these changes were made before or after the Declaration was reported to Congress on June 28. This is where we need to go to the Richard Henry Lee copy,90 one of several copies of the Declaration made by Jefferson and sent to other people.

The copy sent to Richard Henry Lee by Jefferson on July 8, so he could “judge whether it is the better or worse for the Critics,”91 was his draft as it stood when reported to Congress, with the changes and deletions made by Congress indicated by notes in the margin and underlining. Therefore, we can tell from this copy exactly which changes were made before the Declaration was reported to Congress and which were made by Congress. This is how we can be certain that the phrases “appealing to the Supreme Judge of the world for the rectitude of our intentions” and “with a firm reliance on the protection of divine Providence” were added by Congress and were not written by Jefferson.

The “endowed by their Creator” change is a bit harder to figure out, and whose change it was can’t be determined with certainty. It was not in the copy made by John Adams, so we know that it was not a change made by Jefferson as he was writing. But according to the Richard Henry Lee copy, by the time the draft was reported to Congress, the line had been changed from Jefferson’s original wording (“that from that equal creation they derive rights inherent & inalienable”) to “that they are endowed by their Creator with inherent and inalienable Rights.” What we don’t know is whose suggestion the “endowed by their Creator” change was. Since almost all of the changes are in Jefferson’s handwriting, regardless of whose changes they were, we’ll never know if this change was made by Adams, Franklin, or Jefferson (according to Jefferson, the other two committee members didn’t make any changes). Because we don’t know who made this change, the words “endowed by their Creator” cannot be attributed to Jefferson or anybody else.

So, getting back to Barton’s claim – that “Jefferson’s Declaration

was actually a dual declaration: of independence from England and
dependence on God” – it can be said with certainty that Jefferson
had nothing to do with either of the two phrases in the document’s
ending paragraph that appeal to “the Supreme Judge of the world”
and “divine Providence.” These are the only two phrases in the
document that could be considered *declarations* of “dependence
on God,” and Jefferson didn’t write them.
The One About
Jefferson and the Great Seal of the United States

Of the dozens of claims in this chapter of Barton’s book, there are a few that aren’t actually lies, but are just presented by Barton in a way that gives them more significance than they should be given. This is easily accomplished by only providing one piece of information, and ignoring all other aspects of the story or context. Jefferson’s proposal for the seal of the United States is one of these. While Barton’s statement is not untrue, it doesn’t tell the whole story, the rest of which puts it in a bit of a different light.

According to Barton:

On July 4, 1776, Jefferson was placed on a committee of three to draft an official seal for the new American government. His recommendation was from the Bible: “The children of Israel in the wilderness, led by a cloud by day, and a pillar of fire by night.”

Yes, Jefferson did propose the biblical story of the Israelites escaping from Egypt for the front of the seal. But for the other side he proposed Hengist and Horsa. According to Anglo-Saxon legend, Hengist and Horsa were Germanic heathens hired as mercenaries to protect Britain after the fall of the Roman Empire in the fifth
century. These two brothers tricked and defeated the King who had hired them – slowing the spread of Christianity and keeping most of Britain pagan for the next few hundred years.

If Barton is going to say that proposing the story of the Israelites is an example of Jefferson’s “record of deliberately and intentionally including rather than excluding religious expressions and activities in the public arena,” then I guess that means that the religious expressions Jefferson was deliberately and intentionally promoting also included expressions of paganism.

Much more likely, however, Jefferson just couldn’t think of any other story to represent a people escaping from bondage besides the biblical story of the Israelites escaping from Egypt.

John Adams, who was also on this seal committee with Jefferson, and was certainly the most religious of the three committee members (the third was Benjamin Franklin), did not propose a Bible story. Adams’s suggestion was Hercules choosing between virtue and vice. So, I guess Adams wanted to “deliberately and intentionally” promote expressions of belief in a Greek demigod to the American people.

As with Jefferson’s proposal of the story from the Bible, Adams’s suggestion of the Hercules story was, of course, probably nothing more than this being the best story that he could think of to depict his virtue-over-vice concept for the seal.

Like Jefferson, Benjamin Franklin also proposed the Israelites escaping from Egypt story, with his version including the motto “Rebellion to Tyrants is Obedience to God.” (A motto whose origins we’ll get to later when it comes up again in another part of Barton’s chapter.)

According to John Adams, writing to his wife Abigail about the suggestions for the seal, Jefferson’s choice of Hengist and Horsa was meant to represent the “Saxon Chiefs, from whom We claim the Honour of being descended and whose Political Principles and Form of Government We have assumed.”

Got that? John Adams said that Jefferson’s choice of Hengist

and Horsa represented where our political principles and form of government came from – they came from the Anglo-Saxon pagans, not from the Bible. Jefferson, of course, went to great lengths on a number of occasions to demonstrate that it was during this period of England’s history – before Christianity was introduced – that the common law was introduced in Britain, making it impossible for the common law, and subsequently American law, to have been based on the Bible. I guess that’s why he didn’t propose Moses and the Ten Commandments for the flip side of the seal.
DEBUNKING BARTON’S JEFFERSON LIES
Jefferson (not) as Governor of Virginia
1776 – 1779

Jefferson was still a member of the Virginia legislature during the times in 1775 and 1776 when he was attending the Continental Congress, and after the eventful summer of 1776 he was back at work in his home state. The next major project he undertook was serving on the committee to revise the laws of Virginia. America had declared independence from England, so a good part of the laws of Virginia that were on the books were no longer applicable, or needed to have the references to the crown and other specifically English things changed or removed to bring the laws into line with America’s new republican principles. A major revision was necessary to define which of the old laws were still in force, to edit whichever of the old laws were still in force but needed editing, and to write new laws for anything that was not covered by an existing law.

In October 1776, the Virginia legislature passed a Bill for the Revision of the Laws, and Jefferson was appointed as one of the members of the revisal committee.

In The Jefferson Lies, Barton shifts the time frame of Jefferson’s work on the revisal of the laws to the period when he was governor of Virginia. Barton wants his readers to think that Jefferson was the governor when he wrote these bills, for reasons that will become apparent later, so he begins his section on them with: “In 1779 Jefferson became the governor of Virginia and introduced
several bills into the state legislature.” But Jefferson was not the governor of Virginia when he wrote these bills, and to say that he introduced them as governor is extremely misleading. The bills were written prior to Jefferson’s becoming governor, when he was still a member of the legislature. Jefferson was elected governor on June 1, 1779. On June 18, 1779, he and one of his fellow revisal committee members, George Wythe, sent the work done by the committee to Benjamin Harrison, the speaker of Virginia’s House of Delegates. Jefferson had been governor for a few weeks when he and Wythe sent the catalog of bills to Harrison, but this was just the delivery of the work that Jefferson had been appointed to do in 1776 as a member of the legislature. Barton’s misleading wording implies that both the writing and the introduction of these bills were acts of Jefferson as governor, although neither was. Hence my odd heading “Jefferson (not) as Governor of Virginia.” If you’re wondering what difference it makes whether Jefferson wrote these bills while a member of the legislature or while governor, and why Barton would even bother lying about this, we’ll be getting to that when we get to a particular one of the bills that Barton writes about.

In addition to shifting the time frame, Barton of course turns the bills themselves into something they weren’t, as will be explained in this next section.
The One About
Jefferson and the Laws of Virginia

BARTON’S LIE: Jefferson’s role in the revisal of the laws of Virginia is proof that he wasn’t a secularist because a handful of the bills he wrote had to do with religion.

THE TRUTH: The work of the committee appointed in 1776 to revise the laws of Virginia, which included Jefferson, was not to write a completely new code of laws, but only to update Virginia's existing laws as necessary after separation from Great Britain. Much of what Barton claims was "personally penned" by Jefferson was not new, but merely the language of the existing laws. This language was left as it was unless there was a need to change it, and where changes were necessary, as few words as possible were changed. Also, some of what Barton attributes to Jefferson almost certainly wasn’t written by Jefferson at all, but by one of the other committee members.

One of the four bills listed by Barton is included for no other reason than that its title sounds religious, although this bill actually had nothing to do religion itself. It was just a bill regarding what was to be done with the property of the formerly-established church in Virginia. The most interesting of the four bills in Barton’s list is the one regarding marriage. Far from being proof that Jefferson wasn't a secularist, what the proposed revision of this law actually did was
to secularize marriage in Virginia. But Jefferson probably wasn’t even the author of this one anyway.

According to Barton:

In 1779 Jefferson became the governor of Virginia and introduced several bills into the state legislature, including:

- A Bill for Punishing Disturbers of Religious Worship and Sabbath Breakers
- A Bill for Appointing Days of Public Fasting and Thanksgiving
- A Bill Annulling Marriages Prohibited by the Levitical Law and Appointing the Mode of Solemnizing Lawful Marriage
- A Bill for Saving the Property of the Church Heretofore by Law Established

Jefferson personally penned the language for each proposal, and there was no hint of public secularism in any of them; instead, it was just the opposite.

As already explained, neither the writing nor the introduction of these bills was done by Jefferson as the governor of Virginia. All of the bills in the revisal, including the four bills listed by Barton, were written while Jefferson was a member of legislature. The delivery of the revisal committee’s work to the speaker of the House of Delegates was just that – the delivery of the committee’s work. It was not the introduction of the bills into the legislature. While a few bills that were of immediate importance were introduced while the work of the committee was going on, most of the 126 bills weren’t introduced until 1785, when James Madison introduced the bulk of the revisal all at one time.
Three of the four bills listed by Barton were among the bills introduced by Madison in 1785. The fourth was introduced by John Harvie in 1779, but not acted upon at that time, so it was reintroduced by Madison in 1785.

So, what about the bills themselves?

The first thing that needs to be understood when looking at these bills is that the revisal committee was not writing a whole new code of laws. The goal was to define what laws were in force, delete those that were obsolete, bring all the existing laws into line with America’s new republican principles, and write any new laws that were necessary. In many cases the committee was just editing existing laws to replace references to the crown or other language that was no longer applicable; in other cases the revisions were more substantial; and in some cases the bills were entirely new. Of the four bills listed by Barton, two were completely new, one was almost entirely rewritten, and one retained part of the old law but drastically changed another part.

It also needs to be remembered that Jefferson was only one member of a committee, and did not write all 126 of the bills. The committee started out with five members, but was reduced to three. The other two members were George Wythe and Edmund Pendleton. Wythe was a professor at William and Mary when Jefferson was a student there and was also who Jefferson had studied law with after graduating from William and Mary. Jefferson and Wythe each did a large share of the work on the revisal, with Pendleton doing a much smaller part. In January 1777, the committee members met and divided up the work, each taking their portion to work on independently, which they did for a little over two years before meeting again to go over the whole revisal together. Of the four bills listed by Barton, who claims that “Jefferson personally penned the language for each proposal,” two were most likely not written by Jefferson, but by one of the other two committee members.

While it’s impossible to say with absolute certainty in all cases which committee member wrote which bills, Julian P. Boyd (1903-1980), the editor of the first twenty volumes of *The Papers of Thomas Jefferson*, did an exhaustive study of all available manuscripts and
other sources to try to determine the authorship of each bill, identifying with relative certainty the part of the work done by Jefferson. There are some bills whose authorship is definitely known, but attributing the rest to the correct committee member, to the degree that this could be done, was not an easy task. One problem was that the only surviving manuscript copies of many of the bills had been written by clerks, so identifying the authors of those bills by their handwriting was out. But there were other ways.

First, there was Jefferson’s autobiography, where he noted which part of the work was assigned to each of the three remaining committee members after the other two resigned at the committee’s January 1777 meeting. Then, there was the list of all the bills in Jefferson’s handwriting on which Jefferson had made notations next to forty-nine of the bills that were obviously the page numbering system of an original manuscript that no longer exists. Of all the bills whose authorship is known, only the ones that were definitely written by Jefferson are among the forty-nine that he marked with this page numbering system. The obvious conclusion from that is of course that this was Jefferson’s page numbering system for the part of the work that he did. There is other evidence presented by Boyd to support this logical assumption, which I won’t go into here, but I think it goes without saying that the conclusions of a real historian like Boyd as to which committee members wrote which bills, based on his careful analysis of every available manuscript and document, should be trusted over pseudo-historian David Barton’s Jefferson-wrote-everything-that-sounds-religious “analysis.”

The third thing that needs to be remembered is that Jefferson couldn’t just do whatever the hell he wanted to. Not only was he just one member of a committee, but he had to write bills that actually stood a chance of passing in the legislature.

To get an idea of what Jefferson was up against in the legislature, all you have to do is read what he wrote in his autobiography about

the battle to disestablish the church. The period of time he was writing about in the following passage, October to December 1776, was exactly the same time that the revisal committee was appointed. This is how he described the difficulty of just trying to get the legislature to agree to the idea of not having an established church:

But the first republican legislature; which met in '76; was crowded with petitions to abolish this spiritual tyranny. These brought on the severest contests in which I have ever been engaged. Our great opponents were Mr. Pendleton and Robert Carter Nicholas; honest men, but zealous churchmen. The petitions were referred to the committee of the whole house on the state of the country; and, after desperate contests in that committee, almost daily from the 11th of October to the 5th of December, we prevailed so far only, as to repeal the laws which rendered criminal the maintenance of any religious opinions, the forbearance of repairing to church, or the exercise of any mode of worship; and further, to exempt dissenters from contributions to the support of the established church; and to suspend, only until the next session, levies on the members of that church for the salaries of their own incumbents. For although the majority of our citizens were dissenters, as has been observed, a majority of the legislature were churchmen.94

If you’re paying attention, you’ll have noticed that one of the members of the legislature named by Jefferson as one of his great opponents in disestablishing the church was Edmund Pendleton, who was also one of the three members of the revisal committee.

The other member of the revisal committee, Jefferson’s old law teacher George Wythe, was much more like Jefferson.

The characterizations of Pendleton and Wythe by Bishop William Meade (1789-1862), the Bishop of the Protestant Episcopal Church in Virginia, in his book *Old Churches, Ministers and Families of*

Virginia, show the clear difference between the two. Pendleton is mentioned over and over as being very religious and a defender of the church. Both Jefferson and Wythe, on the other hand, are described as anything but.

In a section of his book in which he was explaining that the church vestries, which under the established Church of England were the local political bodies, were the political training ground for the members of House of Burgesses, and that “very few statesmen of the Revolution went into it without this training,” Meade wrote of Jefferson and Wythe:

Even Mr. Jefferson, and Wythe, who did not conceal their disbelief in Christianity, took their parts in the duties of vestrymen, the one at Williamsburg, the other at Albemarle; for they wished to be men of influence.95

Elsewhere in The Jefferson Lies, Barton of course claims that Jefferson’s service as a vestryman was proof of his belief in Christianity, writing: “when elected as a vestryman in his Anglican Church in 1768, Jefferson promised ‘to conform to the Doctrine and Discipline of the Church of England.’” So, who are you going to believe, David Barton or Bishop Meade, a contemporary of Jefferson who was a priest in Virginia during Jefferson’s lifetime and later a bishop in the church he was writing about?

And, the final thing that needs to be remembered is that at the time of the revisal of the laws, the Anglican Church had not yet been disestablished.

After independence from England was declared, the Anglican churches ceased to be part of the Church of England and started calling themselves Protestant Episcopal, but this was still the established church in Virginia. The religious freedom provision in Virginia’s Declaration of Rights, passed in 1776, didn’t disestablish the church. It just started a flood of petitions from dissenters into the

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legislature because having an established church was at odds with what the Declaration of Rights said. But, as Jefferson said in his autobiography, the legislature was made up of a majority of “church-men,” meaning Anglicans who didn’t want anything to change. There were steps taken towards disestablishment starting in 1776, but Jefferson’s Bill for Establishing Religious Freedom, although written as part of the revisal, wouldn’t be passed until 1786, nearly a decade later. It wasn’t until then that the church was completely disestablished.

So now, keeping all of the foregoing in mind, let’s look at each of the four bills listed by Barton, and see if they really live up to Barton’s claim of providing evidence that Jefferson was no secularist.

A Bill for Punishing Disturbers of Religious Worship and Sabbath Breakers

According to Barton:

... Jefferson's bill for preserving the Sabbath stipulated:

If any person on Sunday shall himself be found laboring at his own or any other trade or calling... except that it be in the ordinary household offices of daily necessity or other work of necessity or charity, he shall forfeit the sum of ten shillings for every such offense.

This is a bill that was rewritten, and, according to Boyd’s analysis, was written by Jefferson. At the time of the revisal, Virginia’s Sabbath law, titled An act for the effectual suppression of vice, and restraint and punishment of blasphemous, wicked, and dissolute persons, had remained virtually unchanged since 1705.

Jefferson could never have gotten away with completely doing away with having a Sabbath law. Just deleting the old law altogether without replacing it with some sort of Sabbath law would never pass
in the legislature. So, “Jefferson's bill for preserving the Sabbath,” as Barton decides to rename it, did away with every Sabbath restriction except for one. Apparently, Jefferson’s way of “preserving the Sabbath” was to make drinking and gambling legal on Sundays. He also removed the prohibition on traveling on Sundays. The only thing he left in from the old law was a prohibition against working on Sundays. He also did away with the punishment from the old law for people who failed to pay the fine for violating the Sabbath law, which was receiving “on his or her bare back, ten lashes, well laid on.”

So, this part of the Sabbath law from 1705:

... and if any person shall, on that day be present at any disorderly meeting, gaming, or tippling, or shall, on the said day, make any journey, and travel upon the road, except to and from church, (cases of necessity and charity excepted,) or shall, on the said day, be found working in their corn or tobacco, or any other labour of their ordinary calling, other than is necessary for the sustenance of man and beast; every person failing or making default in any of the premises, and being lawfully convicted, by confession, or otherwise, before one or more justice or justices of peace of the county wherein such offence shall be committed, (so that prosecution be made within two months after such default,) shall forfeit and pay, for every such offence, the sum of five shillings, or fifty pounds of tobacco: And if any person or persons herein offending, shall refuse to make present payment, or give sufficient caution for the payment of the fine at the laying of the next parish levy after such offence committed, each party so offending, and not paying or giving security as aforesaid, shall, by order of such justice or justices before whom such conviction shall be, receive on his or her bare back, ten lashes, well laid on.96

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Was reduced to this:

If any person on Sunday shall himself be found labouring at his own or any other trade or calling, or shall employ his apprentices, servants or slaves in labour, or other business, except it be in the ordinary household offices of daily necessity, or other work of necessity or charity, he shall forfeit the sum of ten shillings for every such offence, deeming every apprentice, servant, or slave so employed, and every day he shall be so employed as constituting a distinct offence.  

Before getting to what else this bill did, you’ll notice that Barton did a bit of editing to this sentence. He deleted the part near the beginning of the sentence that extended the prohibition against working on Sundays to apprentices, servants, and slaves, and cut off the end of the sentence right before apprentices, servants, and slaves are mentioned again. Now, why would he delete these words? Well, because of another chapter in *The Jefferson Lies* in which he claims that Jefferson was really a civil rights activist who thought blacks were completely equal to whites, even though he owned hundreds of slaves. Because of that claim, Barton tries to minimize mentions of slavery wherever he can in other chapters of the book, presumably as an ‘out of sight, out of mind’ tactic so his readers are reminded as little as possible while reading these other chapters that Jefferson was a slaveholder.

Now, back to what else Jefferson’s Sabbath bill did. The part requiring church attendance by law was of course completely out. But the most significant part of this three-section bill was its first two sections – the “Punishing Disturbers of Religious Worship” part.

The first section applied to public officials. When the Church of England was the established church in Virginia, ministers of other denominations, particularly the Baptists, could be and were arrested and jailed while preaching, charged with the crime of

disturbing the peace. This persecution of the Baptists began in 1768, and was still going on when Jefferson wrote his Sabbath bill. After the separation from England, most of the Church of England churches had started calling themselves Protestant Episcopal, which would become the denomination’s official name, but the name was all that had changed. Their status as the established church and their persecution of dissenters hadn’t ended, in spite of Virginia’s 1776 Declaration of Rights. This persecution of dissenters was what the first section of Jefferson’s bill addressed, making it a crime for any public official to arrest a minister of any denomination for any civil cause while that minister was preaching in any church. Under Jefferson’s bill it would now be the official who arrested a dissenting minister who would be thrown in jail, not the minister.

The second section of the bill made it a crime for anyone to disturb any worship service of any sect. The disturbances of Baptist worship services had included mobs breaking up services, an attempt to blow up a minister with gun powder, various kinds of beatings and whippings, a minister’s hands being slashed while he was preaching, and one shooting with a shotgun. This section of Jefferson’s bill applied to everyone, public official or not, and made disturbing a worship service punishable by fines or imprisonment. The bulk of Jefferson’s Bill for Punishing Disturbers of Religious Worship and Sabbath Breakers, from which Barton quotes only one sentence and edits even that, was to protect religious dissenters from the not yet disestablished church.

Combining this new bill, whose primary purpose was to protect religious dissenters, with the prohibition against working on the Sabbath allowed for the deleting of the entire 1705 Sabbath law because the subject of the Sabbath was now covered somewhere else.

It’s kind of hard to imagine that the religious folk of Jefferson’s day would have considered a bill that effectively repealed virtually all Sabbath prohibitions, and got rid of things like it being a crime to publicly profess atheism or deism, to have been “a bill for preserving the Sabbath” as Barton calls it.
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A Bill for Appointing Days of
Public Fasting and Thanksgiving

According to Barton:

His bill for public days of prayer declared:

[T]he power of appointing Days of Public Fasting and
Thanksgiving may be exercised by the Governor ....
Every minister of the Gospel shall, on each day so
appointed, attend and perform Divine service and
preach a sermon or discourse suited to the occa-
sion in his church, on pain of forfeiting fifty pounds
for every failure, not having a reasonable excuse.

According to Boyd’s analysis, this bill was probably not written
by Jefferson. It didn’t fall into the portion of the work assigned to
Jefferson when the committee divided up the work, and it wasn’t
marked on his list with a number from his page numbering system.

Before getting to who might have written this bill and why, let’s
take a look at how, and why, Barton butchers his quote of this bill.
Here is the entire bill, with the parts chopped out by Barton in bold:

... that the power of appointing days of public fasting and humiliation, or thanksgiving, throughout this commonwealth, may in the recess of the General Assembly, be exercised by the Governor, or Chief Magistrate, with the advice of the Council; and such appointment shall be notified to the public, by a proclamation, in which the occasion of the fasting or thanksgiving shall be par-
ticularly set forth. Every minister of the gospel shall on each day so appointed, attend and perform divine service and preach a sermon, or discourse, suited to the occasion, in his church, on pain of forfeit-
ing fifty pounds for every failure, not having a reasonable excuse.98

University Press, 1950), 556.
Now, why would Barton edit this bill like he did? Well, do you see how his deletions make it all about the governor – giving the governor, and only the governor, the authority to proclaim days of fasting or thanksgiving? And do you see how deleting even the words in the first sentence that make no difference either way in the meaning of the sentence (i.e., deleting “humiliation”) makes it a more pronounced statement that this authority was given only to the governor? Think back now to how Barton begins his description of these bills. He has Jefferson introducing them as ... you got it ... the governor.

The impression Barton is trying to give through his editing is that Jefferson (as governor) introduced a bill to give himself (as governor) the power to proclaim days of fasting or thanksgiving because this was what he wanted to do (as governor). This is an example of the more subtle lies that Barton uses to create the desired impression in his readers’ minds – the kind of things that when looked at individually might make you wonder why he would bother lying about that, but when looked at in conjunction with his other claims make it obvious why he would lie about that. Barton’s readers have already read his version of the 1774 fast day proclamation story, are then put under the impression that Jefferson introduced this fast day bill as governor, and then see the bill that Barton tells them Jefferson wrote giving the power to proclaim days of fasting and thanksgiving to the governor. In Barton’s book this all happens within two pages. What reader wouldn’t be convinced after reading these two pages that Jefferson was a man of prayer who had a great zeal for days of fasting and thanksgiving?

If you read the actual bill, without Barton’s editing, you’ll see that what it really says is that the Assembly would have the authority to proclaim days of fasting or thanksgiving. It only gave the governor the authority to do it if the Assembly was in recess, and even then the governor could only do it with advice of the Privy Council.

Regardless of which of the revisal committee members actually wrote this bill, it was nothing new. Proclamations for days of fasting or thanksgiving had been issued since the early days of the colony.

As for which committee member would have written this new
bill, it would not have fallen into the part of the work assigned to Jefferson. When the committee was reduced from five to three members and the work was redistributed among the remaining three, Jefferson got the “common law and statutes to the 4 James I,” meaning everything that came before 1606, when the Virginia Company was chartered by King James I to establish colonies in America. All British laws in force prior to the first settlers coming to Virginia from England were considered to have been adopted in Virginia by consent of those original settlers. Since whatever gave the royal governor and House of Burgesses the authority to proclaim days of fasting or thanksgiving in Virginia obviously had to come after there was a royal governor and House of Burgesses, it didn’t happen until after 1606 and was therefore not in Jefferson’s part of the work. It was also not marked by Jefferson with one of his page numbers on his list of all the bills, which means that even though Jefferson is known to have written a few of the bills that should have fallen into Wythe’s part of the work (mainly bills that couldn’t wait and needed to be introduced while the work of the revisors was still going on), this was not one of those bills.

Whether it fell to George Wythe, who got the British statutes from 1607 on, or more likely to Edmund Pendleton, who got the laws passed by the Virginia Assembly, can’t be said for sure, and doesn’t really matter. The bottom line is that Barton’s claim that “Jefferson personally penned the language” of this bill is wrong.

So what did the new bill change? Well, it made the necessary change of redelegating the authority to do something from who had that power in the former colonial government to who would have it in the new government. But it also changed something else. It made the government have to have an actual reason for proclaiming a day of fasting or thanksgiving.

As explained in the section on the 1774 fast day proclamation, days of prayer were highly unusual in the South at that time, with it having been two decades since the last time one was proclaimed

in Virginia. This hadn’t always been the case, though. In the 1600s and into the early 1700s, the royal governor, with the advice of the Governor’s Council, and the House of Burgesses issued quite a few proclamations for days of fasting or thanksgiving. In most instances, they did this in conjunction with issuing a proclamation of some news or event on behalf of the king or queen. On these occasions, the sheriffs were ordered to go to all the churches and post a notice of whatever news the king or queen was proclaiming. Like the fast day that Jefferson and his cohorts “cooked up” in 1774, these days of fasting or thanksgiving were called for the purpose of spreading some important news via the churches.

There were other times, however, when the royal governor and the House of Burgesses would proclaim a day of fasting and/or humiliation for no reason except that they thought the people were misbehaving too much. And then there were the proclamations that declared a certain day to be observed from that time forward as an annual day of fasting or thanksgiving to commemorate some event. And then there was that time in 1644 when the people must have been being really bad because the governor and House of Burgesses proclaimed that the last Wednesday of every month would be a day of fasting and humiliation.

The new bill required that a proclamation be issued “in which the occasion of the fasting or thanksgiving shall be particularly set forth.” In other words, the Assembly or the governor couldn’t proclaim a day of prayer just because they thought the people needed to pray more to whip them into shape.

The part requiring by law that every minister observe the day of fasting or thanksgiving was nothing new either. The proclamations issued by the colonial government had ended with the requirement that every minister observe the day in their church, with some of them imposing fines on ministers who failed to do so, as the new bill also did. It was in the old laws, so it stayed in the new bill. Don’t forget here that the disestablishment of religion was just beginning at this time. It was still considered just fine for the government to tell ministers what to do, so the revisors had no legal justification for removing this requirement.
So, would Jefferson have even bothered objecting to the bill’s requirement that ministers preach on a certain day under pain of punishment if he could have? Maybe not. He would have known that if and when his *Bill for Establishing Religious Freedom* was passed, anything like this requirement would be effectively nullified anyway, but that until that happened there were going to be laws like this one. Plus, even though the idea of the government’s requiring a minister to do anything by law would certainly have gone against Jefferson’s principles, it would have taken care of a problem that had come up a few years earlier.

Remember that 1774 fast day resolution? Remember how the Rev. Mr. Gwatkin, the minister who the House of Burgesses said in its resolution was to preach a “sermon suitable to the occasion” on the fast day but refused to preach the sermon because he was a loyalist? Well, the Rev. Mr. Gwatkin wasn’t the only one. Other loyalist ministers also refused to do it. The revision committee was doing its work at the height of the war, at a time when the Continental Congress was issuing proclamations for days of fasting or thanksgiving when it needed to get out (and sometimes to put its spin on) news about important events in the war. The Congress would send out these proclamations as a circular letter to all the states, and the governors would issue these proclamations in their states. By this time, some of the loyalist ministers had returned to England, but not all of them. Forcing all ministers to preach a sermon or discourse “suited to the occasion” on these days would at least ensure that as many people as possible would hear the proclamation of the Continental Congress, even if they had a loyalist minister who thought that what was “suited to the occasion” was to tell their congregation to pray for the British, as some did. Under these circumstances, and not being able to do anything to get rid of laws like this anyway, Jefferson might not have raised any objection at all. He had certainly made the most of the government’s authority to proclaim a fast day back in 1774.

In the end, the *Bill for Appointing Days of Public Fasting and Thanksgiving* was never passed. It was introduced by James Madison in 1785 along with all the other bills from the revisal that hadn’t been
passed yet, but by this time the effort to completely disestablish the
church was in full swing. The fast and thanksgiving day bill was
postponed by the legislature and not brought up again until the
October 1786 session. By this time, Patrick Henry’s *Bill Establishing
a Provision for Teachers of the Christian Religion*, better known as
the general assessment bill, which would have levied a tax to pay
for ministers of all Christian denominations, had been defeated,
and Jefferson’s *Bill for Establishing Religious Freedom* had been
passed. No further action was taken on the *Bill for Appointing Days
of Public Fasting and Thanksgiving*.

We’re not quite done with prayer days, a subject that Barton
makes the most of in his book. We’ll get to the last example, as well
as the best evidence that Jefferson just wasn’t into prayer days, in
the next section – the section about the time period when Jefferson
really was the governor of Virginia.

Before moving on to the next bill in Barton’s list, I want to stop to
note a bit of irony about this fast and thanksgiving day bill. Barton’s
main premise regarding what Jefferson meant by “a wall of separation
between church and state” is that this wall was only intended to be
a one-way wall – that it was intended only to keep the government
from telling the churches what to do. And yet Barton, because he
wants to attribute this fast day bill to Jefferson, just ignores that
this was a bill giving the government the authority to tell the
churches what to do! This glaring contradiction will, of course, go
completely unnoticed by Barton’s readers.

*A Bill Annulling Marriages Prohibited by the Levitical Law
and Appointing the Mode of Solemnizing Lawful Marriage*

According to Barton:

**His bill for protecting marriage stipulated:**

*Marriages prohibited by the Levitical law shall be
null; and persons marrying contrary to that prohi-
bition and cohabitating as man and wife, convicted*
thereof in the General Court, shall be [fined] from
time to time until they separate.

This is by far the most interesting of the four bills in Barton’s list. It’s another one that, according to Boyd’s analysis, was most likely not written by Jefferson.

Part of this bill – the part about the Levitical law that Barton uses – was not something that the revisors could delete. It came from a law passed in 1730 and was an addition to the 1705 Act for the effectual suppression of vice, and restraint and punishment of blasphemous, wicked, and dissolute persons, the law mentioned earlier that contained the old Sabbath laws.

But the more important change to Virginia’s marriage laws – the part of the bill that Barton doesn’t mention – was something that the revisors had an opportunity to push the envelope on, and they took it. What this bill did was to secularize marriage in Virginia.

In this case, it really doesn’t matter whose part of the work the drafting of this bill fell into, other than to point out once again that Barton’s claim that “Jefferson personally penned the language” of all these bills is wrong. The reason I say that it really doesn’t matter whose part of the work it fell into is that the committee must have agreed to this radical change of completely secularizing marriage – a change that went beyond what was necessary to solve the problem that this part of the bill was meant to address. After two years of working independently on their individual parts, the three committee members met in February 1779 to go over each other’s work and decide on any changes together. Jefferson and Wythe, who held the same opinions on religion and government, were a majority of the committee. If it was Wythe’s idea to secularize marriage and Jefferson was opposed to it, he could easily have gotten the “churchman” Pendleton to back him up and outvote Wythe, and the same would have been true if it was Jefferson’s idea and Wythe opposed it. The only logical conclusion is that both Jefferson and Wythe must have supported secularizing marriage, regardless of who actually penned the bill doing this.

We’ll get to how this bill secularized marriage in a minute, but
first let's get the other part – the Levitical law thing – out of the way.

All that was meant by the Levitical law was which relatives a person couldn't marry. The laws of England used the list from the book of Leviticus, so this was also the law in colonial Virginia.

This was the law from 1730:

V. Be it also enacted, by the authority aforesaid, That if any person whatsoever shall hereafter marry within the levitical degrees prohibited by the laws of England; that is to say, if the son shall marry his mother or step-mother, the brother his sister, the father his son's daughter, or his daughter's daughter; or if the son shall marry the daughter of his father, begotten and born of his step-mother, or the son shall marry his aunt, being his father's or mother's sister, or marry his uncle's wife, or the father shall marry his son's wife, or the brother shall marry his brother's wife, or any man shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, or his wife's sister, every person or persons so unlawfully married, shall be separated by the definitive sentence or judgment of the general court; and the children proceeding or procreate under such unlawful marriage, shall be accounted illegitimate: And the attorney-general of this colony, upon any information made to him of any such marriage, shall and may exhibit a bill to the judges of the general court, against any persons so unlawfully married; who shall be compelled upon oath to answer the same: And upon such bill and answer, and the depositions of witnesses, where the same shall be necessary, the general court shall and may proceed to give judgment, and to declare the nullity of such marriage; and moreover may punish the parties by fine at their discretion; and if they see fit, may cause the parties so separated, to give bond, with sufficient surety, that they will not thereafter cohabit, under such penalty as the said court shall judge reasonable.100

100. William Waller Hening, ed., *The Statutes at Large; Being a Collection of All the Laws of Virginia from the First Session of the Legislature in the Year 1619*, vol. 4, (Richmond, VA: Printed for the editor, 1820), 245-246.
Following the committee’s rules of making the bills as short as possible, with “Provisoes &c. which wou’d do only what the Law wou’d do without them, to be omitted,”\textsuperscript{101} the lengthy list specifying all the combinations of relatives was deleted, and the punishment was simplified into plain English, the new bill condensing the above section of the 1730 law into:

Be it enacted by the General Assembly, that marriages prohibited by the Levitical law shall be null; and persons marrying contrary to that prohibition, and cohabitating as man and wife, convicted thereof in the General Court, shall be amerced, from time to time, until they separate.\textsuperscript{102}

So, all this sentence of Jefferson’s “bill for protecting marriage,” as Barton renames it, (which probably wasn’t written by Jefferson), did was to keep in force the old marriage laws. The first sentence keeps in force the prohibition on marrying relatives, which in the existing Virginia law was the Levitical law. There was no reason to change this, so it was left as it was.

The next sentence of the bill prohibits marriages “between a person of free condition and a slave, or between a white person and a negro, or between a white person and a mulatto.”\textsuperscript{103} Would Barton, who spends another chapter of The Jefferson Lies claiming that Jefferson wasn’t a racist and thought blacks were completely equal to whites, attribute this sentence to Jefferson? Would he tell his readers that Jefferson “personally penned” this racist law? Or would he, in that case, want his readers to know the truth – that the revisal committee was just keeping in force an old law that it had no legitimate reason to change?

There was another marriage law, however, that the revisors did have a reason to change – the 1748 law that required marriages to be performed by and according to the practices of the established

\textsuperscript{102} Ibid., 556-557.
\textsuperscript{103} Ibid., 557.
church, which began:

That no minister shall celebrate the rights of matrimony between any persons, or join them together as man and wife, without lawful licence, or thrice publication of banns according to the rubric in the book of common prayer; and if the persons to be married dwell in several parishes, the banns shall be published in each parish, and the minister of the one parish shall not solemnize the matrimony, until he have a certificate from the minister of the other parish, that the banns have been thrice published, and no objection made against the parties joining together: And if any minister shall celebrate the rites of matrimony, or joining persons in marriage, without such licence, or publication of banns, as by this act required, he shall for every such offence be imprisoned one whole year, without bail or mainprise, and shall also forfeit and pay five hundred pounds current money ...

Under this old law, marriages performed by Baptist ministers were deemed unlawful, making the children of Baptists illegitimate and unable to legally inherit. The adoption of Virginia’s Declaration of Rights in June 1776 hadn’t disestablished the established church, but it had given dissenters the right to the free exercise of religion. So, this law requiring all marriages to be performed by the established church had to be replaced.

What the revisors did here was totally radical. Instead of simply rewriting the law to say that marriages performed by any minister of any denomination would be legal, they went further. They completely secularized marriage, making it altogether unnecessary to have a minister perform the marriage. As far as the government was concerned, a marriage license and witnesses were all that would be required for the marriage to be legal.

This is what the “Appointing the Mode of Solemnizing Lawful

104. William Waller Hening, The Statutes at Large: Being a Collection of All the Laws of Virginia from the First Session of the Legislature in the Year 1619, vol. 6, (Richmond, VA: Printed for the editor, 1819), 81.
Marriage” part of the bill said:

Persons who having obtained such license, as before is directed, shall, in presence of witnesses, declare or yeild their consent to be married together, shall, without further ceremony, be deemed man and wife, as effectually as if the contract had been solemnized, and the espousals celebrated, in the manner prescribed by the ritual of any church, or according to the custom of any religious society, whereof they are members.105

This bill was never passed. A new marriage law was passed in 1784 that made marriages performed by a minister of any religion legal, but that was as far as it went.

A Bill for Saving the Property of the Church Heretofore by Law Established

Unlike the other three bills on his list, Barton says nothing at all about this last one, probably because there’s nothing in it that can be misquoted or taken out of context to make it sound like anything other than what it was.

This bill (which actually was written by Jefferson) was just to put into law what was to be done with the glebe lands, churches, and other property that had belonged to the Church of England, and how any debts or legally binding contracts entered into by the church vestries under the Church of England were to be handled. It basically said that the land, churches, and other property would still be the property of the congregations that had previously been the Church of England congregations, whatever they might rename themselves; the surviving vestrymen of the Church of England parishes would have the authority to carry out any legally binding contracts that had been entered into prior to 1777; and in the

parishes where the people had been taxed by their old vestries more than the old laws had allowed, any money left over after all contracts had been carried out and all debts were paid would be used for the support of the poor.¹⁰⁶

Even Barton couldn’t squeeze a lie out of this one, so he didn’t try to. He just stuck it in his list because its title sounds religious—that “saving the property of the church” might have been Jefferson somehow saving the church or something. All “saving” means in the legal sense is that no matter what else happens, a certain part of a law can’t change, which in the case of this bill was the part about who had the legal right to the property of the former Church of England.

Barton wraps up this section with one more bill that isn’t one of the four bills in his list, writing:

Jefferson also introduced a Bill for Establishing General Courts in Virginia, requiring:

Every person so commissioned … [shall] take the following oath of office, to wit, “You shall swear ....
So help you God.”

This wasn’t a new oath written by Jefferson. It was the General Court judge’s oath from the laws of 1753 with the necessary changes to make it apply to Virginia rather than the crown. Here is the 1753 General Court judge’s oath, with the language that Jefferson changed or removed struck out, and the changes or additions in brackets:

The Oath of a Judge of the General Court.

You shall swear, that you will well and truly serve our sovereign lord the king, and his people, [this Commonwealth] in the office of a judge or justice of the general court of Virginia, and you shall not counsel, or assent to any thing which may turn to the hurt or

dishing the king, by any way or colour, and you shall do equal law and execution of right to all the king's subjects [manner of people], rich and poor, without having regard to any person [according to Law, without respect of persons]: You shall not take by yourself, or by any other person, any gift or reward, of gold, silver, or any other thing, for any matter by you done, or to be done, by virtue of your office: You shall not take any fees, or other gratuity, of any person, great or small, except such salary as shall be by law appointed, or such salary as his majesty, his heirs or successors, shall think fit to allow you for your service. You shall not maintain, by yourself, or any other, privily or openly, any plea or quarrel, hanging in any of the king's courts: [depending in the Courts of this Commonwealth]. You shall not delay any person of common right, for the letters of the king, his governors of this colony, or of any other [or request of any] person, nor for any other cause; and in case any letter [if any other letter or request] come to you, contrary to the law, you shall nothing do for such letter [or request], but you shall proceed to do the law, the said letters [letter or request] notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly and truly, according to the best of your skill and judgment, do equal and impartial justice without fraud, [favour, affection or partiality]. So help you God.\textsuperscript{107}

Jefferson didn’t make some kind of deliberate effort to make sure “So help you God” was in this oath. It was in the old oath, so it was in the new oath. Jefferson would never have tried to get away with doing something like deleting “So help you God” from oaths at this time. He was trying to write bills that would pass in the legislature. He wouldn’t have done anything that would have led to an unnecessary argument, like raising the issue of whether or not

oaths should end with “So help you God.” This was a legislature that he was having to fight just to disestablish the church. The furthest that things were going to go at this time was his bill in the revisal that allowed for people who refused to swear an oath to be “charged” rather than “sworn,” in whatever manner the church or religious society they belonged to used on similar occasions. This was a step forward, but still imposed a religious test in that the person was expected to belong to some religion. Does this mean that Jefferson thought an atheist should be disqualified from holding political office or being a witness or anything else that required an oath? Of course not. He just knew how far the legislature could be pushed.

As he wrote years later to Thomas Cooper when faced with another situation in which he had to leave something he was opposed to in a proposal because he had to get the religious members of a board and the legislature to agree to that proposal:

But we cannot always do what is absolutely best. Those with whom we act, entertaining different views, have the power and the right of carrying them into practice. Truth advances, and error recedes step by step only; and to do to our fellow men the most good in our power, we must lead where we can, follow where we cannot, and still go with them, watching always the favorable moment for helping them to another step.¹⁰⁸

As you can see when the situation that Jefferson was in is explained, and his writings and actions put into the context of the time and circumstances, there was a big difference between what he wanted to do and what he could do. He couldn’t just delete laws that he didn’t like. As he wrote to Thomas Cooper, he had to move slowly and take things step by step. Barton ignores all of this. He isn’t trying to teach his followers about history, although they’ll all

tell you how much they’ve learned about history from him. Barton’s followers will learn exactly what he wants them to believe – that Jefferson based laws on the Bible and put “So help you God” in oaths. And they will feel educated and ready to go impart their great knowledge of history to all the misguided people who haven’t had the benefit of learning the truth from David Barton!
Jefferson (actually) as Governor of Virginia
1779 – 1781

Jefferson was governor of Virginia for two years, from June 1779 to June 1781. In his chapter of The Jefferson Lies about Jefferson’s not being a secularist, Barton gives two examples from this phase of Jefferson’s career – Jefferson using a religious motto on a medal issued by the government of Virginia (which is true) and yet another day of prayer story (which is another big distortion of the truth).

The One About
Jefferson and the Indian Peace Medal

According to Barton:

In 1780, while still serving as governor, Jefferson ordered that an official state medal be created with the religious motto “Rebellion to Tyrants is Obedience to God.”

Yes, as governor of Virginia, Jefferson did have a medal made with this motto on it. This motto was not, however, used as the
official state motto, as Barton’s wording might imply. The official state motto, adopted by Virginia in 1776, was *Sic semper tyrannis*, meaning “Thus always to tyrants.” On the official seal of Virginia, this motto appears beneath a depiction of a king lying on the ground with his crown lying beside him and Virtus (the female figure symbolizing virtue) with her foot on the king's neck. The reverse of the seal depicts the three Roman goddesses Libertas (the goddess of liberty), Ceres (the goddess of agriculture), and Aeternitas (the goddess of eternity).

The medal on which “Rebellion to Tyrants is Obedience to God” was used was an Indian peace medal, about a dozen of which were made in 1780. Indian peace medals were large medals given to Indian chiefs, a practice of the French, Spanish, and British that began in the 1600s. Presenting these medals became an indispensable custom in negotiating with and making peace with the Indians, as Jefferson described when he later (for reasons not relevant here) had to justify the practice:

Giving medals and marks of distinction to the Indian Chiefs. This is but blindly hinted at in this letter, but was more pointedly complained of in the former. This has been an antient Custom from time immemorial. The medals are considered as complimentary things, as marks of friendship to those who come to see us, or who do us good offices, conciliatory of their good will towards us, and not designed to produce a contrary disposition towards others. They confer no power, and seem to have taken their origin in the European practice of giving medals or other marks of friendship to the negotiators of treaties, and other diplomatic Characters, or visitors of distinction. The British government, while it prevailed

109. A few of these medals have been found that were cast in bronze, but these were not the ones cast in 1780, which were cast in silver. The existence of the bronze medals means that the mold was obviously reused on other occasions, which isn’t surprising since this mold cost a whopping £3,206 to have made in 1780. The first of the silver medals that Jefferson had made in 1780 surfaced in 2009, and its weight and composition makes it possible to determine how many were cast. The invoice for the 1780 medals says that thirty-seven silver dollars were melted down to make them, and the weight of the one that surfaced in 2009 indicates that about three silver dollars must have gone into each of the medals.
here, practised the giving Medals, Gorgets, and Bracelets to the Savages invariably.\textsuperscript{110}

In 1780, when Jefferson was trying to avoid all-out war with the Cherokees, he attempted to get the Cherokee chief Oconostota and other key Cherokee leaders to meet with the Continental Congress and George Washington. The plan was not successful. The chiefs did not meet with the Congress or Washington, and the Virginia militia ended up launching an attack against the Cherokees. But it was this ultimately unsuccessful attempt to get Oconostota and the other chiefs to meet with the Continental Congress that Jefferson had the Indian peace medal made for.

Oconostota was the principal chief of the Cherokees, the majority of whom sided with the British during the Revolutionary War. Oconostota had visited England twice in his life, the first time in 1730, and again in 1762 to meet King George III. He had also been made a member of the St. Andrew’s Society at Charleston in 1773 by John Stuart, a Scottish-born loyalist who was the superintendent for the southern district of the British Indian Department. Oconostota almost certainly had been given a British Indian peace medal, which had an image of George III on the front, and a white man and an Indian sitting together under a tree with the words “Happy While United” on the back.

The back of the medal that Jefferson had made for Oconostota and the other Cherokee chiefs copied the back of the British medal, also using an image of a white man and an Indian sitting together under a tree with the words “Happy While United.” On the front, the image of George III was replaced by the image used on Virginia’s seal – the king lying on the ground with his crown lying beside him and Virtus with her foot on his neck. The words on that side of the medal were “Rebellion to Tyrants is Obedience to God,” which came from an epitaph of John Bradshaw, presumably written by Benjamin Franklin.

John Bradshaw was the rebel who presided over the court set up by the House of Commons that sentenced Charles I to death in 1649. Charles I was a tyrant who didn’t think he was accountable to the people, but that he only had to obey God because kings were divinely ordained. Hence the motto that ends the epitaph – “Rebellion to Tyrants is Obedience to God.”

Jefferson made a handwritten copy of the epitaph in 1776, and liked the “Rebellion to Tyrants is Obedience to God” motto so much that he used it on a personal seal. And, he also used it on an Indian peace medal he had made in 1780 as governor of Virginia, so Barton actually has a true claim here.

Barton’s second claim about Jefferson as governor of Virginia, however, is not so true.
The One About
Jefferson and the 1779 Day of Prayer

BARTON’S LIE: In 1779, Jefferson, as governor of Virginia, issued an explicitly Christian proclamation for a day of prayer.

THE TRUTH: Jefferson did not write this proclamation, nor was it his idea to issue it. It was issued by the Continental Congress to call attention to the recent American victories in the war, particularly General John Sullivan’s victory “against the savage tribes” in New York state. As was the usual practice, the Continental Congress sent out copies of its resolution calling for a prayer day to all the states, to be issued by each of the governors in their state. Like all of the other governors, Jefferson merely did his job as governor and issued a proclamation from the Continental Congress in his state.

According to Barton:

Because of his understanding of federalism, Jefferson refused to issue a presidential call for prayer, but he had certainly done so as a state leader. In addition to his 1774

Virginia legislative call for prayer, he called his fellow Virginians to a time of prayer and thanksgiving while serving as governor in 1779, asking the people to give thanks “that He hath diffused the glorious light of the Gospel, whereby through the merits of our gracious Redeemer we may become the heirs of the eternal glory.”

He also asked Virginians to pray “that He would grant to his church the plentiful effusions of Divine grace and pour out his Holy Spirit on all ministers of the Gospel; that He would bless and prosper the means of education and spread the light of Christian knowledge to the remotest corners of the earth.”

First of all, Jefferson didn’t write a single word of what Barton quotes from this 1779 prayer day proclamation. He just happened to be the governor of a state when this proclamation was issued by the Continental Congress. When the Continental Congress issued a proclamation, a circular letter with the proclamation was sent to all the states, and the governors then issued the proclamation in their states. So, like all the other governors, Jefferson did his duty as governor and issued the proclamation.

Is it possible that Barton just didn’t realize that it wasn’t Jefferson who wrote this proclamation and that his attributing it to Jefferson is merely a case of shoddy scholarship, or is he deliberately and intentionally lying about it? Well, there’s no question that it’s the latter. When Jefferson issued the proclamation in Virginia, he prefaced it with an introduction in which he clearly stated that it was “the General Congress” that “hath thought proper by their act of the 20th day of October last, to recommend to the several states that Thursday the 9th of December next be appointed a day of publick and solemn thanksgiving and prayer.”

Second, Barton’s point in bringing up this 1779 prayer day

proclamation is to claim it as proof that Jefferson, who refused to issue prayer day proclamations as president, only thought it was unconstitutional for the federal government to issue such proclamations. This is true, but the 1779 prayer day proclamation that Jefferson issued as governor of Virginia certainly isn’t proof of that. This 1779 proclamation was not a state proclamation; it was issued by the Continental Congress – the “federal” government of the time.

Of course, since the First Amendment had not yet been written in 1779, maybe Jefferson was only opposed to the federal government’s issuing of prayer day proclamations after it was declared that “Congress shall make no law respecting an establishment of religion.” Maybe he was just fine with these prayer proclamations when the Continental Congress issued them. Well, no, he wasn’t. And the proof of this comes from an individual frequently quoted by Barton – Benjamin Rush.

According to Rush, who had served in the Continental Congress in 1776 along with Jefferson and John Adams, Jefferson not only objected to the Continental Congress issuing a prayer day proclamation at that time, but even voiced some objections to the Christian religion itself.

In June 1812, when it was looking inevitable that the United States was about to go to war with Great Britain, Benjamin Rush wrote a letter to John Adams in which he brought up the subject of government proclamations for days of prayer. Rush told Adams that the General Assembly of the Presbyterian Church, of which he was a member, had just voted against petitioning then President James Madison to proclaim a national fast day, not because they didn’t want the president to proclaim a fast day but because they thought that Madison would follow the example of Jefferson and refuse to do it. While he was on the subject of prayer proclamations, Rush went on to talk about the proclamations for days of prayer that were issued during the Revolutionary War, asking Adams, “Do you recollect the rebuke you gave Mr. Jefferson in Congress upon this subject?”

Adams didn’t remember the details of the incident as clearly as Rush, replying to him:

I recollect a little sparring between Jefferson and me on some religious subject, not ill natured however, but have forgotten the time, and the particular subject. I wish you would give me the circumstances of the whole Anecdote.\(^{114}\)

Rush replied to Adams with his account of the incident:

The anecdote I allude to respecting the fast day is as follows. Upon a motion for such a day, Mr. Jefferson not only opposed it but treated it with ridicule and hinted some objections to the Christian religion. You rose and defended the motion, and in reply to Mr. Jefferson’s objections to Christianity you said you were sorry to hear such sentiments from a gentleman whom you so highly respected and with whom you agreed upon so many subjects, and that it was the only instance you had ever known of a man of sound sense and real genius that was an enemy to Christianity. You suspected, you told me, that you had offended him, but that he soon convinced you to the contrary by crossing the room and taking a seat in the next chair to you.\(^{115}\)

So, Benjamin Rush, who was not only there in the Continental Congress and a close friend of Jefferson’s, but was also a devout Christian and one of the founders of the Philadelphia Bible Society, said that Jefferson, in 1776, was so opposed to prayer day proclamations that he ridiculed the idea of them and even went as far as objecting to the Christian religion itself. And yet Barton would have his readers believe that this same Jefferson, in 1779, just three years later, decided to issue not just a prayer day proclamation, but an explicitly Christian prayer day proclamation, “asking the people to


give thanks ‘that He hath diffused the glorious light of the Gospel, whereby through the merits of our gracious Redeemer we may become the heirs of the eternal glory,’” and asking Virginians to pray “that He would grant to his church the plentiful effusions of Divine grace and pour out his Holy Spirit on all ministers of the Gospel; that He would bless and prosper the means of education and spread the light of Christian knowledge to the remotest corners of the earth.”

Need more proof that Jefferson just wasn’t into issuing prayer day proclamations? The 1779 one wasn’t the only one issued by the Continental Congress during Jefferson’s term as governor of Virginia. There was another one issued in 1780, when Benedict Arnold was busted for being a traitor. The Continental Congress wanted to put a positive spin on this obviously negative news. Don’t forget that up until this point Arnold had been a big hero. He was the general who had led the charge in the Battle of Saratoga – a victory that was a turning point in the war – getting shot in the leg and having his wounded horse fall on him in the process. That this celebrated hero had become a traitor was a devastating blow to the morale of the American people. So, the Continental Congress turned it into a blessing from God, calling for a day of thanksgiving to thank God for exposing Arnold and keeping Washington safe, issuing a proclamation that spun the discouraging news of Arnold’s treason into: “the late remarkable interposition of his watchful providence, in rescuing the person of our Commander in Chief and the army from imminent dangers.”¹¹⁶

But Jefferson, still governor of Virginia as he had been when the Continental Congress called for a day of thanksgiving in 1779, did not issue a proclamation for this 1780 day of thanksgiving? Why? Because he didn’t have to. He could get away with not doing it without shirking his duty as a governor. What was the difference between the 1779 and 1780 calls for a day of thanksgiving? The one in 1779 had been issued by the Continental Congress in the form of a resolution rather than a proclamation. That meant that the governors had to issue a proclamation coming from them, with the

resolution of Congress inserted into it. But the 1780 one was issued by the Continental Congress in the form of a proclamation. It was already written as a proclamation, so it really wasn’t necessary for it to be turned into a proclamation by the governors. It could be put out as it was. So, unlike the other governors, Jefferson just skipped this one. In the other states, it was published in the papers as a proclamation from the governors of those states in which the proclamation from the Continental Congress was quoted. In Virginia, however, only the Continental Congress’s proclamation was published, with no proclamation from Jefferson.

Now, why would Jefferson skip this opportunity to issue a prayer day proclamation if he were someone who wanted to issue prayer day proclamations? The answer, of course, is that he didn’t want to issue prayer day proclamations, even on a state level. He only did it when he had to. He did it in 1774 because it was the best way to get people riled up over the closing of the Port of Boston so they would support his political agenda, and he did it in 1779 because the Continental Congress didn’t send its resolution for a day of thanksgiving to the governors in the form of a proclamation, so the governors had to put it into the form of a proclamation that was issued by them.

Then there’s Benjamin Rush’s account of Jefferson not only objecting to prayer day proclamations while a member of the Continental Congress, but ridiculing the idea and even voicing objections to the Christian religion itself. So, on one hand, we have Jefferson’s own writings and actions, as well as Benjamin Rush’s saying in no uncertain terms that Jefferson was completely opposed to government proclamations of days of prayer, and, on the other hand, we have David Barton claiming that Jefferson was not only in favor of proclaiming days of prayer, but wrote the explicitly Christian language used in them. Who are you gonna believe?

117. See, for example, New-Jersey Gazette, Trenton, NJ, November 22, 1780, 1; American Journal, Providence, RI, December 2, 1780, 3; New-England Chronicle, Boston, MA, November 16, 1780, 1; Pennsylvania Packet, Philadelphia, PA, November 18, 1780, 1; Maryland Journal, Baltimore, MD, November 21, 1780, 2.
118. Virginia Gazette, November 4, 1780, 1.
Jefferson (not) as Secretary of State
1795

With only one exception, Barton entirely skips over the part of Jefferson's political career from the end of his term as governor of Virginia in 1781 to the final year of his term as vice president in 1800. The one exception is a story from 1795 that, in addition to it not being true to begin with, would have had nothing to do with Jefferson even if it were true. The story takes place in 1795, during the three-year period during which Jefferson held no political office – from the end of 1793, when he resigned as George Washington's secretary of state, to the spring of 1797, when he took office as vice president under John Adams. Barton, however, claims that Jefferson was still secretary of state in 1795 in order to turn an already fictitious story into another alleged example of Jefferson's "deliberately and intentionally including" religion in the public arena.

The First One About
Jefferson and Capitol Church Services (1795)

BARTON'S LIE: In 1795, Thomas Jefferson, as secretary of state, approved religious worship services in the Capitol Building.
THE TRUTH: This claim is a complete impossibility for two reasons. First, Jefferson was not the secretary of state in 1795. He had resigned from that office in 1793 and was no longer in Washington. Second, as of 1795, not even the foundation of the Capitol Building was completed, let alone any room that could have been used for religious services.

After saying that Jefferson was assigned to oversee the layout and construction of Washington, D.C., and that the construction of the Capitol Building began in 1793, Barton claims:

Work proceeded rapidly, and by 1795 the structure had progressed far enough that Secretary Jefferson approved a special activity in the Capitol that was still under construction. Newspapers as far away as Boston happily reported:

City of Washington, June 19. It is with much pleasure that we discover the rising consequence of our infant city. Public worship is now regularly administered at the Capitol, every Sunday morning at 11 o’clock, by the Rev. Mr. Ralph.

The church services reported in this 1795 newspaper item had nothing to do with the Capitol Building or Thomas Jefferson.

First of all, Thomas Jefferson wasn’t even the secretary of state in 1795. He had resigned on December 31, 1793. So, Barton’s claim that “Secretary Jefferson” approved anything to do with the Capitol in 1795 is obviously not true.

Second, construction on the Capitol Building had barely begun as of 1795. Barton’s claim that “Work proceeded rapidly, and by 1795 the structure had progressed far enough” for religious services to be held in it is completely untrue. The building’s cornerstone had been laid in 1793, but work had progressed very slowly. As of 1795, construction was already way behind schedule, and things only got worse when part of the not-yet-finished foundation actually collapsed due to the contractors taking shortcuts. In fact, it was in
June 1795, the very same month in which the newspaper item quoted by Barton appeared, that the commissioners overseeing the construction made the decision to completely demolish and rebuild the foundation of one side of the building, and to try to salvage the other side with major repair work.\textsuperscript{119}

The Sunday services reported in the newspaper item were being held in a converted tobacco shed at D Street and New Jersey Avenue. A new Episcopalian parish, known as Washington Parish, had been formed in 1794 to serve the Episcopalians who lived in the part of Maryland that had been ceded to the federal government to form the District of Columbia, and those who would be moving to the new capital city when the government moved there in 1800. The Rev. Mr. Ralph mentioned in the newspaper item was Rev. George Ralph, who was appointed rector of this new parish and began holding services in the converted tobacco shed in 1795.\textsuperscript{120}

As anyone familiar with newspapers of the era would know, the reason this story was “happily reported” in a newspaper “as far away as Boston” wasn’t because this little news item was so astoundingly important. It was just because all sorts of news items of general interest were typically copied from paper to paper as the papers from one state reached the other states. In the 1790s, any news item about anything to do with how the new capital city was progressing would have been copied in dozens of papers, as this one was.

And anyone familiar with the writings of the era, as the “expert” David Barton incessantly claims to be, would also know about the inconsistencies in spelling and capitalization that appear in these writings. If you look up this particular news item in the many papers in which it appeared, you’ll see that the word “capital” appears in some of the papers as “Capitol,” in some as “capitol,” and in others correctly as “capital.” But they all obviously meant the capital city and not the Capitol Building.


\textsuperscript{120} Records of the Columbia Historical Society, vol. 12, (Washington, D.C.: Published by the Society, 1909), 89.
For example, the paper that Barton cites, the *Federal Orrery*, spelled it “capitol,” with an “o” and a lower-case “c.” Barton, of course, capitalized the word “Capitol” when quoting the *Federal Orrery* to fit his story that it meant the Capitol Building.

The *Amherst Journal* in New Hampshire, however, corrected the spelling when copying the item a few weeks later, with the item appearing in that paper like this:

CITY of WASHINGTON, June 19.

It is with much pleasure that we discover the rising consequence of our infant city. Public worship is now regularly administered at the capital, every Sunday morning, at 11 o’clock by the Rev. Mr. Ralph, and an additional school has been opened by that gentleman, upon an extensive and liberal plan.\(^{122}\)

The part at the end of the item about Rev. Ralph opening a school in the new capital city was also in the *Federal Orrery* version, but Barton chopped that off so that all that “happy reporting” would be solely because of religious worship.

Barton’s tale of these 1795 church services in Washington – that Jefferson had absolutely nothing to do with and which weren’t even held in the Capitol Building to begin with – is only the first of three related stories in his book, so let’s move on to the next episode of the Mr. Jefferson-goes-to-church-in-Washington trilogy.

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122. *Amherst Journal*, Amherst, NH, July 17, 1795, Volume 1, Issue 27, 2.
Jefferson as Vice President
1797 – 1801

The second of Barton’s three stories about Jefferson and church services in the Capitol building is the only one of the three that involves church services that actually did take place in the Capitol building. What Barton does with this one is to make Jefferson, as vice president, responsible for approving these church services in the Capitol building, even though he had absolutely nothing to do with approving them. Jefferson did attend these services as president, but apparently his mere attendance at them is not enough involvement to suit Barton’s purposes. Jefferson needs to be made responsible for starting the services as vice president, and also needs to be made much more involved with them after he became president than he really was.

The Second One About
Jefferson and Capitol Church Services (1800)

BARTON’S LIE: Jefferson, as vice president, was responsible for the approval of using the Capitol Building for Christian church services, and, as president, ordered the Marine Band to play at these services.
THE TRUTH: While Jefferson did attend worship services in the Capitol Building, he had nothing to do with either starting or approving this practice. He also had nothing to do with getting the Marine Band to play at these services.

According to Barton:

From 1797 to 1801 Jefferson served as vice president of the United States under President John Adams. During that time, on November 22, 1800, Congress moved into the new Capitol. Two weeks later, on December 4, 1800, with Theodore Sedgwick presiding over the House and Vice President Thomas Jefferson presiding over the US Senate, Congress approved a plan whereby Christian church services would be held each Sunday in the Hall of the House of Representatives, the largest room in the Capitol building.

Neither the Senate nor Thomas Jefferson, as president of the Senate, had anything whatsoever to do with approving these worship services. Barton just takes the fact that Jefferson happened to president of the Senate at the same time that the House approved a request from the chaplains to use the House chamber for Sunday services to make it sound as if Jefferson had something to do with approving this request, even though he had nothing at all to do with it.

To make it sound as if Jefferson had something to do with the approving of these church services, Barton carefully words his paragraph to give the impression there was some sort of actual legislation passed to approve them. Saying that “Congress” approved these services is obviously intended to imply that the services were approved by both the House and the Senate. And, with his readers under the impression that the Senate approved the services, all Barton has to do is mention that Jefferson was the president of the Senate at the time and, voilà, Jefferson approved church services in the Capitol!

The truth is that the House of Representatives did not need or ask for the approval of the Senate when the chaplains requested the
use of the House chamber for Sunday services. The House itself didn’t even discuss it or vote on it. The Speaker simply announced that the chaplains had proposed to hold services in their chamber on Sundays, and the House got on with the more important business of the day – like deciding where the stenographers should sit so that they’d be able to hear everything clearly.\(^{123}\)

Another part of Barton’s little Capitol church service story is that it was President Jefferson, as commander-in-chief, who had the Marine Band play at these services:

President Jefferson personally contributed to the worship atmosphere of the Capitol church by having the Marine Band play at the services. According to attendee Margaret Bayard Smith, the band, clad in their scarlet uniforms, made a “dazzling appearance” as they played from the gallery, providing instrumental accompaniment for the singing. However, good as they were, they seemed too ostentatious for the services and “the attendance of the Marine Band was soon discontinued.”

The Marine Band’s playing at these services was something else that Jefferson had absolutely nothing to do with. According to the accounts of people who were in Washington at the time and attended these Sunday services, they were more social events than worship services. One of these accounts comes from Margaret Bayard Smith, wife of Samuel Harrison Smith, a Philadelphia newspaper editor who moved to Washington in 1800 to establish a national newspaper, *The National Intelligencer*. Selective quoting of Mrs. Smith’s description of the Capitol church services is how revisionists like Barton create their tales about these services.

This was Margaret Bayard Smith’s description of what the Capitol church services were really like in the days of Jefferson – the sole source cited by Barton for his claim that Jefferson had the Marine

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Band play at these services:

... I have called these Sunday assemblies in the capitol, a congregation, but the almost exclusive appropriation of that word to religious assemblies, prevents its being a descriptive term as applied in the present case, since the gay company who thronged the H. R. looked very little like a religious assembly. The occasion presented for display was not only a novel, but a favourable one for the youth, beauty and fashion of the city, Georgetown and environs. The members of Congress, gladly gave up their seats for such fair auditors, and either lounged in the lobbies, or round the fire places, or stood beside the ladies of their acquaintance. This sabbathday-resort became so fashionable, that the floor of the house offered insufficient space, the platform behind the Speaker’s chair, and every spot where a chair could be wedged in was crowded with ladies in their gayest costume and their attendant beaux and who led them to their seats with the same gallantry as is exhibited in a ball room. Smiles, nods, whispers, nay sometimes tittering marked their recognition of each other, and beguiled the tedium of the service. Often, when cold, a lady would leave her seat and led by her attending beau would make her way through the crowd to one of the fire-places where she could laugh and talk at her ease. One of the officers of the house, followed by his attendant with a great bag over his shoulder, precisely at 12 o’clock, would make his way through the hall to the depository of letters to put them in the mail-bag, which sometimes had a most ludicrous effect, and always diverted attention from the preacher. The musick was as little in union with devotional feelings, as the place. The marine-band, were the performers. Their scarlet uniform, their various instruments, made quite a dazzling appearance in the gallery. The marches they played were good and inspiring, but in their attempts to accompany the psalm-singing of the congregation, they completely failed and after a while, the practice was discontinued, – it was too ridiculous.124

Another eyewitness description of these Capitol church services comes from Sir Augustus Foster, a British diplomat who was in Washington during the second term of Jefferson’s presidency. Like Margaret Bayard Smith, Foster painted a very different picture of these church services than the impression that Barton’s readers would get from his book.

According to Foster:

Church service can certainly never be called an amusement; but from the variety of persons who are allowed to preach in the House of Representatives, there was doubtless some alloy of curiosity in the motives which led one to go there. Though the regular Chaplain was a Presbyterian, sometimes a Methodist, a minister of the Church of England, or a Quaker, or sometimes even a woman took the speaker’s chair; and I don’t think that there was much devotion among the majority. The New Englanders, generally speaking, are very religious; though there are many exceptions, I cannot say so much for the Marylanders, and still less for the Virginians.¹²⁵

As you can see from the descriptions of Margaret Bayard Smith and Sir Augustus Foster, the church services held in the Capitol Building were really more social than religious, and most of the people who attended them were not there out of any real religious devotion.

The obvious reason that church services were held in the public buildings of Washington during the Jefferson administration was that the city did not yet have churches, or any other buildings, that could accommodate them. When the government moved to Washington in 1800, the only churches that existed in the city were the converted tobacco shed mentioned in the last section that the Episcopalians were using and a small Catholic chapel built in 1794 for the Irish stonemasons who had moved to the city to work on the federal

buildings.

Much more serious, and much more sparsely attended, religious services were held in another public building. These solemn, sometimes up to four hour long communion services were held in the Treasury Department building. (Barton claims that they were held in two other public buildings, adding the War Department building even though there was no War Department building at the time.) Barton’s point, of course, is to make Thomas Jefferson somehow responsible for these other religious services as well, writing:

Under President Jefferson Sunday church services were also started at the War Department and the Treasury Department, which were two government buildings under his direct control. Therefore, on any given Sunday, worshippers could choose between attending church at the US Capitol, the War Department, or the Treasury Department, all with the blessing and support of Thomas Jefferson.

One of the more religious members of Congress who attended the serious religious services at the Treasury Department building was Manasseh Cutler, who was not only a congressman but a minister. According to his journal, Cutler also sometimes attended the services at the Capitol, but this seems to have been more to critique them than anything else.

After saying that Jefferson attended services in the Capitol as vice president (which is completely impossible because these services had not yet started when Jefferson was vice president), Barton quotes Cutler regarding Jefferson’s attendance at the services during his presidency:

This was a practice he continued throughout his two terms as president. In fact, US congressman Manasseh Cutler, who also attended church at the Capitol, affirmed that

“[h]e [Jefferson] and his family have constantly attended public worship in the Hall.”

Barton also quotes Cutler on Jefferson’s dedication to getting to church, even in the worst weather, saying:

Among Representative Cutler’s entries is one noting that “[i]t was very rainy, but his [Jefferson’s] ardent zeal brought him through the rain and on horseback to the Hall.”

I’m going to jump ahead here for a minute, because Barton begins the third story of his Mr. Jefferson-goes-to-church-in-Washington trilogy with the following question: “Why was Jefferson such a faithful participant at the Capitol church?” We’ll get to Barton’s answer to that question in the next section, but first let’s take a look at Manasseh Cutler’s answer to this same question.

Both of the Manasseh Cutler quotes used by Barton come from one letter written by Cutler to his son-in-law, Joseph Torrey, in 1803. Cutler was in no way expressing admiration for Jefferson’s dedication to religious worship in this letter, as the out-of-context quotes that Barton plucks from it imply. Cutler was saying the exact opposite – that Jefferson was only making a show of going to church out of “political necessity.”

Cutler’s letter was written not long after Jefferson had invited Thomas Paine to the White House. Paine, of course, had made himself pretty unpopular by writing The Age of Reason, but Jefferson remained his friend. In 1802, Jefferson arranged to bring Paine back to America from Europe, and then, when Paine got back to America, Jefferson invited him to the White House. Needless to say, this led to relentless attacks on Jefferson by his Federalist political enemies (Cutler was a Federalist) and in the Federalist newspapers. Cutler, who even before the Paine scandal was among those who believed that Jefferson wanted to rid America of all religion, did not think for a minute that Jefferson was going to church at the Capitol every Sunday out of any religious devotion.
As he wrote to his son-in-law, Cutler thought that Jefferson was just going to church because he was worried about his association with the infidel Paine affecting his popularity.

Here is Cutler’s entire letter, with the snippets plucked from it by Barton in bold so you can see just how wildly out of context Barton’s quoting of this letter is:

My Dear Sir: Your last favor, of December 11, should have received an earlier answer, had not my leisure time been wholly occupied in transacting some private business which required immediate attention. In answer to your inquiries respecting Paine, I hear very little said about him here. You see by his fourth letter that his “useful labors” are to be suspended during the session. I have not heard of his being at the President’s since the commencement of the session, and it is believed that Mr. Jefferson sensibly feels the severe, though just, remarks which have been made on his inviting him to this country. You see by the Message, that courting popularity is his darling object, but we have convincing proof that his caressing of Paine has excited his fears. *He and his family have constantly attended public worship in the Hall.* On the first Sabbath before the Chaplains were elected, and when few members had arrived, Dr. Gant proposed, on Saturday, to preach the next day, when the President, his daughter and grandson, and Mr. Lewis, attended. On the third Sabbath, *it was very rainy, but his ardent zeal brought him through the rain and on horseback to the Hall.* Although this is no kind of evidence of any regard to religion, it goes far to prove that the idea of bearing down and overturning, our religious institutions, which, I believe, has been a favorite object, is now given up. The political necessity of paying some respect to the religion of the country is felt. Paine’s venom against the character of the great Washington was occasioned by his not interfering on his behalf when he was confined in France, and any affront from Mr. Jefferson would induce the same kind of treatment.127

JEFFERSON ADVOCATED A SECULAR PUBLIC SQUARE

So, we know congressman and minister Manasseh Cutler’s answer to the question “Why was Jefferson such a faithful participant at the Capitol church?” Cutler thought that Jefferson was only attending the services out of the “political necessity of paying some respect to the religion of the country.” Now let’s see what David Barton’s answer to this question is.
Barton kicks of his section about the actions of Jefferson as president with the third of his trilogy of Capitol church service stories. Despite his incessant claims of only using primary sources, Barton has absolutely no problem presenting this utterly unsubstantiated, third-hand story as fact and quoting what Jefferson allegedly said in this story as if it were a verified Jefferson quote. Barton follows this dubious story with a ten-item list of what he calls “Other presidential actions of Jefferson.”

The Third One About
Jefferson and Capitol Church Services (1803)

BARTON’S LIE: Thomas Jefferson, on his way to church, told a friend that the reason he went to church was because he thought that Christianity was the best religion and that as president he was bound to give it the sanction of his example.

THE TRUTH: This story is about as dubious and unsubstantiated as it gets. Its source was a recollection, over fifty years after the fact,
written to one person by another person who, as a child, had heard that a third person allegedly had this encounter with Jefferson.

Here is how Barton answers his question about why Jefferson was such a faithful participant at the Capitol church. As you can see, Barton’s answer couldn’t be more different from that of Manasseh Cutler:

Why was Jefferson such a faithful participant at the Capitol church? He once explained to a friend while they were walking to church together:

No nation has ever yet existed or been governed without religion – nor can it be. The Christian religion is the best religion that has been given to man and I, as Chief Magistrate of this nation, am bound to give it the sanction of my example.

The story that Barton is using here originates with the following account from a handwritten manuscript by a Rev. Ethan Allen titled *Historical Sketch of Washington Parish, Washington City, 1794-1857*.

Mr. J.P. Ingle says in his note of July 6, 1857, “Mr. Underwood and myself can both recollect that Mr. McCormick held service in a Tobacco House as early in 1803 when Mr. Jefferson attended there. The old Market which stood on the NW corner of the Virginia & New Jersey Avenues was often pointed out as the place also where Mr. McCormick officiated. Was the tobacco house near this? Here it was that Mr. Jefferson was coming one Sunday morning across the fields leading to it with his large red Prayer Book under his arm when a friend riding him after their mutual good morning said which way are you walking Mr. Jefferson – to which he replied to Church Sir – you going to church Mr. Jefferson? You do not believe a word in it – Sir said Mr. Jefferson no nation has yet existed or been governed without religion – nor can be – the
Christian religion is the best religion that has been given to man & I as the chief magistrate of this nation am bound to give it the sanction of my example. Good morning Sir.”

The first thing wrong with this account (besides its dubious source) is the date of 1803. If this encounter, or anything remotely like it, actually did occur, it would have been in 1801. According to Margaret Bayard Smith, it was during Jefferson’s first winter as president, before the services at the Capitol began, that he was known to attend Rev. McCormick’s services at the tobacco shed. Obviously, the dates in Mrs. Smith’s first-hand account – written by an adult who was recording her eyewitness account of the events of early Washington at the time that those events occurred – are infinitely more credible than the recollections more than five decades later of someone who was a child at the time, and, on top of that, was telling a story that happened to someone else.

So, the great historian David Barton, who incessantly insists that he uses only primary sources, is relying on this third-hand account of an encounter between Jefferson and some unknown friend, as recalled over fifty years later by someone who had heard the story a small child, and presenting the story as historical fact and its Jefferson quote as a verified quote.

After he’s through with his trio of Jefferson Capitol church stories, the last two of which are claims about things that happened in the time period when Jefferson was president, Barton segues into a lie-packed list of what he claims are “Other presidential actions of Jefferson.”

128. There is no printed original source for this story because it comes from a handwritten manuscript that was never published. In his endnote, Barton cites Reverend Ethan Allen's manuscript, calling it a “Handwritten history in possession of the Library of Congress,” but cites a secondary source for it. There is no doubt that the story’s source is Rev. Allen’s unpublished manuscript, which was written sometime after 1857, as it states that the story was an account written in 1857. The Thomas Jefferson Foundation at Monticello also confirms this as the source on its website’s page of “Spurious Quotations,” saying that “The story comes to us third-hand, and has not been confirmed by any references in Jefferson’s papers or any other known sources,” http://www.monticello.org/node/7149/revisions/8222/view, accessed September 1, 2013.
DEBUNKING BARTON’S JEFFERSON LIES
The One About
Jefferson and a Catholic Church in Washington

BARTON’S LIE: As president, Jefferson used his influence to help obtain land in Washington, D.C. for a Catholic church.

THE TRUTH: Jefferson did absolutely nothing to help this Catholic church obtain the land it wanted. In fact, he specifically told the commissioners in charge of selling lots in the city that he was not trying to influence their decision. The church received no special treatment from the commissioners and did not get the land it wanted.

Item number one on Barton’s list of Jefferson’s “other presidential actions” is:

Urging the commissioners of the District of Columbia to sell land for the construction of a Roman Catholic church, recognizing “the advantages of every kind which it would promise” (1801)

First of all, this wasn’t simply about a church buying land. Churches could buy land in the District of Columbia just like anyone else. This was about a church trying to get the land it wanted for a lower price, and a bishop who tried to get this lower price by
saying the church’s application to President Jefferson rather than submitting it to the district’s commissioners like everybody else. Jefferson did nothing to influence the decision of the commissioners, and in the end the commissioners did not offer the church a low enough price and the church did not buy the land.

What Barton does to make it sound as if Jefferson was “urging the commissioners” to sell this land for a church is to quote only what Jefferson wrote to Bishop John Carroll after forwarding on the church’s application. But the truth is that Jefferson exaggerated a bit in his letter to Bishop Carroll. If you read what Jefferson actually wrote to the commissioners, you see that he wasn’t trying to influence their decision at all, and that he made a point of telling them that the decision was entirely up to them. So let’s look at both letters, instead of cherry picking like Barton does, and compare what Jefferson told Bishop Carroll he wrote to the commissioners and what he actually wrote to the commissioners.

First, this is what Jefferson wrote to Bishop Carroll:

I have received at this place the application signed by yourself and several respectable inhabitants of Washington on the purchase of a site for a Roman Catholic Church from the Commissioners. as the regulation of price rests very much with them, I have referred the paper to them, recommending to them all the favor which the object of the purchase would wage, the advantages of every kind which it would promise, and their duties permit. I shall be happy on this and every other occasion of showing my respect & concern for the religious society over which you preside in these states and in tendering to yourself assurances of my high esteem and consideration.  

Now, here is what Jefferson really wrote to the commissioners:

I take the liberty of referring to you the inclosed application from

Bishop Carrol & others for respecting the purchase of a site for a church. it is not for me to interpose in the price of the lots for sale. at the same time none can better than yourselves estimate the considerations of propriety & even of advantage which would urge a just attention to the application, nor better judge of the degree of favor to it which your duties would admit. with yourselves therefore I leave the subject, with assurances of my high consideration & respect.\textsuperscript{130}

As you can see, Jefferson didn’t even come close to saying to the commissioners what he told Bishop Carroll he had said to them. He didn’t “recommend all the favor which the object of the purchase would wage.” He told the commissioners that it was they who could “better judge of the degree of favor to it which [their] duties would admit.” He didn’t recommend “the advantages of every kind which it would promise.” He said it was up to the commissioners to decide if there was any advantage to giving the bishop a deal on the land. And, of course, he started off by saying that it was not for him “to interpose in the price of the lots for sale.” Jefferson did not urge the commissioners to offer the bishop a lower price; he left it up to them to decide if there was any advantage to doing so.

The commissioners, who needed to sell land in the city quickly to pay off the government’s debt to Maryland for the land it had ceded to the federal government, often did reduce the price of lots for purchasers who were going to pay for the land immediately or were only asking for short-term rather than long-term credit. The other big consideration was whether or not the purchaser’s plans for the development of the land fit the commissioners’ plans for the development of the city. For example, land developers who planned to build housing had an advantage because housing was in such short supply that many of the people working in the capital had to live in Georgetown and commute. Apparently, the commissioners did not see any advantage in giving a church a lower price, and,

feeling no “urging” at all from Jefferson to give Bishop Carroll’s application any special consideration, decided not to offer him the lower price he was asking for.

The application that Bishop Carroll sent to Jefferson has not been found, but Bishop Carroll’s other letters regarding the attempt to buy the land make it easy enough to figure out what happened.

About two weeks after Jefferson forwarded the application to the commissioners, Bishop Carroll wrote to James Barry, one of the other primary people involved in the plan to build the church. Barry was a merchant and real estate developer who had bought up a good deal of property in Washington, D.C. during the 1790s. Most of the land that Barry had bought was in the section of the city known as Greenleaf’s Point, where the Washington Navy Yard had been built in 1799, and where Barry had built a wharf. This was the area in which Barry and others wanted a Catholic church built.

In his letter, dated September 16, Bishop Carroll told Barry that the commissioners had written to him asking, “how many lots would be required, their situation, the terms of payment, that you would think convenient, the probable extent of the building and when you contemplate its erection,” and that “If the Commissioners will be reasonable we would wish to purchase as many lots, as will give to the Church an area of 200 feet square in every direction.”131

Ten days later, on September 26, Bishop Carroll wrote back to the commissioners. It is clear from the bishop’s letter that by this time a meeting had taken place between the commissioners and some of the members of the group that wanted to build the church, and that the commissioners had not offered them a low enough price. Writing on behalf of the group, Bishop Carroll told the commissioners that they were “compelled to contract their plan & content themselves with the lot or lots, they may otherwise procure; it being impossible for them to procure your price.”132

Clearly, Jefferson did not urge the commissioners to give any special treatment to this church, and the commissioners didn’t. So

132. John Carroll to the Commissioners of Washington, DC, September 26, 1801. Ibid., 366.
much for Barton’s claim that one of Jefferson’s “presidential actions” was “urging the commissioners of the District of Columbia to sell land for the construction of a Roman Catholic church.”

When I debunked another version of this same Bishop Carroll story in *Liars For Jesus*, I said that no new Catholic church was built in Washington, D.C. until two decades after the bishop’s attempt to buy land in 1801. There, I was referring to St. Peter’s, which was built in 1821 on land donated by Daniel Carroll, a relative of the bishop. I did not bother to mention the handful of earlier private Catholic chapels, such as the chapels built by Catholics on their own estates or the small Catholic chapel built by James Barry, which was built in 1806 and closed by 1819. The reason for my omission of these smaller Catholic chapels was that I was looking only for a Catholic church that was large enough to have been the large church that Bishop Carroll was trying to buy land for in 1801.

The reason I’m including Barry’s Chapel here is that in Volume 35 of *The Papers of Thomas Jefferson*, which came out after I wrote *Liars For Jesus*, there is a footnote for Jefferson’s reply to Bishop Carroll that implies that Bishop Carroll did buy land from the commissioners in 1801, and that this was the land upon which Barry’s Chapel was built. This is incorrect.

This is what the surprisingly misleading footnote in *The Papers of Thomas Jefferson* says:

**THE APPLICATION:** on 13 Aug., TJ recorded in SJL the receipt of an undated letter from Bishop Carroll and others, which has not been found. The plan related to what became St. Mary’s Church, a small Catholic church erected between O and P streets near the navy yard. It was more commonly known as Barry’s Chapel in honor of the project’s primary supporter, Washington merchant James Barry (Bryan, *National Capital*, 1:602–3; RCHS, 15 [1912],
None of the sources cited in this footnote in the *The Papers of Thomas Jefferson* say that Barry’s Chapel was built on the land Bishop Carroll tried to purchase in 1801. In fact, it is clear from these sources, particularly *The John Carroll Papers*, that Barry’s Chapel was *not* built on the land Bishop Carroll tried to purchase in 1801.

The land that Bishop Carroll wanted to buy from the commissioners in 1801 was in Square 702, on South Capitol Street between N and O Streets. There is no question about the exact location of the lots that Bishop Carroll was trying to buy. He stated in his letter to the commissioners that it was “S. Cap. St. sq. 702.” 134

As you can see from my footnote, this letter is on page 366 of the second volume of the *John Carroll Papers*, which is one of the sources cited in the footnote in *The Papers of Thomas Jefferson*. Barry’s Chapel was built on Half Street between O and P Streets (either Square 654 or 655), not on South Capitol Street in Square 702, and was built on a lot that James Barry already owned.

For *The Papers of Thomas Jefferson* to say that Bishop Carroll’s failed attempt to buy land in 1801 was “related to what became” Barry’s Chapel very misleadingly implies that Bishop Carroll *did* get the lower price he wanted and that the land sale went through, which is completely incorrect. The only way in which Bishop Carroll’s 1801 application to buy land is “related to what became” Barry’s Chapel is that James Barry built his chapel in 1806 *because* the 1801 plan to purchase land for a church was abandoned when the commissioners would not give Bishop Carroll a lower price on the land for his church.


The One About
Jefferson Calling America a Christian Nation

Item number two on Barton’s list of Jefferson’s “other presidential actions” is:

Writing a letter to Constitution signer and penman Gouverneur Morris (then serving as a US senator) describing America as a Christian nation, telling him that “we are already about the 7th of the Christian nations in population, but holding a higher place in substantial abilities”

I’m not quite sure how this qualifies as a “presidential action,” but the quote is real.

But can Jefferson’s lumping America in with the Christian nations in the context of his letter to Gouverneur Morris be considered evidence that he actually deemed America to be a Christian nation? Or was this just the easiest way to make the point he was trying to make? This is one of the handful of claims in Barton’s book that, as mentioned in a previous section, are not technically untrue, since the quote used by Barton is real, but when looked at in the context of why Jefferson used these words shows the quote not to have the significance that Barton implies it has.

Christian nationalists like Barton love to promote the idea that America has been at war with Muslims for over two hundred years,
turning the Barbary Wars (the first one from 1801 to 1805, and the second in 1815) into a continuous two-century battle with Islam. But Jefferson was equally concerned with the possibility of a war with one or more of the Christian nations of Europe. The United States had just narrowly avoided a war with France, and there was always the possibility of a war with England (which, of course, did end up happening in 1812). In other 1801 news, the French and Spanish navies had just joined forces against England in the Battles of Algeciras. Because of the goings on in Europe and concern over what might happen if the United States ever got drawn into a war with any of the European nations, Jefferson was naturally keeping an eye on how the United States compared to the nations of Europe in military strength. That was what Jefferson’s letter to Morris was about. Here’s a longer excerpt from the letter:

The ratification of our convention with France, & the expected arrangement of the Vlth. article of the British treaty with the new modifications of their courts of Admiralty will I hope place our foreign affairs in a state of greater tranquility. the Spanish depredations at Algesiras will doubtless yield to proper remonstrances.

The new Census shews our increase to be in the geometrical ratio of 3 1/6 pr. cent annually which gives a duplication in 22 y–3 m equal to the most sanguine of our calculations. we are already about the 7th. of the Christian nations in population, but holding a higher place in substantial abilities. if we can keep at peace for our time the next generation will have nothing to fear but from their own want of moderation in the use of their strength.135

So, how else could Jefferson, who was comparing the United States only to the nations of Europe, have said what he wanted to say? He couldn’t say ‘we are already about the 7th of the European nations,’ since we weren’t a European nation. He couldn’t say ‘we

are already about the (insert number) of all the nations in the world,’ because he was only making a comparison to the European nations. I suppose he could have individually listed whichever of the six European nations it was that still had a greater population than the United States, but that would have been a hassle. So he just said “we are already about the 7th of the Christian nations.” It was just the easiest way to say what he wanted to say. It wasn’t a statement declaring the United States a Christian nation. And Barton’s classifying a phrase from a letter as a “presidential action” simply because Jefferson happened to be president when he wrote the letter is just ridiculous. But these are the kinds of straws that Barton has to grasp at.
The One About
Jefferson and the United Brethren

BARTON’S LIE: As president, Jefferson signed three different acts giving federal government land to missionaries for the purpose of “propagating the Gospel” among the Indians.

THE TRUTH: The acts that Jefferson signed had absolutely nothing to do with giving land to missionaries or “propagating the Gospel.” The words “propagating the Gospel” appear in the titles of these acts merely because they were extensions of an earlier act from 1796 regarding military land grants. That act had included the surveying of an Indian land grant that had been put in trust with a group of Moravian missionaries. “Propagating the Gospel” was not the purpose of any of these acts; it was merely part of the legal name that the Moravians were incorporated under. The titles of the three extensions of the act signed by Jefferson, although no longer having anything at all to do with the Indian land grant, contained the words “propagating the Gospel” simply because these words had been part of the title of the original act that was being extended.

Item number three on Barton’s list of Jefferson’s “other presidential actions” is:

Signing federal acts setting aside government lands so that
missionaries might be assisted in “propagating the Gospel” among the Indians (1802, and again in 1803 and 1804)

In my book *Liars For Jesus*, I devoted an entire chapter to the many lies related to this story. Because the saga of the Moravian missionaries and the Indian land grant put in their trust spans more than four decades, it has spawned numerous revisionist lies that span this entire four decade period, from the Continental Congress through the 1820s. For the purposes of this book I’m just going to focus on the part of the story from the time period of Jefferson’s presidency – the part of the story that Barton lies about in *The Jefferson Lies*. Some background information from the period prior to Jefferson’s presidency will be necessary, however, to understand why Barton’s claim about the acts signed by Jefferson is a lie.

The first thing that needs to be understood about any mention of “Propagating the Gospel” in any act of Congress is that these words come from “The Society of the United Brethren for Propagating the Gospel Among the Heathen.” This was the legal name that a group of Moravian missionaries were incorporated under. The words “Propagating the Gospel” do not appear in acts of Congress because the purpose of those acts was propagating the gospel, but merely because they were part of the legal name of this society.

The second thing that needs to be understood is that although the United Brethren were a religious society, and *their* purpose was to propagate the gospel, Congress’s reason for putting a land grant in their name had nothing to do with religion. It was done simply to protect the land granted to a group of Indians after the Revolutionary War.

At the beginning of the war, a declaration of the Continental Congress promised that any Indians who did not aid the British would have “all the lands they held confirmed and secured to them” when the war was over. In the years following the war, the Moravians, also known as the United Brethren, were concerned that a particular group of Delaware Indians, who had not only remained neutral

throughout the war, but had been both displaced by the British and attacked by American militiamen in a brutal massacre, might lose the lands they were entitled to.

Due to the massacre, in which a unit of Pennsylvania militiamen had slaughtered ninety-six of the unarmed Indians—sixty-two adults and thirty-four children—and continuing threats after the war from white settlers who were trying to keep the Indians away in hopes of getting their land for themselves, the remaining members of this group of Indians were afraid to return to claim the land. The white settlers thought that if they could keep the Indians from claiming their land for a long enough time, the Continental Congress would eventually make it available for sale.

The United Brethren had been living among this group of Indians since 1772, when they were permanently settled by the Great Council of the Delaware Nation on land along the Muskingum River, in what is now Ohio. With the help of Moravian missionaries, these Indians built three thriving farming settlements, Gnadenhutten, Schoenbrun, and Salem.

Shortly after settling on the Muskingum, the Indians living in these settlements adopted a constitution, laying down the rules that everyone had to follow in order to live in their settlements. In 1778, although the Delaware nation was still officially neutral in the war, many Delawares were attaching themselves to other tribes, joining the fight on the British side. That year, at their annual public meeting, the Delawares in these three settlements on the Muskingum voted to add the following articles to their constitution:

19. No man inclining to go to war – which is the shedding of blood – can remain among us.

20. Whosoever purchases goods or articles of warriors, *knowing* at the time that such have been stolen or plundered, must leave us. We look upon this as giving encouragement to murder and theft.  

Throughout the war, these Indians, as well as the Moravian missionaries at their settlements, were suspected of spying for the Americans, leading to harassment by British Indian allies. In August 1781, a group of “British” Indians, led by a British Indian agent, broke up their settlements, forcibly removing them to Sandusky, more than a hundred miles away, and leaving them there with no food or supplies. The Moravians were taken to Detroit for questioning. That following spring, nearly a third of the Indians were murdered by American militiamen when they returned to their settlements to try to gather whatever food and supplies they could find to take back to Sandusky.

For several years after the 1782 massacre, the Indians moved from place to place, with many of them eventually taking refuge in Canada.

The Moravians were aware of the Indians’ situation, and wanted to ensure that they wouldn’t lose the rights to their land, so Moravian Bishop John Ettwein petitioned the Continental Congress on their behalf in 1783, about six months after the war was officially over.  

When the Continental Congress passed the land ordinance of 1785, a provision reserving the Indians’ land was included among the various reservations in the Northwest Territory for military service and other purposes. So, the Indians’ land was safe for the moment.

Things changed in 1787, however, when the Ohio Company of Associates, a land speculating company that was purchasing a large amount of land in the Northwest Territory from the Continental Congress, came along. The land that had been reserved to the Indians in the 1785 ordinance was within the area of land that the Ohio Company was purchasing, and needed to be excluded in the contract between Congress and the Ohio Company. At this point, since Congress was now entering into an actual contract, the description of the Indians’ reservation in the 1785 ordinance wasn’t good.

enough. Congress needed to precisely define the Indians’ land and formally convey it to them. But, because of the continuing threats from the white settlers who were trying to keep them away, the Indians were still afraid to return. So, the Moravians once again stepped in on the Indians’ behalf.

When Congress found out from Bishop Ettwein why the Indians weren’t returning to claim their land, they decided that the best way to solve the problem was to permanently take the land off the market by putting the deed to it in someone’s name. Once this was done, the white settlers would know they had no chance of ever getting this land, no matter how long they kept the Indians away. This is why Congress put the land in trust with the United Brethren. But, in order to be able to legally hold the land, the United Brethren first had to incorporate. And thus was born The Society of the United Brethren for Propagating the Gospel Among the Heathen, the name the Moravians chose to incorporate under.

Fast forward to 1796. Congress is writing the act creating the United States Military District and for locating and surveying the military land grants within this district. At the same time, two things needed to be done regarding the Indians’ land. First, Congress had to confirm the United Brethren trust created by the Continental Congress, as it needed to do with anything from the Continental Congress that was going to be continued under the new federal government. Second, the Indians’ land grant needed to be surveyed. So, as a matter of expediency, Congress just added a section tagging both of these things onto the act for locating and surveying the military land grants.

Because this section regarding the United Brethren trust was tagged onto the 1796 military land grant act, the full legal name of the United Brethren’s society appeared in the act’s title: *An Act regulating the grants of land appropriated for Military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen.*

We are now up to the part of the story from which Barton gets his lie that Jefferson signed three acts setting aside government lands so that missionaries might be assisted in propagating the gospel among the Indians.

According to the military land grant act of 1796, the deadline for military officers who were entitled to land grants to locate and register their land was January 1, 1800. This deadline was extended several times by both John Adams and Thomas Jefferson.

By the time of these extensions, the section in the original 1796 act relating to the Indians’ land and the United Brethren’s trust was a dead letter. Everything ordered to be done in the original act concerning the Indians’ land had been carried out by 1798. The extensions signed by Adams and Jefferson were strictly related to the military land grants and the deadline to register them, and contained nothing whatsoever having to do with the Indians’ land or the United Brethren. But, because these were extensions of the 1796 act, the entire title of that act appeared in the titles of the acts extending it.

In 1799, when the original 1796 deadline of January 1, 1800 was about to expire, Congress appointed a committee to decide if this deadline should be extended. In February 1800, a bill was introduced to extend the deadline, which was passed by Congress and signed by John Adams. Since this act was an extension of a previous act, the title of the new act became: An act, in addition to an act regulating the grants of land appropriated for military services, and for the society of the United Brethren for Propagating the gospel Among the Heathen.” 141 This act extended the deadline to January 1, 1802. When the deadline expired in 1802, Jefferson extended it again for another year. The title of the act then became: An Act in addition to an act, intituled “An act, in addition to an act regulating the grants of land appropriated for military services, and for the society of the United Brethren for Propagating the gospel Among the Heathen.” 142

142. Ibid., 155.
When he extended it again in 1803, the title became: *An act to revive and continue in force an Act in addition to an act, intituled “An act, in addition to an act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for Propagating the Gospel among the Heathen,” and for other purposes.*

In 1804, Jefferson signed yet another act extending the military land grant deadline. This title of this 1804 act did not contain the title of the original 1796 act in its title, but included it in the body of the act when referencing the previous acts. After all the other deadline extensions, the title was getting so long and confusing that Congress probably just decided to stop the madness and call the new act what it was: *An Act granting further time for locating military land warrants, and for other purposes.*

So, there you have it. All Jefferson did was sign three extensions of a deadline to register military land grants. Barton’s claim that these were acts “setting aside government lands so that missionaries might be assisted in ‘propagating the Gospel’ among the Indians” is a flat out lie.

144. Ibid., 271.
The One About
Jefferson Giving Federal Funding
to a Religious Indian School

**BARTON’S LIE:** As president, Jefferson gave federal funding to a religious school for the Cherokees. Barton doesn’t mention why this school got federal funding, letting his readers assume that it was for religious instruction.

**THE TRUTH:** Jefferson approved a small amount of federal funding for this school because it was providing instruction in agriculture to the Cherokees, not because it was a religious school.

Item number four on Barton’s list of Jefferson’s “other presidential actions” is:

**Directing the secretary of war to give federal funds to a religious school established for Cherokees in Tennessee (1803)**

This is actually just an abbreviated version of a lie that Barton already used in the second chapter of his book, where he wrote:

**In 1803, while serving as president, Jefferson met with Presbyterian minister Gideon Blackburn at the White House**
about opening a missionary school for Cherokees near Knoxville, Tennessee. The school was to include religious instruction as a primary part of its studies, and President Jefferson directed Secretary of War Henry Dearborn to give federal money to help the school achieve its objectives.

Since Barton is just repeating one of the same lies that he already used in the second chapter of his book, it is one that I already debunked in the second volume of this series (The Chapter That Barton Calls “LIE #2” – Jefferson Founded a Secular University). Therefore, I’m just going to repeat here what I wrote in that volume.

Gideon Blackburn’s plan was to not try to teach religion to the Cherokees, at least not right away. Blackburn thought the failure of other missionaries was because they tried to convert the Indians to Christianity first, before trying to educate and “civilize” them. Blackburn wanted to try the reverse – “civilizing” the Cherokees by first turning them into farmers and educating their children before trying to convert them to Christianity. Jefferson approved a small amount of money for supplies for Blackburn’s school, whose primary purpose in 1803, and for the foreseeable future, was going to be instructing the Cherokees in agriculture.

A big goal of the federal government in the early 1800s was to get the Indians to shift from being hunter-gatherers to being farmers. The idea was that getting Indians to settle on farms and stay in one place would increase the safety of white settlers. To make this happen, the government supported any plan for agricultural education among the Indians. This meant supporting Indian mission schools, since they were the only game in town.

As I wrote about in Liars For Jesus, one big example of how the government tried to advance its turning-the-Indians-into-farmers strategy was a bill passed by Congress in 1819, which provided for small government grants to be given annually to any school that included agricultural education in its curriculum. The Indian schools that received these grants were, of course, virtually all run by missionaries, but it was specified that the government funding was to “instruct them in the mode of agriculture suited to their
situation,” not for religious education.

A big part of this plan was to make the cost to the government minimal by increasing private donations to the Indian schools. The reasoning was that if people saw that the government was giving money to Indian schools, it would increase public confidence that the idea of “civilizing” the Indians wasn’t a lost cause (which was how most people had begun to see it), and make it easier for the Indian schools to raise money through private donations. This actually worked, since this was a time when the American people assumed that if the government was funding something, it couldn’t be a crazy idea. The government grants to these Indian schools were very small, most of them only about $50 (roughly $700 in today’s money), but this small show of government backing resulted in a big increase in private donations. The result was that the public, rather than the government, was picking up most of the tab for something that the government wanted to make happen.

This appears to be exactly what Jefferson did in 1803 with Gideon Blackburn’s school – a school whose primary purpose was going to be teaching agriculture to the Cherokees. He approved a small amount of funding, providing Blackburn with an official recommendation of the school from the president to show potential private donors for his fundraising.

This is one of those weird cases where what would normally be the best primary source – what Gideon Blackburn himself wrote – is probably the most unreliable source of all. The reason for this is that in almost every letter and everything else he wrote about his school Blackburn was constantly fundraising, either trying to get more donations from private citizens or more funding from the Presbyterian Church. Because of this motive of fundraising, Blackburn exaggerated about everything. Therefore, it’s necessary to do the unusual thing of using secondary sources to fact check the primary source.

The various accounts I’ve been able to find regarding what,

exactly, the funding approved for Gideon Blackburn’s school in 1803 was a bit sketchy and differ on some points, but they all pretty much agree on the basics. The amount of the funding approved by Jefferson was a few hundred dollars (the amount varies in the different accounts from $200 to a little over $400). It is not clear whether this funding was to recur annually or if it was a one shot deal. The funding approved by Jefferson was taken out of the funds already appropriated for the Cherokee Indian Agency. The government’s Indian agent to the Cherokees, Col. Return J. Meigs, purchased blankets and hired carpenters to build a dormitory for the students, presumably using the funding approved by Jefferson for the school.

Whatever the details, the one thing that’s important here is clear — the funding for this school was approved by Jefferson because the school was going to be teaching the Cherokees to farm. It was not, as Barton claims, because the “school was to include religious instruction as a primary part of its studies.” Even the Presbyterian General Assembly, while of course hoping to convert Indians to Christianity while teaching them to be more like white people, didn’t include religious instruction when describing the purpose of the school:

Mr. Blackburn is taking measures, under the auspices of the committee of missions, for establishing a school on the borders of the Indian Territory, for the purpose of instructing the Indian youth in the English language, Agriculture and the mechanical arts, and other branches of useful knowledge.¹⁴⁶

If it seems weird that the Presbyterian Church not only didn’t make religion the primary purpose of this school, but didn’t even mention religion at all in its purpose, there actually was a reason for this in the case of this particular school. In order to get the Cherokee chiefs to allow him to open his school, Blackburn had to promise

them that he wouldn’t be teaching religion.

The reason the Cherokees approved Blackburn’s school was because they wanted to replace the Moravian missionaries to whom they had reluctantly given permission, on a three-year trial basis, to open a school in 1799. At the end of the three years, the Cherokees decided to give the Moravians the boot because all they had been doing was preaching and trying to convert them. They hadn’t even gotten around to actually building the school they promised. So, when the Cherokees agreed in 1803 to let Blackburn open his school, it was on a two-year trial basis and on the condition that he wouldn’t be preaching or teaching religion.

Blackburn may have just been trying to make lemons into lemonade, but he actually does seem to have genuinely thought at the time he made this promise that not being able to teach religion to the Cherokees might be a good thing. Blackburn came up with the idea that the reason Indian missions always failed miserably at converting any Indians to Christianity might be because the missionaries, like the Moravians that he was replacing, tried to convert the Indians to Christianity first, before trying to educate them in other subjects and teach them to farm. Blackburn was going to try the reverse – turning the Cherokees into farmers and educating their children first, and not trying to convert them to Christianity until after they were educated and “civilized,” when they might be more open to learning about Christianity.

Once his school was open, however, Blackburn apparently forgot all about his novel idea and also ignored the promise he had made not to teach religion, causing almost all of the full-blooded Cherokees to pull their children out of his school, leaving him with only the mixed-blood children, whose white fathers wanted so badly for their children to have an English education that they were willing to keep sending them to Blackburn’s school.

Blackburn then made himself even more unpopular when he started sticking his nose into the Cherokees’ politics, pushing the mixed-blood Cherokees to impose Christianity on their people by law by advocating for marriage laws, laws against birth control, Sabbath laws, etc.
But it was Blackburn’s whiskey run in 1809 that would completely end what was left of his relationship with the Cherokees.

In addition to being an Indian missionary and pastor of his own white congregation in Tennessee, Blackburn was in the whiskey business, operating a distillery with his brother not far from his Indian school. He also had his eye on a piece of land in the Cherokee territory that he wanted for himself. In 1809, he saw an opportunity to both sell some whiskey and possibly get the government to help him get the land he wanted.

Blackburn had heard from his War Department friends that the government wanted to explore the waterways between Tennessee and the Gulf of Mexico, so he volunteered for the job, proposing the idea that a boat carrying whiskey from his distillery would be a good cover for a secret expedition to explore the waterways. The government went for the idea. Blackburn and his brother loaded a barge with over two thousand gallons of whiskey, and told everyone it was just a business venture to sell whiskey in Mobile, Alabama. Things went very wrong, however, when Blackburn’s barge was stopped as it entered Creek territory, where his whiskey was confiscated by the Creek chief.¹⁴⁷

Although Blackburn wasn’t doing anything illegal in transporting whiskey, since it was supposedly intended for white customers and not Indians, his crew had been trading and selling it to Indians along the way, in violation of federal law. Because of this, it was suspected that the reason Blackburn had put a half-blood Cherokee (a former student of his school) in charge of the crew was to evade the law. It wasn’t illegal for one Indian to sell or trade whiskey to other Indians. It was only illegal for whites to do it.

To make a long story short, the confiscation of Blackburn’s whiskey by the Creeks led to his secret government mission being exposed, and that was the end of Blackburn’s relationship with the

¹⁴⁷. Other details of these events, which include Blackburn involving Cherokees who had attended his mission school in transporting his whiskey, are outside the scope of this book. An 1810 letter from the attorney general of Tennessee to James Madison tells much more of the story, but since this book is specifically about Thomas Jefferson, I’m not going to get into the part of the story that carried over into the Madison administration here.
Cherokees. Neither the Creeks nor the Cherokees, including the mixed-blood Cherokees, wanted white merchants using their lands to transport whiskey or anything else. This was already a hot button issue between the Indians and the government at the time this happened. Once the truth about Blackburn’s whiskey trip was revealed, even the mixed-blood Cherokees pulled their children out of his schools (he had two schools by this time), and the schools were closed.

Barton’s version of the Gideon Blackburn story, while in no way being an example of Jefferson’s promoting religion, is a great example of something else – just how far Barton actually goes with his deceptive footnoting.

Barton lists three different sources in his endnote for his Blackburn story. One is the entry for Gideon Blackburn in the 1929 *Dictionary of American Biography*. Another is a 1974 article about Blackburn in a Presbyterian history journal. Neither of these is a primary source, but at least they are sources that actually exist.

Barton’s third source, on the other hand, which does appear to be a primary source, is completely bogus. What Barton gives is a page number in the *Debates and Proceedings* of the 7th Congress.

Since Barton only says that this Blackburn thing happened in 1803, and the 7th Congress ended in 1803, this endnote would appear to be legitimate to any of his readers who might happen to glance at his sources. But the 7th Congress ended in *March* of 1803. The 1803 Presbyterian General Assembly that appointed Blackburn as a missionary to the Cherokees in the first place didn’t take place until the middle of May, and Blackburn didn’t get his school approved by the Cherokees until October, after returning to Tennessee sometime before September. This means that Blackburn must have gone to Jefferson for funding sometime between the end of May and September, months after the 7th Congress ended. So, obviously, Barton’s endnote can’t be right.

Now, Barton’s endnotes quite often don’t support his claims. That’s expected. But at least they usually have *something* to do with whatever he’s babbling about. Not in this case. If you look up the page that Barton cites expecting to find some congressional
record that’s at least somehow related to an Indian school or the Cherokees or even Tennessee, you won’t. What’s on the page he cites is a completely unrelated act of Congress. But it’s not just any completely unrelated act of Congress. It’s an act of Congress that he lies about elsewhere in his book. It’s as if he just picked something from another of his endnotes that was from the right year and looked congressional and stuck it in the endnote for his Blackburn story! Seriously, you just can’t make this crap up.
The One About
Jefferson and the Kaskaskia Indian Treaty

BARTON’S LIE: Jefferson’s approval of a treaty that provided for the funding of Christian missionaries and construction of a church is evidence that Jefferson approved of federal funding of religion as well as the government’s converting the Indians to Christianity.

THE TRUTH: In the only one of over forty Indian treaties signed by Thomas Jefferson to contain any religious provisions whatsoever, the 1803 treaty with the Kaskaskia provided for $100 a year for seven years towards the salary of a Catholic priest and $300 towards the construction of a Catholic church. These were things that the Kaskaskia, who were already Catholic, asked for, not things that the government was pushing on them. Religious provisions were entirely constitutional in treaties with sovereign nations, as the Indian nations were at that time, as long as these provisions had no effect of imposing religion on American citizens.

Item number five on Barton’s list of Jefferson’s “other presidential actions” is:

Negotiating and signing a treaty with the Kaskaskia Indians that directly funded Christian missionaries and provided federal funding to help erect a church building in which
they might worship (1803)

During his presidency, Thomas Jefferson signed over forty treaties with various Indian nations. The treaty with the Kaskaskia is the only one that contained anything having to do with religion. No other Indian treaty signed by Jefferson contained any mention of religion whatsoever.

The following is the third article from the 1803 treaty with the Kaskaskia:

And whereas the greater part of the said tribe have been baptized and received into the Catholic Church, to which they are much attached, the United States will give annually, for seven years, one hundred dollars toward the support of a priest of that religion, who will engage to perform for said tribe the duties of his office, and also to instruct as many of their children as possible, in the rudiments of literature, and the United States will further give the sum of three hundred dollars, to assist the said tribe in the erection of a church.¹⁴⁸

This treaty provision is used by Barton and the other revisionists to support two of their favorite claims – first, that Jefferson approved of using government funds to promote religion, and second, that he was a devout Christian who wanted to evangelize the Indians.

The problem with using this provision as evidence that Jefferson approved of using government funds to promote religion is that the Kaskaskia treaty was a treaty with a sovereign nation. Unless a treaty provision threatened the rights or interests of Americans, there was no constitutional reason not to allow it, even if that same provision would be unconstitutional in a law made by Congress. This distinction was made very clear in a lengthy 1796 debate in the House of Representatives on the treaty making power, the relevant parts of which we’ll get to in a minute.

The problem with using it as evidence that Jefferson was trying to promote Christianity to the Indians is that the Kaskaskia were already Catholic, and had been for some time. The provision even begins by stating that “the greater part of the said tribe have been baptized and received into the Catholic Church.” The support of a priest and help in building a church were provisions that the Kaskaskia asked for, not things the government recommended or pushed on them.

If you noticed, Barton also did something else in his claim about this treaty that is typical of the Christian nationalist history revisionists, many of whom don’t consider Catholics to be real Christians. He turned the Catholic priest into “Christian missionaries,” both implying that there was more than one of these “missionaries” and also that these multiple missionaries were Protestant.

The Kaskaskia Indians began converting to Catholicism over a century before this treaty. A Jesuit priest from France, Father Jacques Marquette, first encountered the tribe in 1673 while exploring the Mississippi River with Louis Jolliet. Jolliet had hoped that the Mississippi would lead them to the Pacific Ocean, but when they reached what is now Arkansas, they were told by the natives that it flowed into the Gulf of Mexico. Fearing that if they continued they might be captured by the Spanish, they turned around. On their way back up the Mississippi, they met and befriended the Kaskaskia, who told them about a short cut back to Quebec. Upon leaving, Father Marquette promised that he would return. He kept his promise, returning in 1675 and establishing the Immaculate Conception mission.

The Kaskaskia were one of a loose confederation of tribes known as the Illinois. At the time that Father Marquette established his mission, the Illinois population is estimated to have been well over ten thousand, the Kaskaskia being one of the larger tribes. During the 1700s, their numbers dwindled due to epidemics, attacks by other tribes, and intermarriage with the French. By the time the treaty was signed in 1803, only about two hundred and fifty Illinois were left. No longer able to defend themselves against other tribes, the remaining Illinois wanted the protection of the
United States. In exchange for a promise of protection and a few other provisions, the Illinois, represented by the Kaskaskia chief Jean Baptiste DuQuoin, ceded almost nine million acres to the United States.

Now, back to what the 1796 treaty debate in the House of Representatives has to do with this 1803 Indian treaty.

This lengthy debate, which took place in March and April of 1796, came about as the result of the very unpopular Jay Treaty with Great Britain. Up until this time, the treaty making process as laid out in the Constitution had gone smoothly. But the unpopularity, as well as the secrecy, of the Jay Treaty raised questions over what right, if any, Congress had to refuse to make the laws necessary to execute a treaty.

Shortly after the Jay Treaty was ratified and made public, the House of Representatives began to receive petitions from all over the country, some urging the House to pass the laws necessary for its execution, but just as many urging them to refuse to pass these laws. It was obvious from these petitions that the people, whether they opposed or supported the treaty, thought that Congress had the authority, or at least should have the authority, to stop a treaty from being executed by refusing to pass whatever resolutions or laws might be necessary to carry out its provisions. Prior to the Jay Treaty, this whole business was considered to be little more than a formality. But the unpopularity of the Jay Treaty changed this, and raised some important questions about the separation of powers.

The Jay Treaty was a partisan issue. The Republicans opposed it because it unfairly favored trade with Great Britain. Some Republican newspapers even went as far as calling George Washington a sellout for signing it. The Federalists, many of whom benefited from trade with Great Britain, supported it. The Republicans questioned not only the treaty itself, but the negotiations that had led to it. The secrecy of these negotiations raised suspicions among the House Republicans partly because the Senate, which had given its “advice and consent,” was dominated by Federalists. A majority of the House wanted to see the same papers regarding the negotiations that had been laid before the Senate, and thought they had the
right to request this. So, a motion was made by Edward Livingston to petition President Washington for these papers.

Livingston’s motion began a debate that would continue for weeks and address virtually every aspect of the treaty making process. Two things came up in this debate that are relevant to the 1803 treaty with the Kaskaskia.

The first was that Indian treaties were unquestionably treaties with foreign nations. These treaties could not be considered anything else because a treaty could not be made with any entity other than a sovereign power. While the Constitution made a distinction between foreign nations and Indian tribes in regard to the power of Congress to regulate commerce, this distinction did not exist in making treaties.

The second is found in a statement made by Abraham Baldwin, a delegate from Georgia at the Constitutional Convention. By the time Baldwin spoke up in the debate, the original question of whether or not the House should request the papers related to the Jay Treaty had become almost incidental to the broader issue of the right of Congress to deliberate on and refuse to execute treaty provisions, specifically those provisions that involved exercising certain powers delegated to Congress by the Constitution.

In an effort to get the House to “at least agree what they were talking about,” Baldwin tried to sum up the arguments of both sides, and, at the same time, steer the debate back to the original question of the papers. In doing this, Baldwin emphasized that even those who thought that Congress should have at least some power over treaties were talking about exercising this power only in the most extreme circumstances. Baldwin, in his comments describing the extremely limited power that was being considered, included the “introduction of an established religion from another country” as one extreme that might justify Congress in not executing a treaty provision, saying:

If it were allowed that there might be any possible or extraordinary cases on the subject of Treaty-making in which it might ever be proper for that House to deliberate – as, for instance, offensive
Treaties which might bring the country into a war – subsidies and support of foreign armies – introduction of an established religion from another country, or any other of those acts which are by the Constitution prohibited to Congress, but not prohibited to the makers of Treaties; if it were allowed that there might possibly exist any such case, in which it might ever be proper for Congress to deliberate, it would seem to be giving up the ground on which the discussion of the present question has been placed; what agency the House should take, and when would be other questions. Whether a case would probably occur once in a hundred years that would warrant the House in touching the subject, is of no consequence to the debate.\textsuperscript{149}

This 1796 debate, which ended up covering virtually every aspect of the treaty-making power, was considered so important to those involved, many of whom had been framers of the Constitution, that they made sure an accurate record of it was kept, proofreading and correcting their speeches to ensure that no errors were made. This was something that was rarely done. At this time, the accounts of debates printed in the newspapers were often more accurate than the records kept by Congress itself. But the House knew that if this debate needed to be referred to by any future Congress, it would likely mean that a treaty had been ratified containing something so obnoxious or unconstitutional that Congress was considering refusing to pass the laws necessary to execute it.

Jefferson, of course, knew that there was nothing at all unconstitutional about the Kaskaskia treaty. All of its provisions fell well within the category of “those acts which are by the Constitution prohibited to Congress, but not prohibited to the makers of Treaties,” as Abraham Baldwin put it in the Jay Treaty debate. And Jefferson’s secretary of state, James Madison, who, as a member of Congress, was a participant in the 1796 debate, also knew there was no problem with the treaty. Jefferson and Madison did differ on

one point, though.

Jefferson, who had a great deal of confidence in the ability of the American people to understand the Constitution, assumed that the people understood the treaty making process, and would not perceive the religious provisions in the Kaskaskia treaty as unconstitutional. In the first draft of his 1803 annual message, he described the treaty in detail, including the provisions for the church and the priest. But Madison, when he read Jefferson’s draft, wasn’t quite so confident that the people would understand this. He had been in the House of Representatives in 1796 when it received all those petitions from people who assumed that Congress had a power that it did not have, and certainly remembered that even the House itself debated the various aspects of the treaty power for weeks. So, Madison advised Jefferson to limit his description of the treaty to the large land acquisition and omit the details of the religious provisions, writing:

May it not be as well to omit the detail of the stipulated considerations, and particularly that of the Roman Catholic Pastor. The jealousy of some may see in it a principle, not according with the exemption of Religion from Civil power. In the Indian Treaty it will be less noticed than in a President’s speech.\(^{150}\)

Jefferson took Madison’s advice, and in the final draft of his speech the priest and the church became simply “other articles of their choice.”

Think about that for a minute. In 1803, James Madison was worried that the American people might think that a small amount of money for a religious provision in an Indian treaty – something that in no way would affect their religious freedom or establish a national church – was a violation of “the exemption of Religion from Civil power,” a.k.a. the separation of church and state. And yet Barton and the other revisionists would have their followers

believe that all the founders meant by the First Amendment was that no national church could be established. That is obviously not all that James Madison or the American people of 1803 thought it meant!
The One About
Jefferson and the Ursuline Nuns

BARTON’S LIE: By quoting a phrase containing the word “patronage” out of context from a letter that Jefferson wrote to a convent, Barton implies that Jefferson provided government funding to a religious school.

THE TRUTH: Jefferson did not give any government funding to this religious school. He merely assured the nuns that their school and their property had the protection of federal government against the local government in the newly purchased Louisiana Territory.

Item number six on Barton’s list of Jefferson’s “other presidential actions” is:

Assuring a Christian school in the newly purchased Louisiana Territory that it would enjoy “the patronage of the government” (1804)

Because it contains the word “patronage,” the letter quoted by Barton is used to imply that Jefferson promised government funding to this school. He did nothing of the kind. He wasn’t even referring to the federal government in the sentence where he used the word “patronage.” He was referring to the local government in New
Orleans. And, as he did in his lie about the Kaskaskia Indian treaty, where he turned a Catholic priest into “Christian missionaries,” Barton turns the Catholic school in this lie into a “Christian school,” implying that it was a Protestant Christian school.

When the United States purchased Louisiana from France in 1803, the nuns at the Ursuline convent in New Orleans, like many of the territory’s inhabitants, were concerned about the status of their property. The Ursulines’ convent and school had been built on land granted by the government of France in 1734, and much of the income that supported these institutions came from two other properties, granted by the later Spanish government. Following the purchase of the territory by the United States, a wide variety of rumors was spread by anti-American natives of New Orleans. Among these rumors were two about the convent. One was that the United States government planned to confiscate the convent’s property and immediately expel the nuns from the country. The other was that no new novices would be allowed to enter the convent, but that the government would let the nuns who were already there stay, and then take their property after they all died off.

The nuns’ uncertainty about their future in New Orleans actually began before the United States’ purchase, when the French prefect, Pierre-Clemént de Laussat, arrived to take possession of Louisiana from Spain in March 1803. On June 10, 1803, the territory’s twenty-six priests were given permission by their superiors to return to Spain if they wanted to, and all but four did. Although the Ursulines were assured by Laussat that they had nothing to fear from the French government, most of them, including the convent’s mother superior, also left New Orleans, requesting to be sent to Havana. Only nine of the twenty-five decided to stay, electing Sr. Therese de St. Xavier Farjon to be their new mother superior.

Within a week of the official proclamation of the treaty ceding Louisiana to the United States, William C.C. Claiborne, the territorial governor, attended a ceremony at the convent and personally assured the remaining nuns that both their property and religious liberty would be protected by their new government. On December
27, 1803, Claiborne wrote to Secretary of State James Madison that he had visited the convent, and that the nuns who had fled to Havana would soon be returning.

As far as Claiborne could tell, he had successfully convinced the nuns that their property and other rights were protected by the treaty of cession and the U.S. Constitution. In June 1804, however, he was asked by Mother Farjon to forward a letter from the convent to Thomas Jefferson. Claiborne sent this to Jefferson, accompanied by the following cover letter:

At the particular request of the Superior of the Convent in this city, I have the honor to enclose you a communication from the Ursuline Nuns.

These respectable ladies merit and possess a great share of the public esteem; their conduct is exemplary, and their time is usefully employed in the education of female youth. During my short residence in this city, I have paid the Nuns very great respect and given them assurances of the protection and friendly regard of the Government of the United States. I believe I have succeeded in conciliating their affections, and rendering their minds tranquil: it seems however that, they of late entertain some fears that their property cannot be secured to them and their successors without an act of Congress, and I understand that it is on this subject they have addressed you.\[^{151}\]

Mother Farjon’s letter, as Claiborne had expected, was a request from the nuns to have their property officially confirmed to them by Congress:

Emboldened by the favorable mention you have been pleased to make of their order, the Nuns of St. Ursula at New Orleans take the liberty of addressing you on a subject highly interesting to

their institution! They believe that without any direct application, the treaty of Cession, and the sense of Justice which marks the character of the United States, would have secured to them the property they now possess, but considering a sacred deposit, they would fail in a duty they deem essential were they to omit requesting, that it may be formally confirmed to them & their successors, & that you may be pleased to communicate this request to the Congress of the United States in such a manner as you may deem proper.\textsuperscript{152}

Jefferson’s reply to this letter is the source of Barton’s lie that he promised financial support to a Christian school. The sentence this is based on, however, had nothing to do with money, or even the federal government.

Jefferson obviously suspected from the timing of the nuns’ request that this sudden renewal of concern about their property might have been caused by a recent incident in which another Catholic church in New Orleans was shut down by United States officials. Claiborne had been promising the nuns for months that there was no truth to the rumors that their property might be confiscated, and that the government of the United States would never interfere with a religious institution, so the closing of this church, and the fact that Claiborne had apparently done nothing to stop it, would naturally have given the nuns cause to doubt his promises.

The situation that caused the closing of the church had to do with a dispute between two rival priests. The French prefect Laussat had replaced the priest at this church, but the head of the Catholic Church in Louisiana objected to the appointment of this new priest and reinstated the old priest. When both priests, along with their supporters, showed up for mass on the same Sunday, the district commandant closed the church to prevent a riot from breaking out. Jefferson absolutely did not approve of this preemptive action, as

\textsuperscript{152} Sr. Therese de St. Xavier Farjon to Jefferson, June 13, 1804. The Thomas Jefferson Papers Series 1, General Correspondence, 1651-1827, Library of Congress Manuscript Division.
he wrote to his secretary of state James Madison on July 5, 1804:

I think it was an error in our officer to shut the doors of the church, and in the Governor to refer it to the Roman catholic head. The priests must settle their differences in their own way, provided they commit no breach of the peace. If they break the peace they should be arrested. On our principles all church-discipline is voluntary; and never to be enforced by the public authority; but on the contrary to be punished when it extends to acts of force. The Govr. should restore the keys of the church to the priest who was in possession.\textsuperscript{153}

About a week after writing this letter to Madison, Jefferson received the letter from the Ursuline convent. He knew, however, that there was no point in forwarding the convent’s request to Congress because no determinations about land claims in the territory were being made yet. So, he began his reply by assuring the nuns that their property was secure even without an official confirmation from Congress. The rest of his letter, based on his assumption that the nuns’ concern was caused by the closing of the church, was a reassurance that the local government would never interfere with their convent or school.

The following, written on July 13 or 14, 1804,\textsuperscript{154} was Jefferson’s reply to the convent:

I have received, holy sisters, the letter you have written me wherein you express anxiety for the property vested in your institution by the former governments of Louisiana. The principles of the constitution and government of the United States are a sure guaranty


\textsuperscript{154} It should be noted that the dates usually given for both the Ursuline’s letter to Jefferson (March 21, 1804) and his reply (May 15, 1804) are wrong, not just in the revisionist history books, but from other sources as well, including the Ursuline convent itself. The correct date of the convent’s letter is June 13, 1804, and the date of Jefferson’s reply was either July 13 or 14, 1804, as noted by Jefferson himself on his copy of the letter. A detailed explanation of how the confusion over these dates occurred can be found in my book \textit{Liar’s For Jesus}. 

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to you that it will be preserved to you sacred and inviolate, and that your institution will be permitted to govern itself according to its own voluntary rules, without interference from the civil authority. Whatever diversity of shade may appear in the religious opinions of our fellow citizens, the charitable objects of your institution cannot be indifferent to any; and it’s furtherance of the wholesome purposes of society, by training up its younger members in the way they should go, cannot fail to ensure it the patronage of the government it is under. Be assured it will meet all the protection which my office can give it.

I salute you, Holy Sisters, with friendship and respect.155

What needs to be understood here is that most of the government in New Orleans at this time was made up of officials from the former government who were being retained by the United States until a permanent government could be formed. These officials were anything but objective when it came to local religious and political disputes, and, in many cases, such as the fight over the Catholic church, these disputes were both political and religious.

All Jefferson meant by the last few sentences of this letter was that, due to the universal and non-controversial nature of their work, he didn’t think the nuns would have any problems with local officials, but, if they did, they would have the protection of his office, which had authority over these local officials. When he said that he was sure the nuns’ convent and school would have “the patronage of the government it is under,” the government he was referring to was the local government of New Orleans, not the federal government.

The One About
Jefferson and the 1805 Treaty with Tripoli

BARTON’S LIE: Jefferson specifically renegotiated a treaty with Tripoli to remove a phrase from a prior treaty that said the United States “is not in any sense founded on the Christian Religion.”

THE TRUTH: The United States was at war with Tripoli from 1801 to 1805, and a new treaty had to be negotiated in 1805 to end the conflict. There is no significance to this new treaty’s not containing the same language as the old treaty. It was just a different treaty.

Item number seven on Barton’s list of Jefferson’s “other presidential actions” is:

Renegotiating and deleting from a lengthy clause in the 1797 United States treaty with Tripoli the portion that had stated “the United States is in no sense founded on the Christian religion” (1805)

How, exactly, does David Barton think that Jefferson could have instructed Tobias Lear, who negotiated this treaty, to remove the phrase? Did Jefferson pick up the phone and call him in Malta? That’s where Lear and Navy Commodore Samuel Barron were in May 1805 when they made the decision to attempt to negotiate
with the Bashaw of Tripoli. The treaty was concluded two and a half weeks later, which obviously wasn’t enough time for Lear to have gotten any specific instructions from Jefferson. Other than knowing what the deal breaker conditions were, the negotiating of the treaty was left up to Lear. To claim that it was Jefferson who negotiated the treaty and deleted the United States “is not in any sense founded on the Christian religion” statement is beyond ridiculous.

When Jefferson took office as president in 1801, the Bashaw of Tripoli demanded that the United States pay $250,000 in tribute. This went directly against Article 10 of the 1797 treaty, which guaranteed that no further payment or annual tribute would ever be required. Because this demand for a tribute payment violated the 1797 treaty, Jefferson ignored it. When the Bashaw’s deadline for this tribute payment came and went with no response at all from the United States, Tripoli declared war.

In November 1803, Jefferson appointed Tobias Lear as consul general to Algiers, and also as commissioner to negotiate a peace treaty with Tripoli. A month earlier, Tripoli had captured the USS Philadelphia and was holding the ship’s captain and crew as hostages. The big condition of the treaty Lear was authorized to negotiate was getting the American sailors released without having to pay any tribute to Tripoli.

On May 18, 1805, Commodore Barron wrote to Lear that he thought the time was right to attempt a negotiation. Tripoli was feeling sufficiently threatened by America’s military capability at that point, and was likely to agree to America’s terms. Lear, who had been waiting in Malta since the previous winter for the right opportunity to present itself, and had rejected several overtures from the Bashaw of Tripoli that had come to him through the Spanish consul to Tripoli, wrote back to Barron the next day saying that he also thought the time was then right “to see if such terms can be made as are admissible on our part.”

A few days later, Lear set off from Malta, about two hundred

miles from Tripoli, in a naval vessel that delivered him to one of the American warships that were sitting off the coast of Tripoli. By June 6, the treaty had been concluded. The exact timeline of Lear’s movements from November 1804 through the entire treaty negotiation process can be found in a detailed letter he wrote to Secretary of State James Madison after the treaty was concluded.\(^{157}\) As a consul, it was the secretary of state to whom Lear reported, but Lear hadn’t even written to Madison for seven months because there had been nothing to report. Lear, who had no pressing business in Algiers, had decided to spend the winter in Malta and was still there in May 1805 when he and Commodore Barron, also in Malta, decided the time was right to try to negotiate a treaty.

The 1797 treaty had twelve articles. Only seven of these articles could be copied into the new twenty-article 1805 treaty without significant changes. Article 11, the article that contained the “not in any sense founded on the Christian religion” phrase was one of the seven that could not be copied unchanged.

In the 1797 treaty, Article 11 had stated that the United States had never “entered into any voluntary war or act of hostility against any Mohametan nation.” As of 1805, this was, of course, no longer true, since the United States had been at war with Tripoli for the past four years. This was the reason that Article 11 was rewritten by Lear. It was *not* because of the “United States of America is not in any sense founded on the Christian religion” phrase!

When Lear rewrote the article, he left off the phrase, changing the opening of the article from:

> As the government of the United States of America is not in any sense founded on the Christian religion – as it has in itself no character of enmity against the laws, religion or tranquillity of Mussulmen – and as the said states never have entered into any war or act of hostility against any Mahometan nation ...

\(^{158}\)


As the Government of the United States of America, has in itself no character of enmity against the Laws, Religion or Tranquility of Musselmen, and as the said States never have entered into any voluntary war or act of hostility against any Mahometan Nation, except in the defence of their just rights to freely navigate the High Seas ...\textsuperscript{159}

There is absolutely no reason to think that this was anything more than a stylistic change by Lear, deleting an awkwardly written unnecessary phrase at the beginning of the sentence while he was adding the statement that America had gone to war with a Muslim nation, but was justified in doing so. The article still made the point that it needed to make – that America had never, and would never, go to war with a Muslim nation for religious reasons.

Barton, of course, counts on his followers’ lack of having any idea how treaties were made, and their not knowing that the president had no involvement in the actual writing of them. They will readily buy Barton’s claim that because Jefferson was president when this treaty was made, and the “United States of America is not in any sense founded on the Christian religion” phrase didn’t appear in the new treaty, that Jefferson specifically made a point of deleting it, and even that this inconsequential phrase was the reason the treaty was renegotiated!

\textsuperscript{159} Richard Peters, ed., \textit{The Public Statutes at Large of the United States of America}, vol. 8, (Boston: Little, Brown, and Company, 1867), 216.
The One About
Jefferson and Military Church Attendance

BARTON’S LIE: As president, Jefferson was responsible for a military regulation that “recommended to all officers and soldiers diligently to attend Divine service,” requiring that any soldier who misbehaved in church be personally reprimanded by the president of the United States.

THE TRUTH: This regulation was written in 1775 by the Continental Congress when it wrote the original rules and regulations for the revolutionary Army, and like all of the previous regulations was left untouched in the new regulations written by Congress in 1806. The regulations did not require that a soldier who misbehaved in church be personally reprimanded by the president of the United States!

Item number eight on Barton’s list of Jefferson’s “other presidential actions” is:

Passing “An Act for Establishing the Government of the Armies” in which:

It is earnestly recommended to all officers and soldiers diligently to attend Divine service; and all officers who shall behave indecently or irreverently
at any place of Divine worship shall, if commissioned
officers brought before a general court martial,
there to be publicly and severely reprimanded by
the President [Jefferson]; if non-commissioned
officers or soldiers, every person so offending shall
[be fined] (1806) (emphasis added)

Jefferson had nothing to do with this regulation, other than
signing a bill that updated the military regulations in which all of
the old regulations written in 1775 by the Continental Congress\(^\text{160}\) were left untouched. When Congress decided in 1804 that the
Revolutionary War era military regulations needed to be updated,
a whole bunch of new regulations were added (the 1775 version
had 69 articles; the 1806 version had 101 Articles), but the old reg-
ulations were just left alone. So, this regulation about going to
church remained in the new regulations, the final version of which
was passed in 1806.

This article raises a question that Barton doesn’t answer. Why, if
everybody was so moral and religious during the Revolutionary War,
was a regulation that carried a serious punishment necessary to
prevent the soldiers, and even the officers, from behaving “indecently
or irreverently” in a place of worship? Such a regulation would obvi-
ously have been completely unnecessary unless the army was having
a widespread enough problem with soldiers behaving “indecently or
irreverently” in places of worship to need a regulation to prevent
such behavior, right? Another article in the regulations imposed
the same punishment for using “any profane oath or execration” as
the misbehaving in church regulation imposed. It’s interesting that
Barton and the other revisionists use these regulations as proof of
how moral and religious the army was at the time, when, if you think
about it, the need for these regulations actually indicates that the
exact opposite was true.

The most ridiculous part of Barton’s claim, however, is that

\(^\text{160}\) Worthington Chauncey Ford, ed., *Journals of the Continental Congress 1774-1789*,
makes a point of emphasizing the phrase “reprimanded by the President [Jefferson]” and even inserts Jefferson’s name in brackets after the word “President” to make his readers think that the president referred to in this regulation was the president of the United States. Does he seriously think that every soldier who swore or misbehaved in church was brought before the president of the United States? Doesn’t that sound completely impossible and ridiculous? Well, it sounds ridiculous because it is ridiculous. The president referred to in the regulation was not the president of the United States! It was the military officer appointed to preside over the court-martial. The only courts-martial that reached the president of the United States were those in which the sentence was either death or the dismissal of a commissioned officer.

Apparently, Barton either didn’t bother to read the whole act that he quotes, or just chose to ignore that the 1806 military regulations refer to the “president of the court martial” several times, and that the 1775 regulations very clearly say:

Art. XXXIII. No general court-martial shall consist of a less number than thirteen, none of which shall be under the degree of a commissioned officer; and the president shall be a field officer: And the president of each and every court-martial, whether general or regimental, shall have power to administer an oath to every witness, in order to the trial of offenders. And the members of all courts-martial shall be duly sworn by the president; and the next in rank on the court-martial, shall administer the oath to the president. (unnecessary emphasis added)\textsuperscript{161}

The 1806 military regulations added a number of articles to address what had been common problems during the Revolutionary War that hadn’t been anticipated or included in the original 1775 regulations. Among the new regulations added in 1806 for this reason was another one related to religion. But for some reason Barton

doesn’t try to turn this one into something that Jefferson did.

During the Revolutionary War, there were discipline problems not only among the officers and the soldiers, but also among the chaplains. Being a military chaplain was a good gig for a minister. They could collect a good salary while paying another minister a fraction of their military chaplain’s pay to fill in for them at their home church.

But many chaplains in the Revolutionary War had a habit of just coming and going as they pleased and neglecting their duties, so in 1806, the following regulation was added:

> Article 4. Every chaplain, commissioned in the army or armies of the United States, who shall absent himself from the duties assigned him (excepting in cases of sickness or leave of absence) shall, on conviction thereof before a court martial, be fined not exceeding one month’s pay, besides the loss of his pay during his absence; or be discharged, as the said court martial shall judge proper.¹⁶²

I wonder why Barton doesn’t include this regulation in his list of Jefferson’s “other presidential actions.” Unlike the regulation used by Barton that wasn’t even written during Jefferson’s presidency, this regulation to keep the chaplains in line actually was new in 1806.

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The One About
Jefferson Declaring Religion to be Government’s Best Support

BARTON’S LIE: As president, Jefferson declared that religion was government’s best support.

THE TRUTH: Jefferson did not say that religion was government’s best support; he said that religious liberty was government’s best support.

Item number nine on Barton’s list of Jefferson’s “other presidential actions” is:

Declaring that religion is “deemed in other countries incompatible with good government and yet proved by our experience to be its best support” (1807)

It is perfectly clear from Jefferson’s actual words that he was not referring to “religion” as being government’s best support, but was referring to religious liberty. Here is Jefferson’s entire sentence:

Among the most inestimable of our blessings, also, is that you so justly particularize, of liberty to worship our Creator in the way we think most agreeable to His will; a liberty deemed in other
countries incompatible with good government and yet proved by our experience to be its best support.\textsuperscript{163}

There is no question that Barton is deliberately and intentionally misquoting Jefferson here, selectively quoting only part of Jefferson’s sentence and then claiming that what Jefferson was referring to was religion itself rather than religious liberty.

The One About
Jefferson Dating Documents
“In the Year of Our Lord Christ”

BARTON’S LIE: Jefferson dated his presidential documents “In the year of our Lord Christ.”

THE TRUTH: The documents signed by Jefferson that were dated “In the year of our Lord Christ” were merely pre-printed passports for ships. The language of these passports was not Jefferson’s. It was mandated by a treaty with Holland.

The tenth and final item on Barton’s list of Jefferson’s “other presidential actions” is:

Closing presidential documents with the appellation, “In the year of our Lord Christ” (1801-1809; see inset)¹⁶⁴

Barton has been telling this lie for well over a decade. In an article on his WallBuilders.com website in 2000, he wrote: “While President, Jefferson closed his presidential documents with the phrase, `In the year of our Lord Christ; by the President; Thomas

¹⁶⁴ The “inset” in Barton’s book is an image of a small section of a ship’s passport, showing only the date of the document with Jefferson’s signature below it.
Jefferson.” In that article, Barton’s footnote for this claim was: “For example, his presidential act of October 18, 1804, from an original document in our possession.” Barton gave no other details as to what this document was.

At the time that I wrote *Liars for Jesus*, Barton had still provided no further clues to his mystery document, but I assumed it had to be some kind of document that already had the date on it, and was simply signed by Jefferson. My best guess at the time was that it might have been a pardon, since there was, in fact, a pardon signed by Jefferson that would have coincided with the date cited by Barton in the footnote on his website article.

A few years later, in October 2008, I attended one of Barton’s presentations. During that presentation, at which images of the documents Barton was talking about were shown on a large screen TV, he showed a corner of the mystery document. It wasn’t enough to see what the document was, but it was enough to see that it was some kind of pre-printed form.

In March 2009, I made a series of YouTube videos about Barton’s presentation, in response to his bashing me on his radio show. In one of my videos, I brought up the mystery “in the year of our Lord Christ” document that Barton was being so secretive about. About a week after I put that video up on YouTube, Barton suddenly posted the document on his website – sort of. The document that Barton posted was not dated October 18, 1804, as the footnote in his earlier website article stated, but September 24, 1807. But this didn’t matter. It was just another copy of the same pre-printed form, a form that Jefferson would have signed thousands of during his presidency.

The document was a ship’s passport, also know as a sea letter or ship’s papers. These documents, required to be carried by all American ships leaving the United States, were fill-in-the-blanks forms with columns translated into several languages. Every president signed stacks of these blank forms, which were then distributed to the customs officials at all the ports to be filled out as needed for departing ships.

Barton claims in his description of the form on his website:
“Many official documents say ‘in the year of our Lord,’ but we have found very few that include the word ‘Christ.’ However, this is the explicitly Christian language that President Thomas Jefferson chose to use in official public presidential documents.”\(^{165}\) He also claims in his presentations that Jefferson was the only president to date the documents “in the year of our Lord Christ.” Both of these things are lies. The language of the form was not chosen by Jefferson, and every president from Washington, beginning in 1793, through the 1820s, when the form was revised, used exactly the same form with exactly the same language. When a new president took office, the printer just changed the name of the president at the top of the form. Everything else stayed exactly the same, with the exception of adding a Spanish translation of the Dutch wording when carrying passports also became required by a treaty with Spain.

The reason that Barton lies about Jefferson having been the only president to sign these documents is obvious. As he claims in his presentations, other early presidents only dated things “in the year of our Lord,” but Jefferson – the least religious of them all – the man who coined the phrase “separation between church and state” – he went even further and added the name Christ!

So, if it wasn’t Jefferson, who actually did choose the language of these ships’ passports? Well, that would be the High and Mighty Lords of the States-General of the United Netherlands. The language to be used on the passports was annexed to America’s 1782 Treaty of Amity and Commerce with the Netherlands. The twenty-fifth article of the treaty itself stipulated that this was the wording that would be used:

Article XXV.
To the end that all dissention and quarrel may be avoided and prevented, it has been agreed, that in case that one of the two parties happens to be at war, the vessels belonging to the subjects or inhabitants of the other ally shall be provided with sea-letters or passports, expressing the name, the property, and the burthen of

the vessell, as also the name and the place of abode of the master, or commander of the said vessell, to the end that thereby it may appear that the vessell really and truly belongs to subjects or inhabitants of one of the parties; which passports shall be drawn and distributed, according to the form annexed to this treaty; ...^{166}

This was the passport language annexed to the treaty:

*The form of the passport which shall be given to ships and vessels in consequence of the 25th article of this treaty.*

*To all who shall see these presents, greeting:*

Be it known that leave and permission are hereby given to _____, master or commander of the ship or vessel called _____, of the burthen of _____ tons, or thereabouts, lying at present in the port or haven of _____, bound for and laden with _____, to depart and proceed with his said ship or vessel on his said voyage, such ship or vessel having been visited, and the said master and commander having made oath before the proper officer that the said ship or vessel belongs to one or more of the subjects, people, or inhabitants of _____, and to him or them only.

In witness whereof we have subscribed our names to these presents and affixed the seal of our arms thereto, and caused the same to be countersigned by _____, at _____, this day of _____, in the year of our Lord Christ __________.^{167}

Between 1782 and 1793, the United States wasn’t really all that diligent about sticking to the precise wording from the 1782 treaty, or even making sure that all ships were carrying papers. But this all changed in 1793 when George Washington proclaimed the neutrality of the United States in the war between France and

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167. Ibid., 1243.
England. Once neutrality was proclaimed, the identification of ships became a high priority national security issue. American merchants needed to be able to prove to the ships and officials of the “belligerent powers,” as they were called, that they were from a neutral country, and the United States government needed to prevent foreign ships from fraudulently obtaining American papers. So, in a May 1793 Treasury Department circular letter to all the customs officials, Alexander Hamilton made it clear that everything was immediately going to start being done by the book. Enclosed with Hamilton’s circular letter were copies of the latest version of the Dutch and English translations, with instructions on exactly how the passports were to be filled out, specifying that “the following instruction to fill the Dutch copy is to be precisely followed.” The language that was “to be precisely followed” was word for word from the 1782 treaty with the Netherlands, and had to be followed exactly because Holland was then one of the “belligerent powers.”

The new passports that were printed had translations of the Netherlands treaty wording in three languages – Dutch, French, and English. Treaties with France and England also required that ships carry passports, but it was the Netherlands treaty that had unambiguously stipulated that the specific wording annexed to that treaty had to be used. A few years later, when a treaty with Spain also required American ships to carry passports, a fourth column with a Spanish translation of the Dutch language was added. What Barton has is the right hand half of one of these four language ship’s papers, showing the English and Dutch columns, under which the signatures of the president and the secretary of state were placed.

Barton, when showing his ship passport in his appearances on Glenn Beck’s show and elsewhere, has continually claimed that Jefferson signed thousands of other documents dated “in the year of our Lord Christ.” These thousands of other documents are, of course, just the thousands of other pre-printed ships’ passports that Jefferson signed in his eight years as president.

In _The Jefferson Lies_, Barton continues to imply that there are other documents besides ships’ passports that Jefferson dated “in the year of our Lord Christ” by using the following endnote for his claim:

See, for example, his signature on the presidential act of October 18, 1804 (from an original document in our possession), Four Language Ship’s Papers on January 16, 1804, and Ship’s Papers on September 24, 1807 (from originals in our possession); etc.

In his typical fashion, Barton implies there are many other examples by using the word “for example” at the beginning of his endnote, and ending the endnote with “etc.” And, while saying that two of his examples are, in fact, just ships’ passports, he begins his endnote by repeating the footnote from his thirteen-year-old website article, still implying that the “presidential act of October 18, 1804 (from an original document in our possession)” is something other than a ship’s passport, even though the ship’s passport image he includes as the “inset” in the body of his book is the one dated October 18, 1804!

If Barton really does have any other Jefferson documents that were dated “in the year of our Lord Christ,” why can’t he produce them?
Conclusion

Barton concludes this chapter of *The Jefferson Lies* by saying that “Jefferson’s record of including, advocating, and promoting religious activities and expressions in public is strong, clear, and consistent,” and that calling Jefferson “a secularist humanist” (something that I’ve never actually heard anybody call Jefferson) is “simply another of the many modern Jefferson lies that has no basis in history.”

I conclude this book by saying that David Barton is a brazen, shameless, and very deliberate LIAR FOR JESUS!
In the part of this book that looked at Barton’s endless endnote of Supreme Court cases in which Jefferson or his “wall of separation” metaphor was invoked (or sort of invoked, or not invoked at all, depending on how dishonest Barton is being about each case), I noted that in about half of these cases the pro-religion side won and in about half the secular side won. Barton, of course, by omitting this pesky fact was implying that every time the Court invokes Jefferson or his “wall” metaphor the terrorists secularists win.

Barton follows his section about the Court with several pages of examples of how the Court’s decisions have resulted in unthinkable persecution of Christians. Segueing from his section about the Court into his tales of Christian persecution, he writes: “The result of the Court’s twisting of Jefferson’s phrase was that the First Amendment was no longer a prohibition on the government but rather on individuals.”

Between the cases either described by Barton in the text of his chapter or listed in his endnotes, he gives about three dozen examples of this alleged persecution, and then says that there are “literally hundreds of similar examples,” a claim that leads to yet another endnote that lists a bunch of other lists found on various websites.
To go into detail about all of these cases in all of these lists would make this appendix longer that the book, so what will be included here are a baker’s dozen of the alleged instances of persecution listed by Barton in a nine-item list. The first eight of these items are individual cases, all of which are covered here, but the ninth item leads to another of those very long and impressive looking end-notes, listing fifteen more cases, so I’m including five of those just to show how Barton’s description of these cases differs from what the real stories were. You probably won’t be overly surprised to find out that Barton’s descriptions of these alleged instances of persecution don’t tell the whole stories. So, let’s get started.

Barton’s version of the story:

A state employee in Minnesota was barred from parking his car in the state parking lot because he had a religious sticker on his bumper.

So, what do you picture when you read Barton’s description of a car that had “a religious sticker” on its “bumper?” A car that had a single bumper sticker that probably wouldn’t even be noticed unless you happened to be behind this car in traffic? Well, you’d be very wrong. The car in question was described by one newspaper as “sign-decorated,” and by another as “message-festooned.” According to court documents, what was on this car was not a simple bumper sticker, as Barton claims, but multiple larger signs printed on paper that could be temporarily placed on or removed from the car by the employee.

The signs included messages such as “God defines marriage as a union between a man and a woman. He also says sex is to be enjoyed between a husband and a wife only,” and “God gave us the

10 Commandments. ‘In God We Trust’ is our national motto. Why can’t the 10 Commandments be displayed on government property?”

In December 2003, the employee, Alan Blackburn, who worked for the Minnesota Department of Revenue, was told to take these signs off his car when parking in the state parking lot or when using his car for the official state business of going to outside locations to do audits.

For over a month, Blackburn complied with this directive. But then, in January 2004, he decided to start leaving the signs on his car and parking on a road a quarter mile away from the building where he worked, becoming an instant martyr.

In his court complaint, Blackburn claimed to have suffered “humiliation, embarrassment, anguish, and anxiety” and “irreparable harm” because of not being able to post his religious signs. This incredible level of distress claimed by Blackburn is kind of interesting given that, according to his own attorney, Blackburn had “just recently decided he wanted to start expressing himself in this manner.”

Even more interestingly, Blackburn coincidentally just decided to start expressing himself in this manner right about the time that he had begun to receive warnings about his substandard job performance. It seems that Mr. Blackburn wasn’t exactly a model employee. He repeatedly failed to meet the Minnesota Department of Revenue’s standards for closing cases, even when his superiors tried to help him meet his job requirements by assigning him a larger share of the less complicated cases. In February 2004, Blackburn, who was still not meeting the required number of closed cases, received a one-day suspension from his job for “continued under-performance.”

In April 2004, Blackburn sent an email to an affirmative action officer at the Minnesota Department of Revenue asking what, if any, political and religious signs he could display on his car when

5. In the Matter of Arbitration Between State of Minnesota, Department of Revenue and Minnesota Association of Professional Employees, A. Blackburn Suspension, March 11, 2006, (Mario F. Bognanno, Arbitrator).
parking in the state parking lot or on official state business, specifically listing four messages that included the two already quoted. This appears to have been Blackburn’s way of getting in writing what he had already been told in December 2003, which is typically what someone would do to obtain documentation in preparation for filing a lawsuit. The answer he received was: “No, you may still not park on State of Minnesota property with these signs.”

On June 30, 2004, Blackburn filed his federal lawsuit against the Minnesota Department of Revenue.

At the time he filed his lawsuit, Blackburn was still underperforming at his job, completing an average of only four cases per month, as opposed to the eight to ten cases per month that he was required to complete. In July he was informed that he would not be receiving a performance-based step increase because of his job performance, which, according to his superior, was “short on virtually every standard we measure.” In November, Blackburn received another suspension from his job, this time for five days.

So, what did Mr. Blackburn do? In the arbitration hearing for the grievance that he filed over his November 2004 suspension, he attempted to blame not only that suspension, but all of the previous actions his employer had taken regarding his substandard job performance, on his religious signs, claiming that the November suspension, as well as everything else his employer had done going all the way back to December 2003, was retaliation for his equal opportunity complaint and lawsuit over his signs. His religious sign lawsuit had been settled in September 2004, two months before his five-day suspension. But it didn’t work. His employer produced the records showing Blackburn’s repeated failure to meet his job requirements, and his grievance was denied.

Under the terms of the settlement of his religious sign lawsuit, Blackburn was allowed to park his car in the state parking lot

7. Ibid.
8. Ibid.
with religious signs on it, but with the stipulation that he have no duplicates of any sign, indicating that his “message-festooned” car had previously been so covered with signs that not only did it have one each of at least four different signs but duplicates of those signs as well. Blackburn was also permitted to keep three of the four religious signs that he had posted in his work cubicle, which had been another issue in his case, but was required to place these signs where they were not visible from outside his cubicle.9

While it’s impossible to know whether or not Blackburn’s sudden need to start expressing his religion and his knowing that he was about to start having major problems because of his job performance were connected, the timing was mighty coincidental.

David Barton’s description of why Mr. Blackburn was barred from parking in the state parking lot – that it was merely because of one little religious bumper sticker – is a lie. Anybody, regardless of their beliefs, would find that to be a completely outrageous stifling of someone’s religious expression. But clearly that was not what happened here.

Barton’s version of the story:

A five-year-old kindergarten student in Sarasota Springs, New York, was forbidden to say a prayer over her lunch and was scolded by a teacher for doing so.

So, what do you picture when you read Barton’s description of a five-year-old child being “scolded” by a teacher for simply saying a prayer over her lunch? A child quietly saying grace before eating her lunch and a teacher, for no good reason, yelling at and frightening the child? Well, that’s not at all what happened.

The issue in this case was not that the student, Kayla Broadus, was praying herself over her own lunch. She was telling the other children at her table to join hands and pray with her before eating

the snack that they were given during the class’s story time. The teacher, noticing the reaction of the other children to Kayla’s taking their hands to pray, responded by explaining to Kayla that she should say her prayer on her own.

The kindergartner was not “scolded” by the teacher, but, as usual, in his descriptions of cases involving young children, Barton uses words that make it sound as if some monster of a teacher was being verbally or physically abusive towards the child to spark the desired level of outrage among his readers. Even Kayla’s mother, Cheryl Broadus, did not say, or even imply, that her child had been scolded.

The teacher understood that a five-year-old wouldn’t know that telling other children to hold hands and pray at school was something that might raise concerns among the other children’s parents, which was what the school was concerned about. As the school superintendent said, “I don’t think our kindergartners have any appreciation of the First Amendment or the establishment clause at that level. But their parents sure do.” 10 Just as Kayla Broadus went home and told her mother that her teacher stopped her from leading the other children in saying grace, the other children might go home and tell their parents that they pray over their snack as part of their day at their public school. As the president of the Board of Education, who was hearing from people on both sides, said, “On the other side, we have parents who have told us if we don’t stop her from asking their children to pray, they will sue us.” 11

Nobody was trying to stop Kayla Broadus from praying. As the Board of Education president explained shortly after Cheryl Broadus filed a lawsuit in federal court, “We are not saying this child cannot pray in school, but she cannot ask her friends to join her. We need to protect everyone’s rights. When you are talking about young children, we have to make sure the atmosphere is respectful of everyone. ... What if we had an Arab student that asked his friends to join him and kneel and pray to Allah? What

would be the reaction then?”  

On the same day that Kayla Broadus came home from school and said that her teacher had stopped her from leading her classmates in saying grace, Cheryl Broadus wrote a somewhat antagonistic letter to Kayla’s teacher in which she said: “Short of beating her classmates over the head with the Bible I do not see why she was told she could not say grace at the table.”

But even Cheryl Broadus, who had initially said in her letter that her daughter had the right to do anything short of beating her classmates over the head with a Bible, backed down when she found out that the snack time during which her daughter had gotten the other students to pray with her was actually part of the class’s story time. It was not free time, during which it is completely permissible for public school students to talk about religion and even initiate prayer among their peers, just as they would be permitted to talk about any other subject. By the time of a hearing held on April 12, 2002, Cheryl Broadus had already withdrawn her original claim that her daughter should be permitted to recruit other students to pray with her. She also dropped her claim for $50,000 in damages.

So, by the time of the first hearing, the misunderstanding that the incident had taken place during class time rather than during free time had been cleared up, and Mrs. Broadus’s claim regarding the real issue that had prompted the teacher to intervene had been dropped. You’d think that would have been the end of it, right? Wrong. The lawsuit went forward. The focus was just changed to whether Kayla was required to pray silently or was permitted to pray out loud, despite the school district’s having made it clear from the beginning that it had no policy prohibiting non-disruptive audible prayer by students during the school day.

The audible vs. silent prayer issue was due to some particular
correspondence in which it was stated that silent prayer was always permitted. Cheryl Broadus’s attorney claimed that a statement saying that silent prayer was permitted could be inferred to mean that audible prayer was not permitted. It was explained by the school district at the April 12 hearing, however, that the statement saying that silent prayer was permitted was in answer to a specific letter, and did not mean that non-disruptive audible prayer wasn’t permitted as well. In May 2002, although not required to do so by the court, the Board of Education clarified this by passing a resolution on student speech, confirming that the school district had no policy prohibiting non-disruptive audible prayer.

Clearly, nobody was stopping Kayla from saying grace out loud if she wanted to, and yet the case proceeded until June 2002, when it was finally settled. The school district, which had maintained all along that it had never had any policy prohibiting non-disruptive audible prayer, was not required to create any new policies.

As the president of the School Board said when the case was finally over with, “At the end of the day, despite all the spin and misinformation, Kayla was able to pray before the lawsuit and it will continue to remain the same.”15

So much for Barton’s claim that a kindergarten student was forbidden to pray.

Barton’s version of the story:

A military honor guardsman was removed from his position for saying, “God bless you and this family, and God bless the United States of America” while presenting a folded flag to a family during a military funeral – a statement that the family requested be made at the funeral.

So, what do you think when you read Barton’s description of this military honor guardsman’s being fired for simply saying a blessing that a deceased veteran’s family had specifically requested be said?

That sounds completely wrong, doesn’t it? A family’s wishes for what is said at a funeral should be honored, right? Of course they should be. But what if a detail omitted by Barton is added to the story? What if this honor guardsman had intruded on the family’s funeral procession to solicit their request for the blessing, and had taken it upon himself to intrude on the family based on nothing more than having spotted a Christian fish symbol on one of the cars in the procession? Well, that’s what actually happened.

This was the 2002 case of Patrick Cubbage, a Vietnam veteran who worked at the Brigadier General William C. Doyle Memorial Cemetery in New Jersey.

At many of the military funerals that Cubbage participated in as part of the cemetery’s honor guard, he was the person who presented the folded flag to the deceased veteran’s next of kin. Following the official script to be recited when presenting the flag, Cubbage would add the words “God bless you and this family, and God bless the United States of America.” These words, as Cubbage rightly maintained, were in the official manual he was given when he started working at the cemetery in 2001, and were authorized to be added “if the next of kin has expressed a religious preference or belief.”

So, it doesn’t appear that Cubbage was doing anything wrong when adding this blessing. For some reason, however, in October 2002, another member (or members, depending on which version of the story you read) of the honor guard complained about Cubbage’s habit of adding the words.

Since this case never went to court, the sources of information about it are limited, and mainly come from supporters of Cubbage. None of these sources give the specific reason that the other guardsman (or guardsmen) complained, something that would have come out had the case gone to court and both sides of the story had been heard. So, with no information to the contrary, we have to give Cubbage the benefit of the doubt that there was no good basis for this first complaint, even though it seems a bit odd that anyone would make such a complaint without having some reason for doing so.

What is known is that this complaint from the other guardsman
(or guardsmen) prompted Cubbage’s supervisor to instruct him to stop adding the blessing unless the deceased veteran’s next of kin had specifically requested that it be added.

Prior to this, Cubbage had been taking it upon himself to decide whether or not the next of kin had “expressed a religious preference or belief,” based on nothing more than whether or not a member of the clergy was present or if he saw some symbol of religion at the funeral. But, obviously, having a member of the clergy at a funeral does not necessarily mean that the next of kin – the particular individual to whom the flag is presented and the blessing would be specifically directed at – is religious. That individual might very well have a member of the clergy perform the service for the benefit of other family members and friends who are religious, even if they are not religious themselves, and might not want a blessing added as the flag is handed to them.

For a short time after the first complaint was made against him, Cubbage complied with his supervisor’s instructions. But then, on October 31, 2002, he decided to take it upon himself – on the day of a funeral – to solicit a request for the blessing from a family member of the deceased veteran. Why? Because Cubbage noticed that one of the cars in the funeral procession had a Christian fish symbol on it.

According to his own account, \textsuperscript{16} Cubbage, upon seeing the fish symbol on this car, approached one of the funeral car drivers and asked him if the family was religious. The driver told Cubbage that they were. Cubbage then told the driver that the family needed to make a request for the blessing. The driver apparently found the son of the deceased veteran, who, according to Cubbage, told him that they wanted the blessing said, so he added it when presenting the flag to the deceased veteran’s wife. This was the incident that got Cubbage fired.

At the time of this funeral, Cubbage wasn’t even the honor guard member who would have been assigned to present the flag to the next of kin. Because of the previous complaint about him, he

had been assigned to the other honor guard duties of folding the flag and playing the musical tapes. But somehow, according to Cubbage, his conversation with the funeral car driver led to the son of the deceased veteran and the funeral director telling Cubbage’s supervisor not only that they wanted the blessing said but that they wanted Cubbage to present the flag.

According to the version of events put out by the Rutherford Institute, which represented Cubbage, “on October 31, 2002, when the son of a deceased veteran asked that Patrick include the blessing in his graveside presentation, he naturally agreed. Shortly afterwards, a fellow honor guardsman reported the incident and Patrick was fired.” See how the Rutherford Institute made it sound as if it was the son of the deceased veteran who approached Cubbage rather than the other way around – that it was Cubbage who sought out the son via the funeral car driver?

Regardless of the fact that it turned out that this particular family did want the blessing said, the fact that Cubbage would take an action like intruding on a stranger’s family’s funeral possession – something that seems outrageously inappropriate and out of line for a member of an honor guard to do – it seems even more likely that there might have been something more to the previous complaint about Cubbage.

Unfortunately, however, since Cubbage’s case was eventually settled out of court, and spokespersons for the state’s Department of Veterans Affairs could not comment on the details of the case because it was pending possible litigation, the other side of the story – from Cubbage’s fellow guardsmen and supervisor – is not available.

Under the terms of the settlement, Cubbage was reimbursed for lost wages and permitted to return to his job at the cemetery in August 2003, but only under certain conditions, the details of which are not clear in the conflicting reports from various sources.

Cabbage did return to work, but ended up quitting in 2005 because “the bureaucracy became too much” for him, making the somewhat nonsensical, and yet very telling, statement: “Maybe it’s because I was an enlisted man and the politically correct people can’t face reality, or maybe it’s because of what the Bible says, God will put blinders on the unbelievers.”

So, once again, there appears to be more to the story than what Barton’s description would indicate.

Barton’s version of the story:

Senior citizens meeting at a community senior center in Balch Springs, Texas, were prohibited from praying over their own meals.

So, what do you picture when you read Barton’s description of a group of senior citizens being “prohibited from praying over their own meals?” Do you envision some senior center employee walking up to a table of white-haired seniors who are doing nothing more than saying grace over their meal and ordering them to stop? That would be outrageous, right? Of course it would. But that’s not what happened. This wasn’t about senior citizens simply praying over their own meals.

What was actually going on at this senior center were weekly sermons by a minister and gospel band performances, and the prayer before meals was not senior citizens simply praying over their own meals but regular organized group prayer with someone appointed to lead the prayers.

In August 2003, three members of this senior center complained about all the religious activity going on at the city-owned facility. According to one of the three, who was not some trouble-making atheist but a Christian herself, those who did not want to listen to the sermons and prayers had to leave and go to another part of the

center, described as a smaller room with pool tables, in order to avoid them.\footnote{19}

After the three members of the senior center complained about the religious activities, the City Council voted to stop them.

Sixteen other senior center members, including the minister who had been giving the weekly sermons, then sued the city, claiming that their First Amendment rights were being violated. They were represented by the Liberty Legal Institute (now known as the Liberty Institute), along with another attorney from Texas who now works for the Liberty Institute.

In the original court complaint, filed in September 2003, the Liberty Institute lawyers also claimed that the city had retaliated against the senior center members by canceling their weekly trips to the grocery store and other outings, firing two employees who supported the members who wanted the religious activities, and refusing to pick up two of the members to bring them to the center because their son had written a letter to the editor of a Dallas newspaper criticizing the city’s policy.\footnote{20} The city denied all of these allegations, and they were eventually dismissed.

As for the religious activities, the Liberty Institute won. The senior center, which would be considered a limited public forum (a public building or facility that’s not as completely open to use by the public as a street or a public park would be), was required to be content-neutral, allowing religious speech and activities on the same basis as secular speech and activities. Other types of musical performances and lectures were held at the center, so the gospel band performances and sermons also had to be allowed. This was hardly an unusual decision.

What was unusual, however, is the big contradiction between what the Liberty Institute claimed during the case and what one of their clients in the case later revealed.

While a limited public forum can be used by private citizens


for religious activities, the government employees who work there cannot run or participate in these activities. In the motion for an injunction to allow the religious activities at the senior center to resume while the case was ongoing, the Liberty Institute lawyers claimed that no employees of the center had been directing or participating in any of the religious activities:

The City and its employees do not sponsor or endorse these activities. They are initiated and led by private senior citizens, who are members of the center. ... Moreover, the City and its employees did not direct or participate in any of these activities.\(^{21}\)

If that statement were true, and this had always been the case, then the senior center had never been doing anything wrong at all. But it wasn’t true, as Barney Clark, one of the sixteen senior center members represented by the Liberty Institute, revealed six months later.

In June 2004, the Senate Judiciary Committee’s Subcommittee on the Constitution held a hearing on religious expression, called “Beyond the Pledge of Allegiance: Hostility to Religious Expression in the Public Square.” One of the people to give their testimony at this hearing was Mr. Clark, who, of course, was there to talk about the senior center case.

From Mr. Clark’s testimony:

But, our Director, Debbie McDaniel, can not be involved with anything to do with religion. She was a member of the gospel band that provided us with music each Monday. As a result of this, her husband, Ted McDaniel, didn’t feel right playing when his wife wasn’t welcomed. Consequently, we don’t have our regular gospel music. Sometimes we are lucky and have some of the band play solo. Mrs. McDaniel has been the director for ten years. When she first started there was a lady, Dorothy Ward, who played

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gospel music on the piano each Monday. Everyone got up around the piano and sang. Mrs. McDaniel joined in on the singing as she does on all activities involved in the daily running of the center. As the Center Director this is part of her job, whether it is crafts, bingo, exercising, music, etc. As it stands now we would be satisfied if Mrs. McDaniel, our director, could once again join in the gospel music.22

So, contrary to what the Liberty Institute lawyers claimed during the case, Debra McDaniel, the director of the senior center, was participating in the religious activities. She was actually a member of the gospel band – and such an important participant in this part of the center’s religious activities that the gospel music ceased to regularly continue without her participation.

Apparently, what had been going on at this senior center prior to the lawsuit hadn’t been entirely in accordance with the law after all. It was only brought into accordance with the law after the fact.

Once again, the real story is quite different from Barton’s description – that this was just about senior citizens praying over their own meals.

Barton’s version of the story:

A library employee in Russellville, Kentucky, was barred from wearing her necklace because it had a small cross on it.

So, what do you picture when you read Barton’s description of a necklace with a “small cross” on it? Well, probably nothing at all like the necklace that this library employee was wearing. A photo of the employee wearing her cross necklace, which appeared in a local newspaper at the time of her case, shows the cross to be anything but “small.” The cross was a large pendant, several

inches tall, hanging on a cord.23

The employee, Kimberly Draper, had volunteered at the library prior to being hired in 1998. As a volunteer, she had been able to wear t-shirts with religious messages, but once she was hired as a paid employee she had to adhere to the library’s dress code, which among other things prohibited “clothing depicting religious, political, or potentially offensive decoration.” At least a year after Draper was hired, the dress code was amended to say: “No clothing or ornament depicting religious, political, or potentially offensive decoration.”24

The reason for the library’s dress code policy was to avoid having library patrons feel uncomfortable asking for assistance in finding books or information on subjects that they would anticipate might subject them to a negative reaction from a library employee because of that employee’s religious or political opinions.

In April 2001, Draper was told by the library’s assistant superintendent that she could only wear her cross pendant under her clothing. About a week later, Draper once again showed up at work wearing the cross. The assistant superintendent told Draper that she had spoken to the library’s superintendent about the cross, and that she should remove it until speaking with the superintendent. Draper refused to remove the cross, so the assistant superintendent gave her the choice of either removing it or being sent home for the day. Draper chose to go home.

A few days later, Draper met with the superintendent. The superintendent told Draper that her refusal to remove the cross when told to by her superior constituted insubordination, and also that she was under the impression that Draper had quit her job when she had left work rather than putting her cross pendant under her clothing. Draper replied that she hadn’t quit and would have to be fired. The superintendent fired Draper, and she filed a lawsuit. The court ruled that the library’s dress code policy was


unconstitutional, so Draper won.

But the court’s decision on the constitutionality of the library’s policy doesn’t answer the question of whether or not the library’s prohibiting Draper from wearing her cross was a case of Christian persecution as Barton claims it was.

There were some facts in this case that did not concern the court because they didn’t make a difference in deciding whether or not the library’s policy was constitutional. These additional facts do, however, make it pretty clear that Draper’s supervisors did not ask her to remove her cross because they were anti-Christian.

The most telling of these facts is that Draper said she had seen librarians wearing crosses during the time she was a volunteer at the library.\(^{25}\)

Now, stop and think about that for a minute. Other employees at the library had been wearing crosses and they had not been told to remove them. If the library’s supervisor and assistant supervisor really were anti-Christian, why didn’t they tell these other employees not to wear their crosses at work? Why did they amend the dress code policy only after Draper started showing up at work wearing her cross? I’d venture to guess that these other cross-wearing employees actually were wearing the kind of small cross necklaces that you’d picture when reading Barton’s description of a “small cross,” and that Draper suddenly made wearing religious jewelry a problem by insisting on wearing a great big cross pendant that was so large that the library’s supervisors thought it might make library patrons uncomfortable. The fact that this library had never had a problem with employees wearing crosses prior to Draper’s insistence on making a statement by wearing such a large cross pretty much kills the argument that the library was somehow anti-Christian. The library supervisor’s explanation that, although the issue at hand was the cross, the direct cause of Draper’s firing was her belligerence and insubordination seems entirely plausible.

Barton’s version of the story:

College students serving as residential assistants in UW Claire, Wisconsin, were prohibited from holding Bible studies in their own private dorm rooms.

So, what do you think when you read Barton’s description of students not being allowed to hold Bible studies in their own “private” dorm rooms? Sounds pretty outrageous, doesn’t it? What possible reason could there be for that besides a war on religion? Well, the truth is that the dorm rooms in question were not considered to be entirely “private.”

The dorm room of a residential assistant (RA) at this public university was provided by the university for free as part of the RA’s pay, and served not only as their dorm room but also as their office. When in their residence halls, RA’s were considered to be employees of the state, and as such were expected to remain neutral regarding religion and politics when it came to organized activities in their residence halls.

RAs at the University of Wisconsin-Eu Claire (UWEC) were free to participate in religious or any other activities in the dorm rooms of other students, elsewhere in their own residence halls, or anywhere else on the campus; they just couldn’t organize or lead certain types of activities in their own residence halls. It wasn’t only religious activities that RAs couldn’t organize. They were also prohibited from organizing partisan political activities and sales party type events.

The reason for the policy, according to the university’s Office of General Counsel, was that “RAs wield significant influence within the dormitory community, and exercise authority over other residents in terms of supervision and enforcement of rules within the halls. Organizing and leading student activities from their own

rooms and residence halls could result in residents feeling undue pressure to participate." 26

In July 2005, Lance Steiger, an RA at UWEC, received a letter from Deborah Newman of the university’s Housing and Residence Life Office because his dorm room was listed on a university website as the location of a Campus Crusade for Christ Bible study, and his name was listed as the Bible study’s leader. The letter explained that as an RA he should not be leading this Bible study in his dorm room, and the reasons for the university’s policy. 27

In an email to Steiger two months later, Newman suggested that he use the Bible study as an opportunity to encourage other students to develop leadership skills by getting another student in his residence hall to lead the Bible study. 28 So, obviously, the university was not trying to stop students from holding Bible studies in their dorms.

But, rather than simply continuing his dorm’s Bible study in another student’s room as Newman had suggested, Steiger decided to sue the university.

Not wanting to get involved in a long and costly lawsuit, the university changed its policy, allowing RAs to “participate in, organize and lead any meetings or other activities within their rooms, floors or residence halls,” as long as they didn’t “influence, pressure or coerce students to attend.” 29

If Barton is going to make this out to be a case of Christian persecution, it must also be considered a grievous infringement on the God-given right to sell Tupperware, since the university’s policy also prohibited RAs from holding sales parties in their dorm rooms.

Barton’s version of the story:

A third grader in Orono, Maine, who wore a T-shirt containing the words “Jesus Christ” was required to turn the shirt inside out so the words could not be seen.

So, what do you assume when you read Barton’s version of this story? That the reason this third grader was told to turn her shirt inside out had something to do with its sporting a religious message? Well, religion had nothing to do with it. The reason the student was asked to turn her shirt inside out was because there was a kid in her class named Jesus!

The little girl’s wearing a sweatshirt that said “Jesus” in a class with a boy named Jesus in it was causing a commotion because of teasing by the other students about the girl’s being little third grade Jesus’s girlfriend. The attention brought to the shirt because of the teasing about the girl’s being Jesus’s girlfriend then led to further teasing when a couple of the third graders, who had apparently been told by their parents that saying “Jesus” as an exclamation was swearing, started telling the girl that her shirt had a swear word on it.

It was the disruption of the class by all this teasing, and not some attempt to suppress her religious freedom, that caused the teacher to ask the girl to turn her shirt inside out. You’d think that would be the end of the story, right? Wrong.

When the Thomas More Law Center got wind of the story of this little girl having to turn her Jesus shirt inside out, they swooped in and turned it into a case of Christian persecution, defending the “clearly established constitutional right of this young student to wear a shirt expressing her religious faith.” And they proudly won their battle against this imagined persecution, allowing the little girl to wear her Jesus shirt to school and continue to be teased by her classmates to her heart’s content.30

Barton’s version of the story:

A school official in St. Louis, Missouri, caught an elementary student praying over his lunch; he lifted the student from his seat, reprimanded him in front of the other students, and took him to the principal, who ordered him to stop praying.

So, what do you picture when you read Barton’s account of what happened to this student? Do you picture some crazed teacher physically assaulting a terrified little kid for simply praying over their lunch? Well, it didn’t happen.

This is the now infamous story of a fourth grade student in St. Louis named Raymond Raines, which gained national attention way back in 1994 when Newt Gingrich told it on NBC’s Meet the Press. The story was debunked soon after Gingrich told it, but that, of course, doesn’t stop Barton from continuing to use it nearly twenty years later. When Barton appeared on The Daily Show in May 2012, he made the story sound even more shocking, telling Jon Stewart that the child was a five-year-old rather than a fourth grader.

Raymond Raines was not disciplined for praying. According to school officials, who investigated the claim by talking to teachers, administrators, and other students, what Raines was disciplined for was fighting in the cafeteria. He was not disciplined for “whispering” a prayer as his mother claimed. Even the Rev. Earl E. Nance Jr., a Baptist minister who was also a member of the St. Louis school board at the time, said he didn’t believe the story, calling the lawsuit filed by The Rutherford Institute “frivolous.”

As you can see, in every one of these eight examples described by Barton on his nine-item list, there was clearly more to the story than his descriptions would indicate.

Now we come to the ninth item, which as I already said leads

to one of his page-long endnotes. Here is how Barton describes the fifteen Christian persecution cases listed in this endnote:

In cities in Texas, Indiana, Ohio, Georgia, Kansas, Michigan, Pennsylvania, California, Nebraska, and elsewhere citizens were not permitted to hand out religious literature on public sidewalks or preach in public areas and were actually arrested or threatened with arrest for doing so.

Barton is claiming that in all of these cases, Christians were either arrested or threatened with arrest for simply handing out religious literature or preaching on public property. But if you look up these cases you find that in many of them there was no arrest or threat of arrest, and in some the incident did not take place on public, but on private, property. And, as in the other eight cases in his list, Barton seems to have a bit of a problem with telling the whole story.

So, let’s go through some of these cases in his page-long endnote and see what these people were actually doing that got them in trouble with the law.

Two of the cases had to do with people trying to distribute religious literature to students outside their public schools. In one of these cases, the person distributing the literature was not asked to leave, but only asked to move because she was standing in a busy school bus lane, and in the other the school was acting on complaints from numerous parents.

The first of these cases occurred in 2005 in Crowley, Texas, where a woman named Janice Colston was attempting to distribute Christian literature to students as they were leaving their public high school.

Colston was not asked to leave. She was merely asked by the school’s assistant principal to move to a different area. The reason she was asked to move was that she was causing a safety hazard by standing in a school bus lane where four hundred students needed to board the fourteen buses that were waiting on a busy street.

The high school in this case actually did allow non-school
related literature, including religious literature, to be distributed on all sidewalks, with the only exception being the bus lane area at the times when the buses were being loaded and unloaded. There was also a designated area inside the school for the distribution of non-school related literature. But these other options weren’t good enough for Colston, who clearly wanted the captive audience that she could only get by standing right in the middle of the crowd of four hundred students trying to get on their buses.32

The case was eventually settled by the school district’s marking off a designated area outside of the school where non-school related literature could safely be distributed.33

Janice Colston was never arrested or threatened with arrest, contrary to Barton’s claims that the persecuted Christians in all fifteen of the cases listed in his endnote were. She wasn’t even told that she couldn’t distribute her literature. She was just asked not to do it in a manner that might cause some unfortunate student to meet Jesus sooner rather than later.

Barton’s other case of someone being stopped from distributing religious literature outside a public school occurred in 2007 in Key Largo, Florida. This one was at an elementary school, where members of Gideons International were attempting to distribute Bibles to the school’s students. Two of the Gideons, Anthony Mirto and Ernest Simpson, did end up getting themselves arrested.

After receiving complaints from numerous parents who, for some unfathomable reason did not want their young children being approached by strange adults, the school, acting in accordance with Florida’s “School Safety Zone” law, called the police.

According to the police report, the school’s principal asked the Gideons to stay off the school’s grounds, instructing them to stay on or to the west of the bike path that runs past the school. If you look at the school grounds on a map, you can easily see what the principal meant by this. The sidewalk that runs along one side of the school’s parking lot is also part of a system of connected trails.

and paved bike lanes that make up a public bike path that runs through the Florida Keys.

The principal had told the Gideons to come no closer to the school than this public bike path, but after observing that some of the Gideons were going to the east of the bike path and onto the school’s grounds, she called the police.

When the police arrived and asked the Gideons to move, two of the Gideons got into their truck, which was parked in a no parking zone in front of the school. The police waited five minutes for the two men to pull away, but they didn’t leave. They sat in their truck in the no parking zone talking on their cell phones. This is when they were arrested.

So, contrary to Barton’s claim that this was a case in which people “were not permitted to hand out religious literature on public sidewalks,” this was a case in which the people handing out the Bibles were told by a public school principal that they could hand out the Bibles on a public sidewalk. The problem was that they wouldn’t stay on the public sidewalk.

After being arrested, Mirto and Simpson contacted a legal defense organization, but this organization wouldn’t represent them. An attorney at this organization said that Mirto and Simpson should have obeyed the police, and supported the actions of the school, saying:

Put yourself in the shoes of the school official, or this principal. She’s sitting here hearing from the people that have the God-given authority over these young children, not teenagers who would be able to deal with people on the street. We are dealing with elementary age, which is very trusting; they are going to believe people.34

So, what kind of legal defense organization did the Gideons contact that would side with the police and public school officials

and not with these God-fearing Christians whose constitutional rights had just been trampled all over? Was it the ACLU or some other bunch of evil, anti-Christian secularists? Well, no. It was the Christian Law Association, based in Seminole, Florida.

David Gibbs III, the Christian Law Association attorney quoted above, further explained his reasons for declining to represent the Gideons, saying:

If we expand free speech and eliminate what has always been that reasonable time, place and manner outside an elementary school, could child molesters fresh out of prison hand out literature saying to them child molestation isn’t a problem? Could homosexuals be standing out there encouraging elementary-age children to experiment with their lifestyle? Could Muslims be handing out literature on how to build bombs and blow yourself up as a terrorist?35

Yes, even this clearly homophobic and Islamophobic Christian lawyer thought these Gideons were wrong!

As in most cases like this one, the criminal charges against Anthony Mirto and Ernest Simpson were dropped, but the story doesn’t end there. Thomas Gray, another Gideon who was present at the elementary school when Mirto and Simpson were arrested, but was not arrested himself, decided to challenge Florida’s “School Safety Zone” law.36

Gray was represented by the Alliance Defense Fund. Unlike the Christian Law Association, which considered the safety of children to take precedence over the First Amendment rights of adults, the Alliance Defense Fund apparently didn’t care what the effect getting this “School Safety Zone” law ruled unconstitutional might have on the safety of Florida’s children. Scoring a victory for the First Amendment right of adult strangers to approach children with Bibles – in spite of the wishes of these children’s parents – was more important.

The Alliance Defense Fund won this case, and here’s how they did it. The state’s “School Safety Zone” law prohibited anyone not having legitimate business at a school from loitering within five hundred feet of any elementary, middle, or high school during school hours and the hour before and after school hours. But this law could not be enforced to the letter in Key Largo because of the geography of this particular town.

The Alliance Defense Fund argued that there were businesses, residences, and a church within five hundred feet of the school, that the town’s only main road ran within five hundred feet of the school, and that the bike path, also within five hundred feet of the school, was used by all sorts of people during school hours. There were always adults within five hundred feet of this school for any number of reasons. The law did allow for people with “legitimate business” to be within five hundred feet of a school, but who was to say what “legitimate business” meant? The language of the law was too vague, and a law that is too vague violates the “Due Process” clause of the Fourteenth Amendment!

Arguing that a law is “unconstitutionally vague” is a tactic that, as we’ll see as we go through the rest of Barton’s list of cases, has been used successfully in a number of lawsuits brought by Christians who have claimed that their rights were violated. In other words, it doesn’t matter how inappropriate whatever they were doing was; it doesn’t matter if law enforcement personnel were acting according to the law – all they have to do is get the court to rule that whatever state or local law prohibited what they did is too vague and they win, as the Alliance Defense Fund did in this case.

Interestingly, in January 2007, just three months before the Alliance Defense Fund scored its win, Florida’s Third District Court of Appeal had ruled that the “School Safety Zone” law was not unconstitutional, even though it was challenged on exactly the same grounds of being “unconstitutionally vague.”37 In that case, however, the plaintiff was a juvenile delinquent who was arrested

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for hanging around a school that he had no “legitimate business” being at, and not a God-fearing Christian giving out Bibles.

Another school-related case in Barton’s list of cases in which he claims that Christians “were actually arrested or threatened with arrest” is a case involving two high school students who were neither arrested nor threatened with arrest. They were just told to stop distributing Campus Crusade for Christ “Survival Kits” at school.

In 2001, Daniel Duefrene and Valerie Snyder, students at Houghton High School in Michigan, filed a lawsuit challenging a school policy that prohibited the distribution of religious materials on school grounds.38

The school changed its policy to allow religious materials to be distributed during non-class time, and the case was settled. That was it. There were no arrests or threats of arrest.

Now let’s look at a few of the incidents in which the Christians were in fact arrested, but were on private, not public, property.

The first of these incidents occurred in a privately owned mall in California, where, in 2006, a youth minister named Matthew Snatchko was arrested by mall security and turned over to the local police.

Articles from sources that supported this youth pastor, such as FOX News,39 described the people he was talking to at the time of his arrest as “shoppers” and “women,” giving the impression that this was a conversation in which all parties adults, but it wasn’t. The three “women” the twenty-seven year old Snatchko was talking to were actually teenage girls.

A mall employee, thinking the teenage girls that this grown man was talking to looked nervous, called mall security. Snatchko was told by a security guard to stop talking to the girls or leave the mall. When he refused to do either, the security guard called a

more senior security guard, who also asked Snatchko to leave. When Snatchko continued to refuse, he was handcuffed and taken to the mall security office and then turned over to the local police. He was booked and released, and the charges against him were subsequently dismissed.

But Snatchko wasn’t done. He decided to challenge the mall’s policy, which prohibited people from engaging strangers in conversations about subjects not related to shopping or mall-sponsored events. The mall’s policy, put in place to prevent congestion in mall’s common areas, did not specifically target religious speech, but applied to any speech that wasn’t shopping-related. Mall patrons who knew each other could, of course, talk about anything they wanted to; the policy just prohibited people from approaching strangers to talk to them about non-shopping related subjects.

Snatchko failed in his first attempt to challenge the policy, with the trial court finding that the mall’s rules were “reasonable time, place, and manner restrictions that were content neutral.”

But Snatchko still wasn’t done. He proceeded to appeal the trial court’s ruling, and this time he won. The California Court of Appeals overturned the trial court’s ruling, finding that the mall’s restrictions on speech were not “content neutral,” not because they targeted religious speech, but because they distinguished between mall-related and non-mall related speech! The Court of Appeals ruled that the mall’s policy was unconstitutional under California’s state constitution, which defines free speech more broadly than the U.S. Constitution.\(^40\)

Westfield, LLC, the company that owns the mall, tried to appeal this ruling to the Supreme Court of California, but their appeal was rejected. There was speculation at the time that the reason Westfield’s appeal was rejected was that the same Court of Appeals judge who had just ruled against them had also just been nominated to be the new chief justice of the California Supreme Court.

So, youth minister Matthew Snatchko can pat himself on the back for forcing this mall, and other California malls owned by

Westfield, LLC, to get rid of a policy that, in addition to its intended purpose of preventing congestion in the malls, allowed mall employees and security guards to intervene if they observed adult men who appeared to be making teenage girls nervous. Any creep can now freely wander these malls approaching teenage girls, and the mall’s security guards can’t stop them because they have a constitutional right to do it!

Barton’s example from Kansas is another one in which the Christian who was arrested was not on public property. He was arrested because he refused to move to a public sidewalk, and then taunted police by marching in place when they told him to move.41

In August 2010, Mark Holick, the pastor of Spirit One Christian Ministry, was arrested outside of the Islamic Society of Wichita. Holick and fourteen of his followers were trying to distribute packets containing Christian literature and a DVD of testimonies of former Muslims who converted to Christianity to members of the Islamic Society as they were trying to observe the Muslim holy month of Ramadan.

None of the fourteen others who were with Holick were arrested. It was only Holick who refused to obey the police order to move out of the Islamic Society’s driveway and stay on a public sidewalk, resulting in his arrest on charges of loitering and failure to disperse.

Holick was convicted in the Wichita Municipal Court, and then appealed his case to Kansas’s Sedgwick County District Court, asking for a jury trial. The District Court jury also found Holick guilty, and he was sentenced to a year’s probation, fined $300, and was ordered to stay at least 1,000 feet away from the Islamic Society.

Holick, who chose to represent himself, was also charged with contempt of court at his trial, during which he questioned the police officer who had arrested him for an hour, repeatedly asking questions that were objected to. Then, upon being convicted, he delivered a fifteen-minute speech in which he quoted the Bible and chastised the police, the judge, the prosecutor, the city attorney,

and the jurors. Why? Because nearly everyone involved in his trial said they were Christians, and yet he was still found guilty. Apparently, Holick had a problem with a Christian cop, a Christian judge, and Christian jurors not allowing him to break the law in the name of Christ, saying:

How sad, how incredibly sad. The arresting officer said he is Christian. The court/judge says it/he is Christian. The prosecutor says he is Christian. The city attorney says he is Christian. Four of the six jurors say they are Christian. And I have been convicted for handing out free Bibles. Judgment must and will begin in the house of the Lord.  

The other cases listed by Barton in this endnote similarly do not fit his description in one way or another. What Barton describes as Christians merely handing out religious literature or preaching is not what most people would picture from that description. These people weren’t merely passing out literature to passersby or preaching in a way that a reasonable person would see as an acceptable expression of their First Amendment rights. They were doing these things in a way that was bound to cause trouble or a public safety issue, and in some cases were clearly trying to get arrested to make a statement.

The minister who was arrested in Barton’s example from North Carolina, for example, was setting up scaffolding and a sound system to harass women entering and exiting a reproductive health clinic. The minister, described by the right-wing and Christian websites as a disabled veteran to make the police sound like a bunch of unpatriotic bullies, wasn’t so disabled that he couldn’t climb from a ladder into a tree and remain in the tree for eleven hours to evade the police.

In Nebraska, a minister preaching outside a private college against Catholicism, Islam, and homosexuality was causing such a scene

that some of the male students responded by dressing up in women’s clothes and pretending to preach. After thirteen warnings, this minister was arrested for disturbing the peace.

In Indiana, a minister who was distributing religious literature in a public park claimed that he and his church members were only talking to “receptive” people and weren’t bothering other park-goers. This claim was proven to be untrue when the minister happened to approach and start bothering a person who was not receptive, and who also happened to be the park director.

In Ohio, the minister in Barton’s example refused to get the permit required for any kind of public speaking or demonstrations outside a courthouse, claiming that getting a permit went against his religious beliefs. The lack of having a permit was also the issue in Barton’s example from Georgia, where a minister was distributing literature at the entrance to a city fairground. In that case, the right-wing and Christian websites reported that a sixty-seven year old preacher was held in jail for two days and not permitted to call a lawyer or post bail, allegations which the police flatly denied. This minister did not have to sit in jail for two days; he chose to make a statement and to make the news.

In one of Barton’s examples from California, a minister was not told that he couldn’t preach outside of a county courthouse, but only that he had to move to a different area because the courthouse regulations prohibited all speech activities within 100 feet of any of the courthouse’s doors. The minister sued on the grounds that the door he was within 100 feet of was a fire exit so it wasn’t a regularly used entrance or exit.

In Barton’s other example from California, a minister was arrested because he wouldn’t stop preaching at people waiting in line for a motor vehicles office to open, admitting that he chose the motor vehicles office because the people there were a captive audience who couldn’t leave because they were obviously there to do something that they had to do.

Barton’s cases from New York and Pennsylvania, and a second case from Michigan, were all cases of groups of Christians crashing either gay or Muslim events with the obvious intent of disrupting
those events.

Ironically, the source cited by Barton for his example of the alleged Christian persecution at the gay festival in Pennsylvania is an urban legends website. Seriously, you can’t make this stuff up!

One thing that comes through loud and clear in these cases of alleged Christian persecution cited by Barton in his endnote is that the Christians involved might do well to read one of those Bibles that they’re so hell bent on passing out and preaching at everybody else from. A good place to start might be Matthew 10:14, which says:

If anyone will not welcome you or listen to your words, shake the dust off your feet when you leave that house or town.

... and not:

If anyone will not welcome you or listen to your words, shake things up by suing somebody so you can go back and preach at people who do not welcome you or listen to your words.
In his book *The Jefferson Lies*, Christian nationalist pseudo-historian David Barton professes to correct what he claims are seven lies about Thomas Jefferson.

Lie #1: Thomas Jefferson Fathered Sally Hemings’ Children
Lie #2: Thomas Jefferson Founded a Secular University
Lie #3: Thomas Jefferson Wrote His Own Bible and Edited Out the Things He Didn’t Agree With
Lie #4: Thomas Jefferson Was a Racist Who Opposed Equality for Black Americans
Lie #5: Thomas Jefferson Advocated a Secular Public Square through the Separation of Church and State
Lie #6: Thomas Jefferson Detested the Clergy
Lie #7: Thomas Jefferson Was an Atheist and Not a Christian

It is David Barton, however, who is doing the lying, and not those whom *he* accuses of being the revisionists. Through a series of seven short books, one devoted to each of Barton’s seven Jefferson lies, the real liar will be revealed, and the real Thomas Jefferson will be preserved.

“History, by apprizing them of the past, will enable them to judge of the future; it will avail them of the experience of other times and other nations; it will qualify them as judges of the actions and designs of men; it will enable them to know ambition under every disguise it may assume; and knowing it, to defeat its views.”

— Thomas Jefferson