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# PIERRE BAYLE AND HUMAN RIGHTS: LA LIBERTÉ DE LA CONSCIENCE THE GENESIS OF RELIGIOUS FREEDOM IN WESTERN DEMOCRACY

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It is a monster who during peace  
makes the evils of war,  
and whose pride knows no laws.<sup>1</sup>

In 1685, Louis XIV sent shock waves throughout Europe by revoking the longstanding Edict of Nantes, thereby signaling that he was ready to re-embrace Catholicism as the official religion of the kingdom. In doing so he created one of the largest diasporas of early modern times.<sup>2</sup> More than 200,000 of the approximately one million Protestants fled France, using any means available, and some of the Huguenot émigrés formed a small but vocal group of exiles. Pierre Bayle (1647-1706) and Pierre Jurieu (1637-1713) were two Huguenots refugees who left France for the Netherlands even before the Revocation. However, the two of them could not have been more distinct in terms of their political beliefs. While both Bayle and Jurieu defended against ideological assaults by French Catholic intellectuals, Jurieu was just as vehement in his theoretical disputes with fellow Protestants. Bayle, despite his broader (and Enlightenment) reputation as a skeptic, was meanwhile advocating tolerance with respect to all religious beliefs. Indeed, he was one of the first theorists to elaborate a theory of *la liberté de la conscience*,

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<sup>1</sup> Pierre Bayle, *Ce que c'est que la France toute catholique sous le règne de Louis-le-Grand*, in *Œuvres diverses*, Reprint edition (G. Olms, 1964), tome II, 347. «C'est un Monstre qui dans la paix / Fait les maux de la guerre, / Et dont l'orgueil ne connoît point de loix . » All translations are this author's except where noted.

<sup>2</sup> The Edict of Nantes had been issued in 1598 by Louis XIV's grandfather, Henri IV, to create a religious 'status quo' between warring Catholics and French Calvinists (Huguenots), until such time as the divisions could be healed. This Edict had brought a *de facto* end to the French Wars of Religion. The Edict of Fontainebleau revoked the Edict of Nantes because Louis XIV believed that the time had come to re-unify the faith in his realm.

“liberty” or “freedom of conscience,” whereby he was “able to reject all compromise, all limitation capable of restricting toleration”<sup>3</sup> in what amounts to a significant advocacy of rights.

Bayle’s conceptions would scarcely meet any definition of ‘human rights’ as envisioned by either Stephan Ludwig-Hoffman or Samuel Moyn, despite the fact that his ideas contributed to later Enlightenment notions of equality. However, if human rights as they apply to the modern world are a distinctly western creation, then the antecedents of those rights matter. It is in the language and conceptualization of specific rights that historians therefore need to seek understanding and explanation of origins. Even if absent from broader discussions of tolerance, rights ‘talk’ is nevertheless evident in early modern theory and philosophy and the ideas expressed created specific notions of the meaning of those rights. Adopting this view, John Witte contends that “the first and most essential rights for early modern Calvinists were...the rights of the individual believer to enjoy liberty of conscience and free exercise of religion.”<sup>4</sup> This an important issue that needs further study. While Witte does not directly acknowledge Bayle’s contributions to these conceptions, Bayle was a prominent and vocal spokesperson within Calvinist circles. What the present analysis asks is two-fold: first, is Bayle’s conception of the ‘liberty of conscience’ evidence of a new conceptualization of ‘human rights’ with respect to religious equality? If so, then should we include Bayle’s conceptions within the genealogy of rights? If Witte is correct in stating that early modern Calvinism was “one of the driving engines of Western constitutional laws of rights and liberties,”<sup>5</sup> an analysis of Bayle’s writings will shed further light on the primacy of religion in initiating ‘rights talk’ in the seventeenth century, leading to deeper antecedents with respect to tolerance and human rights.

The first difficulty one faces in evaluating Bayle is his prolific nature. Bayle’s literature alone is immense and it would be easy to become sidetracked into theories and concepts that have only marginal relevance for understanding the genealogy of religious rights. However, Bayle tended to be thematic in his writings and the concept of ‘liberty of conscience’ is his theme within a work entitled *Commentaire philosophique sur ces paroles de Jesus-Christ:*

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<sup>3</sup> Gianluca Mori, “Pierre Bayle, The Rights of the Conscience, the ‘Remedy’ of Toleration,” *Ratio Juris* 10, No. 1 (March 1997): 50.

<sup>4</sup> John Witte, Jr., *The Reformation of Rights: Law, Religion and Human Rights in Early Modern Calvinism* (Cambridge: Cambridge University Press, 2007), 2.

<sup>5</sup> Ibid, “Rights and Liberties in Early Modern Protestantism: the Example of Calvinism,” in *Christianity and Human Rights: An Introduction*. Alexander and Witte, eds. (Cambridge University Press, 2011), 135.

*‘Contrains les d’entrer’*<sup>6</sup> (“Philosophical Commentary on the Words of Jesus Christ, ‘Compel them to enter’,” 1686-7). This document will form the central focus of the analysis. Finally, not only did individual authors produce volumes of work, a large number of theorists entered these philosophical debates, including the English theorist John Locke and the Lutheran professor of natural law, Samuel Pufendorf. It was, however, Bayle who seems to have shifted the core issue of rights to a larger ‘human’ umbrella in advocating freedom of conscience even for atheists. Evaluating Bayle’s ideas in the context of other early enlightenment thoughts will serve to provide contrasts and comparisons with wider political and intellectual developments.

However, a second major challenge in a close analysis of the writings of any individual, not just for Bayle, is to discern the specific meanings of the words which the author employs to get a message across to specific audiences. The intent of specific words, that is, illumination of the author’s meaning, is ‘knowable’ only within the context of the document. In Bayle’s case, his writing styles varied widely in an attempt to address specific audiences. At different times he employed detached argument, sarcasm, invective, vitriol, debate, and ridicule. As a consequence, Bayle is in many ways difficult to understand, a fact that has led many historians to misinterpret him or to minimize his relevance in specific debates.<sup>7</sup> Indeed, Pierre Bayle’s writings have been extensively analyzed and explicated, yet there appears to have been little historiographic analysis with respect to ‘liberty of conscience’ as a pre-cursor to broader notions of religious rights and freedoms. As noted, John Witte’s systematic evaluation of Calvinist theory of rights does not even address any of Bayle’s theories or conceptualizations. Thus, this avenue of research is potentially a fruitful one that is approaching a well-studied topic from a new direction of analysis.

Human rights have never been a historically static concept, nor were conceptions of tolerance, equality, and rights the new and ‘parentless’ idea of the Enlightenment that authors such as Stefan-Ludwig Hoffmann envision. Yet historians run the risk, in all that we do, of

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<sup>6</sup> This work is included in Pierre Bayle, *Œuvres diverses*, 4 vols, Reprint edition (G. Olms, 1964), tome II: 355-560.

<sup>7</sup> In evaluating the state of scholarly research with respect to Bayle, Lennon notes that “to take just the twentieth-century literature, the suggestions are that Bayle was fundamentally a positivist, an atheist, a deist, a sceptic, a fideist, a Socinian, a liberal Calvinist, a conservative Calvinist, a libertine, a Judaizing Christian...or even a secret Jew...to the point that it is tempting to conclude that these commentators cannot have been talking about the same author, or at least they have not used the same texts.” See Thomas M. Lennon, *Reading Bayle* (Toronto: University of Toronto Press, 1999), 15.

reading too much of the future into our analyses. While the ideas of philosophers of a particular era did not reflect conceptions of future developments, they nevertheless contributed to the generation of future ideas. Douglas Oswald believes “the Protestant Reformation introduced a concern for another liberty—liberty of conscience, the freedom to worship as one chose; [in so doing] economic liberty, religious freedom, and representative government became intertwined issues.”<sup>8</sup> Seeking the precursors to our current conceptions of ‘human rights’ provides a richer understanding of the origins and evolutions of meanings, including the evolution of personal beliefs by philosophers such as Bayle.

### **The Intersection of Enlightenment and Religious Tolerance**

The substantial amount of intellectual and philosophical writings left behind by Pierre Bayle represents perhaps one of the most analyzed yet least understood, or even appreciated, set of political and moral statements in history. Jonathan Israel states that while his importance had gone into decline by the late eighteenth century, “he nevertheless continued to exert a vast and pervasive influence over the Enlightenment” during that century.”<sup>9</sup> A superior historical understanding of subsequent Enlightenment philosophy consequently must take into account the critical importance of the quality of his writings. Certainly as noted his character is difficult to comprehend,<sup>10</sup> however he was in any case a product of the political changes associated with the Revocation. In addition, Bayle was prolific and enigmatic at the same time, employing satire, irony, humor, invective, inductive reasoning, and Cartesian philosophy in his many works, the subjects of which were as varied as the modes of the works themselves. Appreciating who he was, as well as what he wrote is therefore valuable for understanding his legacy with respect to human rights.

Bayle’s conceptions of freedom of conscience were enclosed solidly within a religious framework but with an eye towards the relationships of state and religious power. However,

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<sup>8</sup> Douglas C. Oswald, “The Paradox of the West,” *The Origins of Modern Freedom in the West. The Making of Modern Freedom*. Richard W. Davis, ed. (Stanford University Press, 1995), 27.

<sup>9</sup> Jonathan Israel, “Bayle’s Double Image during the Enlightenment,” *Pierre Bayle (1647-1706), le philosophe de Rotterdam: Philosophy, Religion and Reception*, Bunge and Bots, eds., Brill’s Studies in Intellectual History 167 (Leiden: Brill, 2008), 135.

<sup>10</sup> See Lennon, “The Bayle Enigma,” *Reading Bayle*, 14-20. See also Hubert Bost, “Pierre Bayle, Un « Protestant Compliqué », in *Pierre Bayle (1647-1706), le philosophe de Rotterdam: Philosophy, Religion and Reception*, 83.

Bayle neither ‘created’ the concept of liberty of conscience, nor was he the only figure of the early Enlightenment to posit theories concerning religious tolerance. He was part of a long historical chain of the development of ideas that later theorists continued to refine.<sup>11</sup> Elizabeth Labrousse, considered to be one of Bayle’s most knowledgeable biographers, writes that “the ‘history of ideas shows that, once removed from its original socio-historical context, and read as the vehicle of a universal message, a work exerts its greatest influence not through the mechanical repetition of the exact reflection of its ideas, but through the ambiguities, misconceptions and anachronisms which find their way into its interpretation. The posthumous influence of Bayle’s ideas provides a particularly striking example of the workings of this law.”<sup>12</sup> Evaluating Bayle’s contribution and relative position to the discourse of freedom of religion therefore requires both latitudinal and longitudinal evaluation. His theory certainly resonated with both his contemporaries as well as his inheritors in terms of an adopted philosophical framework within their own conceptions of religious freedom as an “inalienable rights to a free conscience”<sup>13</sup> to use Barbara Sher Tinsley’s phrase.

Further, the development of Enlightenment thought is crucial to understanding fundamental republican and democratic ‘rights’ as they evolved in revolutionary discourse. Bayle’s contribution to that ongoing discussion was manifested within two separate and distinct principles related to conscience and truth. First, he argued that people should be free to follow their conscience and that governmental authorities had no right to coerce or otherwise influence personal beliefs. Forced conversions carried great dangers, as “once we allow coercion of any kind, there is no fixed point at which to stop.”<sup>14</sup> Secondly, Bayle’s writings displayed a profound distrust of the efficacy of rational thinking in matters of faith, theoretically or practically. According to Tinsley, “he exercised a skeptical attitude toward all matters of fact

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<sup>11</sup> In fact, Sebastian Franck (1499-1542), an early Reformation pantheist, advocated universal religious toleration but Bayle ignored this aspect of his writings in Bayle’s Dictionnaire entry for Franck because he dismissed him as a pantheistic zealot.” See the discussion in Barbara Sher Tinsley, *Pierre Bayle's Reformation: Conscience and Criticism on the Eve of the Enlightenment* (Selinsgrove: Susquehanna University Press, 2001), 17.

<sup>12</sup> Elisabeth Labrousse, *Bayle, Past Masters* (Oxford: Oxford University Press, 1983), 90.

<sup>13</sup> Barbara Sher Tinsley, *Pierre Bayle's Reformation: Conscience and Criticism on the Eve of the Enlightenment* (Selinsgrove: Susquehanna University Press, 2001), 323.

<sup>14</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II: 383. « dès qu’ on autorise la contrainte, quelle qu’ elle soit, il n’ y a pas de point fixe pour s’ arrêter. » See p.30 of this research for further explication.

and theory, including not only religion, but all kinds of nonspiritual learning and behavior, religious, political, and intellectual. Without religious freedom there could be no democratic liberalism, and without scepticism there could be no scientific method. These two legacies are essential for modern [Western] culture.”<sup>15</sup> Bayle’s ideas were formed in the crucible of French and Dutch Calvinism tempered by religious intolerance and persecution in the France of Louis XIV. In addressing the evils of religious persecution, he states that “I believe as well that despite the objections of his avarice, a man who has no religion is able to return a deposit, which we would not be able to convince him to withhold it unjustly, when he sees that it is his good faith that attracts praise from an entire City.”<sup>16</sup> His distaste for religious strife even allowed him to shake conventional wisdom to its core by conceiving of a virtuous society of atheists.

This example illustrates that Bayle’s philosophy of individual rights of conscience requires the historian to understand his circumstances. The notion of religious tolerance represented a significant development in the moral and theoretical contours of early modern philosophic thought.<sup>17</sup> Nicholas Miller states that a study of notions of tolerance “reveals the variety of arguments already developed in the late seventeenth century...[representing] in early form, different approaches to church-state relations.”<sup>18</sup> However, conceptions of tolerance were driven by both theory and the lived perceptions of the theorists; what began as an abstraction of moral theory could easily become a real-life application. This type of experience was common with respect to the expulsion of religious groups throughout Europe, from the medieval period up through the Enlightenment. In addition, these expulsions were as much political as they were religious in nature and began to be seen as indications of tyrannical rule. The Huguenot were not the first group to face expulsion but the act, coming as it did in the wake of the Thirty Years War

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<sup>15</sup> Tinsley, *Pierre Bayle's Reformation*, 13.

<sup>16</sup> Bayle, *Pensées Diverses Ecrites à un Docteur de Sorbonne, A l'occasion de la Comete Qui parut au mois de Décembre M. DC. LXXX*, in *Œuvres diverses*, tome III: 115. « Je croi de même que, malgré les oppositions de son avarice, un home qui n'a point de Religion est capable de restituer un dépôt, qu'on ne pouroit le convaincre de retenir injustement, lors qu'il voit que sa bonne foi lui attirera les éloges de toute une Ville. »

<sup>17</sup> For an excellent history of the twin concepts of tolerance and intolerance, at least as they were envisioned during the later Reformation, see Heiko Oberman, “The Travail of Tolerance: Containing Chaos in Early Modern Europe,” in *Tolerance and Intolerance in the European Reformation*, Ole Peter Grell and Bob Scribner, eds. (Cambridge: Cambridge University Press, 1996), 13-31.

<sup>18</sup> Nicholas P. Miler, “The Dawn of the Age of Toleration: Samuel Pufendorf and the Road not Taken,” *Journal of Church and State* 50, No. 2 (Spring 2008): 257.

and the English Civil War, gave rise to opposition as never before. Most Protestants in France had no ability to leave the country and thus only about twenty percent of French Huguenots actually became expatriates; yet, a minority of those who emigrated had rapidly established themselves as an international merchant and intellectual diaspora. As such they were instrumental in helping to isolate Louis XIV internationally by characterizing him not as the ‘Sun King’ but as an intolerant tyrant.

Older historiographies have portrayed the French state and the Catholic Church as the organizers of Huguenot repression; more recent studies indicate that confessional relations were more complex, being defined at both a local and national level. Through the early to mid-seventeenth century, the royal government sent agents into the provinces to arbitrate resulting local confessional disputes and the king himself then intervened to ensure civil order.<sup>19</sup> Keith Luria notes that after 1660 this dynamic was transformed with the state as an active promoter of a third form of boundary: “religious and other ideological convictions coexist in mutual toleration when a truly neutral overarching power comes into play,” but in the case of France, the state was not neutral.<sup>20</sup> In fact, the seeds of Huguenot persecution were planted in 1598, as “the Edict [of Nantes] was already vitiated to the core, since it brought about not the toleration of an unvanquished force, but rather the imposition of the law of the higher power of the king. The absolutist state [of Louis XIV] took over from an absolutist religion.”<sup>21</sup> Intolerance in France took on a widespread, state-sponsored, form.

The implications meant that Huguenot intellectual concepts were shaped by the status of a minority faith within an increasingly intolerant France and by their subsequent expulsion in the 1680s. Forced conversions, dissimulation, and precarious co-existence had been a well-defined part of their worldview. As early as the St. Bartholomew’s Day Massacre, Calvinist principles of toleration had been advanced by apologists and sympathizers who addressed liberty of conscience in specific ways. John Witte states that “the massacre demanded a fundamental rethinking of Calvinist theories of law, religion, and politics” because church and state were in

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<sup>19</sup> Keith P. Luria, *Sacred Boundaries: Religious Coexistence and Conflict in Early Modern France* (Washington: The Catholic University of America Press, 2005), xix-xxii.

<sup>20</sup> Luria, *Sacred Boundaries*, 15, 313-314.

<sup>21</sup> Alain Blancy, “Conviction and Toleration: a Theological and Ethical Appraisal”, in *Toleration and Religious Identity: the Edict of Nantes and its Implications in France, Britain and Ireland*, Baxter and Whelan, eds. (Dublin: Four Courts Press, 2003), 235-236.

collision, not in harmony.<sup>22</sup> More than one hundred years of philosophy and religious theory shaped Bayle as he reacted and responded to the immediate circumstances of Huguenot expulsion. According to Labrousse, “many of the idiosyncrasies of the Huguenots can be explained by their status as a barely tolerated minority, which put them in a very different situation from their Calvinist co-religionists” elsewhere.<sup>23</sup> Bayle’s ideas were a product of the interplay of theories and practices of tolerance and intolerance.

A substantial amount of historiography exists with respect to tolerance and intolerance in early modern Europe. Yet traditionally much of this evaluation has been framed within purely confessional terms and assumes a more and more ‘progressive’ view of the acceptance of competing faiths. Gregory Hanlon states that this type of examination has been applied generally to European Protestant communities with little attempt to construct meaningful comparisons with Catholic neighbors. The flaw in these analyses, aside from methodology, relates to definition, as “tolerance in no way implied the acceptance of a ‘right’ to be different,” but instead meant an acquiescence to the status quo, the “reciprocity of weakness.”<sup>24</sup> It is no doubt true that definitions of tolerance and intolerance are circumscribed by the cultural and social contexts in which these conceptualizations arise. However, the restrictive view posited by Hanlon appears to take a new direction in the later seventeenth century. Tolerance was a fluid intellectual concept, subject not only to social context but also to power relationships as well as prevailing ideas about particular issues and political landscapes.<sup>25</sup> In other words, Reformation conceptualizations of tolerance were not indicative of specific ‘rights’ per se, but early modern theories nonetheless expanded their mental horizons.

A wide variety of authors produced volumes of work and a number of theorists entered these philosophical debates on toleration, including John Locke, Pierre Jurieu, Spinoza, Pufendorf, and Bayle. It was Bayle, however, who seems to have shifted the core issue of rights to a larger ‘human’ umbrella in advocating for freedom of conscience for non-Christians.

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<sup>22</sup> John Witte, Jr., *The Reformation of Rights: Law, Religion and Human Rights in Early Modern Calvinism* (Cambridge: Cambridge University Press, 2007), 85.

<sup>23</sup> Labrousse, *Bayle*, 3.

<sup>24</sup> Gregory Hanlon, *Confession and Community in Seventeenth-Century France: Catholic and Protestant Coexistence in Aquitaine* (Philadelphia: University of Pennsylvania Press, 1993), 7.

<sup>25</sup> Philip Benedict, “Un roi, une loi, deux fois: Parameters for the History of Catholic-Reformed Co-existence in France, 1555-1685”, in *Tolerance and Intolerance in the European Reformation*, Ole Peter Grell and Bob Scribner, eds. (Cambridge: Cambridge University Press, 1996), 65.

Habermas argues that the “philosophical justifications for religious toleration from Spinoza and Locke to Bayle and Montesquieu point the absolutist state away from unilaterally declared toleration and toward a conception that calls for the mutual recognition of rights of religious expression by the citizens themselves... Bayle, who was in this respect the forerunner of Kant, practices mutual perspective-taking and insists that we universalize those ‘ideas’ in the light of which we judge ‘the nature of human action’.”<sup>26</sup> Certainly Habermas sees more than an indirect connection between Bayle’s conceptions and the Enlightenment ideas which became the precepts for a fundamental human right to freedom of conscience and religion practice. Surprisingly, few scholars have explored beyond the margins of this analysis and examined the specific intent of Bayle’s language and argument.

Even so it is not conjecture to state that Enlightenment theory and principle were in large part derived not through the creation of independent ideas but by building upon past conceptions and creating revised conceptualizations of older ideas. As Bayle built his ideas from Montaigne and Malebranche before him, Jenkinson states that likewise, Bayle’s ideas show up in the writings of Jefferson, Voltaire, and Hegel in the context of “plural diversity, [whereby] Bayle’s understanding of it, in contrast to Locke’s, turns upon the classical notion of ‘liberty’.” For Jenkinson, Bayle’s core principle relative to *liberté* was based on the power of government, headed by a “confessionally neutral sovereign,” to protect intellectual diversity and civil society.<sup>27</sup> She goes on to state that these concepts created an “unbroken link between Bayle’s classical ideal of equal intellectual liberty, the French Enlightenment and the democratic plural understanding of toleration as constitutionally protected freedom of thought.” Thus if one accepts Witte’s position of religious freedom as the first “human right”, then Bayle is its author.

Bayle’s writings were extremely influential with his contemporaries. Bayle’s *Dictionnaire* was a ‘smash hit’; shelf counts in eighteenth century estate inventories show that from the standpoint of dissemination it far surpassed many other authors in terms of widespread ownership, including the works of Voltaire, Locke, Newton, and Rousseau.<sup>28</sup> S.J. Barnett states

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<sup>26</sup> Jürgen Habermas, “Intolerance and Discrimination,” *International Journal of Constitutional Law* I, No. 1 (2003): 4, 5. For the source of Habermas’ conceptualizations, see Amie Godman Tannenbaum, *Pierre Bayle's Philosophical Commentary: a Modern Translation and Critical Interpretation*, Vol. 19 of American University Studies: Philosophy (P. Lang, 1987).

<sup>27</sup> Sally Jenkinson, “Two Concepts of Tolerance: Or, Why Bayle is not Locke,” *The Journal of Political Philosophy* 4, No. 4 (1996), 320.

<sup>28</sup> Lennon, *Reading Bayle*, 7.

that “by means of the philosophes and many, many others, Bayle’s *Dictionnaire* found its way into more private libraries than any other single work in the century. As Walter Rex has noted, ‘it was one of the most significant influences upon the *Encyclopédie*, although the fact could seldom be acknowledged.’”<sup>29</sup> David Hume as well labored under its influence. As Robert Bartlett notes, “by the seriousness with which they studied him, learned from him, and in some cases disagreed with him, a host of learned personages bears witness to Bayle’s importance—from Leibniz, Lessing, and Rousseau to Hume, Herder, and Melville, from Catherine the Great and Frederick the Great to Thomas Jefferson and Benjamin Franklin.”<sup>30</sup> This is a significant point that needs further support; yet while Bartlett effectively calls out Bayle’s popularity in Enlightenment circles, his supplementary arguments about Bayle’s enthusiasm for atheism amounting to a rejection of all religion are full of misinterpretation and unacceptable assumptions.<sup>31</sup> The reason that this is important is that Bayle’s arguments concerning freedom of conscience as well as separation of church and state do not stand based solely on Bayle’s experiences during the Revocation period.

Bayle’s Calvinist faith was the second important influence on his thoughts and theories; his writings become much more comprehensible in light of Calvinist theology. Jean Delvolvé at the beginning of the last century and Robert Bartlett at the beginning of the current one illustrate the continuing confusion and debate with regard to Bayle’s faith or lack thereof. For Bayle, a person comes to have Jesus Christ reign in his or her heart by God’s Grace alone. A person was one of God’s elect because of his Grace and not because of a person’s own choice, as Arminians believed,<sup>32</sup> or through his own works, as Catholics believed. Bayle vehemently argued against both in the *Dictionnaire* and in writings such as his defense against Isaac Jaquelot’s<sup>33</sup> attacks on

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<sup>29</sup> S. J. Barnett, *Enlightenment and Religion: The Myths of Modernity* (Manchester: Manchester University Press, 2004), 55.

<sup>30</sup> Robert C. Bartlett, “On the Politics of Faith and Reason: The Project of Enlightenment in Pierre Bayle and Montesquieu,” *The Journal of Politics* 63, No. 1 (Feb., 2001): 3. See footnote 5 on this page regarding Bayle’s significant influence on the Founding Fathers in the new United States.

<sup>31</sup> In fact, Bartlett misreads Bayle’s position because he focuses on tangential points in argumentation as well as ignoring Bayle’s ironic style. He thus dismisses, in a manner similar to Richard Popkin, Bayle’s later statements about the inadequacy of ‘reason’ and the necessity of ‘blind faith.’ Few other historians accept this argument.

<sup>32</sup> Bayle’s belief was solidly grounded in Reformed (Calvinist) doctrine. In contrast, Jacobus Arminius (1560-1609) and his followers taught the doctrine that Christ died for all people and not only for the elect. Arminius fully rejected the predestination doctrine of the Calvinists.

<sup>33</sup> Isaac Jaquelot (1647–1708), French Huguenot minister and controversial writer.

his beliefs: “He has nothing to say against the dogmas of Mr. Jurieu, because in good faith he believes it in his system.”<sup>34</sup> In addition, he was no deist or atheist: his invectives were leveled at Spinoza as much as they were against Arminius. In his writings he attests to his fervent support of Reformed doctrine and agreement with the findings of the Synod of Dordrecht,<sup>35</sup> minus however the propensity to enforce that doctrine on others through the mechanisms of the state, that is, persecution.

Importantly, Bayle was also not an Enlightenment sceptic. According to Antony McKenna, “moral rationalism—not Pyrrhonian skepticism—is the true foundation of [Bayle’s] doctrine of tolerance.”<sup>36</sup> Coercion as a method of confessional unity was therefore out of the question for Bayle. Bayle was a Calvinist whose views were shaped by the specific experiences of Huguenot persecution and expulsion and he envisioned a world in which people could co-exist not just in toleration, but in harmony where they could practice their faith, or lack thereof, peacefully.<sup>37</sup> Certainly his personal beliefs provided him with not only underlying assurance but also directly shaped his worldview. It is not such a surprising thing that a doctrinal Calvinist could make such a ‘leap of faith’ and thus is perhaps not as far-fetched as it may seem to Bartlett and Délvolve.

Bayle’s conceptions of toleration and the rights of conscience was thus forged in the fires of personal experience, the mix of free ideas in the Dutch Republic, his faith, and the fate and sufferings of his brethren in France. This included the death of his brother Jacob in November 1685 at the hands of the authorities and largely due to the subversive nature of Bayle’s writings. Other Calvinist theorists offered philosophies relative to the freedom of the Protestant Christian religion, as well as liberty of conscience, but Bayle posited the freedom of all religions and the liberty of all consciences. Habermas points out that “there is a conceptual link between the

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<sup>34</sup> Bayle, *Entretiens de Maxime et de Themiste ; Seconde Partie ou Reponse A l’Examen de la Théologie de Mr. Bayle par Mr. Jaquelot, Œuvres diverses*, IV: 39. « qu’il n’a rien à dire contre les dogmes de Mr. Jurieu, parce qu’il le croit de bonne foi dans son système... »

<sup>35</sup> Synod of Dordrecht (Dort). A religious conclave, called in 1618 to settle theological disputes between Calvinists and Arminians over predestination, resulted in defeat for Arminians and the formulation of the Canons of Dort.

<sup>36</sup> Antony McKenna, «Introduction,» *Pierre Bayle La liberté de conscience: Ouvrage tiré du colloque*. Philippe Fréchet, ed. (Toulouse: Anacharis Éditions, 2012), 6. « Or, ce rationalisme moral - et non pas le scepticisme pyrrhonien - constitue le véritable fondement de sa doctrine de la tolérance. »

<sup>37</sup> Tinsley, *Pierre Bayle's Reformation: Conscience and Criticism on the Eve of the Enlightenment*, 14. See also footnote 10, 357-8.

freedom of religious expression and democracy, and it explains why that freedom also functioned historically as a pace-setter for democracy.”<sup>38</sup> The universalism of Bayle’s arguments called for the respect of rights to liberty of conscience but also the duty to respect that right in others. It is this creation of a universal human right, with its obligating duty, that not only forms the core principle of democracy, as Habermas argues, but also a precept of universal human rights in later conceptualizations. The real question was whether Bayle’s conceptions became the precepts for a fundamental human right to freedom of conscience and freedom of religion. An analysis of Bayle’s writings in order to examine his language and argument will provide substantiation for these claims.

### “Liberty of Conscience” as a Right

Bayle was a prolific writer and his *Dictionnaire historique et critique* (1697) alone arrays to at least seven volumes and several thousand pages. His notable works on religious freedom include *Pensées diverses sur la comète* (1682), *Critique générale de l’Histoire du calvinisme de M. Maimbourg* (1682), *Ce que c’est que la France toute catholique sous le règne de Louis-le-Grand* (1686), and the *Commentaire philosophique* (1686-7),<sup>39</sup> all of which were fundamental in explicating Bayle’s thoughts on *la liberté de conscience*. The primary work in which Bayle brought the threads of his philosophic treatment together was, however, the *Commentaire philosophique*. Even so, this single work is voluminous; the scope of this research paper certainly does not allow a complete examination of the *Commentaire philosophique*, much less Bayle’s entire *œuvre*. Nonetheless, crucial thought processes stand out when examining relevant sections. While other writings focused on the plight and fortunes of his Huguenot brethren, this particular work had a specific focus, that being to argue against religious tyranny of all kinds, including tyranny initiated by Protestants.

His theories of the ‘rights of the erring conscience’ as well as the necessity of the state to protect all religious minorities were built on a long history of erudition by the philosopher.

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<sup>38</sup> Habermas, “Intolerance and Discrimination,” 5.

<sup>39</sup> *Dictionnaire historique et critique* (Historical and Critical Dictionary); *Pensées diverses sur la comète* (Various thoughts on the occasion of a comet); *Critique générale de l’Histoire du calvinisme de M. Maimbourg* (General critique of M. Maimbourg’s ‘History of Calvinism’); *Ce que c’est que la France toute catholique sous le règne de Louis-le-Grand* (What wholly Catholic France is like under Louis XIV); and the *Commentaire philosophique sur ces paroles de Jesus-Christ: ‘Contrains les d’entrer’*.

Indeed, his *Critique Generale de l'Histoire du Calvinisme* is a long and drawn response to the work of Louis Maimbourg (1610-1686), a Jesuit religious historian. Maimbourg's *Histoire de Calvinisme* quickly drew Bayle into a fight in which he employed his wit and irony to maximum effect. While Maimbourg claimed that the goal of religious unity justified a forced conformity of thought, Bayle argued that religious intolerance cuts both ways: "so that if their persuasion makes it right for them to do something, we believe the same of our persuasion as well... [therefore] if as a consequence of their persuasion, they believe they have the right to ruin other sects, each sect must have the same right, as a consequence of their persuasion, to ruin all those who do not believe as they believe."<sup>40</sup> But Bayle also moved beyond counterargument: in a second critical vein, he maintained that the existence of multiple sectarian groups was not inherently dangerous to the state. In speaking of the existence of the early Christian Church in the Roman empire, he declared that: "as the Pagans could not attribute these disorders to the Gospel, short of a final absurdity, since it was not because of them that the peace was not kept, which the Christians made no effort to trouble: thus it is absurd to ascribe to Calvinism the disorders of France, as only the French Catholics have held, that the happiness and prosperity of the Kingdom are not retained in all their vigor."<sup>41</sup> Minority faiths were frequently singled out for persecution solely because of their minority status and weak position within societies. For Bayle, this was a great evil and served no good purpose for civic order.

In fact, for Bayle the causes of destruction and disorder within France lay squarely with the sectarian violence that was propagated by the extremism of some Catholics: "I say, sir, that if France was desolated by the wars of religion, it is not our ancestors that are to blame, but the Catholics, who themselves usurped a right that was not theirs, namely that of persecuting

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<sup>40</sup> Bayle *Critique générale de l'Histoire du calvinisme de M. Maimbourg, Œuvres diverses*, II, 56-7. « De forté que si leur persuasion les met en droit de faire une chose, notre persuasion nous y met aussi...si en consequence de leur persuasion , ils croyent avoir le droit de ruiner les autres Sectes, chaque Secte doit avoir le même droit, en consequence de sa persuasion, de ruiner tous ceux qui ne font pas de son sentiment. »

<sup>41</sup> Bayle, *Critique générale, Œuvres diverses*, II, 76. « Je dis en second lieu, que comme les Payons ne pouvaient pas imputer ces désordres à l'Evangile, sans la dernière absurdité, puis qu'il ne tenait qu'à eux que la tranquillité publique ne fût maintenue, laquelle les Chrétiens ne cherchaient aucunement à troubler : ainsi il est absurde d'imputer au Calvinisme les désordres de la France, puis qu'il n'a tenu qu'aux François Catholiques, que le bonheur et la prospérité du Royaume ne se conservassent dans toute leur force. »

[heretics] cruelly, and to make them die from the most barbarous tortures.”<sup>42</sup> The structure of this long and drawn out critique of Maimbourg’s justifications was through a systematic construction of a series of ‘responsive’ letters. By this means and through the structure of these letters as specific responses, Bayle laid the groundwork for his theory of the separation of church and state that became crucial to his exposition of the rights of freedom of conscience and the attendant protections that the state must afford to freedom of thought. He undeniably makes clear his real sentiments later: “this is the origin of evil. If everyone accepted the tolerance that I support, there would be the same harmony in a State divided into ten Sects...if the Sovereign protected them all, and maintained an even balance with his fairness: now it is clear that such a beautiful emulation would be the source of a multitude of blessings, and therefore tolerance is the thing in the world most likely to bring about a golden age.”<sup>43</sup> The way to eliminate sectarian violence was to extend protection of the state equally to all religious sects.

As with the *Critique générale*, Bayle likely wrote the *Commentaire philosophique* in direct response to provocation, in this case the recent re-publication of Augustine’s letters in France which were employed by Philippe Dubois-Goibaud to justify the persecution of heretics by Louis XIV.<sup>44</sup> The focus is on Saint Augustine’s use, and misuse, of the term “contrains-les” [constrain them] within Jesus’ parable of the wedding feast in the Gospel of Luke. The verse reads “Then the master told his servant, ‘Go out to the roads and country lanes and compel them to come in, so that my house will be full’.”<sup>45</sup> The refutation of a literal interpretation of this passage forms the core of Bayle’s argument for freedom of conscience: “I will not even attempt

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<sup>42</sup> Bayle, *Critique générale, Œuvres diverses*, II, 77. « Je dis, Monsieur, que si la France a été désolée par les guerres de Religion, ce n’est pas à nos Ancêtres qu’il s’en faut prendre, mais aux Catholiques, qui usurpèrent un droit sur eux qui ne leur appartenait pas, savoir celui de les persécuter cruellement, et de les faire mourir dans les supplices les plus barbares. »

<sup>43</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 415. « c’est l’origine du mal. Si chacun avoit la tolérance que je soutiens, il y auroit la même concorde dans un État divisé en dix Religions...si le Souverain les protegeoit toutes, et les tenoit en équilibre par son équité : or il est manifeste qu’une si belle émulation feroit cause d’un infinité de biens, et par conséquence la tolérance est la chose du monde la plus propré à ramener le siècle d’or. »

<sup>44</sup> Philippe Dubois-Goibaud, *Conformité de la conduite de l’Église de France pour ramener les Protestants, avec celle d’Afrique pour ramener les Donatistes à l’Église catholique* [The Conformity of the Conduct of the Church of France to bring back the Protestants, with that of Africa to bring back the Donatists to the Catholic Church] (Paris, 1685).

<sup>45</sup> Luke 23:14: « Et le Maître dit au serviteur : Va par les chemins [highways] et par les haies [hedges], et contrains-les d’entrer, afin que ma Maison soit remplie. » English translation: New International Version. This verse headlines chapter one of the *Commentaire philosophique*.

[to explain] why Jesus Christ used the term ‘force,’ nor ascertain any legitimate way in which it must be reduced, nor if there are mysteries under the bark of this word: I'm only refuting the literal meaning that the persecutors give to it.”<sup>46</sup> In Bayle’s typical style, the *Commentaire* is organized so that the arguments are advanced on a solid foundation and built methodically in order to illustrate that those in error are “entitled to no less respect than those blessed with insight.”<sup>47</sup> Here Bayle also argues that princes have no right to constrain conscience through either law or persecution. This concept applies to both Catholic and Protestant rulers equally. Rulers have a duty to the subjects under their jurisdiction. They must therefore act in the best interests of the state: “in consequence non-toleration is contrary to right and to Reason, since from what we have previously said, that men who make laws in relation to the conscience clearly exceed their power, and make them without authority.”<sup>48</sup> The work is critical to the explication of his ideas and arguments concerning freedom and religious practice, the rights of subjects, and the recognition of fundamental disagreements of conscience.

Even those subjects who are errant in their beliefs must be tolerated by the ruler: “with regard to this rule, or fixed point, that [Rulers] must use all their strength, to instruct by strong and good reasons those who wander, yet leave them free to declare that they will persevere in their [errant] feelings, and will serve God according to their conscience.”<sup>49</sup> This is a point on

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<sup>46</sup> Bayle, *De la Tolérance: Commentaire philosophique*, Vie Des Huguenots 39, Jean-Michel Gros, ed. (Paris: Honoré Champion, 2006), 85. Translation is Gros’.

<sup>47</sup> John Kilcullen and Chandran Kukathas, “Introduction,” *A Philosophical Commentary on These Words of the Gospel, Luke 14.23: ‘Compel Them to Come in, That My House May Be Full,’* Natural Law and Enlightenment Classics, Kilcullen, and Kukathas, eds. (Indianapolis: Liberty Fund, 2005), xviii. Part I illustrates that reason must trump any literal interpretation of this Bible verse because of several specific rational arguments. Part II is a replying to anticipated objections but also contains a positivist construction of the doctrine of tolerance. Part III is a critical commentary on Augustine and as such was sure to cause extreme controversy. Finally, Part IV (a supplement) went about proving that heretics have as much right to persecute orthodox believers as the reverse. Originally written under a pseudonym, Bayle made it appear as if the work had been written by a Englishman, John Fox, and then had been translated to the French. This fooled no-one except possibly the French authorities.

<sup>48</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 412. « par consequent la non-tolérance est contraire au droit et à la Raison, puis que nous avons montré ci-dessus, que les homes qui font des loix par rapport à la conscience excèdent manifestement leur pouvoir, et les font sans autorité. »

<sup>49</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 414. « Par rapport à cette regle ou à ce point fixe, que l’on doit bien travailler de toutes ses forces à instruire par de vives et bonnes raisons ceux qui errent, mais leur laisser la liberté de déclarer qu’ils persévèrent dans leurs sentiments, et de servir Dieu selon leur conscience. »

which both Locke and Bayle agree; indeed Locke states in his *A Letter Concerning Toleration* (1689) that “all the life and power of true religion consists in the inward and full persuasion of the mind; and faith is not faith without believing.”<sup>50</sup> No-one can force someone to believe something that they do not accept in their minds. Further, Locke not only advocates a right to freedom of conscience similar to those argued by Bayle but also echoes Bayle in his advocacy of this liberty with respect to Church policy:

“these accusations would soon cease if the law of toleration were once so settled that all Churches were obliged to lay down toleration as the foundation of their own liberty, and teach that liberty of conscience is every man's natural right, equally belonging to dissenters as to themselves; and that nobody ought to be compelled in matters of religion either by law or force. The establishment of this one thing would take away all ground of complaints and tumults upon account of conscience; and these causes of discontents and animosities being once removed, there would remain nothing in these assemblies that were not more peaceable and less apt to produce disturbance of state than in any other meetings whatsoever.”<sup>51</sup>

His position here is clearly one of tolerance within and by churches. However, Bayle and Locke differed substantially on their specific conceptualizations. As Sally Jenkinson argues, Bayle’s ideas went well beyond Locke’s narrow conception, even though “at the turn of the eighteenth century Bayle and Locke were being published and translated by the same circle of radical Huguenot and dissenting *litterati*, and both were being celebrated for their opposition to intolerance.”<sup>52</sup> Harry Bracken further states that “Bayle rejects the ‘reciprocity’ argument, later given wide currency by Locke, that one should extend toleration only to groups that advocate toleration themselves. Locke, who is generally seen as the patron saint of religious toleration in the English-speaking world, remains a fanatical anti-Catholic in his writings on toleration. He does not accord primacy to conscience.”<sup>53</sup> Instead, conscience is subordinate to good government and maintenance of a state-endorsed, albeit tolerant, religion, in this case, the Anglican Church.

Much of Locke’s *Letter* echoed Bayle’s arguments, as when for example Locke states that “no private person has any right in any manner to prejudice another person in his civil

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<sup>50</sup> John Locke, *Two Treatises of Government and a Letter Concerning Toleration*, Ian Shapiro, ed. (New Haven: Yale University Press, 2003), 236.

<sup>51</sup> Locke, *Two Treatises of Government and a Letter Concerning Toleration*, 246.

<sup>52</sup> Jenkinson, “Two Concepts of Tolerance: Or, Why Bayle is not Locke,” 319.

<sup>53</sup> Harry M. Bracken, *Freedom of Speech: Words Are Not Deeds* (Westport: Greenwood Press, 1994), 10.

enjoyments because he is of another church or religion. All the rights and franchises that belong to him as a man, or as a denizen, are inviolably to be preserved to him. These are not the business of religion. No violence nor injury is to be offered him, whether he be Christian or Pagan.”<sup>54</sup> Yet further in the letter Locke argued that atheists should not be tolerated because “the taking away of God, though but even in thought, dissolves all; besides also, those that by their atheism undermine and destroy all religion, can have no pretense of religion whereupon to challenge the privilege of a toleration.”<sup>55</sup> Neither the Roman Catholic Church nor Islam can be tolerated because “that Church can have no right to be tolerated by the magistrate which is constituted upon such a bottom that all those who enter into it do thereby *ipso facto* deliver themselves up to the protection and service of another prince. For by this means the magistrate would give way to the settling of a foreign jurisdiction in his own country and suffer his own people to be listed, as it were, for soldiers against his own Government.”<sup>56</sup> In the *Essay concerning Human Understanding*, Locke seemed to adopt a more neutral stance more closely aligned with Bayle’s position on the legitimacy of atheism (in the form of the ‘erring’ conscience’) yet he still approaches the question of Church and State from a problematic viewpoint.

Why was Bayle’s concept more broadly encompassing than Locke’s? The framework here is that Locke is writing at the time of religious fears of a Catholic Restoration in England. Locke is writing as an advocate for protecting the primacy of Protestant faith: “it was through the continuously recreated memory of a popish imperialism that Locke and the English supporters of exclusion could represent James II as a tyrant,” despite James’ concern for and protection of Huguenots in England.<sup>57</sup> A second crucial indicator of his true beliefs is found in his invoking the rights of property over the liberty of slaves in the South Carolina; *The Fundamental Constitutions of Carolina*, adopted in 1669 by the eight Lords Proprietor, provide a fundamental example of the limits of Lockean conceptions of freedom. While there is much debate over the nature of Locke’s authorship, as Lord Shaftesbury’s secretary he certainly bears much responsibility for the final form with other proprietors making minor contributions. Bayle wrote to advocate protection of pluralities in a secular state: “the sovereigns who maintain, or who re-

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<sup>54</sup> Locke, *Two Treatises of Government and a Letter Concerning Toleration*, 224.

<sup>55</sup> Locke, *Two Treatises of Government and a Letter Concerning Toleration*, 246.

<sup>56</sup> Locke, *Two Treatises of Government and a Letter Concerning Toleration*, 245.

<sup>57</sup> Jenkinson, “Two Concepts of Tolerance: Or, Why Bayle is not Locke,” 307.

establish, the tranquility of their states in not permitting any sects to be persecuted, follow a human interest rather than the lights of their theology [...]; they act not as Roman Catholics, or as Protestants, but as Politiques.”<sup>58</sup> Gianluca Mori states that “The sovereign has to respect and even protect minority traditions and cultures, provided that they do not bring into question the status quo and the laws of the state.”<sup>59</sup> This undergirds Bayle’s need for order.

Some historians believe that Bayle’s notions of tolerance thereby set up a fundamental discontinuity between the sanctity of the conscience and law and order within the state. Mori for one believes that “the failure of Bayle’s attempt to build a tolerance founded on the principle of the liberty of conscience and the rights of the ‘erring conscience’ marks all the weakness of a subjective foundation for tolerance itself: liberty of conscience cannot stop the violence of persecutors, it even runs the risk of justifying it.”<sup>60</sup> In making this observation, however, Mori neglects a crucial argument that Bayle makes within the same discourse, where he advocates the need to employ secular power to obtain subservience to the state. He speaks about the basis of Catholic Politique policy of obedience, stating that “it was their religion, replying that it consisted of full obedience to the King and to their governors, and they allow just about anything else.”<sup>61</sup> This presents a clear contrast between an Atlantic liberal philosophy, where power is feared, as against a continental position, whereby community can function in a religiously pluralistic setting through positive secular tolerance. Bayle was thus ahead of his time in advocating religious freedom as a positive freedom.

Locke clearly supports tolerance and a right to liberty of conscience but only to the extent necessary to maintain the safety of the Protestant religion in England. Bayle, on the other hand, looks well beyond the specific situation of Louis’ persecution of Huguenots in France. In fact, some of his harshest criticism was offered to his fellow Calvinists: “under this maxim the

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<sup>58</sup> Bayle, *Reponse aux Questions d’un Provincial, Quatrième Partie*, in *Œuvres diverses*, III, 1012. This is quoted by Gianluca Mori in his article “Pierre Bayle, The Rights of the Conscience, the ‘Remedy’ of Toleration,” *Ratio Juris* 10, No. 1 (March 1997): 58. « les Souverains qui maintiennent, ou qui rétablissent la tranquillité de leurs Etats, en ne souffrant point qu’aucune secte soit persécutée, suivent plutôt l’intérêt humain que les lumieres de leur Théologie, et, et, qu’ils agissent non pas en Catholiques Romains, ou en Protestans, mais en Politiques. » Translation is Mori’s.

<sup>59</sup> Mori, “Pierre Bayle, The Rights of the Conscience, the ‘Remedy’ of Toleration,” 58.

<sup>60</sup> Mori, “Pierre Bayle, The Rights of the Conscience, the ‘Remedy’ of Toleration,” 59.

<sup>61</sup> Bayle, *Reponse aux Questions d’un Provincial, Troisième Partie*, in *Œuvres diverses*, III, 956. « Qu’elle étoit leur Religion, répondoient qu’elle consistoit à bien obier au Roi et à leurs Gouverneurs, et qu’ils ne se mettoient en peine de rein autre chose. »

Reformed ... could punish with death...Papists and Remonstrants...but since what [the Papists] utter is not directed against the God they worship, but against what they believe to be only the vision and the chimera of another party, they cannot justly be charged with blasphemy against God [by the Reformed].”<sup>62</sup> Thus, as Jenkinson effectively demonstrates, “though Locke was attentive to the talk about ‘absolute liberty’, he was situated ideologically in a moral paradigm which could not fully support it; and it is Bayle who palpably moves tolerance from its ‘early modern’ to its ‘liberal’ understanding.”<sup>63</sup> Locke could not envision a state beyond the bounds of a Christian polity but Bayle saw the need for a secular state with not limited sovereign power but the active power to protect.

It is perhaps because of these factors that it is difficult to precisely pin Bayle down in terms of his philosophic outlook, yet this does not mean that he is unintelligible. Bracken notes the “widespread tendency to see toleration toward religious ideas as being the product of skepticism”, but Bayle was anything but a skeptic in the Enlightenment sense of the term.<sup>64</sup> Tinsley states that “while Bayle may not have been a *philosophe avant la lettre*, he certainly was a proponent of inalienable rights to a free conscience ‘*avant la lettre*’.”<sup>65</sup> While many historians agree that he was not a *philosophe* in the eighteenth century sense of the term, he was a successful member of the Republic of Letters. He was a consummate writer and theorist, raised in an era of religious dissention. Bayle saw that the treatment of the Huguenots could also be generalized to other religious minorities, such as Dissenters or Catholics in England and thus “the strong will always oppress the weak without control.”<sup>66</sup> At the same time, he absorbed and integrated a concept of toleration that his, and Cartesian dualism lies at the heart of his theory of liberty of conscience: “one can be religious and immoral and also nonreligious and moral. His rationalist views on universal natural (moral) law, that is, independent of religion or culture,

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<sup>62</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 421. « En vertu de cette maxime les Réformez...pourroient punir de mort...les Papistes et les Remonstrans...mais comme ceux qui les proferent ne les dirigent pas contre la Divinité qu’ils adorent, mais contre un chose qu’ils croient n’être que la vision et la chimere d’un autre parti, on ne peut pas justement conclure qu’ils blasphement contre Dieu. »

<sup>63</sup> Jenkinson, “Two Concepts of Tolerance: Or, Why Bayle is not Locke,” 319.

<sup>64</sup> Bracken, *Freedom of Speech: Words Are Not Deeds*, 3.

<sup>65</sup> Tinsley, *Pierre Bayle's Reformation: Conscience and Criticism on the Eve of the Enlightenment*, 323.

<sup>66</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 360. « ...les plus forts opprimeront toujours les plus foibles à bon cente. »

should be seen in that context.”<sup>67</sup> For Bayle, the mind may be sacrosanct but it is the duty of the state to ensure domestic tranquility, a standpoint which developed as a response to his critics but became a mantra in Enlightenment thought, more so than freedom of conscience. The widespread influence of Bayle’s thoughts, along with the radical nature of these concepts, is indicated by the vehemence of attacks not only from religious doctrinaires but also from moderates.

### **Permeating the Enlightenment and in Revolution**

After Bayle had completed the *Commentaire*, the critics almost immediately attacked the philosophy of freedom of conscience for the flaws in his position. The most cogent attacks came from his one-time colleague, Pierre Jurieu. Jurieu was a fervent Calvinist and believed strongly that true religion should be advanced forcefully. His response to Bayle was that freedom of thought would yield up a great evil by providing a blanket justification for violence done with a conviction that an ‘erring conscience’ was correct despite its obvious error and the state could not interfere:

“Language is one of a number of members on which the power of men is extended: and I do not see why a Magistrate would have the right to stop my hands from doing what I want, and would not have the right to stop my words from what I would do: what privilege can this member have more than the others? Will we say that it has a closer connection with the spirit and participates in its freedom? But it is a dream, because the action of my hand is no less tied to my heart, and is no less dependent than my tongue.”<sup>68</sup>

Jurieu saw the inconsistency and weakness of Bayle’s position, namely voluntary obedience: “these people legitimately believe that the sovereign Lord of all things, the infinitely perfect Being, is their proper and intimate God and King, and therefore obedience to the particular laws that God will impose, will not only be an act of religion, but also an act of good subject, who

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<sup>67</sup> Bracken, *Freedom of Speech: Words Are Not Deeds*, 5.

<sup>68</sup> Pierre Jurieu, *Histoire du Calvinisme* (Rotterdam: Reiner Leers, 1683), II: 279. While Jurieu was writing in 1683, he and Bayle were nominally friends and he was responding to Bayle’s earlier writings in *Critique générale de l’Histoire du calvinisme de M. Maimbourg* (1682). The quote is also in Bracken, “Toleration Theories: Bayle vs. Locke” in *The Notion of Tolerance and Human Rights* (Carleton University Press, 1991), 3. « La Langue est du nombre de ces membres sur lesquels le pouvoir des hommes s’estend : et je ne voy pas pourquoy un Magistrat auroit le droit de m’empêcher de faire de mes mains ce que je veux, et n’auroit pas le droit de m’empêcher de faire de ma langue ce que je voudrois : quel privilege peut avoir ce membre plus que les autres ? Dira-t-on qu’il a une plus estroite liayson avec l’esprit et qu’il participe à sa liberté ? Mais c’est une vision, car l’action de ma main n’est pas moins liée à mon cœur, et n’en est pas moins dependante que celle de ma langue. »

observes the laws and fundamental policies of the State under which he lives; Disobedience to the laws of God will be, not just an offense punishable only at the bar of conscience, but also in the secular Court of justice, insomuch as the laws of God are the same as temporal Sovereign, the political head of the State.”<sup>69</sup>

Later Bayle responded by stating that the subject has no right to ‘ordained’ violence but the state has a duty to protect. Here, in the third volume of the *Commentaire* (1687), Bayle employed a further critique of St. Augustine’s commentary in responding to Jurieu and others. He stated that we should endeavor, through reason and argumentation, but never through physical coercion, to convince our erring neighbor of the error of his ways. If we fail to convince, we should give him into God’s hands. However, “if the Heretic wants to do harm to others, he should be carefully prevented, that is to say by applying a good antidote against the venom of his own reasons, and if he uses violence, to castigate him in the ordinary way through Judges, like other criminals who abuse their fellow-citizens.”<sup>70</sup> Bayle was thus willing to bow to his critics and modify his thoughts to assert that the protection of the state would trump *actions* against public order stemming from the ‘rightness of the law’ and sovereign rule. In effect, freedom of conscience cannot be opposed, but actions against public order can, and should, a position that is not inconsistent or extreme with respect to notions of civil order and justice. The right to freedom of religion, within the context of preserving public order, of course became a foundational principle of many Enlightenment thinkers.

Bayle responded to his critics on public order, but his thoughts regarding the sacrosanct nature of the conscience remained unchanged through the end of his life. These convictions were generated from Bayle’s firm belief in the correctness of Malebranche’s ideas of social order and especially virtue. The concept of ‘order’, to Malebranche, “was equivalent to the medieval

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<sup>69</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 360. « Voilà donc ce peuple légitimement persuadé que le souverain Maître de toutes choses, l’Être infiniment parfait, est son Dieu et son Roi proprement et intimement ; et dès lors l’obéissance aux loix particulieres que Dieu lui imposera, sera non seulement un acte de Religion, mais aussi un acte de bon sujet, qui observe les loix politiques et fondamentales de l’État sous lequel il vit ; de forte que désobéir aux loix de Dieu sera désormais, non simplement une action punissable dans le barreau de la conscience, mais aussi dans le Tribunal de la justice séculiere, attendu que les loix de Dieu sont les mêmes que celles de Souverain temporel, et du Seigneur politique de l’État. »

<sup>70</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 495. « que si l’Hérétique veut faire du mal aux autres, il faut l’empêcher soigneusement ; c’est-à-dire opposer un bon antidote de raisons au venin des siennes, et en cas qu’il use de violence, le faire châtier par les Juges ordinaires, à l’instar des autres malfaiteurs qui maltraitent leurs concitoïens. »

idea of the ‘eternal law’, binding upon God himself.”<sup>71</sup> Malebranche and Bayle thus broke with medieval natural law philosophers, who theorized that “ignorance of natural law, even if it is now sometimes unavoidable, is never an excuse.” St. Thomas Aquinas had given a negative response to ignorance as an excuse for sin; in addition, Arnauld stated that “those who are mistaken about morality cannot avoid sin: they must sin either by disobeying conscience, or by avoiding the moral law—for which obedience to erroneous conscience is no excuse.”<sup>72</sup> Bayle turns this argument around and declares that an act performed from a conviction of the conscience, even an erring one, is not sin but, on the contrary, is morally good. His series of examples includes the famous tale of Martin Guerre, in which a woman who sleeps with a man she truly believes to be her husband, even if he is an imposter, does not sin. These examples “demonstratively prove that an action that is done in consequence of a false persuasion is as good as if it was done in consequence of a true persuasion.”<sup>73</sup> Thus “God judges us only by the ‘objective’ quality of our acts of free choice”,<sup>74</sup> a position very far from the requirement under medieval natural law that we must act morally despite our consciences.

Nevertheless, while all of this illustrates that Bayle was, if not popular, at least ubiquitous, it does not necessarily make him influential with eighteenth century *philosophes* and revolutionaries particularly with respect to rights. The question thus remains as to whether and how Bayle’s ideas translated into Enlightenment philosophy. On the question of influence, Labrousse sees Bayle’s concepts being spread because of the posthumous English translations of his works coordinated by his pupil, Pierre des Maizeaux.<sup>75</sup> She also states that “there are echoes of Bayle in Swift, Mandeville, Berkeley, Hume, Stern, Gibbon” and influences within Emerson and Melville. She points out that despite monographs individually addressing these authors, there

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<sup>71</sup> Kilcullen and Kukathas, “Appendixes,” *A Philosophical Commentary*, 595.

<sup>72</sup> Kilcullen, *Sincerity and Truth: Essays on Arnauld, Bayle, and Toleration* (Clarendon Press, 1988), 42, 44.

<sup>73</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 428. « Car ils prouvent démonstrativement, qu’une action qui se fait en conséquence d’une fausse persuasion, est aussi bonne que si elle se faisoit en conséquence d’une vraie persuasion. »

<sup>74</sup> Kilcullen, *Sincerity and Truth: Essays on Arnauld, Bayle, and Toleration*, 71-2.

<sup>75</sup> Pierre des Maizeaux (1666 [1673]-1744) was born in Paillat, France, and fled to Geneva, where he was educated, after the Revocation. He was a French Huguenot refugee and pupil of Pierre Bayle, as well as Bayle’s biographer and English translator. He emigrated to England in 1689 but stayed in close touch with Bayle and others in the Dutch refugee community. He became quite active and influential in the eighteenth century Republic of Letters.

has been “no synthetic study of Bayle’s [overall] impact on English-speaking authors.”<sup>76</sup> This is a serious deficiency that has yet to be fully corrected, but Justin Champion makes a good attempt in his article about Bayle’s influence in England. He notes that “the case of Bayle suggests that once you start looking for him he’s everywhere to be found.” Bayle’s writings on toleration, among other numerous uses, even entered into the debates on the repeal of the Test and Corporation Acts in the 1710s.<sup>77</sup>

Beyond England, Bayle significantly influenced general Enlightenment thought with respect to his conceptualizations of tolerance. His writings and arguments are cited by a wide variety of contributing authors within Diderot’s *Encyclopédie*, notably within entries such as “Atheisme,” “Dieu,” “Pyrrhonienne ou Sceptique Philosophie,” “Manichéisme,” “Tolérance (p.27 below),” “Richesse,” “Spinoza,” and “Virtu.”<sup>78</sup> His discussions of the rights of minority faiths provided a foundation for a system of government based on the rights of both the governing and the governed. Israel devotes a chapter in *Enlightenment Contested* to the interplay of Bayle’s political thoughts on Enlightenment thinkers: “for what Bayle is really urging is not monarchical absolutism per se but the undivided sovereignty and supremacy of the secular state, however constituted, over lesser authorities, factions, and especially (but not only) all types of brigandage, lawlessness, factionalism, aristocratic influence, and ecclesiastical power.”<sup>79</sup> He especially differed from Locke and Montesquieu on this point. Bayle had no use for constitutional republicanism, which he believed abominable to ‘order’ in society. Interestingly, Rousseau appeared to have adopted this notion of a secular, enlightened, and benevolent

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<sup>76</sup> Labrousse, Bayle, 90.

<sup>77</sup> Justin Champion, “Bayle in the English Enlightenment,” in *Pierre Bayle (1647-1706), le philosophe de Rotterdam: Philosophy, Religion and Reception*, van Bunge and Bots, eds. (Brill, 2008), 182-3. He points the reader to the massive number of “hits” for “Bayle” when using the Eighteenth century collections online (ECCO; <http://quod.lib.umich.edu/e/ecco/>) database. A simple search conducted by this author finds 81 hits, notably from the writings of Edward Gibbon, David Hume, and Jean-Jacques Rousseau. Last accessed 5 May 2012.

<sup>78</sup> A search of the *ARTFL Encyclopédie Project* for “Bayle” yields no less 274 entries. *Encyclopédie, ou dictionnaire raisonné des sciences, des arts et des métiers, etc.*, eds. Denis Diderot and Jean le Rond D’Alembert (University of Chicago: ARTFL Encyclopédie Project, Spring 2011 Edition), Robert Morrissey (ed), <http://encyclopedia.uchicago.edu/>. Last accessed 5 May 2012.

<sup>79</sup> Jonathan I. Israel, *Enlightenment Contested : Philosophy, Modernity, and the Emancipation of Man, 1670-1752* (Oxford University Press, 2006), 273-4.

monarch who rules by his quality alone, as echoed by the character of the ‘enlightened’ ruler in Rousseau’s *L’An deux mille quatre cent quarante*,<sup>80</sup>

It is these types of Baylean notions that Enlightenment writers employed to attempt to convert Bayle into a sceptic. He was not. In speaking of Bayle’s effect on future generations, Richard Popkin states that “it is paradoxical that a man who devoted so much of his energies to arguing that reason was too weak and confused to discover the truth, and that therefore, one should turn to faith and Revelation as the guide to, and measure of, truth, has been so easily categorized as a skeptical non-believer who...unleashed the Age of Reason.”<sup>81</sup> Bracken notes that while Bayle’s arguments in favor of toleration “seem to suggest that in the face of sceptical doubts one ought not to be so confident in one’s grasp of the truth as to warrant torturing or killing one’s opponents,” this sceptical position is not dominant within the *Commentaire*.<sup>82</sup> Israel states that “no philosopher uses sceptical arguments more than Bayle. But he never employs scepticism, like Montaigne or Hume, to counter the force of reason but rather to undercut grounds for belief, undermine systems based on theological premises, and ridicule thinkers like Le Clerc, Jaquelot, and Locke.”<sup>83</sup> Bayle himself states that “there is a living and bright light that enlightens all men, as early as they open their eyes to their attention, and which irresistibly convinces them of its truth; we must conclude that it is God himself, the essential Truth, that most immediately enlightens us...to those eternal Truths contained in the first Principles of Reason.”<sup>84</sup> Thus as J.B. Schneewind notes, his “defense of toleration thus rests on good

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<sup>80</sup> Rousseau, *L’An deux mille quatre cent quarante, rêve s’il en fût jamais* (The Year 2440, A Dream if There Ever was One) [1771], text reprinted in Robert Darnton, *The Forbidden Best Sellers of Pre-Revolutionary France* (New York: W.W. Norton & Co., 1996), 300-336. The echoes of Bayle’s enlightened monarch are unmistakable.

<sup>81</sup> Richard Popkin, “Pierre Bayle’s Place in 17<sup>th</sup> Century Scepticism,” *Pierre Bayle, Le Philosophe De Rotterdam: Études Et Documents*, Paul Dibon, ed. (Amsterdam: Elsevier, 1959), 1.

<sup>82</sup> Bracken, *Mind and Language: Essays on Descartes and Chomsky* (Foris Publications, 1984), 84.

<sup>83</sup> Israel, *Enlightenment Contested: Philosophy, Modernity, and the Emancipation of Man*, 267.

<sup>84</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 368. « Si l’on cherche la véritable raison de cela, on ne manque point de la trouver, c’est qu’y aiant une lumiere vive et distincte qui éclaire tous les hommes, dès aussi tôt qu’ils ouvrent les yeux de leur attention, et qui les convainc invinciblement de sa vérité, il en faut conclure que c’est Dieu lui-même, la Vérité essentielle et substantielle qui nous éclaire alors très-immédiatement, et qui nous fait contempler dans son essence les idées des vérités éternelles, contenues dans les principes, ou dans les notions communes de Métaphisique. »

Huguenot doctrine. It is neither atheistic nor designed to eliminate religion from society.”<sup>85</sup> It was all too easy for many to read Bayle and misunderstand the complexities of his arguments.

Voltaire himself attempted to cut through the obscurity. Pierre Rétat attributes Voltaire’s conceptions in his *Lettres philosophiques* to Bayle, so much so that Rétat declares “thanks to Voltaire, Bayle’s personality becomes both simpler and more powerfully significant. His name alone is an adherence and a revolt, it is the symbol of freedom of thought.”<sup>86</sup> Israel directly links Spinoza, Bayle, and Diderot to emerging Republican ideas of secular freedom: “the political theory thus depended on a particular metaphysics and new kind of *moralisme* and the latter, especially, closely depended, in turn, on the political theory.”<sup>87</sup> While Bayle detested Republicanism, his influence was strong and Diderot and *Encyclopédistes* used his ideas. The *Encyclopédie* entry for “Tolérance” refers to religious tolerance, attributing the noblest ideas to Bayle: “we preach practical and not speculative tolerance; one senses that there is quite a difference between tolerating a religion and approving of it. We refer the reader curious to learn more about this to Bayle’s *philosophical commentary*, in which we believe that great thinker has surpassed himself.”<sup>88</sup> A number of historians point out the ubiquitous availability of Bayle’s *Dictionnaire*, as well as other writings, many of which were present in a wide number of Enlightenment *philosophes’* libraries and these were used primarily as reference sources.<sup>89</sup>

By virtue of the need for brevity, we must restrict examples of Bayle’s Enlightenment influence to a few key individuals. In addition to Voltaire, Bayle’s ideas were also featured

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<sup>85</sup> J.B. Schneewind, *The Invention of Autonomy: A History of Modern Moral Philosophy* (Cambridge University Press, 1998), 283. See his full explanation on 279-84.

<sup>86</sup> Pierre Rétat, *Le ‘Dictionnaire’ De Bayle Et La Lutte Philosophique Au XVIIIe Siècle*, Bibliothèque De La Faculté Des Lettres De Lyon (Audin, 1971), 264.

<sup>87</sup> Israel, *Enlightenment Contested: Philosophy, Modernity, and the Emancipation of Man*, 257.

<sup>88</sup> *Encyclopédie, ou dictionnaire raisonné des sciences, des arts et des métiers, etc.*, eds. Denis Diderot and Jean le Rond D’Alembert, <http://encyclopedie.uchicago.edu/>. Entry: « Tolérance » - « ...Nous prêchons la tolérance pratique, et non point la spéculative; & l’on sent assez la différence qu’il y a entre tolerer une religion et l’approuver. Nous renvoyons les lecteurs curieux d’approfondir ce sujet au commentaire philosophique de Bayle, dans lequel selon nous, ce beau génie s’est surpassé. Cet article est de M. Romilli le fils. »

<sup>89</sup> R. Shackleton, “Bayle and Montesquieu,” *Pierre Bayle, Le Philosophe De Rotterdam: Études Et Documents*, Paul Dibon, ed. (Amsterdam: Elsevier, 1959), 142. See also, Israel, “Bayle’s Double Image during the Enlightenment,” and Champion, “Bayle in the English Enlightenment,” in *Pierre Bayle (1647-1706), le philosophe de Rotterdam*. (Brill, 2008).

prominently within Montesquieu's (1689-1755) writings, notably *L'Esprit des lois*.<sup>90</sup> Shackleton notes that "at the beginning of Montesquieu's literary career, the influence of Bayle was vigorous," but that Bayle's influence ultimately became "variable." In later works even though Montesquieu rejects Bayle's thoughts regarding atheists and the inability to create a republic of 'good Christians', he agrees with Bayle in "that a multiplicity of religions is not harmful to a state, provided that religious toleration exists."<sup>91</sup> In Israel's words, "the unbridgeable gulf between his [Bayle's] thought and his mainstream Enlightenment opponents" was "his astounding claim that idolatry and superstition are more pernicious to society than 'atheism';"<sup>92</sup> however, what is crucial is that Bayle's views on toleration were fully accepted without qualification.

A third, more critical, example is provided by David Hume (1711-1776), the Scottish philosopher. If Bayle influenced Hume, it was in a negative manner. While Bayle assures his reader of the value of reason and reason's "illuminating light", Hume, in his *A Treatise of Human Nature* (1739), "takes up an argument which subsequently remained a central strand of his philosophy: 'since morals have an influence on the actions and affections, it follows, that they can not be deriv'd from reason; and that because reason alone, as we have already prov'd, can never have any such influence'."<sup>93</sup> His idea of 'order' was not divinely ordained: tradition, custom, and social hierarchies formed the basis of any society. Bayle is not mentioned in the *Treatise*, but he is in a later work, *An Enquiry Concerning the Principles of Morals* (1744). The few mentions of Bayle in this later work show that Hume inherited a positive view only with regard to Bayle's perceived scepticism. Bayle fared better than Locke, whom Hume takes to task for faulty reasoning, concluding that "he shall be entirely forgotten."<sup>94</sup> As Rétat points out,

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<sup>90</sup> Charles de Secondat, Baron de Montesquieu, *L'Esprit des lois*[The Spirit of the Laws] (Genève: Barrillot, 1754 [1748]).

<sup>91</sup> Shackleton, "Bayle and Montesquieu," *Pierre Bayle, Le Philosophe De Rotterdam*, 143, 147. Shackleton cites the explicit references to Bayle's ideas of toleration in book XXV of *L'Esprit des lois*.

<sup>92</sup> Israel, "Bayle's Double Image During the Enlightenment," 150-1.

<sup>93</sup> Jonathan I. Israel, *Enlightenment Contested : Philosophy, Modernity, and the Emancipation of Man, 1670-1752* (Oxford University Press, 2006), 54. Israel is here synthesizing Hume's views as explained within Hume's *A Treatise of Human Nature* (1739), as well as analyses provided by other historians. See footnote 48 on the above referenced page for details.

<sup>94</sup> Hume, *An Enquiry Concerning the Principles of Morals* (Clarendon Press, 1894 [1744]), 7. The references to Locke are primarily consigned to Hume's footnotes, where he takes great delight in trashing Locke's ideas.

the fact that Bayle's ideas were attacked "from all sides" is indicative of his ubiquitous presence.<sup>95</sup> He was certainly an author that many, like Montesquieu, acknowledged was influential in their thinking, but with whom they nonetheless disagreed.

To return to a previous point, part of the problem with Bayle's influence on Enlightenment thought was the very nature of his writing: prolific, multi-dimensional, confrontational, and, in many ways, unintelligible. Delvolvé thus cogently observes that "Bayle had only anonymous influence, diffuse, slow and imperfect, on the development of philosophical thought. Bayle's doctrines have points of contact with the great philosophies of his time...many of the ideas that Bayle accumulated in his folios are found scattered here and there in the French literature of the eighteenth century."<sup>96</sup> His ideas were nonetheless persuasive, even if it was only the kernel of them that was transmitted. It is possible to see Bayle's conceptions reflected within later eighteenth century revolutionary declarations. Within the French *Declaration of the Rights of Man and Citizen*, Article 10 affirms that "No person shall be molested for his opinions, even religious, provided their manifestation does not disturb the public order established by law."<sup>97</sup> This directly echoes Bayle's refutation of both his Calvinist protagonists' as well as Locke's arguments relative to the strength of established religion as the basis for social peace. As previously noted, Witte speaks of the importance of Calvinist thought regarding religious freedom in establishing a stable, secular government offering equal protection to all religions and faiths. Bayle represents the culmination of that particular philosophy.

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<sup>95</sup> Rétat, *Le 'Dictionnaire' De Bayle Et La Lutte Philosophique Au XVIIIe Siècle*, 153. More fully, « ...toutes les sectes chrétiennes sont intéressées à la réfutation de paradoxes qui leur semblent mettre en danger les principes mêmes du christianisme...La constatation dont on part de tous côtés, c'est celle des ravages exercés par le Dictionnaire. »

<sup>96</sup> Jean Delvolvé, *Religion, Critique, et Philosophie Positive chez Pierre Bayle* (Lenox Hill Publishers and Distributors, 1971 [1906]), 426, 428. « Bayle n'a qu'une influence anonyme, diffuse, lente, et imparfaite, sur le développement de la pensée philosophique. Les doctrines de Bayle ont des points de contact avec les grandes philosophies de son temps...Un grand nombre des idées que Bayle accumula dans ses infolios se retrouvent dispersées çà et là dans la littérature française du XVIII siècle.»

<sup>97</sup> Christine Fauré, ed., *Les déclarations des droits de l'homme de 1789*, Bibliothèque historique Payot (Paris: Éditions Payot, 1988), 13. « Nul ne doit être inquiété pour ses opinions, même religieuses, pourvu que leur manifestation ne trouble pas l'ordre public établi par la loi. » The original *Déclaration* was promulgated in 1789 by the first Revolutionary government. As successive governments took power, the *Déclaration* went through a number of "revisions" before being adopted, in modified form, into the Constitution of 1795.

As in the case of the French *Declaration of the Rights of Man and Citizen*, a connection may be seen, as Bracken discusses, between Bayle and in the United States' Bill of Rights, since "both Jefferson and Madison were acquainted with Bayle's *Dictionnaire*."<sup>98</sup> While the English Bill of Rights (1689) contained many of the provisions eventually adopted into the US Bill of Rights (1789), the English version lacks two conspicuous features: it does not protect freedom of religion, and it does not separate church and state. Freedom of religion is espoused by the Virginia Declaration of Rights (1776) yet it does not mention separation of church and state.<sup>99</sup> Historians have accepted the fact that Madison was influenced John Locke in his drafting of the articles of the Bill; why not Bayle? This becomes more likely when we realize that the US Bill of Rights contains both a provision for full and free exercise of religion and a bright-line wall of separation between church and state; this first Article is crafted in unambiguous language that solidly reflects the character of Bayle's conceptions.<sup>100</sup> Indeed "the transformation which he envisaged would entail a general toleration which would guarantee equal rights of co-existence within every state of a diversity of theories, conjectures, faiths and sects."<sup>101</sup> What Jenkinson is saying here is that Bayle advocated a whole new way of conceiving of the relationship between church and state; a separation whereby there is no longer a need, as an older model, to grant 'exemptions' to prescribed state-imposed religious duties and requirements. Victoria Kahn declares that one way in which "we should understand 'rights talk' has to do with the analogy

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<sup>98</sup> Bracken, *Freedom of Speech: Words Are Not Deeds*, 10. Bracken explains: "I cannot, however, present evidence that Madison got from Bayle that absolutist idea of freedom of speech which he incorporated into the First Amendment. Nor have I yet discovered whether Madison could have had access to the *Commentaire philosophique*. The 1708 English translation was in Jefferson's library (which Madison used), but its accession date is apparently not known. My suggestion is that Madison, as a (the?) major influence in the drafting of the First Amendment, inserted the absolutist free-speech clause because he, and probably others, took it to be a self-evident principle, rooted in a Bayle-type philosophical framework. What is obvious, however, is that the framework soon became less acceptable and the principle did not long remain self-evident."

<sup>99</sup> Article 16 reads: "That religion, or the duty which we owe to our Creator and the manner of discharging it, can be directed by reason and conviction, not by force or violence; and therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other." [http://www.gunstonhall.org/georgemason/human\\_rights/vdr\\_final.html](http://www.gunstonhall.org/georgemason/human_rights/vdr_final.html)

<sup>100</sup> US Constitution, amend. 1: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." <http://www.gutenberg.org/dirs/etext90/bill11h.htm>

<sup>101</sup> Jenkinson, "Two Concepts of Tolerance: Or, Why Bayle is not Locke," 310.

between the political contract and what [she has] called the linguistic contract. For many early modern authors, natural rights were the basis of the political contract.”<sup>102</sup> While Bayle did not believe in ‘natural’ rights, he would agree with this statement in terms of reasoned ‘rights’ that would provided a basis upon which religious freedom served as the first fundamental ‘human’ right as expressed within a legal framework.

Here we can return to Bayle as he invoked St. Thomas Aquinas to illustrate and establish that laws must be just: “once we allow compulsion [state coercion] of any kind, there is no fixed point at which to stop, and that for the same reasons that prove that we can put a man made in prison for heresy, they may prove even better to hang him.”<sup>103</sup> There is a proper use of the Sword by the State, as well as an evil use: “our adversaries never differentiate here the right that Princes have been granted to punish by the sword Subjects who exercise violence against their fellow man [neighbor], and who assault the public safety where a person should enjoy the protection of the law; they never differentiate, I say, between this right and that which they falsely attribute to the same princes [to punish] conscience. But for our part, we do not confuse these two things.”<sup>104</sup> Article 12 of the French *Declaration* affirms that “the guarantee of human rights and the citizen requires public military forces that force is instituted for all our benefit, not for the benefit of those to whom it is entrusted.”<sup>105</sup> Thus sovereigns have the right to establish just laws but subjects have a right to liberty of conscience and under and even protection by the state.

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<sup>102</sup> Victoria Kahn, “Early Modern Rights Talk”, *Yale Journal of Law and the Humanities* 13, No. 39 (2001):397.

<sup>103</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 383. « Je vous montrerai en un autre lieu, que dès qu’on autorise la contrainte, quelle qu’elle soit, il n’y a pas de point fixe pour s’arrêter, et que les mêmes raisons qui prouvent qu’on peut mettre un homme en prison pour fait d’Hérésie, prouvent encore mieux qu’on peut le pendre. »

<sup>104</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 416. « Nos adversaires ne distinguent point ici le droit qu’ont reçu les Princes de châtier par le glaive les Sujets qui usent de violence contre leur prochain, et qui violent la sûreté publique où chacun doit être sous la majesté des loix; ils ne distinguent point, dis-je, ce droit d’avec celui qu’ils attribuent faussement aux mêmes Princes sur la conscience. Mais pour nous, nous ne confondons pas ces choses. »

<sup>105</sup> Christine Fauré, ed., “*Les déclarations des droits de l’homme de 1789*,” Bibliothèque historique Payot (Paris: Éditions Payot, 1988), 13. « La garantie des droits de l’homme et du citoyen nécessite une force publique : cette force est donc instituée our l’avantage de tous, et non pour l’utilité particulière de ceux à qui elle est confiée. »

## Conclusion

Bayle enjoins his readers in many of his writings to consider ‘rights’ from the standpoint of others’ framework. Locke, as we have seen, posits the need for a strong national church to ‘protect’ religious rights and for all of Locke’s supposed influence, this concept is curiously missing from revolutionary writings. Bayle maintains throughout his writings that freedom of religious belief is based on the sacrosanct character of conscience: “it is tyranny to want to rule [another’s] conscience.”<sup>106</sup> Whereas Locke allowed limited dissent from the established orthodoxy, Bayle felt a man’s conscience to be sacrosanct, a gift from God, and thus a violation of that relationship was a sin and tantamount to an attack against God himself.

In her book *Inventing Human Rights*, Lynn Hunt discusses the nature of ‘human rights’ and the development of their ‘self-evident’ nature. Her analysis of Diderot’s explanation of the term ‘*droit naturel*’ presents an interesting view in that using definition of interiority, according to Hunt, “he had put his finger on the most important quality of human rights; they required a certain widely shared ‘interior feeling’.” She notes Diderot’s further conclusions that “these feelings had to be felt by many people, not just the philosophers who wrote about them.” Finally, she states that “equality was not just an abstract concept or a political slogan. It had to be internalized in some fashion.”<sup>107</sup> Bayle’s life, work, and writings can be considered to be a fully lived example of someone who worked tirelessly to convince others that equality of belief was something to be respected in every person, not just Huguenots, Protestants, or Christians in general. He fully internalized his belief in freedom of conscience and the consequent equality of treatment and used his many powers of persuasion to convince others of this fundamental truth.

With respect to the nature of rights debates during the early French Revolution, Hunt notes that “the minute the status of Protestants was raised in this fashion, the floodgates opened.”<sup>108</sup> Even so, Jan de Vries cogently observes that human understanding entered a new phase in the seventeenth century, well before the French Revolution, when Calvinists such as Pierre Bayle and “their Jansenist cousins” such as Blaise Pascal and Pierre Nicole, asserted that “passions notwithstanding, God’s Providence made it possible for fruitful [peaceful] social

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<sup>106</sup> Bayle, *Critique générale, Œuvres diverses*, II, 76. « C’est un Tyrannie que de vouloir dominer sur la conscience. »

<sup>107</sup> Lynn Hunt, *Inventing Human Rights: A History* (New York: W.W. Norton, 2007), 27..

<sup>108</sup> Hunt, *Inventing Human Rights: A History*, 153. See her discussion on religious rights on 152-60.

relations to emerge from patently anti-social passions.” The proper direction of these passions, referred to as *amour-propre*, made it possible because it “incorporated the desire for the recognition (*regard*) for others. Persons acutely sensitive to ‘regard’ learn to control these passions” and to direct them appropriately.<sup>109</sup> While de Vries uses his logic to reinforce arguments about self-interested consumption, his revelation is nonetheless significant for illustrating that this “regard for others” effectively pushes Hunt’s arguments back at least one page before the advent of “sensitivity” in the eighteenth century.

Still, Bayle has been little recognized for his contributions to religious freedom, much less receiving any attribution for the evolving notions of rights. Delvolvé maintained that “the originality of the ideas of Bayle, their lack of systematic construction, their dissemination in the weight of a work wordy to the point of excess, their exposure deliberately obscured, [and] enclosed, —because one must discover them reluctantly through miles and among the *trompe-l’œil* [smokescreen] of claims to the contrary, —all these reasons have prevented Bayle from being understood by his contemporaries and taking the rank in the history of human thought that should be his.”<sup>110</sup> It seems that Bayle did himself a disservice through his voluminous and sometimes opaque writings that few have had the time to fully explore and bring back to light. Within the *Commentaire philosophique*, Bayle finishes his Preliminary Discourse with a most prescient observation:

“Our century, and I think those preceding have not fallen short of ours, is full of strong spirits, and deists. People are surprised; but for me I am surprised that there have not been more, seeing the devastation that religion produces in the world, and the extinction that it brings, by almost inevitable consequences, of all virtue, in empowering for its temporal prosperity every crime imaginable...that produces countless other abominations, hypocrisy, [and] sacrilegious desecration of the sacraments.”<sup>111</sup>

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<sup>109</sup> Jan de Vries, *The Industrious Revolution: Consumer Behavior and the Household Economy, 1650 to the Present* (Cambridge: Cambridge University Press, 2008), 59.

<sup>110</sup> Delvolvé, *Religion, Critique, et Philosophie Positive chez Pierre Bayle*, 426. « L’originalité même des idées de Bayle, leur défaut de construction systématique, leur diffusion dans la masse d’une œuvre proluxe à l’excès, leur exposition volontairement obscure, enveloppée, —car il faut découvrir à travers mille réticences et parmi les trompe-l’œil des affirmations contraires, —toutes ces raisons ont empêché que Bayle fût compris de ses contemporains et prît dans l’histoire de la pensée humaine le rang qui devait être le sien. »

<sup>111</sup> Bayle, *Commentaire philosophique, Œuvres diverses*, II, 366. « Notre siècle, et je crois que les précédents ne lui en doivent guère, est plein d’esprits forts, et de déistes. On s’en étonne ; mais pour moi je métonne qu’il n’y en ait pas davantage, vu les ravages que la religion produit dans le monde, et l’extinction qu’elle amène par des conséquences presque inévitables de toute vertu, en autorisant pour

Bayle may have been writing in the twenty-first century. Indeed, one finds today that ideologues on both extremes of the political spectrum attempt to impose, through legal compulsion or threatened coercion, their own brand of morality and ‘equality’. Tolerance has come to mean intolerance for those who proselytize, and freedom has come to mean conformance to rigid societal norms. We seem to have lost our capacity to reason, from enlightened conviction, with others in order to convince. It is easier to cajole, browbeat, or marginalize those who disagree with our point of view. While the *dragonnades* are in the distant past, persecution arises in different guises.

Without a doubt Bayle was writing for future generations. Labrousse observes that “the history of ideas shows that, once removed from its original socio-historical context, and read as the vehicle of a universal message, a work asserts its greatest influence not through a mechanical repetition or the exact replication of its ideas, but through the ambiguities, misconceptions and anachronisms which find their way into its interpretation.”<sup>112</sup> Tinsley states that Bayle’s work can be characterized by a fictional Dutch painting, in the *chiaroscuro* (light-dark contrasts) style, where darkness creeps in around the edges and obscures the value of individual human existence: “he could not but blame the Reformers for having lost sight of a vision, which, in its inception, was intended to liberate, to put man in touch with his Maker, to clear the way for a reform of institutions, manners, morals, education, faith, a reform both public and private. Almost at once the vision was dimmed by the inability of the reformed parties to focus on liberty of conscience, and the sad result was a new tyranny over it.”<sup>113</sup> It is most fortunate for us that Bayle rose above the sectarian strife of his time and presented the world with an alternative vision, an anti-Hogarthian image if you will, of a noble world in which religious toleration would serve as both a guiding principle of mutual engagement and as a firm and foundational human right.

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sa prospérité temporelle tous les crimes imaginables...qui produisent une infinité d’autres abominations, l’hypocrisie, la profanation sacrilège des sacrements, etc. »

<sup>112</sup> Labrousse, *Bayle*, 90.

<sup>113</sup> Barbara Sher Tinsley, *Pierre Bayle's Reformation: Conscience and Criticism on the Eve of the Enlightenment* (Selinsgrove: Susquehanna University Press, 2001), 322.

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