FREE,

WHITE,

&

CHRISTIAN

BY CHARLES A. WEISMAN

The landing of the Mayflower passengers at Plymouth in December of 1620.

After an exceedingly rough nine week voyage, ending now as the Pilgrims were preparing to leave the ship that brought them from the homes they should never see again, they disembarked with hope in a new and free life. The Pilgims left friends and memories of past life and faced the dangers of coming to America for the purpose, in the words of Bradford, *"of laying some good foundation for the propagating, and advancing the gospel of the kingdom of Christ in those remote parts of the world; yea, though they should be but even as stepping-stones, unto others for the performing of so great a work."* It is this "good foundation" that America legally rests upon.

A GUIDE FOR STUDYING BY:

"Let every Student be plainly instructed, and earnestly pressed to consider well, the main end of his life and studies is, *to know God and Jesus Christ which is eternal life* Joh. 17:3, and therefore to lay *Christ* in the bottom, as the only foundation of all sound knowledge and Learning."

From – *New England's First Fruits,* 1643
(Rules and Precepts that are observed at Harvard College)

THE FOUNDATIONAL ACTS AND PRINCIPLES IN AMERICAN LAW AND HISTORY THAT LEGALLY ESTABLISHED AMERICA AS A FREE, WHITE, AND CHRISTIAN NATION.

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INTRODUCTION

The evidence and facts revealed in this material is intended to show the true legal foundations of America as to how and why it was legally established as a free nation, a white nation, and a Christian nation. Due to a continuous and stealthy plan to either undermine or cover from public view the very legal principles upon which America was built, the necessity of this information became apparent.

These fundamental principles can never be entrusted solely to those in government to guard and preserve. It is because **the people** have lost sight of these principles that America now faces its many perils and problems. Americans need to understand and continually adhere to those fundamental principles that made America great. This position was once stated in Virginia's first Constitution:

> SEC. 15. That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles. * [1]

We cannot expect these fundamental principles of our government to be sustained by just making them a one-time course of study, they need to be continually referred to and applied. It thus is actually a duty and a responsibility for each citizen to be informed of the legal and political matters that America was founded on. This was well expressed by the Supreme Court of Utah as follows:

* The underlined text here, and throughout this book, have been added in all instances to give emphasis to certain key words.

1 F. N. Thorpe, "The Federal and State Constitutions, etc.," Vol. VII, (1909) p. 3814

> The man intrusted with the high, difficult, and sacred duties of an American citizen should be informed and enlightened. He should have sufficient intelligence to discriminate right from wrong in political matters, and should possess a feeling of moral obligation sufficient to cause him to adopt the right.[2]

This material is presented to help the American citizen be more "informed and enlightened" as to the true legal foundations America was built upon. With this information many of the concepts that have been passed off as being the "American way" or part of the "America process" will be proven to be false and without any validity. For example, the concept that the nation's religion (i.e. Christianity) was always separated from politics and government, is one of the many outright falsehoods of America's foundations that has been created and promoted by anti-American elements in the media, government and educational fields.

It can be seen that Americans are not only faced with the problem of dealing with ignorance in their country's fundamental legal principles, but they also have to contend with various lies and distortions regarding these principles. Thus, a "recurrence" of these principles is especially important in these times in which darkness prevails and where error feeds on error and ignorance breeds ignorance.

We thus need to realize the dangers of losing sight of the fundamental principles America was founded on. As the Scriptures put it: "If the foundations be destroyed, what can the righteous do?" (*Psalms 11:3*). *"Our political system will break down, only when and where the people, for whom and by whom it is intended to be carried on, shall fail to receive a sound education in its principles and in its historical development illustrating its application to and under changing conditions."* [3]

2 In Re Kanaka Nian, 21 Pac. Rep. 993, 994; 6 Utah 259 (1889).

3 Charles Warren, "The Making of the Constitution," (1937) p. 804

CHAPTER ONE

FREE AMERICA

ONLY IN AMERICA

It is often spoken that "America is a free country" without understanding why or what "free" actually means in a real and legal sense. This is evident by the incorrect usage of the word when also used in referring to the "free world." No other nation throughout history, with the exception of the Israelites prior to their adoption of a monarchy (*circa* 1100 B.C.), can truly and legally be classified as a "free nation."

There are two distinct attributes of the nations of America and early Israel that set them apart from others as being free nations. These would be their Godly laws they were governed by and the fundamental rights and freedoms that their people possess. These two attributes are intrinsically interrelated and connected as will be shown. A free people have an inclination to support Godly laws and government, and such a system is favorable to liberty and individual rights.

Only in America was there a legal foundation established with a Godly system of laws by and for a free people, thus allowing America to be classified as a "free country." The fact that some of these attributes have apparently been lost does not change the legal foundations of America in this matter. This is not the subject matter of concern here except to say that the reasons which can be attributed to any loss of freedoms in America's governmental system or

in its people are quite simple, and are no different from the reasons Israel lost her freedoms. The loss of freedom in Israel did not come about by alien forces marching in and asserting its power over them, it did not come about because of defects in its system of government, nor did it come about by corruption in its leaders, judges, etc. The nation of Israel lost its freedoms by the voluntary assent of the people to surrender them through their desire to have a king over them, as recorded in Scripture (*I Samuel 8:4-5*).

Whatever freedoms Americans have lost have likewise come about by the people's voluntary assent to surrender them. It is that simple. No rights or freedoms have ever been taken away. But, as stated, it is not the intent here to show how or why freedoms have been lost but rather to show the legal foundations and attributes of America that made them possible. This knowledge is necessary because the loss (or surrender) of freedoms in both nations previously mentioned were due to a similar national problem – the lack of knowledge of its people (*Hosea 4:6*).

AMERICAN FORM OF GOVERNMENT:

As stated earlier, the term "free nation" is not clearly understood as evidenced by the careless use of the word in referring to the "free world." If we examine the other nations of the world we find none except America are truly and legally free. In every country of the world throughout history people have been directly subject to arbitrary rules, edicts, or laws by some sort of king, queen, prince, dictator, president, ruler, chancellor, tribal leader, chieftain, emperor, governor, pope, monarchy, or assembly.

In America, some of the above terms are used in its government, i.e. president, governor, and assembly, but are quite unlike those found in other governments of the world.

For instance, a "governor" under the Roman empire, although limited by certain laws and orders of the empire, was in a position to arbitrarily make laws, to execute all laws, and to judge the violation of any law. The separation of powers established in America made it impossible for executive officials to exercise judicial or legislative powers.

Parliament in England is actually an "assembly." However, "the powers and jurisdiction of Parliament are absolute, and cannot be confined either by causes or persons within bounds. It has sovereign and uncontrollable authority in making and repealing laws; it can alter and establish the religion of the country."[1] Under the Constitution, Congress was allowed twenty-two grants of power, beyond that it is legally a powerless entity. There were also seventy restrictions against Congress to further confine its powers. However, "The Parliament of Great Britain is possessed of all legislative powers whatsoever. It can enact ordinary statutes, and it can pass laws strictly fundamental. Not so with our legislatures."[2] Our State legislatures and Congress cannot enact fundamental law. In America only the people can do this through a convention, in which they exercise their sovereignty and which the legislatures must abide by.

In some of the so-called "free nations," such as France and South Africa, they have elected "presidents." The powers they possess are somewhat ill-defined, have narrow limitations, and control many functions of government. In the elected presidents of the "third world" nations the situation is worse still. Here again the President of the United States possesses only a certain number of well defined powers and is limited from exercising any others.

1 Harper's Encyclopedia of U.S. History, Vol. VII, 1912

2 Ellingham v. Dye, 178 Ind. 336, 347 (1912).

We have no need to go further and explain those governments, such as a monarchy, oligarchy, aristocracy, military dictatorship, etc., that are well known for their tyranny, oppression, and economic burdens they inflict on the people. The inherent errors and oppressions of all these various forms of governments in world history were well known and understood by the Framers of the U.S. Constitution.[3] Under the guidance of Divine Providence they were able to avoid the errors and oppressive measures of past governments, creating one unique in its measures of freedom. As a result our constitution became the first permanent written constitution of any independent nation and now is the oldest written document of any modern republic.

SOURCE OF POLITICAL POWER – Both the State Constitutions and U.S. Constitution are similar in structure in that they are the result of the will of the people. Those who occupy political offices under them are limited and restricted to fixed functions and powers - *"deriving their just Powers from the consent of the Governed."*[4] Some of the common attributes of both the State and National Constitutions relating to political power are as follows:

- The constitutions are "ordained and established" by the people
- The Constitution establishes a Republican form of government with three separate and independent but co-equal political branches of governments
- The political offices are created by the constitution and officers are elected pursuant to the constitution.
- The duties and powers are limited by the nature of the Constitution and the inherent rights of the people.

3 See Federalist Papers Nos. 18, 19, & 20

4 The Declaration of Independence

The unique feature in the American form of government thus lies in its source of political power. Where other governments are self-instituted, or derive their source of political power from the state, political party, or some man, the source of political power in the American form of government is the people. The *Declaration of Independence* had indirectly made reference to this premise and it was directly expressed in many of the original State Constitutions:[5]

THE CONSTITUTION OF VIRGINIA – 1776

SEC. 2. That all power is vested in, and consequently derived from the people; that magistrates are their trustees and servants, and at all times amenable to them.

CONSTITUTION OF NORTH CAROLINA – 1776

I. That all political power is vested in and derived from the people only.

II. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

CONSTITUTION OF MARYLAND – 1776

I. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

CONSTITUTION OF GEORGIA – 1777

We, therefore, the representatives of the people, from whom all power originates, and for whose benefit all government is intended, . . .

CONSTITUTION OF NEW HAMPSHIRE – 1784

VIII. All power residing originally in, and being derived from the people, all the magistrates and officers of government, are their substitutes and agents, and at all times accountable to them.

5 Source: F. N. Thorpe, "The Federal and State Constitutions" etc., Vol. 1-7, (1901)

CONSTITUTION OF PENNSYLVANIA – 1776

IV. That all power being originally inherent in, and consequently derived from, the people; therefore all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them.

CONSTITUTION OF MASSACHUSETTS – 1780

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

The Soviet Union also has a constitution and its government is structured as a "republic." However the source of political power lies with an elite group, which established the Communist Party (whose membership is restricted to 5% of the population) and who control the government. It is they who wrote the Soviet Constitution of 1936. The constitution has many good sounding declarations that give it the appearance of a free government. For example:

ART. 3. All power in the USSR belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

ART. 125. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the USSR are guaranteed by law:

(a) Freedom of speech; (b) Freedom of the press; (c) Freedom of assembly; (d) Freedom of street processions, etc.

ART. 136 Elections of deputies are equal; each citizen has one vote; all citizens participate in elections on an equal footing.[6]

Who possess the political power in the Soviet Union, the "working people of town and country" or the elite Communists who ordained and established the constitution?

6 Amos J. Peaslee, "Constitutions of Nations," 2d. Vol. III, Constitution of the Union of Soviet Socialist Republics —Dec. 5, 1936, pp. 485, 499, 500.

Quite obviously this elite group does. The power referred to in ART. 3 is a power granted to the people by them as are the rights mentioned in ART. 125. While the people vote in the Soviet Union they did not "ordain and establish" the Organic law. The people are only pawns who are allowed to participate in the game created by their masters. Thus, there are no checks and controls which are necessary for a people to be fee, as expressed by **John Dickinson:**

> For *who are a free people?* Not *those,* over whom government is reasonably and equitably exercised, but *those,* who live under a government so *constitutionally checked and controuled,* that proper provision is made against its being otherwise exercised.[7]

The fact that a country has elections by the people does not in itself make the people the source of the power. Members of the Parliament in England, for example, are elected by the people. However, Parliament was not a creation of the people as are the State legislators or Congress in America. Parliament's origin was partly from a grant of the Crown and partly by certain elitist and nobleman in its earlier stages. Through the centuries it has undergone a transformation in its structure and power — some of which was on the part of Parliament itself. The legislative assemblies in America cannot legally change its structure or broaden its power — any change in power can only be by an amendment or another constitution. Thus, the source of power in America is the people, in England it lies where it always has been — in the Sovereign.

SOURCE OF LAW – Another important aspect if the American form of government is the source of law upon which it is based. There are, and ever have been, only two sources of law which any government can or has been based upon — Divine law or human law.

7 John Dickinson, Political Writings, (1767 - 1768) vol. i, p. 203.

America is unique as the only nation whose fundamental law was derived from and based upon Divine law. In England there was a system of law whose source originated from the Scriptures known as the common law. But there was also a source of human law (the Crown) that existed which often put the common law in check or adulterated it with human edicts. With each king the common law became more and more polluted. The common law gained supremacy from time to time (such as in 1215, with *Magna Carta*) but the human influence left its imprint on it through changes and additions in many of its precepts. The early settlers brought the common law with them to America but, by the Providence of God, they had the wisdom to adopted only those maxims that were applicable to their ideas of a Godly government. **Justice Story** had pointed this out in the following U. S. Supreme Court decisions:

> We take it to be a clear principle that the common law in force at the emigration of our ancestors is deemed the birthright of the colonies, unless so far as it is inapplicable to their situation, or repugnant to their other rights and privileges. [8]

> The Common law of England is not to be taken in all respects to be that of America. Our ancestors brought with them its general principles, and claimed it as their birthright; but they brought with them and adopted only a portion which was applicable to their situation. [9]

The English Common law was in a sense purified and purged of its human element in America by adopting only those laws that had not been modified by an over zealous monarchy. The English Common law that the colonists felt was worth preserving was supplemented by laws and compacts they had enacted. Practically every colonial law enacted in early America had its source from the Bible.

8 Town of Pawlet v. Clark, 9 Cranch 292, 333 (1815).

9 Van Ness v. Pacard, 2 Peters 137, 144 (1829).

This becomes quite evident from a study of colonial law (see chapter three). The common law adopted and the colonial laws enacted became the fundamental law of the United States which our form of government is based upon.

The colonist knew that freemen could never long remain free when subject to arbitrary laws of rulers, kings, elitists, etc. They thus used the Scriptures as a guide for their laws and governments so they could remain free. History had taught them that free men could not be made subject to the arbitrary laws of men except by their own consent. This basic principle was expressed by the **Justice Wilson** as follows:

> The only reason, I believe, why a freeman is bound by human laws, is that he binds himself. [10]

This again explains the simple reason why the freeman of early Israel and of this day in America have lost their freedom. They voluntarily have, in some manner or form, bound themselves to a system of human law. Freemen can only exist in governments founded on Divine law, as the only other system of law is based on the will of men. It has been said that ours is a government of laws and not of men. If it were a government of men, as in England, France or the Soviet Union, we then would be subject to human law. The U. S. Supreme Court has expressed this as follows:

> It has been wisely and aptly said that this is a government of laws and not of men; that there is no arbitrary power located in any individual or body of individuals; but that all in authority are guided and limited by those provisions which the people have, through the organic law, declared shall be the measure and scope of all control exercised over them. [11]

All nations throughout history have been a government of men where the people are subject to arbitrary rules and

10 Chisholm v. Georgia, 2 Dallas (2 U.S.) 419, 456 (1793).

11 Cotting v. Kansas City Stock Yards Co. &c., 183 U.S. 79, 84 (1901).

laws of some king, chancellor, president, assembly etc. Since God is the only source of moral law, human law prevails wherever man is supreme above this law. The American system of government is one based on Divine laws which were embraced and secured by the U. S. Constitution. This is the "organic law" referred to by the Supreme Court. This law creates the offices of government, defines and limits its powers, and favors laws of Divine origin to be enacted and enforced. These unique attributes of our law and government has made Americans free, but only up to the point where they have not "bound" themselves to "human law."

FUNDAMENTAL RIGHTS & LIBERTIES:

In the latter half of the eighteenth century in America, there was a Declaration of Independence written, a war fought, and a Constitution and government established, all for the main purpose of securing certain rights and liberties. These rights are often summarized as that of life, liberty and property and all being termed as "natural rights." **James Kent** states that:

> The absolute rights of individuals may be resolved into the right of personal security, the right of personal liberty, and the right to acquire and enjoy property. These rights have been justly considered, and frequently declared, by the people of this country, to be natural, inherent, and unalienable. [12]

The founding fathers of this nation drew these fundamental rights from the same source they drew the fundamental law they established. That being from God or the "Creator" as stated in the *Declaration of Independence*:

> * * * that they [men] are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.

12 James Kent "Commentaries on American Law," Vol. II, Part IV, p. 1.

The Declaration continues in stating: *"That to secure these Rights, Governments are instituted among Men, . . ."* While the rights and freedoms people possess are intrinsically connected to the form of government they are under, in America neither the government, laws, nor the constitutions are the source of these rights, they rather only "secure" them. These principles were well expressed by the **Supreme Court of Wisconsin** as follows:

> Under our system the government is the creature of the people, the product of a social compact. The people in full possession of liberty and property, come together and create a government to protect themselves, their liberty, and their property. The government which they create becomes their agent; the officers their servants. * * * Our [American] theory is that the people, in full possession of inalienable rights, form the government to protect those rights. The medieval idea was that the government was sent down from above, and that from it rights and privileges were allowed to flow in gracious streams to the people, who otherwise would not possess them.
>
> That there are inherent rights existing in the people prior to the making of any of our Constitutions is a fact recognized and declared by the Declaration of Independence, and by substantially every state Constitution. * * * Notice the language, "to secure these (inherent) rights governments are instituted;" not to manufacture new rights or to confer them on its citizens, but to conserve and secure to its citizens the exercise of pre-existing rights.[13]

A conclusion that could be drawn here is that the source of political power also has control over the rights and freedoms of the people. This reveals the interrelationship between a nation's form of government and the freedoms of its citizens. In the Soviet Union the people are endowed by the constitution, not their Creator, with certain rights. The Communist elite, being the source of political power, established the Soviet government. Thus, the Soviet government not only dispenses rights but controls all facets of the

13 Nunnemacher v. State, 108 N.W. 627, 629; 129 Wis. 190 (1906).

people's lives. In America, our founding fathers viewed government's "sole" purpose was to "protect" their inherent rights as expressed by the **Alabama Supreme Court:**

> [T]hat the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty and property, and, when the government assumes other functions it is usurpation and oppression. Const. Ala. sec. 35. [14]

In many so-called free nations they have a "bill of rights," but it exists merely as a contract between the government and the people. The rights expounded in the American constitutions, however, are not of this nature as **Justice Story** explains:

> It would, indeed, be an extraordinary use of language to consider a declaration of rights in a constitution, and especially rights, which it proclaims to be "unalienable and indefeasible," to be a matter of contract, and resting on such a basis, rather than a solemn recognition and admission of those rights, arising from the law of nature, and the gift of Providence, and incapable of being transferred or surrendered.[15]

Constitutions may declare and delineate certain natural and inalienable rights but it is impossible for them to create them since such rights existed long antecedent to the organization of any government. Thus such rights are termed "constitutional rights" only because they are stated in a constitution not because they originate from it.

LIBERTY AND THE STATE: While the U.S. Constitution was established to *"secure the Blessings of Liberty,"* it was well understood that the subject matter of "personal liberty was for the most part confided to the State authorities, and to the State courts." [16] The relationship between the State, as established by the State Constitution, and the

14 City Council v. Kelly, 38 So. 67, 69; 142 Ala. 552 (1905).

15 Joseph Story "Commentaries on the Constitution," Vol. I, sec. 340, p. 309.

16 T. M. Cooley, "A Treatise on the Constitutional Limitations," Ch. X, (1883) p. 421.

inalienable and natural rights of the people are often misunderstood, especially today. All laws, governmental powers, and individual rights center around the State Constitution. The **Supreme Court of Delaware** gives an explanation as to the purpose of such a Constitution:

> We think it fundamental in our theory of constitutional government that the basic purpose of a written constitution has a two-fold aspect, first, the securing to the people of certain unchangeable rights and remedies, and second, the curtailment of unrestricted governmental activity within certain defined fields. [17]

Here again is the summation of what makes America free – that being the fundamental rights and liberties secured by a constitution the people had "ordained and established," and a form of government established by the constitution with limited, defined, and nonarbitrary powers. One of the most significant aspects of this form of government is its three separate and independent branches which includes a judiciary whose duty it is to protect rights and liberties secured in the Constitution. This was asserted by the **Supreme Court of Oregon** as follow:

> The constitutional rights of an individual are fundamental and inalienable. They cannot be destroyed nor diminished by legislative act, or failure to act. The duty of seeing that they are protected and preserved inviolate falls squarely upon the shoulders of the judiciary. The performance of this duty is one of the inherent powers of the court, a power which the legislature can neither curtail nor abolish. [18]

Ever since the U. S. Supreme Court's landmark decision in *Marbury v. Madison,* [19] the courts power of judicial review as been exercised numerous times in defense of freedom and

17 Du Pont v. Du Pont, 85 A.2d 724, 728; 32 Del. Ch. 413 ((1951).

18 State ex rel. Ricco v. Biggs, 198 Ore. 413, 430 ; 255 P.2d 1055 (1953).

19 1 Cranch (5 U.S.) 137 (1803).

liberty. Since that case the Supreme Court has found over 105 acts of Congress unconstitutional in whole or in part,[20] and numerous State laws as such. The decrees from the State courts declaring legislative acts to be unconstitutional would be in the thousands. The importance of this in respect to freedom and liberty lies in the historic fact that the legislative power has always been the more oppressive governmental power. The **New York Supreme Court** had stated the importance of a Judicial body as follows:

> The judicial power was intended to stand as a bulwark against all legislation which impairs any of the constitutional guaranties. * * * The judicial power can and should pronounce null all laws which contravene its provisions, – a feature of our governmental system which De Tocqueville declared to be "one of the strongest barriers ever devised against the tyrannies of political assemblies." Volume 1, p. 129.[21]

The scope of general legislative authority of the State, however, extends to making all manner of wholesome and reasonable laws, usually referred to as its "police power," and was reserved to the several states. As Madison said:

> The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.[22]

The objective here is to determine the scope and relationship of this police power to the inalienable and natural rights of the citizen. History shows that the freedoms of man and the powers of government have forever been in conflict with each other. State Constitutions contain both the police power of the State and the rights and freedoms of the citizen but, since the document cannot be in conflict with itself, one

20 Source: U.S. Library of Congress, "The Constitution of the United States of America; Analysis and Interpretation," Sen. Doc., 94-200, 94th Cong., 2d sess. 1976

21 Rathbone v. Wirth, 45 N.E. Rep. 15, 18; 150 N.Y. 459 (1896).

22 James Madison, The Federalist Papers, No. 45.

of these aspects of the Constitution must stand supreme over the other. In our State Constitutions the inalienable and natural rights of man stand supreme since they were the main reason the Constitution was formed. The "police power" is a mere creation of the constitution, the fundamental liberties are not as they existed before the Constitution. These basic principles were expounded in a very noteworthy decision by the **Supreme Court of Texas** (*Spann v. City of Dallas*)[23] and were reiterated and affirmed by the **Maryland Court of Appeals** (*Goldman v. Crowther*)[24] as follows:

> The powers of government, under our system, are nowhere absolute. They are but grants of authority from the people, and are limited to their true purposes. The fundamental rights of the people are inherent and have not been yielded to governmental control. They are not the subjects of governmental authority. They are the subjects of individual authority. <u>Constitutional powers can never transcend constitutional rights</u>. The police power is subject to the limitations imposed by the Constitution upon every power of government; and it will not be suffered to invade or impair the fundamental liberties of the citizen, <u>those natural rights which are the chief concern of the Constitution</u>. All grants of power are to be interpreted in the light of the maxims of Magna Charta and the Common Law as transmuted into the Bill of Rights; and those things which those maxims forbid cannot be regarded as within any grant of authority made by the people to their agents. Cooley, Const. Lim. 209.
>
> * * * To secure their property was one of the great ends for which men entered into society. The right to acquire and own property, and to deal with it and use it as the owner chooses, so long as the use harms nobody, is a natural right. <u>It does not owe its origin to constitutions</u>. <u>It existed before them</u>. It is a part of the citizen's natural liberty—an expression of his freedom, guaranteed as inviolate by every American Bill of Rights.
>
> It is not a right, therefore, over which the police power is paramount. Like every other fundamental liberty, <u>it is a right to which the police power is subordinate</u>.

23 <u>Spann v. City of Dallas,</u> 235 S.W. 513, 515; 111 Tex. 350 (1921)

24 <u>Goldman v. Crowther,</u> 128 A. 50, 59; 147 Md. 282, 306-07 (1925).

The principles of American constitutional law expounded in this decision are very important and should be known and understood by every citizen. The decision points out that inalienable and natural rights of citizens are paramount over the legislative power. These rights were the foremost and main reason the constitution was adopted and therefore they are a part of the "supreme law" of the State. It thus is impossible for the police power to "transcend" over such rights and violate or abrogate them, thereby putting itself in a superior position over them. The police power is clearly "subordinate" to the rights secured by the Constitution.

It is well understood that the State, by its police power, can regulate the exercise of these inalienable rights in cases that promote the *"health, morals, safety or general welfare"* of the public, but the regulation must fulfill that purpose and do so without violating or abrogating the citizen's natural liberties. This constitutional principle was well expressed by the **Supreme Court of Wisconsin** as follows:

> If, therefore, a statute purporting to have been enacted to protect the public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution. [25]

In regard to the exercise of the police power in relation to the liberty of a citizen the **Supreme Court of Ohio** had stated the following:

> We realize that the police power is elastic to meet changing needs, yet it cannot be used to abrogate or limit personal liberty or property rights contrary to constitutional sanction. [26]

25 State v. Redmon, 114 N.W. 137, 141; 134 Wis. 89 (1907).

26 City of Cincinnati v. Correll, 49 N.E.2d 412, 414; 141 Ohio St. 535 (1943).

Can it be said that other "free governments" of the world possess these principles? Unless the government (including those in America) is created by the people with these built-in protections of individual liberties and rights, it cannot be deemed a free government, as Justice Story had stated:

> What are the great objects of all free governments? They are, the protection and preservation of the personal rights, the private property, and the public liberties of the whole people. Without accomplishing these ends, the government may, indeed, be called free, but it is a mere mockery, and a vain, fantastic shadow. [27]

The foregoing information reveals the attributes required for a people or nation to be free, and while the American states were the first and only governments that had attained this goal, such freedoms also require that they be maintained. While it is the duty of the courts to protect individual liberties, the responsibility of maintaining and retaining them lies with each citizen for only an individual has the power to surrender or give up his inalienable right.

> Inalienable is defined as incapable of being surrendered or transferred; at least without one's consent. [28]

Thus, freedom cannot be maintained by any branch of government, but rather requires knowledge and effort by those who possess these freedoms to preserve them by not surrendering them. Only an individual has an actual vested interest in their continuance – not the government. The framers of our constitutions knew that individual rights and liberties could only be safe when in the control of the individual, and thus cautioned and warned us of the dangers of government and to be watchful of "silent encroachments" upon our rights. This was the principle behind the motto: *Eternal vigilance is the price of liberty.*

27 James McClellan, "Joseph Story and the American Constitution," (1971) p.74.

28 Morrison v. State, Mo. App. 252 S.W. 2d 97, 101 (1952).

AMERICA'S RIGHT TO BE FREE

It has occasionally been suggested that the American colonies had no legal right to sever themselves from Britian since all revolutions and rebellions are inherently unlawful producing illegitimate governments. Some have made reference to the familiar "obedience to government" verses of *Romans 13* to place doubt on the right to rebel against the "higher powers." The Crown, or King George, was the "higher powers that be," being "ordained of God" (*Rom. 13:1*). The question is, what right did the colonists have in the 1770's to rebel against that power?

In verse 2 of *Romans 13* the Apostle Paul further states that those who resist the established power will receive "damnation." However, this same writer in *Ephesians 6:12* states that one of the main characteristics of a Christian is that he would fight or "wrestle against powers and rulers." However, these are not just any rulers but rather "rulers of darkness." Darkness signifying here those things which are evil or contrary to the plan of God. It was not the plan of God for rulers, judges, and officers in high places to be evil and oppressive, instead they are to rule and judge the people with just judgment (*Deut. 16:18; II Sam. 23:3*).

Good and evil in the Scriptures are measured through the works or actions of people not in what they say or think. After all, it is according to "works" that all are "judged" (*Rev. 20:13*). The act of rebellion in itself cannot be said to be an unlawful act or an evil work without considering the actions or "works" of both parties involved. In the case at hand this would be the colonist and the British Crown. The legal justification then for America's freedom and independence from the rule of the Crown actually lies in

certain unjust actions on behalf of the Crown itself, and the manner in which the colonist lawfully dealt with them.

THE LEGAL RIGHT TO REBEL:

In 1606, King James granted the London Company a charter permitting it to establish a settlement in Virginia. The settlement was supplemented with another expedition under a new charter from the king granted to the Virginia Company in 1609. These expeditions under the two charters from King James established the first permanent English settlement in America – the germ cell of the United States.

Under these charters, which were signed and granted by the king, it was expressed that the colonists and their heirs would be entitled to all the rights and liberties accorded other Englishmen:

THE SECOND CHARTER OF VIRGINIA – 1609

Also we do for Us, our Heirs and Successors, DECLARE by these Presents, that all and every the Persons being our Subjects, which shall go and inhabit within the said Colony and Plantation, and every of their Children and Posterity, which shall happen to be born within any of the Limits thereof, shall HAVE and ENJOY all Liberties, Franchises, and Immunities of Free Denizens and natural Subjects within any of our other Dominions to all Intents and Purposes, as if they had been abiding and born within this Realm of *England*, or in any other of our Dominions.[29]

A similar provision to the above was also written into the First Charter of Virginia in 1606. The agreement of the Crown to guarantee the colonists their rights and liberties was declared in other colonies as well:

It was a provision in the charters to the Virginia settlers, granted by James I., in 1606 and 1609, and in the charter to the colonists of Massachusetts in 1629, of the province of Maine in 1639, of

29 F. N. Thorpe, "Federal and State Constitutions etc.," Vol. 7, (1909), p. 3800

> Connecticut in 1662, of Rhode Island in 1663, of Maryland in 1632, of Carolina in 1663, and of Georgia in 1732, that they and their posterity should enjoy the same rights and liberties which Englishmen were entitled to at home.[30]

Since these charters had the signature and seal of the king and provided the bases of laws, rights, and government of the colonist, they established a legal agreement between the Crown and the colonial settlers. That agreement was essentially that the colonies be a part of the British commonwealth and remain loyal to the Crown, while the colonist be entitled to the rights and liberties of all Englishmen under the common law. However, it was the Crown– King George III– who violated this legal agreement not the colonists. He did so by imposing an admiralty jurisdiction over the colonies, a system of law that virtually negates all liberties. The list of violations and trespasses of the colonist's rights and liberties by the Crown are found in the *Declaration of Independence.* Prior to this, however, the Continental Congress had attempted to petition the Crown for redress of their grievances in the *Declaration And Resolves of the First Continental Congress,* on October 14, 1774. After stating the grievances of the colonies the Act states the following:

> To these grievous acts and measures, Americans cannot submit, but in hopes their fellow subjects in Great-Britain will, on a revision of them, restore us to that state, in which both countries found happiness and prosperity, we have for the present, only resolved to pursue the following peaceable measures: **1.** To enter into a non-importation, non-consumption, and non-exportation agreement or association. **2.** To prepare an address to the people of Great-Britain, and a memorial to the inhabitants of British America: and **3.** To prepare a loyal address to his majesty, agreeable to resolutions already entered into.[31]

30 James Kent, "Commentaries on American Law," Vol. II, (Boston:1873), 12th ed., p.2

31 "Documents Illustrative of the Formation of the Union of the American States," 69th Congress, 1st Session, House Doc. No. 398, p. 5

Through the course of the Crown's violations of its own agreement, the colonies had individually and collectively attempted to petition the crown for redress of grievances. Despite this peaceful means of redress, King George continued violating the very rights that the Crown had promised to the colonist in the colonial charters. This became the legal justification for separation from the Crown by the *Declaration of Independence.*

In that document of resistance to a higher power, the leaders of independence "recited twenty-eight distinct charges of oppression and tyranny, depriving them of rights to which they were entitled as subjects of the Crown under the British Constitution. From that hour to this, there has been no disapproval of the truth of these charges or of the righteousness of the resistance to which our forefathers resorted."[32] The resistance and rebellion was obviously just in the eyes of God as they did not receive the "damnation" of *Romans 13:2.* Rather, they received their freedom and independence, a miraculous military victory over superior forces, and a prosperous nation.

The contest between the Crown and the colonist revealed the essential elements of what is expected from a government that is legally bound to operate in certain limits, and also the legal position people should take in terms of redress, compliance, or resistance when that government goes beyond those limits. This basic principle was highlighted in **New Hampshire's** Constitution of 1784:

> ARTICLE I: X. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all

32 James Blaine, "Twenty Years of Congress," Vol. I, (1884) p. 255-56.

other means of redress are ineffectual, the people may, and of right ought, to reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind. [33]

The oppressions of the Crown are but the natural order of human law as attested by history. The English people had the same opportunity to be free as did the colonist in America. There are repeated instances in English history where the crown had violated the natural rights of the people. Yet the Crown is sovereign to this day and the people not truly free. The *Magna Carta,* though it boldly and plainly makes many references to the rights and liberties of the "free man," did not change this fact. The *Magna Carta* did not remove or sever the influence and sovereignty of the king over these "free men" as did America's *Declaration of Independence*. The very fact that a king had to sign *Magna Carta* infers that, one, the Crown is still recognized as a sovereign power, and two, the people needed his consent and permission to exercise those rights and freedoms enumerated in the document. The *Magna Carta* did not quash the arbitrary powers of the Crown.

Whenever some man has arbitrary control over the rights and liberties of others, they cannot be counted as free men since it is inevitable their rights will become arbitrarily limited and violated. Such is the case in English history. The English *Bill of Rights* of 1689, lists a long train of abuses and usurpations of natural rights and liberties by King James II, just as our *Declaration of Independence* of 1776 lists abuses and usurpations by King George III. However, the English Bill of Rights, after stating its redress of all grievances, states the following:

33 F. N. Thorpe, "The Federal and State Constitutions," etc. Vol. 4, (1909) p.2455.

> "Having therefore an entire confidence that His said Highness [King William] the prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them [the people] from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights and liberties, . . ." [34]

Note that the English people had "entire confidence" in the Sovereign to secure their rights. The colonist, however, relied upon another sovereignty for their freedom as they signed the *Declaration of Independence:* "with a firm reliance on the protection of Divine Providence, . . ."

While the English *Bill of Rights* listed all the grievances against King James II, it was not much more than a plea to the new sovereigns, William and Mary, that the people had rights and that the Crown should not violate those rights. The *Declaration of Independence* was totally different in scope. It completely severed the American colonies from any connection to Crown:

> We, therefore, the Representatives of the UNITED STATES OF AMERICA, in General Congress, Assembled, appealing to the Supreme Judge of the World for the Rectitude of our Intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly Publish and Declare, That these United Colonies are, and of Right out to be, Free and Independent States; that they are absolved from all Allegiance to the British Crown . . .[35]

Those in England had the same legal right to make the same declaration but they apparently were not willing to change sovereigns. This is why America is a free nation and England is not. Those in America that resisted the unjust tyranny of the Crown wanted freedom even at the risk of their lives. Those in England were not willing to purchase

34 Adams & Stephens, "Selected Documents of English Constitutional History," p. 465

35 Declaration of Independence, 1776.

freedom at this price. The *Declaration of Independence* declared that all men were "endowed by their Creator with certain unalienable Rights," which neither the king, nor any man, would ever have arbitrary control over anymore. Aside from America, no nation in the history of the world, except perhaps the Israelites prior to their adoption of a king, has experienced the freedom and liberty that are granted by no other sovereignty or authority but God himself.

THE MAYFLOWER PILGRIMS – PIONEERS OF LIBERTY AND SELF-GOVERNMENT

The spirit of liberty and independence did not originate in America with the patriots of the Revolutionary period, but rather with the strong will spirit of the Mayflower Pilgrims. The Pilgrims that came to America on the Mayflower were unlike any colonial groups that had preceded them. They did not come to the "New World" as merchants, seekers of gold and riches, as male adventurers, or missionaries, but rather as family units who desired to build houses, plant seed, and to have the freedom to worship the God of the Bible as they so desired.

Unlike the Puritans who desired a reform of the English legal and religious system, the Pilgrims desired to completely separate themselves from these influences. Not willing to submit to the King's edicts and the doctrines of the Church of England, a group of these "Separatist" fled England to Holland. It was while they were in Holland that "Mr. Brewster established a printing press, and printed books about liberty, which, as he had the satisfaction of knowing, greatly enraged the foolish King James."[36]

Although they were generously treated by the Dutch and were given freedom of worship, the Pilgrims found that that did not constitute all that was desirable in life. The instinct of separatism was strong within the Pilgrim heart and they longed for a land of their own. In Holland they were among a people foreign in language and customs and were distressed at seeing their children adopting their foreign customs. They determined again to go on pilgrimage and "build for themselves new homes far from the vices of Europe and beyond the reach of the long arm of persecution."[37]

Hearing there was free land across the sea, they decided to face the known dangers for an opportunity to establish a more independent life for themselves and their children. Here we are compelled to ask, what degree of danger did they knowingly undertake and what type of men and women were these that made this decision to come to America?

This group of Pilgrims came to America seeking freedom knowing full well that their lives were at risk and all odds were against them —yet they still came. They knew of the two unsuccessful attempts by Sir Walter Raleigh to colonize in America, the first in 1585, in which most perished from starvation forcing the remainder to return to England. The second, in 1587, where the settlement mysteriously vanished.

Well known was the fate of the first colony established in Virginia under the charter of 1606, being over taken by fever and famine, and in four months one half of their number were dead. In 1609, five hundred new colonists reached Jamestown, but most had died of sickness and starvation in a few months. "Of the nine hundred persons

36 Hezekiah Butterworth, "The Story of America," 1898, p. 94

37 Andrew C. Mclaughlin, "A History of the American Nation," (N.Y. —1907) p. 71

who had come to Virginia since the granting of the charter, only one hundred and fifty were alive at the close of 1609; and during the awful 'starving time' of the ensuing winter more than half of these died."[38] The sixty that remained were about to depart when Lord Delaware arrived with supplies which saved the colony. These events were known by the Pilgrims —yet it did not sway their decision.

They also knew of the unsuccessful settlement of the *Plymouth Company* who had sent out one hundred and twenty colonists to colonize the coast on Maine. A single winter of disease and starvation was enough to reduce the colony by half and send the survivors back to England. The Mayflower Pilgrims knew of such disasters and of their chances for survival—yet they persisted in their venture for freedom.

They also knew of the perils they had to face of the long voyage at sea. They knew that "John Cabot was lost with four ships and all hands, that the Corte Real brothers were lost with two ships and all hands, and that Sir Humphrey Gilbert's ship was devoured and swallowed up of the sea within sight of her consorts."[39] And should they arrive safely, they still faced being killed by Indians. The Pilgrims knew well the dangers of their voyage — yet still they came.

Many of the potential dangers of such an expedition did fall upon the Pilgrims. After setting sail for America, one of the two ships, the *Speedwell,* was taking on water. Those who desired to continue crowded onto the *Mayflower.* During the nine weeks of the voyage the weather proved exceedingly rough tossing the small ship about. During the first winter at Plymouth, one half of the one hundred colonists died. But when the *Mayflower* set sail for England

38 David S. Muzzey, "A History of Our Country," 1936, p. 52.

39 Samuel E. Morison, "The European Discovery of America," 1971, p. 142.

the following spring, all remaining colonist stayed to make America their home. "Even during the second and third years the Pilgrims suffered grievously. Often *'they knew not at night where to have a bit in the morning,'* but they were sustained by the belief that God would not abandon those who worshipped him with such singleness of devotion. In time their harvests became abundant, and friends from England came in such numbers that Plymouth grew into a flourishing settlement." [40]

What sort of men and women were these who risked life and limb to come to America? They were men and women of great courage and determination. *"They were sustained by the strongest sentiments that spring from the human heart – love of liberty, and the love of God."*[41] They sought a higher order of freedom for which they were willing to pay a higher cost for – their own lives. The Pilgrim Fathers are revered because of their faith and courage to be free under the authority of God rather than that of a king or corrupted church. It is this spirit which sent them, for conscience's sake, out into the wilderness beyond the sea, where, in the words of Bradford, there were *"no friends to wellcome them nor inns to entertaine or refresh their weather beaten bodies, no houses or much less townes to repaire too, to seek for succoure."* [42]

The voyage of the Mayflower was in itself a miraculous event, one that was undoubtedly guided by the hand of Divine Providence. The Pilgrims having secured a grant from the London Company, intended to settle in the northern part of Virginia. But for some reason, the captain lost his bearing. When they sighted land they realized they had been driven north to the coast of Massachusetts.

40 Charles A. Beard, "The History of the American People," (N.Y. – 1922) p. 52.

41 William M. Davidson, "A History of The United States," 1906, p. 76

42 David S. Muzzey, "A History of Our Country," 1945, p. 57.

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"As this section was the property of the Plymouth Company, and they were to settle in the territory of the London Company, they started again southward. They were driven back by violent weather, and finally, anchoring in the harbor of Provincetown, they decided to get permission from the Plymouth Company to settle on their land. Some of the members, taking advantage of the fact that they were not landing in Virginia, declared their independence of all authority. The colonists, therefore, drew up in the cabin of the Mayflower a compact to enact *'such just and equal laws . . . as shall be thought most meet and convenient for the general good of the colony.'* They elected John Carver governor, and explored the coast."[43]

This voluntary agreement was the first instance of "self-determination" in our history. It was to be the first charter that was not issued or granted by the King of England and their governor the first elected by themselves rather than appointed by the Crown. Thus, the *Mayflower Compact* was not only the first American charter of self-government, but has also been called the first written constitution in the world. It was a precedent that innumerable bands of pioneers were to follow and thus set the pattern and spirit for our American form of free government.

The Pilgrim Fathers, while enduring many hardships, were evidently selected and guided by *Divine Providence* to be the founders of a great free republic. There were many in England who had the opportunity to make this, as well as latter voyages to America. However, they were more willing to accept or tolerate the infractions of their liberties and perversions of church doctrine, than they were to leave to comforts of civilization for the chance to be free. To the contrary, the *"Pilgrims came to this country that they*

43 Thomas B. Lawler, A.M., LL.D., "Essentials of American History," (1902) p. 68

might enjoy once more the political and religious freedom which they had lost in their English home through the tyranny of King James I."[44] They had come to conquer the wilderness in order to live a free life or die. Thus, the spirit of "give me liberty or give me death" was not first hailed by Patrick Henry but rather by the Pilgrim Fathers.

ORGANIC LAWS OF FREEDOM

ORIGIN OF FREEDOM AND LIBERTY:

The Pilgrims and founders of this nation placed a great emphasis on their liberty and their status as free men and women. The inspiration for this attribute, which became infused into our organic law, was undoubtedly derived from the Scriptures – being referred to as the "perfect law of liberty" (*James 1:25*). It was through their new-found "freedom" that they could best be "servants of God" (*I Peter 2:16*).

In many instances the Bible points out a sharp contrast between the status of the free from that of the bond or bondservant. Many of our ancestors came to this country under the status of a bondservant being indentured to a free citizen, usually for six years, while learning the trade of his master. This was a principle of the English common law which had originated from Scripture:

> And if thy brother, an Hebrew man, or an Hebrew woman, be sold unto thee, and serve thee six years; then in the seventh year thou shalt let him go free from thee.[45]

In the Bible, the laws and rights that applied to a free person did not equally apply to those who were not free:

44 William M. Davidson, "A History of The United States," 1906, p. 75.

45 Deuteronomy 15:12. Also Exodus 21:2.

And whosoever lieth carnally with a woman, that is a bondmaid, betrothed to an husband, and not at all redeemed, nor freedom given her; she shall be scourged; they shall not be put to death, because she was not free.[46]

In the American colonies the bondservant was in a different social class and was not accorded the same civil and political rights as the free citizen. Those who were born of free parents were naturally considered free and one born of indentured parents or slaves inherited their status – a principle also derived from Scripture (*Galatians 4:22-31*).

COLONIAL CHARTERS, COMPACTS, ETC.:

Throughout the laws, charters, compacts, constitutions, and other Organic documents of American history, our forefathers had placed a great emphasis on the free status of a person. Within the wording of such documents we find that the terms "free," "free person," freeman," and "freeholder"[47] are continuously and prominently used.

The legal status of a free person or free man was of paramount importance in early American law, society, and politics. A person had to be "free," and sometimes a "free holder," to engage in any of the following:

- To become a member of a commonwealth or state.
- To be accorded certain rights or privileges as a citizen.
- To be allowed elective franchise to vote.
- To be eligible to hold public or political offices.
- To serve on Juries.

46 Leviticus 19:20. Compare effect of law in Deuteronomy 22:22-24.

47 FREEHOLDER: One who owns an estate in fee-simple, fee-tail or for life; the possessor of a freehold (land or tenement). Every juryman must be a freeholder. Noah Webster, "American Dictionary," 1828.

The following are excerpts from the various organic laws, statutes, charters etc., which emphasized the importance of the status of the freeman, and established its legal and constitutional standing in American law: [48]

THE CHARTER OF MASSACHUSETTS BAY – 1629

"That from henceforth for ever, there shall be one Governor, one Deputy Governor, and eighteen Assistants of the same Company, to be from time to time constituted, elected and chosen out of the Freemen of said Company."

THE CHARTER OF MARYLAND – 1632

VII. Barons given power to enact laws "with the Advice, Assent, and Approbation of the Free-Men of the Province."

XXI. "And furthermore We do grant, . . . unto the Freeholders and Inhabitants of the said Province, both present and to come, . . . that the said province, and the Freeholders . . . shall not henceforth be held a Member or Part of the land of Virginia."

FUNDAMENTAL ORDERS OF CONNECTICUT – 1638-39

6. Gives the "Freemen" of the Commonwealth, "or the major part of them," authority to "petition" the Governor and Magistrates for "neglecting or refusing to call the two General standing Courts" to assemble when required.

7. Requires "that none be chosen a Deputy for any General Court which is not a Freeman of this Commonwealth."

8. Representation of deputies to the General Court to be "proportion to the number of Freemen that are in said Towns."

10. "Election of Magistrates shall be done by the whole body of Freemen."

CONSTITUTION OF THE COLONY OF NEW-HAVEN – 1639

"The 4th day of the 4th month, called June, 1639, all the free planters assembled together in a general meeting, to consult about settling civil government, according to God, . . ."

48 Sources: Thorpe, "Federal and State Constitutions," etc., (1909).

THE OATH OF FREEMEN IN MASSACHUSETTS – 1639

The oath of a Freeman was originally enacted by the Massachusetts General Court May 14, 1634. When revised in 1639, it was the first document printed on a press in America. Latter, King Charles II objected to what he felt was an attitude of independence in the oath.

> I _______________, BEING BY GOD'S PROVIDENCE an inhabitant and freeman within the jurisdiction of this commonwealth, do freely acknowledge myself to be subject to the government thereof; and therefore do swear by the great and dreadful name of the ever living God that I will be true and faithful to the same, and will accordingly yield assistance and support thereunto with my person and estate, as in equity I am bound; and will also truly endeavor to maintain and preserve all the liberties and privileges thereof, submitting myself to the wholesome laws and orders made and established by the same. And further, that I will not plot or practice any evil against it, or consent to any that shall so do; but will timely discover and reveal the same to lawful authority now here established for the speedy preventing thereof.
>
> Moreover, I do solemnly bind myself in the sight of God that, when I shall be called to give my voice touching any such matter of this state, in which freemen are to deal, I will give my vote and suffrage as I shall judge in my own conscience may best conduce and tend to the public weal of the body, without respect of persons or favor of any man. So help me God in the Lord Jesus Christ.[49]

GOVERNMENT OF NEW HAVEN COLONY – 1643

2. "All such free burgesses shall have power in each towne or plantation within this jurisdiction to chuse fitt and able men, from amongst themselves, . . . to be the ordinary judges, . . ."

3. "All such free burgesses through the whole jurisdiction, shall have vote in the election of all Magistrates, . . ."

49 "The Annals of America," Encyclopedia Britannica, Vol. I (1976) p. 148.

CHARTER OF CONNECTICUT – 1662

". . . for the better ordering and managing of the Affairs and Business of the said Company and their Successors, there shall be One Governor, One Deputy-Governor, and Twelve Assistants, to be from time to Time constituted, elected and chosen out of the Freemen of said Company."

CHARTER OF RHODE ISLAND AND PROVIDENCE PLANTATIONS – 1663

"*And further*, . . . there shall be one Governor, one Deputy-Governor, . . . elected and chosen, out of the freemen . . ."

" . . . the assistants, and such of the freemen of the Company, . . . shall be, from time to time, elected or deputed by the major part of the freemen of the respective towns . . . "

CHARTER OF CAROLINA – 1663

5th. Enactment of laws to be "of and with advice, assent and approbation of the freemen of the said province . . ."

THE CONCESSION AND AGREEMENT OF THE LORDS PROPRIETORS OF THE PROVINCE OF NEW JERSEY – 1664

ITEM. "That the inhabitants being freemen" are to choose "twelve deputies or representatives from amongst themselves."

II. "None but such as are freeholders in the Province" are to be appointed judges, members and officers of the courts, civil officers, coroners, etc.

III. ITEM. "To every free man and free woman that shall arrive in the said Province, arm'd and provided as aforesaid, . . . with the intention to plant, ninety acres of land English measure."

THE FUNDAMENTAL CONSTITUTIONS OF CAROLINA – 1669

Sixty-eight. "In the precinct court no man shall be a juryman under fifty acres of freehold. In the county court no man shall be a grand-juryman under three hundred acres of freehold."

Ninety-one. "There shall be in every colony one constable, to be chosen annually, by the freeholders of the colony."

XIV. " . . . the said freemen shall yearly chuse Members to serve in a General Assembly, as their representatives, . . ."

FUNDAMENTAL CONSTITUTION FOR EAST NEW JERSEY – 1683

III. "The persons qualified to be free men, that are capable to choose and be chosen in the great Council, shall be every planter and inhabitant dwelling and residing within the Providence, who hath acquired rights to and is in possesion of fifty acres of ground, and hath cultivated ten acres of it."

XIX. "That no person or persons within the said Province shall be taken and imprisoned, or be devised of his freehold, free custom or liberty, or be outlawed or exiled, or any other way destroyed; nor shall they be condemn'd or judgment pass'd upon them, but by lawful judgment of their peers."

FRAME OF GOVERNMENT OF PENNSYLVANIA – 1696

Government to consist of a Governor elected "with the advice and consent of the representatives of the freemen of said province and territories

"That no inhabitant of this province or territories, shall have right of electing, or being elected to Council and Assembly, unless they be free denizens of this government."

CHARTER OF PRIVILEGES GRANTED BY WILLIAM PENN, ESQ. TO THE INHABITANTS OF PENNSYLVANIA AND TERRITORIES – 1701

"For the well governing of this Province and Territories, there shall be an Assembly yearly chosen, by the Freemen thereof, to consist of Four Persons out of each County, . . ."

CHARTER OF DELAWARE – 1701

II. "For the well governing of this Province and Territories, there shall be an Assembly yearly chosen, by the Freemen thereof, . . ."

CHARTER OF GEORGIA – 1732

"All which lands, countries, territories and premises, hereby granted or mentioned, we do by these presents, make, erect and

Ninety-five. "No man shall be permitted to be a freeman of Carolina, or to have any estate or inhabitation within it, that doth not acknowledge a God; and that God is publicly and solemnly to be worshipped."

One hundred and ten. "Every freeman of Carolina shall have absolute power and authority over his negro slaves, of what opinion or religion so ever"

One hundred and eleven. "No cause, whether civil or criminal, of any freeman, shall be tried in any court of judicature, without a jury of his peers."

CHARTER FOR THE PROVINCE OF PENNSYLVANIA – 1681

Requires that any Laws enacted to be "by and with the advice, assent, and approbation of the Freemen of the said Country."

COMPACT OF THE PROVINCE OF WEST NEW-JERSEY – 1681

I. "That there shall be a General Free Assembly for the Province aforesaid, . . . chosen by the free people of the said Province."

II. "That the Governor . . . shall not suspend or defer the signing, sealing and confirming of such acts and laws as the General Assembly shall make or act for the securing of the liberties and properties of the said free people of the Province."

PENN'S CHARTER OF LIBERTIES – 1682

2. "THAT the freemen of the said Province shall . . . Meet and Assemble . . . to chuse of themselves Seventy-Two persons of most note for their Wisdom Virtue and Ability . . . as the Provincial Council of said province." *

* *The term "Freeman" was used 12 times within this Charter.*

FRAME OF GOVERNMENT OF PENNSYLVANIA – 1682

"The frame of government of the province of Pennsylvania, *in* America: *together with certain laws agreed upon in England, by the Governor and divers freemen of the aforesaid province."*

"Any government is free to the people under it where the laws rule, and the people are a party to those laws, and more than this is tyranny, oligarchy, or confusion."

create one independent and separate province, by the name of Georgia, . . . And that all and every person or persons, who shall at any time hereafter inhabit or reside within our said province, shall be, and are hereby declared to be free, . . ."

ORIGINAL STATE CONSTITUTIONS:

The following excerpts are from the original State Constitutions that existed prior to the signing of the U. S. Constitution. These State Constitutions are of particular importance as they not only make up a part of our Organic Law, but they also were enacted at a period of time when independence was being declared, established and fought for in America. Thus, they not only set a legal precedent, but an inspirational one as well, as the States, one after another, declared themselves "free and independent states," having no further allegiance to the Crown.

These State Constitutions, and those that followed, continued to reveal the legal importance of the status of the freeman. History has shown us that one is not necessarily free because he lives in a free nation. He must also possess the status of being free himself. These original American State Constitutions were framed by freemen, were ratified by freemen, and were intended for the benefit and protection of freemen that lived within the free and independent State: [50]

CONSTITUTION OF NEW HAMPSHIRE – January 5, 1776

"We, the members of the Congress of New Hampshire, chosen and appointed by the free suffrages of the people of said colony, . . . "

50 Source: Poore, "The Federal and State Constitutions," etc., (G.P.O. 1878), Part I. Thorpe, "The Federal and State Constitutions," etc., (G.P.O. 1909), Vol. 1-7.

Requires the house of Representatives "to choose twelve persons, being reputable freeholders and inhabitants within this colony . . . to be a distinct and separate branch of the Legislature by the name of a COUNCIL for this colony."

THE CONSTITUTION OF VIRGINIA – June 29, 1776

SECTION 1. "That men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity."

SEC. 6. "That elections of members to serve as representatives of the people, in assembly, ought to be free; . . . "

SEC. 15. "That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles."

CONSTITUTION OF NEW JERSEY – July 3, 1776

Severs allegiance to "George the Third, king of Great Britian" by declaring "all civil authority under him is necessarily at an end, and a dissolution of government in each colony has consequently taken place."

Members of the Legislative Council required to be "an inhabitant and freeholder in the county in which he is chosen."

CONSTITUTION OF CONNECTICUT – 1776

"The people of this State, being by the Providence of God, free and independent, have the sole and exclusive Right of governing themselves as a free, sovereign, and independent State; and having from their Ancestors derived a free and excellent Constitution of Government whereby the Legislature depends on the free and annual Election of the People, . . ."

"And this Republic is, and shall forever be and remain, a free, sovereign and independent State, by the Name of the STATE OF CONNECTICUT."

"That all free Inhabitants of this or any other of the United States of America, . . . shall enjoy the same justice and Law within this State, . . . "

CONSTITUTION OF DELAWARE – Sept. 21, 1776

"The Constitution, or System of Government, agreed to and resolved upon by the Representatives in full Convention of the Delaware State, . . . the said Representatives being chosen by the Freemen of the said State for that express Purpose."

Also requires the nine members of "The Council" to "be freeholders of the county for which they are chosen."

CONSTITUTION OF PENNSYLVANIA – Sept. 28, 1776

"AND WHEREAS it is absolutely necessary for the welfare and safety of the inhabitants of said colonies, that they be henceforth free and independent States, . . . We, the representatives of the freemen of Pennsylvania, in general convention met, confessing the goodness of the great Governor of the universe in permitting the people of this State, to form for themselves such just rules as they shall think best, for governing their future society; . . ."

VII. " That all elections ought to be free; and that all free men having a sufficient evident common interest with, and attachment to the community, have a right to elect officers, or to be elected into office."

SECT. 5. "The freemen of this commonwealth and their sons shall be trained and armed for its defence . . . "

SECT. 7. "The house of representatives of the freemen of this commonwealth shall consist of persons most noted for wisdom and virtue, to be chosen by the freemen of every city and county of this commonwealth respectively."

CONSTITUTION OF MARYLAND – Nov. 11, 1776

XVII. "That every freeman, for any injury done him in his person or property, ought to have remedy, by the course of the law of the land, and ought to have justice and right freely without sale, fully without any denial, and speedily without delay."

XXI. "That no freeman ought to be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or deprived of his life, liberty, or property, but by the judgment of his peers, or by the law of the land."

XLII. "All freemen above the age of twenty-one years, having a freehold of fifty acres of land in the county in which they offer to ballot, and residing therein – and all freemen above the age of twenty-one years, and having property in the State above the value of thirty pounds current money – shall have the right of suffrage."

CONSTITUTION OF NORTH CAROLINA – Dec. 18, 1776

VII. "That no freeman shall be put to answer any criminal charge, but by indictment, presentment, or impeachment."

IX. "That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men, in open court, as heretofore used."

XII. "That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by law of the land."

XIII. "That every freeman, restrained of his liberty, is entitled to a remedy, to inquire into the lawfulness thereof, and to remove the same, if unlawful; and that such remedy ought not to be denied or delayed."

VIII. "That all freemen of the age of twenty-one years, . . shall be entitled to vote for members of the House of Commons for the county in which he resides."

CONSTITUTION OF GEORGIA – Feb. 5, 1777

ART. LVIII. No person shall be allowed to plead in the courts of law in this State, except those who are authorized so to do by the house of assembly; . . . This is not intended to exclude any person from that inherent privilege of every *freeman,* the liberty to plead his own case.

ART. LXI. "Freedom of the press and trial by jury to remain inviolate forever."

CONSTITUTION OF NEW YORK – April 20, 1777

The *Declaration and resolves of the Congress of the Colony of New York* of May 31, 1776, and the *Declaration of Independence* of July 4, 1776, were reprinted within this State Constitution.

VII. "That every person who now is a freeman of the city of Albany, or who was made a freeman of the city of New York, . . . shall be entitled to vote for representatives in assembly within his said place of residence."

X. ". . . that the senate of the State of New York shall consist of twenty-four freeholders to be chosen out of the body of freeholders; and that they be chosen by the freeholders of this State,. . . "

CONSTITUTION OF SOUTH CAROLINA – November 1778

"Whereas the constitution or form of government agreed to and resolved upon by the freemen of this country . . ."

"That the following articles, agreed upon by the freemen of this State, now met in general assembly, . . . "

XXXVI. "That all persons who shall be chosen and appointed to any office or to any place of trust, civil or military, before entering upon the execution of office, shall take the following oath: *'I, A. B., do acknowledge the State of South Carolina to be a free, sovereign, and independent State, and that the people thereof owe no allegiance or obedience to George the Third, King of Great Britain, and I do renounce, refuse, and abjure any allegiance or obedience to him.'*"

CONSTITUTION OR FORM OF GOVERNMENT FOR THE COMMONWEALTH OF MASSACHUSETTS – Oct. 1780

ARTICLE I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberty; that of acquiring, possessing, and protecting property; . . ."

IV. "The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; . . . "

OTHER LAWS AND ACTS OF FREEDOM:

THE MECKLENBURGH RESOLUTIONS – 1775

This declaration of independence (with a supplementary set of resolutions establishing a form of government) was adopted by a convention of delegates from different sections of Mecklenburgh County, which assembled at Charlotte, North Carolina May 20, 1775.

I. *Resolved:* That whosoever directly or indirectly abets, or in any way, form, or manner countenances the unchartered and dangerous invasion of our rights, as claimed by Great Britain, is an enemy to this country – to America – and to the inherent and inalienable rights of man.

II. *Resolved*: That we do hereby declare ourselves a free and independent people; are, and of right ought to be a sovereign and self-governing association, under the control of no power, other than that of our God and the General Government of the Congress: To the maintainance of which Independence we solemnly pledge to each other our mutual co-operation, our Lives, our Fortunes, and our most Sacred Honor.

III. *Resolved:* That as we acknowledge the existence and control of no law or legal officer, civil or military, within this county, we do hereby ordain and adopt as a rule of life, all, each, and every one of our former laws, wherein, nevertheless, the Crown of Great Britain never can be considered as holding rights, privileges, or authorities therein.

IV. *Resolved:* That all, each, and every Military Officer in this country is hereby reinstated in his former command and authority, he acting conformably to their regulations, and that every Member present of this Delegation, shall henceforth be a Civil Officer, viz: a Justice of the Peace, in the character of a Committee Man, to issue process, hear and determine all matters of controversy, according to said adopted laws, and to preserve Peace, Union, and Harmony in said county, to use every exertion to spread the Love of Country and Fire of Freedom throughout America, until a more general and organized government be established in this Province. [51]

51 Thorpe, "Federal and State Constitutions, etc.," Vol. 5, (G.P.O. – 1909) p. 2786-87.

DECLARATION OF THE CAUSES AND NECESSITY OF TAKING UP ARMS, —July 6, 1775

"We are reduced to the alternative of chusing an unconditional submission to the tyranny of irritated ministers, or resistance by force. — The latter is our choice. — We have counted the cost of this contest, and find nothing so dreadful as voluntary slavery. — Honour, justice, and humanity, forbid us tamely to surrender that freedom which we received from our gallant ancestors, and which our innocent posterity have a right to receive from us." [52]

ARTICLES OF CONFEDERATION AND PERPETUAL UNION—1777

The *Articles of Confederation* is of particular importance in that it formed the "Union" as we know it today, it established the Union as "Perpetual," and it formed the "United States of America." The Articles took effect March 1, 1781.

ARTICLE II. "Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled."

ARTICLE IV. "The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, . . ."

THE NORTHWEST ORDINANCE OF TERRITORIAL GOVERNMENT — July 13, 1787

"So soon as there shall be five thousand free male inhabitants . . . they shall receive authority to elect representatives . . . *Provided*, That for every five hundred free male inhabitants there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, . . ."

52 "Documents Illustrative, etc.," 69th Congress, 1st Sess. House Doc. 398, p. 15.

JUDICIAL DETERMINATIONS ON FREEDOM AND LIBERTY

The term "liberty" is very broad in its meaning and application, being used in general reference to the numerous rights and liberties that have been recognized in this country under such terms as natural liberty, political liberty, civil and religious liberty, inalienable rights, etc. The following are selected quotations from various courts to help further clarify the meaning, purpose, and importance of liberty and freedom under our form of government, and the requirements for preserving it. Such decisions are unique to America because of the freedom it was founded and built upon.

GOW *vs.* BINGHAM et al.

107 N.Y. Supp. 1011, 1014; 57 Misc. Rep. 66; 21 N.Y. Cr. 559 (1907)

There are certain rights pertaining to mankind which have their origin independent of any express provision of law, and which are termed "natural rights." One of these is the right of personal liberty. This includes not only absolute freedom to every one to go where and when he pleases, but the right to preserve his person inviolate from attack by any other persons. This right to one's person may be said to be a right of complete immunity, to be let alone. Cooley on Torts (3d Ed.) 33.

FRAZER *vs.* SHELTON

150 N.E. 696, 701; 320 Illinois 253 (1926)

The right to follow any of the common occupations of life is an inalienable right. That right is one of the blessings of liberty, * * * The right of a citizen to pursue ordinary trades or callings upon equal terms with other persons similarly situated is a part of his right to liberty and property. "Liberty" as used in the Constitution embraces the free use by all citizens of their powers and faculties subject only to restraints necessary to secure the common welfare. The right to contract is both a liberty and a property right.

REYNOLDS *vs.* STATE

126 So. 2d 497, 498-99 (1961)

Constitutional provisions designed for the security of elementary constitutional rights of life, liberty, and property should be liberally construed in favor of the citizen. Randle v. Winona Coal Co., 206 Ala. 254; 89 So. 790; 19 A.L.R. 118.

UNITED STATES *vs.* WHEELER

149 Fed. Supp. 445, 451 (1957)

In this tumultuous age of challenge and peril to free institutions everywhere in the world, the bulwark of constitutional protection upon which rests the foundation of all our freedoms, must be held sacrosanct in the application of the law. To deviate or compromise these sacred rights is to imperil our basic freedoms.

STATE *vs.* REDMON

114 N.W. Rep. 137, 139; 134 Wis. 89 (1907)

By the preamble, preservation of liberty is given precedence over the establishment of government.

SMITH *vs.* TEXAS

233 U.S. 630, 636 (1914)

Life, liberty, property, and the equal protection of the law, grouped together in the Constitution, are so related that the deprivation of any one of those separate and independent rights may lessen or extinguish the value of the other three.

McKINSTER *vs.* SAGER

72 N.E. Rep. 854, 856; 163 Ind. 671 (1904)

[G]overnment can scarcely be deemed to be free when the rights of property are left solely dependent upon the will of a legislative body, without any restraint. The fundamental maxims of a free government seem to require that the right of personal liberty and private property should be held sacred. At least, no court of justice in this country would be warranted in assuming that the power to violate and disregard them — a power so repugnant to the common principles of justice and civil liberty — lurked under any general grant of legislative authority; * * *. Wilkinson v. Leland, 2 Peters 657, 658; 7 L. Ed. 542.

STATE ex inf. CROW *vs.* CONTINENTAL TOBACCO CO.
75 S.W. 737, 747; 177 Mo. 1 (1903)

The term liberty, as used in the constitutional declarations, means more than freedom of locomotion. It includes and comprehends, among other things, freedom of speech, the right to self-defense against unlawful violence, and the right to freely buy and sell as others may.

SAVILLE *vs.* CORLESS
151 Pac. Rep. 51, 53; 46 Utah 502 (1915)

If there be one thing more than others to be guarded against en-croachment it is the federal and state Constitutions. These we are sworn to protect and defend. To disobey them is to jeopardize fundamental rights and liberties of the people, imperil their welfare and happiness, and to menace the very existence of governments.

THOMPSON *vs.* SMITH
154 S.E. 579, 583; 155 Va. 367 (1930)

The right of a citizen to travel upon the public highways and to transport his property thereon in the ordinary course of life and business is a common right which he has under his right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety.

MARBURY *vs.* MADISON
1 Cranch 137, 163 (1803)

The very essence of civil liberty, is the right of every individual to claim protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection.

JENKINS *vs.* STATE
80 S.E. 688, 690; 14 Ga. App. 276 (1913)

No extended discussion of the word "liberty" need be entered upon. It includes freedom of contract, freedom to do all those things which are regarded as inalienable rights, and, as applied to a male citizen who is otherwise qualified, it includes the right to vote and hold any office of honor or trust in this State.

CITY of MONROE *vs.* DUCAS et al.
14 So. 2d 781, 784; 203 La. 974 (1943)

The right of personal liberty is one of the fundamental rights guaranteed to every citizen, and any unlawful interference with it may be resisted. Every person has a right to resist an unlawful arrest; and, in preventing such illegal restraint of his liberty, he may use such force as may be necessary.

THIEDE *vs.* TOWN OF SCANDIA VALLEY
14 N.W. (2d) 400; 217 Minn. 218, 225 (1944)

The rights, privileges, and immunities of citizens exist notwithstanding there is no specific enumeration thereof in state constitutions. These instruments measure the powers of rulers, but they do not measure the rights of the governed. The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred. Government would not be free if they were not so held.

McDANIEL *vs.* ATLANTA COCA-COLA BOTTLING CO.
2 S.E. 2d 810, 815-16; 60 Ga. App. 92 (1939)

This case involved the right of privacy as it pertains to the right of personal liberty. After the court had made reference to several other appellate and supreme court cases, it summerized the principles that have been held by the courts regarding privacy and liberty:

[2] "A right of privacy is derived from natural law;" [3] "The right of privacy in embraced within the absolute rights of personal security and personal liberty;" [4] "Personal security includes the right to exist, and the right to the enjoyment of life while existing," [5] "Personal liberty includes not only freedom from physical restraint, but also the right 'to be let alone'; to determine one's mode of life, whether it shall be a life of publicity or of privacy; and to order one's life and manage one's affairs in a manner that may be most agreeable to him so long as he does not violate the rights of others or of the public." (See: *Pavesich v. New England Life Ins. Co.,* 50 S.E. 68; 122 Ga. 190).

CHAPTER TWO

WHITE AMERICA

To say that America is a white nation may raise some questions and objections at this period of time, being that the land is inhabited, to some extent, by practically every racial type under the sun, and being that much propaganda has prevailed in portraying America as some sort of racial "melting pot." However, the intent here is to reveal the legal foundations that had established America and its form of government. It is after all the law that determines the issue, not what people think it is. Thus, when stripped of emotional opinions and propaganda, the legal foundations of America profess it to legally be a white nation.

WHO HAS LEGAL TITLE TO AMERICA?

Prior to 1495 A.D., America was still, for all practical purposes, a new and unsettled land to the rest of the world. The legal claim or title to any new land was universally recognized as belonging to the people or government which made the first discovery of the land. This principle was expounded upon by **Joseph Story** in his commentaries:

> That title [to new lands] was founded on the right of discovery, a right which was held among the European nations a just and sufficient foundation, on which to rest their respective claims to the American continent. [1]

Who then discovered America? The first discovery can be credited to an Italian named Americus Vespucius. In 1497, Vespucius is said to have entered the gulf of

1 Joseph Story, "Commentaries on the Constitution of the U. S.," Vol. I, Sec. 2.

Mexico and explored the American coast as far north as Chesapeake Bay. Some historians do not believe Vespucius ever made this journey, nonetheless, the continent "America" was named after him by a German geography teacher – Martin Waldseemuller.

The first credible discovery of this land was by another Italian, John Cabot,[2] who resided in England and was commissioned by King Henry VII. Cabot sailed from Bristol in May, 1497, and discovered the continent of America, probably on the coast of Labrador, June 24. Believing he had discovered Asia, he landed and, erecting a large cross bearing aloft the flag of England, he claimed the entire country in behalf of the king of England. A year later, April 1498, with his son Sebastian Cabot, he returned and explored the coast as far south as Cape Hatteras. These voyages are most important, as they gave England a claim to the Atlantic seaboard and right to colonize North America.[3]

While Cabot's voyages were the first well recognized discoveries of the American continent, many other voyages and discoveries were made by adventurers centuries before. This includes the voyages to America by the Norsemen under Eric The Red and later his son Leif Ericson around the period of 983 to 1000 A.D. And even before that, their were voyages by the early Irish, Celts, and Phoenicians.

It is a matter of historical fact that every single adventurer, discoverer, explorer, and founder of lands on the American continent were of the white race. This includes

2 This claim is often given to Columbus under popular but nonhistorical pretenses. Columbus had made three voyages across the Atlantic (1492, 1498, 1502), but these voyages landed him in the East Bahamas, Cuba, Haiti, South America, and Central America. Columbus had never set foot on what is now America. Thus, no legal title to America could be claimed by the Catholic country of Spain by right of discovery.

3 Thomas Lawler, A.M., LL.D., "Essentials of American History," 1902, p.14.

the Pilgrims as well as the early Norsemen, Irish, Celts, and Phoenicians, it includes such names as Leif Erickson, John Cabot, Cartier, Sir Humfry Gilbert, John Davis, Sir Walter Raleigh, Sir Francis Drake, Ponce de Leon, Champlin, de Sota, Oglethorpe, John Winthrop, de Varis, Henry Hudson, Peter Minuit, Captain John Smith, William Penn, Bellomont, Joliet, LaSalle, Lewis & Clark, and numerous other individuals which were all of the white race.

The colonization and settlement of new lands also carries considerable weight in regards to the rule of title to such lands. Again history shows that all settlements, towns, colonies, and provinces were established by white persons and were predominately, if not exclusively in most cases, peopled by persons of the white race. Jamestown, Plymouth Colony, Massachusetts Bay Colony, New Haven Colony, New Netherlands, Rhode Island, Connecticut, and all the other colonies and provinces in America were settled and established by white Europeans and none other.

When the first seal of the United States was devised in 1777, it bore the symbols of the six white European nations from which the States have been populated, to wit: England, Ireland, Scotland, France, Germany, and Holland. This reveals that these nations were, up to the time of the *Articles of Confederation,* the ones recognized as being the nations which colonized, established and peopled the American continent. These were all white nations that created America as no other racial element had the know-how or spirit of exploration to do so. America was discovered by the white race, it was explored by the white race, and it was settled and colonized by the white race.

America is legally a white nation by the natural consequences of its white, European origin and development:

"The Union of the States was never a purely artificial and arbitrary relation. It began among the Colonies, and grew out of common origin, mutual sympathies, kindred principles, similar interests, and geographical relations."[4]

Those that constituted the United States of America had a "common origin," as expressed by the U.S. Supreme Court. That origin was the white, European peoples. They all had in common "kindred principles" of law, religion, and government which the other races did not possess.

THE INDIANS AND THE WHITE MAN:

At this point the following questions might be asked: What about the Indians? Weren't they here first? Didn't we (the white race) take this land away from the Indian? Doesn't the Indian have the rightful title to America?

Since we are dealing with a conflict between two nations or races, the white race and the Indian race, we need to turn to the Law of Nations or International Law for the solution. The following are some basic maxims of the International Law:

> FIRST: That every nation possesses an exclusive sovereignty and jurisdiction in its own territory.
>
> SECOND: That no state or nation can by its law directly affect or bind property that lies outside of its own territory, or persons not resident therein.
>
> THIRD: That whatever force the laws of one country have in another depends solely on the municipal laws of the latter.[5]

The first principle listed here would seem to suggest that all of America was the possession of the Indians prior to the

4 Texas v. White, 7 Wallace (74 U.S.) 700, 724-25 (1868).

5 "Harper's Encyclopaedia of United States History," Harper & Brothers Publishers, Vol. V, 1901, (International Law).

age of discovery by the white race. However, the Indians never laid claim to all of the "territory" of America because they had no understanding of its size and boundaries. The Indian only claimed the land he was inhabiting and that which he used for hunting, burial, etc. At the time of discovery (*circa* 1500 A.D.), the American Indian numbered about 700,000 inhabitants, sparsely scattered over what is now America. Thus the Indians never had a legal claim to much more than 3% of the land at any one time. So it can be said that the Indians did have a legal claim to America, 3% of it, which was considered their "own territory."

In light of this, it cannot be said that the white race violated the second principle of International Law either, since 97% of America was not legally the "property" of anyone. When America was claimed by the English, French, and Spanish, they claimed the entire breadth and width of the land, from sea to sea, from one boundary to the next. However, the lands that the Indians occupied within these European claims were still Indian land.

It must also be addressed as to whether the white man encroached upon and took possession of lands that were legally claimed by the Indian. The third maxim of International Law says we have to look at the Indian's law, and that whatever measures or acts the white man took in regards to Indian land must be pursuant to Indian law. The following are some of the laws that were generally held by the Indians:

1. It was a law common among Indians that the stronger of two tribes or people (nations) has the right to conquer and subdue the weaker.

2. Under Indian common law it was understood that land claims existed by inhabiting the land and by any use of the land.

3. When any land was unoccupied or not used for one year, the land was free for anyone to claim and settle.

This first law of the Indian could actually render all other arguments of land rights academic. This law was almost a way of life with the Indian, which is why they were always warring among themselves. The wars and conflicts between the white race and the Indian race throughout history were numerous, and the fact that the white race was the stronger cannot be doubted.

According to the third Indian law listed, the white man, or any man or nation, had the right to possess the vast lands that were uninhabited or unclaimed by the Indian in America. Since the Indians never claimed the American continent from Atlantic to Pacific, the lands claimed by right of discovery are valid. Thus, the only legal conflict that can exist lies with the 3% of land the Indian had a legal claim to in America, in accordance to the second Indian law listed.

In spite of the legal right the white race has to America, we often are confronted with the anti-American propaganda that the white race wronged the Indian by attacking and kill- ing them and driving them out of their land. We thus need to look at the first conflicts that existed between the Indians and the colonial settlers. A summary of these first conflicts shows they were always initiated by Indians:[6]

- Shortly after the first colony was established at Jamestown in 1607, the settlers were attacked by the Indians, who wounded seventeen men and killed one boy.

- After the above conflict, peaceful relations prevailed, due to the wise policy of Captain John Smith and the good will of Powhatan, head chief of the Indian Confederacy. When Powhatan died in 1618, his brother Opechancanough, who

6 The following history sources were used in these excerpts:
Edward Eggleston, "A History Of The United States And Its People," 1888.
Gertrude Southworth, "A First Book In American History," 1919.
Hezekiah Butterworth, "The Story of America," 1898.
John Bassett, Ph.D., "A Short History of The United States: 1492—1929," 1933.

disliked the English, began to plot war. In March 1622, the Indian tribes went on the warpath, and swept through a line of settlements marked by a trail of blood. In the white settlements, nearly 400 men, women, and children, were cruelly put to death before the ravages of the Indians could be checked.

- For 22 years after the massacre of 1622 there was peace. But Opechancanouch, at last head chief, only waited for another opportunity. In 1644, there was a civil war in England, and he thought the expected moment was at hand. The massacre he waged left over 300 white settlers slain in two days. Again the whites took up arms in defense, and in 1646 the aged chief himself was taken and killed - there was never again a general uprising in Virginia.

- In the Plymouth colony, a peace compact was established between the Indian chief Massasoit and Governor Carver. As time went on, the friendly old chief died. When his son, King Philip, came to be ruler of the Wampanoag tribe, trouble began to brew for the colonists. Urged on by his braves, King Philip began sending messages to friendly tribes, inviting them to join in a mighty war on the "pale faces." The war that followed was a terrible one. The Indians, avoiding the white troops, dodging them, and never meeting them face to face in the open field, carried on the contest in their savage way of massacring the helpless, and burning villages. Many a fair and quite settlement was made desolate. Women and children were ruthlessly murdered, and burned in the houses. But by the end of 1675 the force of the Indians was broken.

- In the New Haven colony the situation with the Indians (the Pequets) was similar. At first there were peaceful relationships between them and the white settlers. During 1637, the Pequots attempted to organize a confederacy, but unable to secure the help of the Narragansetts due to the influence of Roger Williams, they took to the warpath alone. They did not come out in open battle, but waylaid a party of whites and killed thirty of them. In response to this, a small party of English, along with some seventy friendly Indians, attacked the Pequet stronghold, killing over 450 of that tribe. The great Pequet tribe was crushed, and nearly forty years of Peace ensued.

History reveals that all the early hostilities and wars between the American Indians and the white settlers, were instigated by or first carried out by the Indians. Even though the white settlers had legal title to the land by way of purchase or claim of unoccupied lands, the Indian was always the one to disrupt peaceful relations with attacks, massacres, and wars. The retaliation by the white settlers were merely acts of self defense and self preservation in accordance with the law of nature. Thus it was the Indian who was the intruder and violator of land rights. It was the Indian who, in the beginning, wronged the white man. The Indian's treachery, barbaric and warlike manners, and sneak attacks on the colonist was positive proof of the anti-social nature of the red man. This exhibit of the Indian's character caused much distrust of the Indian, and became the "code of conduct" which the Indian continued to live by and uphold in the future.

Thus, the white race has a rightful and legal claim and title to America pursuant to international law, the Indian's law, the law of nature, and by a combination thereof.

THE WHITE GOVERNMENT OF AMERICA

Another very relevant factor as to why America is a white nation, is that its form of government was established by whites for whites. No other racial element had a part in the formation of our laws and government. America's government and its Constitutional law is actually composed of all the laws, compacts, charters, constitutions, etc., that had existed in the original thirteen colonies. The following is an overview of these laws, documents and historic events that legally formed the white government of America:

- All colonial charters, patents, commissions and grants for the founding and establishing of settlements in America originated from white European nations.

- The *"Mayflower Compact,"* the first document of self-government, was drafted and signed by forty-one adult white males on board the Mayflower.

- The *"Fundamental Orders of Connecticut—1639,"* which was the first written constitution that created government, was formed by the free white men of Hartford, Windsor, and Wethersfield. Offices that were allowed to any "Freeman" were held by only free white males in the Commonwealth.

- The *"Articles of Confederation of the United Colonies of New England—1643,"* which created the first "union" of colonies,[7] was drafted and signed by the white representatives of these colonies. This confederation was written for "their posterities" and the nature of the government was to be "perpetual."

- *"The Declaration Of Independence—1776,"* was signed by 56 delegates of the Continental Congress who were all free white males and who had been elected by the free white males of the thirteen states.

- Colonial laws and charters always referred to the American Indian as; "Indian," "Native," or "Savage" and never as a citizen or as persons qualified to be a member of the colonial government.

- Throughout the colonial period (1607—1787), no Negro had freely immigrated to America as freemen to colonize it. All were brought here as slaves.

- All through the colonial period up to the signing of the U. S. Constitution, blacks never shared in **all** the

7 The colonial governments united were: Massachusetts, New Plymouth, Connecticut, and New Haven along with the Plantations in combination therewith.

political rights, privileges, and immunities as white citizens, and never participated in government.

- *The Articles of Confederation And Perpetual Union—1777,* was likewise ratified by only white delegates of the thirteen states. It authorized the *Committee of the States* "to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in each State;"

THE CONSTITUTION OF THE UNITED STATES:

The Constitution of 1787 stands as the supreme law of the land, yet that law is not simply composed of the text of the Constitution, but includes all laws, rights and principles of government that existed prior to it, and which were not altered by the text of the Constitution. This body of laws and legal principles are referred to as the "Organic Law." We have seen by the forgoing evidence that the American form of government pertained only to the white citizenry that established it. The question here is, did the Constitution change or alter this legal principle of the Organic law?

The Constitution was written by and for "We the people." Who are these people? All of the 55 delegates of the constitutional convention that met in Philadelphia to draft the Constitution were of the white race. All of the members of the 13 State conventions that ratified the Constitution were of the white race. There was no representation of any other race at these conventions. It can only be concluded that the words "we the people" and "ourselves," as found in the Preamble can only be referring to the white race. There is nothing in the debates to infer the contrary.

The "people of the United States" established the Constitution for the various reason listed in the Preamble, and they asserted that they were doing it for "ourselves and our

Posterity." The word posterity, as used in the preamble, is a racially oriented word. It is described in Webster's Dictionary of 1828 as follows:

> **POSTERITY.** 1. Descendents; children, children's children, etc. indefinitely; the race that proceeds from a progenitor. 2. In a general sense, succeeding generations; opposed to ancestors. . .

There is no way that the black race or the yellow race can have the same "posterity" as the white race. Each racial group has different ancestors and likewise will have different descendents. The Constitution of the United States was written by the white race for the government of the white race in 1787, and also for their "posterity."

CITIZENSHIP:

The silence of the Constitution and its failure to define the meaning of the word citizen, either by way of inclusion or exclusion, has generated much debate on the issue. It thus has been the subject of much judicial comment, culminating into the most famous case in United States history – *Dred Scott vs. Sandford,* 19 Howard 393, in 1856. In this case, it was decided that the words "people of the United States" and "citizens" are synonymous terms; and that they "describe the political body which, according to our republican institutions, forms the sovereignty which holds the power and conducts the government through its representatives." This was none other than the white race.

As previously mentioned, only the white race had representation in the forming of our constitutional government. The "political body" in America has, since the founding of Jamestown, been only those of the white race. Thus, only the white race can constitute the sovereignty or citizenry in the United States as was held in *Dred Scott* and various other cases.

In the dissenting opinion of the *Dred Scott* case, Justice Curtis brought up the argument that prior to the Constitution, five states had recognized free colored persons as citizens. But again it should be pointed out that no colored persons took part in the State conventions that drafted the State constitutions, nor is there any evidence that any voted for these delegates. Thus, as a race, they were not part of the "political body" that formed the State governments. Justice Curtis also fails to emphasis that free colored persons were <u>not</u> accorded privileges of citizenship in eight of the States. Thus, if a free colored person were to move from a State that has granted him certain rights, to a State that grants no rights to such persons, what is his status? Is he a citizen of the United States? In order to be a citizen of the United States one must be recognized as a citizen in all the states. In *Dred Scott,* Chief Justice Taney pointed out that State citizenship was different from national citizenship and being a citizen of a State did not necessarily make one a citizen of the United States.[8] States cannot grant the rights of national citizenship since this was a matter established by the national constitution. Even though some states allowed Negroes some of the rights and privileges as citizens, these rights were confined to the State's boarders. Only a white person, who had citizenship in one of the States, was considered a citizen of the Union or United States. Only a white person was recognized as a citizen in all thirteen states because he was a member of the body or race that formed the Union. Since Negroes had no part in the formation of the Union, the only type of "citizenship rights" he could hold were of a gratuitous nature offered at the State level.

8 It should be noted, however, that if one is a citizen of the United States, he is, by residing in any state of the union, a citizen of that state. <u>Gassies vs. Ballon,</u> 6 Peters (31 U.S.) 1832.

The question that Justice Curtis was attempting to answer in his dissenting opinion was: who were citizens of the United States under the *Articles of Confederation,* and thus "citizens of the United States at the adoption of the Constitution?" The error of Curtis was in asserting that citizenship in any one State gave that person citizenship in the United States. But since a majority of States at that time did not recognize the Negro as a citizen, it was impossible for him to hold national citizenship.

This entire argument was actually rendered academic by the *Constitution.* That document had embraced the "citizen" mentioned in the *Articles of Confederation,* and revealed in its text that this national citizenship excluded the Negro race as citizens by delineating them as a separate class of persons from whites. **Chief Justice Taney** points this out in *Dred Scott,* supra, p. 411:

> But there are two clauses in the Constitution which point directly and specifically to the negro race as a separate class of persons, and show clearly that they were not regarded as a portion of the people or citizens of the Government then formed.
>
> One of these clauses reserves to each of the thirteen States the right to import slaves until the year 1808, if it thinks proper. And the importation which it thus sanctions was unquestionably of persons of the race of which we are speaking, as the traffic in slaves in the United States had always been confined to them. And by the other provision the States pledge themselves to each other to maintain the right of property of the master, by delivering up to him any slave who may have escaped from his service, and be found within their respective territories.

All through American history, there is substantial evidence that the black and white races were never accepted on an equal basis. Blacks were denied suffrage rights, they were not allow to bear arms or serve in the militia, they could not be a witness against a white person, they could not hold political office or serve on juries,

marriages between them and whites were prohibited,[9] blacks were prohibited from migrating into many of the States, they were counted as slaves and had to supply proof to the contrary, etc. Thus, according to Article 4, Section 2 of the U. S. Constitution, blacks could not be citizens of the United States. This clause reads as follows:

> Art. 4, Sec. 2: The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

Since free persons of color had never at any time, either prior to or after the Constitution, enjoyed all the privileges and immunities of white citizens, they were never citizens of the United States. While some States granted free Negroes some rights and privileges of citizenship, they could not go to another State with all these rights. They could not be citizens of the United States unless considered to have all the rights and privileges of citizenship in every other State at the time the Constitution was signed.

> With respects to the immunities which the rights of [U. S.] citizenship can confer, the citizen of one state is to be considered as a citizen of each, and every other state in the union.[10]

This condition of equal status of citizenship among the States had certainly never existed at any time in American history in regards to the Negro. The constitutional guarantee of equal rights and privileges was intended to apply only to white persons, for only they had ever enjoyed the full and equal privileges in every State in the Union. Article 4 Sec. 2 of the Constitution secured this as a legal principle of U.S. citizenship. That the Constitution barred the Negro from being U.S. citizens, is verified by cases that have continually upheld laws denying them of equal rights and privileges with white persons.

9 For further details on the laws of interracial marriages in the United States see; "Laws And Principles Of Marriage" by C. A. Weisman.

10 Butler v. Farnsworth, 4 Fed. Cases 902, Case No. 2,240, (1821).

Another clause of the Constitution that indicates the "people" for whom it was written is Article I, Sec. 2, Para. 3:

> Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.

This clause was originally written to say "the whole number of white and other free citizens." Towards the end of the convention "the words *'white and other'* were struck out as superfluous."[11] In other words, it was considered as extra wording and not needed since it was obvious that the term "free Persons" were then confined to white persons.

The notes and records of the Constitutional Convention clearly show that the statement, "three fifths of all other persons," referred to "Negroes" or "blacks" in every instance where this clause was discussed. The reason they were counted as three fifths a person is because all blacks then were slaves, and the very few that were not were always subject to being one. It was the view of the Framers of the Constitution that negro slaves were not *"considered merely as property, and in no respect whatever as persons. The true state of the case is that they partake of both these qualities."*[12]

Thus, if blacks were not even considered as being equal to whites in apportionment for representation, then they certainly could not be considered to be equal with whites in regards to citizenship.

STATUS OF BLACKS: The legal status of Blacks thus had cast a disruptive shadow on many aspects of American law,

11 Thomas H. Calvert, "The Federal Statutes Annotated," Vol. VIII, (1905), p. 105.

12 James Madison, "The Federalist Papers," No. 54.

including citizenship. A debate over the citizenship status of free Negroes as early as 1821, prompted this question to the U.S. Attorney General: *"Were free Negroes living in Virginia citizens of the United States?"* The Attorney General of the United States, William Wirt, replied:

> Looking to the Constitution as the standard of meaning, it seems very manifest that no person is included in the description of citizen of the United States who has not the full rights of a citizen in the State of his residence. . . . I am of the opinion that the Constitution, by the description of "citizens of the United States," intended those only who enjoyed the full and equal privileges of white citizens in the State of their residence. . . . Then, free people of color in Virginia are not citizens of the United States [13]

In discussing the legal status of the Negro, **Chancellor Kent** had made the following comment:

> Blacks, whether born free or in bondage, if born under the jurisdiction and allegiance of the United States, are natives, and not aliens. They are what the common law terms natural born subjects . . . The better opinion, I should think, was, that negroes or other slaves, born within and under the allegiance of the United States, are natural born subjects, but not citizens. . . . It was adjudged by the supreme court of Pennsylvania, in 1837, that a negro or mulatto was not entitled to exercise the right of suffrage. Hobbs *v.* Fogg, 6 Watts, 553. [14]

Kent also expounded on laws and decisions from various States which show that: *"In most of the United States there is a distinction, in respect to political privileges, between free white persons and free colored persons of African blood; and in no part of the country, except Maine, do free colored persons, in point of fact, participate equally with whites, in the exercise of civil and political rights."* [15]

13 Opinions of Attorneys-General, Vol. I, p. 507 (Nov. 7, 1821).

14 James Kent, "Commentaries on American Law," Vol. II, Twelfth Edition, Ed. by O. W. Holmes, Jr., (Boston 1873), Part IV, p. 259.

15 Ibid, p. 258.

So degraded was the African's status at the adoption of the Constitution, and 70 years thereafter, that a common rule of law prevailed throughout most of the country in which "being a negro was *prima facie* evidence of slavery or property," especially when claimed as such, and he had the burden to prove his freedom by way of a "certificate" or "descent from free ancestors."[16] However, white persons, by the nature of their race, are considered free:

> All persons of blood not less than one-fourth African, are, (in Virginia and Kentucky,) *prima facie* deemed slaves; and, *e converso,* whites, and those less than one-fourth African, are, *prima facie,* free. All negroes are deemed slaves; all whites and Indians free, when their color is the only evidence.[17]

> All white persons are and ever have been FREE in this country.[18]

Even after the 14th Amendment, the prevailing law and sentiment did not allow Negroes to equal rights of citizenship as whites. In fact, law books as late as 1880 still defined citizenship as pertaining only to whites:

> **CITIZEN. In American Law.**
>
> 3. All natives are not citizens of the United States: the descendents of the aborigines, and those of African origin, are not entitled to the rights of citizens. Anterior to the adoption of the constitution of the United States, each state had the right to make citizens of such persons as it pleased. That constitution does not authorize any but white persons to become citizens of the United States; and it must therefore be presumed that no one is a citizen who is not white.[19]

16 Davis, a man of color, vs. Curry, 2 Bibbs Rep (5 Ky) 238, (Kentucky—1810); Adelle vs. Beauregard, 1 Martin 183, (Louisiana—1810); Trongott against Byers, 5 Cowen 480, (New York—1826); Burke vs. Negro Joe, 6 Gill & Johnson 136, (Maryland—1834); Drayton v. United States, 7 Fed. Cas. 1063, Case No. 4,074 (1849); Nelson vs. Whetmore, 1 Richardson 318, (South Carolina—1845); Thornton vs. Demoss, 5 Smedes & Marshal 609, (Mississippi—1846); Owens v. The People, 13 Illinois. 59, (1851); Fox v. Lambson, 8 New Jersey L.Rep. 275 (1826).

17 Gentry v. Polly McMinnis, 3 Dana Rep. 382; 33 Kentucky 382, (1835).

18 Hudgins against Wrights, 1 Hening & Munfords Rep. (11 Va.) 134 (1806).

19 John Bouvier, "A Law Dictionary, etc." Vol. I, 14th Edition, (Boston—1880).

The legal precedent established by the fundamental law, which includes the Constitution of the United States, bears the undeniable fact that this law recognizes only white persons as citizens of the United States.

ELECTIVE FRANCHISE:

The right of suffrage is not actually a right but neither is it a privilege. It is a right in that the people have the inherent power in establishing its government and in determining the members thereof. Thus we say; "Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."[20] However, the right of suffrage is also a privilege in that the States, either through constitutions or their legislatures, determine who can and who cannot vote according to certain qualifications – such as age, residence duration, value of freehold, payment of a tax, etc.

The right to vote is not a criterion of citizenship and therefore possessing the right to vote does not make one a citizen.[21] For instance; Women and minors, who form part of the political family, cannot vote; and when a property qualification is required to vote or hold a particular office, those who have not the necessary qualification cannot vote or hold the office, yet they are citizens.[22] We must therefore dismiss the argument of those, such as Justice Curtis, who claim free Negroes are citizens because they were, in some States at one point in time, allowed to vote.

Can the right of suffrage be wholly denied to the people who formed the government? It would not seem possible.

20 Declaration of Independence – 1776.

21 Crandall v. The State, 10 Conn. Rep. 340, 351. Dorsey v. Brigham, 177 Ill. 250, (1898).

22 Dred Scott v. Sandford, 19 Howard 393, 422

Yet, two of the five States in which Curtis claims free Negroes had rights as citizens (North Carolina and New Jersey), later enacted laws restricting the right to vote to only white male citizens. Could these or any State also exclude the white race from the elective franchise? Although the right of suffrage can be restricted by way of certain qualifications, the actual right itself can never be suspended or taken away from the people, since the people's "consent" is the very source of government.

"We the people of the United States" are the political and sovereign body that created our form of government and thus they can never be wholly denied the right of suffrage. Since blacks and other nonwhite races have been wholly denied the right of suffrage from 1607 through the Civil War, they are, as a race, not part of the political and sovereign body of America and thus are not citizens of it. The white race, however, has never been denied the right of suffrage because they are the political and sovereign body that created and established the Organic Law.

Thus, while possessing the right of suffrage does not make one a citizen, the right can be denied to those who are not citizens—such as Negroes, Orientals, Indians, Jews, Arabs, Mexicans and all others not of the white race.

STATE CONSTITUTIONS

The intent of the people or "governing body" to maintain America as a white nation, pursuant to the Organic Law, is resoundingly revealed through the various State constitutions. They have done so by the inclusion of the white race under the provisions for suffrage, jury duty, holding public office, serving in the militia, etc.; and also by the exclusion of the colored races from these areas of government.

Prior to the Constitution of the United States, two of the original States, South Carolina and Georgia, had specified in their first constitutions their intentions of a white government by the use of the word "white" therein. Other states soon followed suit. Some states, such as those in the north, felt no need to exclude Negroes because they were so few in number in their State. But as the number of "free colored persons" increased, and as philanthropists were raising questions of equality, many other states likewise used the word "white" in their laws and constitutions or made exclusions to colored persons in order to clarify their intent.

Practically all States had made declarations in their constitutions such as: *"All men are born equally free and independent,"* or *"That elections shall be free and equal."* Why then did these same constitutions deny the Blacks the right to vote or to other rights as citizens? It becomes quite apparent from our State constitutions that the people understood the meaning of the national constitution and thus did not consider the colored person equal to white persons. Nor did they consider the colored person as one who is a part of the political community and sovereign body. The following excerpts of our State constitutions bear out these facts:[23]

CONSTITUTION OF ALABAMA – 1819

ARTICLE III, SEC. 4. "No person shall be a representative, unless he be a white man, a citizen of the United States . . . and shall have attained the age of twenty-one years." *

SEC. 5. "Every white male person of the age of twenty-one years, or upward, who shall be a citizen of the United States . . . shall be deemed a qualified elector." *

SEC. 8, 9 & 10. Representation established according to "the number of white inhabitants" of the several counties, cities, or towns.*

23 Reference sources: Thorpe, "The Federal and State Constitutions," 1909. Poore, "The Federal and State Constitutions of the United States," 1878.

SEC. 12. " Senators shall be chosen by the qualified electors, . . . and no person shall be a senator, unless he be a white man, a citizen of the United States." *

* *Also used in Alabama's Constitution of 1865.*

CONSTITUTION OF ALABAMA – 1865

ARTICLE IV. SEC. 31. "It shall be the duty of the General Assembly, at its next session, and from time to time thereafter as it may deem proper, to enact laws prohibiting the intermarriage of white persons with negroes, or with persons of mixed blood, declaring such marriages null and void *ab initio,* and making the parties to any such marriage subject to criminal prosecutions, with such penalties as may be by law prescribed."

CONSTITUTION OF ARKANSAS – 1836

ARTICLE II, SEC. 21. "That the free white men of this State shall have a right to keep and to bear arms for their common defence." *

ARTICLE IV, SEC. 2. "Every free white male citizen of the United States, who shall have attained the age of twenty-one years, and who shall have been a citizen of this State six months, shall be deemed a qualified elector." *

SEC. 4. "No person shall be a member of the House of Representatives, who shall not have attained the age of twenty-five; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State one year." *

SEC. 6. "No person shall be a Senator, who shall not have attained the age of thirty years; who shall not be a free white male citizen of the United States; . . . " *

SEC. 31, 32, 33, & 34. Establishes senatorial districts and apportionment of representative "according to the number of free white male inhabitants" within the counties. *

* *Repeated in Arkansas' Constitution of 1864.*

CONSTITUTION OF CALIFORNIA – 1849

ARTICLE II, SEC. 1. "Every white male citizen of the United States, and every white male citizen of Mexico, who shall have elected to become a citizen of the United States . . . shall be

entitled to vote at all elections which are now or hereafter may be authorized by law."

ARTICLE IV, SEC. 29. "The number of senators and members of assembly, shall be . . . apportioned among the several counties and districts to be established by law, according to the number of white inhabitants."

CONSTITUTION OF CONNECTICUT – 1818

ARTICLE SIXTH, SEC. 2. "Every white male citizen of the United States, who shall have gained a settlement in this State, attained the age of twenty-one years, . . . shall, on his taking such oath as may be prescribed by law, be an elector." *

** Repeated in an Amendment adopted Oct, 1845.*

CONSTITUTION OF DELAWARE – 1831

ARTICLE IV, SECTION 1. "All elections for governor, senators, representatives, sheriffs, and coroners shall be held on the second Tuesday of November, and be by ballot; and in such elections every free white male citizen of the age of twenty-two years or upwards . . . shall enjoy the right of an elector; . . . and every free white male citizen of the age of twenty-one years, and under the age of twenty-two years, . . . shall be entitled to vote without payment of any tax." *

** Same general wording used in Constitution of 1792, Art IV.*

CONSTITUTION OF FLORIDA – 1838

ARTICLE I, SEC. 21. "That the free white men of this State shall have a right to keep and to bear arms for their common defence."

ARTICLE IV, SEC. 4. "No person shall be a representative unless he be a white man, a citizen of the United States . . . " *

ARTICLE VI, SEC. 1. "Every free white male person of the age of twenty-one years and upwards, and who shall be, at the time of offering to vote, a citizen of the United States . . . shall be deemed a qualified elector." *

ARTICLE IX, SEC 1. "The general assembly shall . . . cause an enumeration to be made of all the inhabitants of the State, and to the whole number of free white inhabitants shall be added three-fifths of the number of slaves." * +

ARTICLE XVI, SEC. 3. "The general assembly shall have power to pass laws to prevent free negroes, mulattoes, and other persons of color, from immigrating to this State."

** Included in Florida's Constitution of 1865.*

+ The word "slaves" changed to "colored people" in 1865.

CONSTITUTION OF FLORIDA – 1865

ARTICLE XVI, SEC. 3. "The jurors of this State shall be white men, possessed of such qualifications as may be prescribed by law."

CONSTITUTION OF GEORGIA – 1777

ART. IX. "All male white inhabitants, of the age of twenty-one years, and possessed in his own right of ten pounds value, and liable to pay tax in this State, . . . shall have a right to vote at all elections for representatives, or any other officers, herein agreed to be chosen by the people at large."

CONSTITUTION OF GEORGIA – 1798

ARTICLE I, SEC. 7. "The house of representatives shall be composed of members from all the counties . . . according to their respective numbers of free white persons, and including three-fifths of all the people of color."

CONSTITUTION OF GEORGIA – 1865

ARTICLE V, SEC.1. One. "The electors or members of the general assembly shall be free white male citizens of this State, and shall have attained the age of twenty-one years, . . . "

Nine. "The marriage relation between white persons and persons of African descent is forever prohibited, and such marriage shall be null and void."

CONSTITUTION OF ILLINOIS – 1818

ARTICLE I, SEC. 5. "The number of senators and representatives shall . . . be apportioned . . . according to the number of white inhabitants." *

SEC. 27. "In all elections, all white male inhabitants above the age of twenty-one, having resided in the State six months . . . shall enjoy the right of an elector." *

ARTICLE V, SECTION 1. "The militia of the State of Illinois shall consist of all free, male, able-bodied persons, (negroes, mulattoes, and Indians excepted,) . . . "

** Included in the Illinois Constitution of 1848.*

CONSTITUTION OF ILLINOIS – 1848

ARTICLE IX, SEC. 1. "The general assembly may, whenever they shall deem it necessary, cause to collect from all able-bodied free white male inhabitants of this State, over the age of twenty-one years and under the age of sixty years, who are entitled to the right of suffrage, a capitation-tax of not less than fifty cents nor more than one dollar each."

ARTICLE XIV: "The general assembly shall, at its first session under the amended constitution, pass such laws as will effectually prohibit free persons of color from immigrating to and settling in this State; and to effectually prevent the owners of slaves from bringing them into this State, for the purpose of setting them free."

CONSTITUTION OF INDIANA – 1816

ARTICLE III, SEC. 2. "The General Assembly may . . . cause an enumeration to be made, of all the white male inhabitants above the age of twenty-one years." *

ARTICLE VI, SEC. 1. "In all elections, not otherwise provided for by this Constitution, every white male citizen of the United States, of the age of twenty-one years and upward . . . shall be entitled to vote in the county where he resides." *

ARTICLE VII, SEC. 1. "The militia of the State of Indiana shall consist of all free, able-bodied male persons; negroes, mulattoes and Indians excepted."

** Repeated in the Indiana Constitution of 1851.*

CONSTITUTION OF INDIANA – 1851

ARTICLE XII, SEC. 1. "The militia shall consist of all able-bodied white male persons between the ages of eighteen and forty-five years."

ARTICLE XIII, SEC. 1. "No negro or mulatto shall come into, or settle in the State, after the adoption of this constitution."

CONSTITUTION OF IOWA – 1846

ARTICLE 2, SECTION 1. "Every white male citizen of the United States, of the age of twenty-one years, . . . shall be entitled to vote at all elections. . . " *

ARTICLE 3, SECTION 4. "No person shall be a member of the House of Representatives who shall not have attained the age of twenty-one years; be a free white male citizen of the United States . . . " *

SECTION 5. "Senators shall . . . possess the qualifications of Representatives." *

SECTION 31. Establishes the enumeration of the State and apportionment of Senators and Representatives by the "number of white inhabitants." *

ARTICLE 6. SECTION 1. "The militia of this State shall be composed of all able-bodied white male citizens between the ages of eighteen and forty-five years." *

** Repeated in Iowa's Constitution of 1857.*

CONSTITUTION OF KANSAS – 1857

ARTICLE XV, 23. "Free negroes shall not be permitted to live in this State under any circumstances."

CONSTITUTION OF KANSAS – 1859

ARTICLE V. SECTION 1. "Every white male person, of twenty-one years and upwards . . . who shall have resided in Kansas six months next preceding any election, . . . shall be deemed a qualified elector."

ARTICLE VIII. SECTION 1. "The militia shall be composed of all able-bodied white male citizens between the ages of twenty-one and forty-five years."

CONSTITUTION OF KENTUCKY – 1799

ARTICLE II, SEC. 8. "In all elections for representatives, every free male citizen (negroes, mulattoes, and Indians excepted) . . . shall enjoy the right of an elector."

ARTICLE III, SEC. 28. "The freemen of this commonwealth (negroes, mulattoes, and Indians excepted) shall be armed and disciplined for its defence."

CONSTITUTION OF KENTUCKY – 1850

ARTICLE II, SEC. 8. "Every free white male citizen of the age of twenty-one years, . . . shall be a voter."

ARTICLE VII, SECTION 1. "The militia of this commonwealth shall consist of all free, able-bodied male persons (negroes, mulattoes, and Indians excepted) . . . "

CONSTITUTION OF LOUISIANA – 1812

ARTICLE II, SECT. 4th. "No person shall be a Representative who, at the time of his election is not a free white male citizen of the United States, . . ." *

SECT. 8th. "In all elections for Representatives every free white male citizen of the United States, who at the time being, hath attained to the age of twenty-one years and . . . have paid a state tax, shall enjoy the right of an elector." * +

* *Included in Louisiana's Constitution of 1845 & 1864.*

+ *Qualifications extended to all elections in 1845 & 1864.*

CONSTITUTION OF LOUISIANA – 1845

TITLE III, ART. 60. "The free white men of the State shall be armed and disciplined for its defence."

CONSTITUTION OF MARYLAND – 1776

ART. XIV. "That every free white male citizen of this State, above twenty-one years of age, and no other . . . shall have a right of suffrage, and shall vote, by ballot . . . " * +

* *Ratified in 1810.*

+ *Also used in Maryland Constitution of 1864 & 1867.*

CONSTITUTION OF MARYLAND – 1851

ART. 5. "That the right of the people to participate in the legislature is the best security of liberty, and the foundation of all free government; for this purpose elections ought to be free and fre-

quent, and every free white male citizen having the qualifications prescribed by the constitution ought to have the right of suffrage."

ART. 21. "That nothing in this article shall be so construed as to prevent the legislature from passing all laws for the government, regulation, and disposition of the free colored population of this State as they may deem necessary."

CONSTITUTION OF MARYLAND – 1864

ARTICLE III, SEC. 4. "The white population of the State shall constitute the basis of representation in the house of delegates."

ARTICLE X, SEC.1. ". . . nor shall any new county contain less than four hundred square miles nor less than ten thousand white inhabitants . . . "

CONSTITUTION OF MICHIGAN – 1835

ARTICLE II, SECTION 1. "In all elections, every white male citizen above the age of twenty-one years, having resided in the State six months next preceding any election, shall be entitled to vote at such election." *

** Same qualifications used in the Constitution of 1850.*

CONSTITUTION OF MICHIGAN – 1850

ARTICLE XVII, SECTION 1, "The militia shall be composed of all able-bodied white male citizens between the ages of eighteen and forty-five years, . . ."

CONSTITUTION OF MINNESOTA – 1857

ARTICLE VII, SECTION 1. "Every male person of the United States of the age of twenty-one years or upwards, belonging to either of the following classes, . . . shall be entitled to vote at such election:

First. "White citizens of the United States."

Second. "White persons of foreign birth, who shall have declared their intentions to become citizen, conformably to the laws of the United States upon the subject of naturalization."

Third. "Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization."

CONSTITUTION OF MISSISSIPPI – 1817

ARTICLE III, SECTION 1. "Every free white male person of the age of twenty-one years or upwards, who shall be a citizen of the United States . . . shall be deemed a qualified elector." *

SEC. 8. "That when it shall appear to the legislature that any city or town hath a number of free white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of free white inhabitants therein, . . . " *

SEC. 9. "The general assembly shall, . . . cause an enumeration to be made of all the free white inhabitants of the State; and the whole number of representatives shall, . . . be apportioned among the several counties, cities, or towns . . . according to the number of free white inhabitants in each; . . ." *

** Repeated in Mississippi's Constitution of 1832.*

CONSTITUTION OF MISSOURI – 1820

ARTICLE III, SEC. 3. "No person shall be a member of the house of representatives who shall not have attained the age of twenty-four years; who shall not be a free white male citizen of the United States; . . . " *

SEC. 4. "The general assembly . . . shall apportion the number of representatives among the several counties, according to the number of free white male inhabitants therein."

SEC. 5. "No person shall be a senator who shall not have attained the age of thirty years; who shall not be a free white male citizen of the United States; . . ." *

SEC. 10. "Every free white male citizen of the United States, who shall have attained the age of twenty-one years, . . . shall be deemed a qualified elector of all elective offices." *

SEC. 26. 4. "It shall be their [the general assembly] duty, as soon as may be, to pass such laws as may be necessary–

1. "To prevent free negroes and mulattoes from coming to and settling in this State, under any pretext whatsoever."

First. "All able-bodied free white male inhabitants of this State, between the ages of eighteen and forty-five years, shall be liable to military duty under this ordinance, and when enrolled shall constitute and be known and designated as the 'Missouri State Militia.'" +

+ *Adopted in a convention of 1861.*

* *Included in the Missouri Constitution of 1865.*

CONSTITUTION OF NEBRASKA – 1866-'67

ARTICLE II, SEC. 2. "Every male person, of the age of twenty-one years or upwards, belonging to either of the following classes , . . . shall be an elector:

First. " White citizens of the United States."

Second. " White persons of foreign birth who shall have declared their intentions to become citizens conformable to the laws of the United States on the subject of naturalization."

SEC. 6. " Every white male citizen who shall be a qualified elector in the district which he may be chosen to represent shall be eligible to a seat in the legislature."

CONSTITUTION OF THE STATE OF NEVADA – 1864

ARTICLE II, SEC. 1. "Every white male citizen of the United States of the age of twenty-one years and upwards, . . . shall be entitled to vote for all officers that now are or hereafter may be elected by the people."

CONSTITUTION OF NEW JERSEY – 1844

ARTICLE II, 1. "Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State one year, . . . shall be entitled to vote for all officers that now are, or hereafter may be, elective by the people."

CONSTITUTION OF NORTH CAROLINA – 1776

ARTICLE 1. SEC. 2. Three. "No free negro, free mulatto, or free person of mixed blood, descended from negro ancestors, to the fourth generation inclusive, (though one ancestor of each generation may have been a white person,) shall vote for members of the senate or house of commons." *

ARTICLE I, SEC. 3. Clause two: "Every free white man at the age of twenty-one years, being a native or naturalized citizen of the United States, . . . shall be entitled to a vote for a member of the senate for the district in which he resides." +

** Ratified by Amendment in 1835.*

+ Ratified by Amendment in 1856.

CONSTITUTION OF OHIO – 1802

ARTICLE I, SEC. 2. " . . . an enumeration of all the white male inhabitants above twenty-one years of age shall be made . . . The number of representatives shall, . . . be apportioned among the several counties according to the number of white male inhabitants above twenty-one years of age in each."

ARTICLE IV, SECTION 1. "In all elections, all white male inhabitants above the age of twenty-one years, . . . shall enjoy the right of an elector." *

** Repeated in the Ohio Constitution of 1851.*

CONSTITUTION OF OHIO – 1851

ARTICLE IX, SECTION 1. "All white male citizens, residents of this State, being eighteen years of age, and under the age of forty-five years, shall be enrolled in the militia, . . ."

CONSTITUTION OF OREGON – 1857

ARTICLE I, SEC. 32. "White foreigners, who are or may hereafter become residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens."

SEC. 36. "No free negro or mulatto, not residing in this State at the time of the adoption of this Constitution, shall come, reside or be within this State, . . . "

ARTICLE II, SEC. 2. "In all elections not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, . . . shall be entitled to vote at all elections authorized by law."

SEC. 6. "No negro, Chinaman, or mulatto shall have the right of suffrage."

ARTICLE IV, SEC. 5. "The legislative assembly shall, in the year eighteen hundred and sixty-five, and every ten years after, cause an enumeration to be made of all the white population of the State."

SEC. 6. "The number of senators and representatives shall, . . . be fixed by law, and apportioned among the several counties according to the number of white population in each."

CONSTITUTION OF PENNSYLVANIA – 1838

ARTICLE III, SECTION 1. "In elections by the citizens, every white freeman of the age of twenty-one years, having resided in this State one year, . . . shall enjoy the rights of an elector."

CONSTITUTION OF SOUTH CAROLINA – 1778

XIII. "The qualifications of electors shall be that every free white man, and no other person, who acknowledges the being of a God, and believes in a future state of rewards and punishments, and who has attained to the age of one and twenty years, . . . shall be deemed a person qualified to vote, and shall be capable of electing, a representative or representatives, for the parish or district where he actually is a resident."

CONSTITUTION OF SOUTH CAROLINA – 1790

ARTICLE I, SEC. 4. "Every free white man, of the age of twenty-one years, . . . shall have a right to vote for a member or members to serve in either branch of the legislature . . ." *

ARTICLE I, SEC. 6. "No person shall be eligible to a seat in the house of representatives unless he is a free white man, of the age of twenty-one years, . . . " *

SEC. 8. "No person shall be eligible to a seat in the senate unless he is a free white man, of the age of thirty years, . . . " *

** Repeated in South Carolina's Constitution of 1865.*

CONSTITUTION OF TENNESSEE – 1834

ARTICLE I, SEC. 26. "That the free white men of this State have a right to keep and to bear arms for their common defense."

ARTICLE IV, SECTION 1. "Every free white man of the age of twenty-one years, being a citizen of the United States, and a citizen of the county wherein he may offer his vote six months next

preceding the day of election, shall be entitled to vote for members of the general assembly and other civil officers . . ."

CONSTITUTION OF TENNESSEE – 1870

ARTICLE XI, SEC. 12. "No school established or aided under this section shall allow white and negro children to be received as scholars together in the same school."

SEC. 14. "The intermarriage of white persons with negroes, mulattoes, or persons of mixed blood, descended from a negro to the third generation, inclusive, or their living together as man and wife, in this State, is prohibited. The Legislature shall enforce this section by appropriate legislation."

CONSTITUTION OF TEXAS – 1866

ARTICLE III, SECTION 1. "Every free male person who shall have attained the age of twenty-one, and who shall be a citizen of the United States, . . . (Indians not taxed, Africans and descendants of Africans excepted,) shall be deemed a qualified elector." *

SEC. 5. "No person shall be a representative unless he be a white citizen of the United States . . . "

SEC. 10. "No person shall be a senator unless he be a white citizen of the United States, . . . "

ARTICLE VII, SEC. 7. "Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both." +

** Also used in the Texas Constitution of 1845.*

+ Adopted under the Constitution of 1876.

CONSTITUTION OF VIRGINIA – 1830

ARTICLE III, SECTION 1. "Every white male citizen of the commonwealth, of the age of twenty-one years, . . . and no other person, shall be qualified to vote for members of the general assembly and all officers elective by the people." *

** Repeated in Virginia's Constitution of 1850 & 1864.*

CONSTITUTION OF WEST VIRGINIA – 1861-1863.

ARTICLE III, SECTION 1. "The white male citizens of the State shall be entitled to vote at all elections held within the election districts in which they respectively reside."

CONSTITUTION OF WISCONSIN – 1848

ARTICLE III, SECTION 1. "Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, . . . shall be deemed a qualified elector:

First. – "White citizens of the United States."

Second. – "White persons of foreign birth who shall have declared their intention to become citizens, . . ."

ARTICLE XIV, SECTION 9. "This Constitution shall be submitted at an election to be held on the second Monday in March next, for ratification or rejection, to all white male persons of the age of twenty-one years or upwards, who shall then be residents of this Territory, and citizens of the United States."

The foregoing State Constitutions have unanimously supported and followed the fundamental law of this nation that only those of the white race can be a part of the governing body in America. There has never been a State Constitution that has ever singled out any colored race as one who can vote, hold office, serve in the militia, or be accorded any right or privileges as an equal member of the governing body. Likewise, there has never been a State Constitution that has specifically denied the white race *per se* of any such rights or privileges of citizenship. The Framers of the foregoing State Constitutions were quite aware that only white persons were citizens under the Organic Law.

STATE RIGHTS AND THE 14TH AMENDMENT:

It is not doubted by anyone or any court that the 14th Amendment was intended for the colored race, specifically the Negro, in regards to citizenship and rights. But as far as its legal validity there yet remains much doubt. If we dig into the makeup of the 14th Amendment and the events in history that put it on the books, we find that legally it is invalid and unconstitutional for the following reasons:

- It was never ratified by three-fourth of all the States in the Union according to Article 5 of the U. S. Constitution. Out of 37 States, 16 had rejected it.

- Many of the States who were counted as ratifying it, were compelled to do so under duress of military occupation. Any legal act entered into under force, duress, and coercion is automatically null and void.

- The fact that 23 Senators had been unlawfully excluded from the U. S. Senate, shows that the Joint Resolution proposing the Amendment was not submitted to or adopted by a constitutional Congress.

- The intent of the 14th Amendment is repugnant to the Organic Law of the land. It did not, and could not, repeal anything that was part of the Organic Law. Thus the principles of precedent and *stare decisis* render it void.[24]

The circumstances surrounding the alleged adoption of the Fourteenth Amendment are so corrupt, flagrantly dishonest, and outright unconstitutional, that it staggers the mind as to what could motivate men to act so fanatically. Since the 14th Amendment is such an obvious legal fiction and incapable from its very inception to be a lawful part of the U. S. Constitution, what was its purpose? **The ultimate aims of the Fourteenth Amendment was to strip the States of their independent and sovereign powers, to undermine the status of the white race, and also, to destroy the Christian structure of our government** – as will be shown later. The Negro and slavery were simply a tool and a scape- goat to accomplish these ends. The "abolitionist" realized they could use the "civil rights" issue as a means to expand the federal government's power and control over the States.

There was no doubt that the subverters who were behind the creation and adoption of the 14th Amendment, knew

24 See, for example, Joseph F. Inghan, "Unconstitutional Amendment," Dickinson Law Review, Vol. XXXIII, No. 3 (Mar., 1929), 161-68.

that America was a white nation and the sentiment of the people and law of the land would forever keep it as such. For instance, if we look at the 37 States that had existed prior to the Civil War, we see that 31 of these States had specifically expressed in their constitutions their intentions of a white government. States such as New York, which never used the word "white" in their constitutions, had, by legislative acts, put property requirements on blacks for voting which did not apply to white persons, indicating blacks were not regarded as citizens along with whites in those states.

The very fact that the 14th and 15th Amendments had to be "adopted" proves in itself that the Constitution of the United States did not saction blacks as citizens of the United States. Also, if the 14th Amendment gave them citizenship, why was the 15th Amendment needed to protect their right to vote? Why did the 14th Amendment have to reiterate the *"privilege and immunity"* clause of Article 4, Sec. 2 of the Constitution or the *"due process of law"* clause of the 5th Amendment? Why would it not suffice to say Negroes are citizen, or all persons are citizens regardless of race? If the 14th Amendment had specifically stated its true legal meaning it would have been universally opposed. However, the Amendment did not change the U. S. Constitution but rather created another constitution which legally has nothing to do with the U. S. Constitution. It became the foundation for a new government or "jurisdiction" which attempts to operate under the guise of "The United States of America."

Thus, blacks never became citizens under the U. S. Constitution but rather became subjects under the 14th Amendment. Every court case that has accorded the Negro any rights or privileges as a "citizen," has always done so via the 14th Amendment, and never under the original Constitution by itself.

The 14th Amendment thus had no direct legal affect on the State's sovereign powers. State laws that recognized white sovereignty and the segregation of Negroes via "Jim Crow" laws were upheld by courts as not violating the 14th Amendment.[25] Laws requiring the separation of the white and colored races in railway coaches were upheld,[26] laws prohibiting Negroes from marrying whites were upheld,[27] laws prohibiting colored persons from attending the same schools as whites were upheld,[28] civil rights acts by Congress requiring full and equal use of the accommodations and privileges of inns or hotels were held unconstitutional,[29] and a congressional act (16 Stat. 140) designed to penalize all State officers who deprived anyone of the right to vote on account of race or color was found to be unconstitutional.[30] These decisions were legally possible due to the fact that: *1) Negroes were not citizens under the original Constitution, and, 2) The States still possessed their sovereignty and rights.*

By these (and other) decisions, the Supreme Court had in actuality nullified the intent of the 14th and 15th Amendments. As a result, continuous pressure was exerted to completely strip the States of their powers and rights. With the alleged enactment of the 17th Amendment their power to control the Federal Government was gone. On top of this, the States have allowed themselves to become a "dependent" or ward of the Federal Government by taking Federal aid, grants, and loans, and by getting involved in

25 Berea College v. Commonwealth of Kentucky, 211 U.S. 45 (1908).

26 Plessy v. Ferguson, 163 U.S. 537 (1895). Southern Light & Traction Co. v. Compton, 38 So. 629; 86 Miss. 269 (1905). Lee v. New Orlean Great Northern R. Co., 51 So. 182.

27 The State v. Gibson, 36 Ind. 389 (1871). Stevens v. U. S., 146 Fed. 2d 120, (1944).

28 Cory et al. v. Carter, 48 Ind. 327 (1874). Gong Lum et al v. Rice, 275 U.S. 78 (1927).

29 Civil Rights Cases, 109 U.S. 3 (1876).

30 United States v. Reese, 92 U.S. 214 (1876). Also see: Grovey v. Townsend, 295 U.S. 45 (1934) which allowed the State of Texas to debar Negroes from voting in primaries.

Federal programs. With all of this, the 14th Amendment now becomes applicable to and enforceable upon the States were it previously was not.

Today the States are so engulfed within the authority and jurisdiction of the Federal (*de facto*) Government that they are virtually a subordinate part of it. The tentacles of control now extend from the District of Columbia to the smallest town in the United States. It is unfortunate that, while they were still free and independent States, that none had challenged the constitutionality of the 14th, 15th, or 17th Amendments. It is also unfortunate that the loss of States' rights has had such a profound impact on the freedom, prosperity, and the moral character of our society.

These forenamed amendments exist merely by "color of law"[31] and are destined to destroy America or be destroyed themselves. Through the use of the 14th Amendment, clandestine subverters have gradually and silently painted the Constitution a different color, giving it an appearance (an interpretation) which it never originally had. The States cannot now, by themselves, regain the rights and powers they once had. However, the potential to reactivate our Christian Constitutional Republic still exists in the people since the original Organic Law still legally exists and will work for those that follow its laws and principles.

ACTS OF CONGRESS

The early acts of Congress are an accurate gage in helping to determine the original intent of the Constitution

31 "Color of Law does not mean actual law, but the mere semblance of a legal right; color, as a modifier, in legal parlance meaning appearance as distinguished from reality." Wilt v. Bueter, 111 N.E. 926, 929; 186 Ind. 98. City of Topeka v. Dwyer, 70 Kan. 244.

of the United States. Since Congress had begun business on April 6, 1789, it has continually verified that the Constitution pertains only to the white race. Congress was incapable of passing any acts or laws which were contrary or repugnant to the Constitution, and any such law would be null and void.[32] The early Congress had never given any cognizance to any race but the white race as to those who could be a citizen or member of the governing body.

NATURALIZATION:

Under the Constitution, Congress was given the power, *"To establish a uniform Rule of Naturalization"* (ART. I, SEC. 8). The meaning of naturalization is as follows:

> NATURALIZATION, The act of investing an alien with the rights and privileges of a native subject or citizen.[33]

Those who are born in America are *ipso facto* citizens of the United States and thus are called "natural citizens." If only whites had title of citizenship by way of birth, then only whites could be "naturalized" as such. But if America was founded as a racial "melting pot," and the Constitution was pluralistic in nature by recognizing all races, then any and all races could be naturalized as citizens.

The First Congress passed the first **Naturalization Act** on March 26, 1790. Many of the members of this First Congress consisted of the men who had participated in the formation of the U. S. Constitution and the original State Constitutions, and knew firsthand the intent of those documents. In this first naturalization act, they had clearly expressed that only "free white persons" could be naturalized as citizens of the United States.

32 Marbury v. Madison, 1 Cranch (5 U.S.) 137 (1803).

33 Noah Webster, "American Dictionary of the English Language," (1828).

This act is reproduced below as printed in the *United States Public Statutes at Large,* Vol. 1, on page 103:

> FIRST CONGRESS. SESS. II. CH. 3. 1790.
>
> CHAP. III.—*An Act to establish an uniform Rule of Naturalization.*(a)
>
> SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof, on application to any common law court of record, in any one of the states wherein he shall have resided for the term of one year at least, and making proof to the satisfaction of such court, that he is a person of good character, and taking the oath or affirmation prescribed by law, to support the constitution of the United States, which oath or affirmation such court shall administer;

The requirement that only aliens being "free white persons" could be admitted to become citizens was also established in the following Naturalization Acts:

- **Jan. 29, 1795**; *An act to establish an uniform rule of naturalization, and to repeal the acts heretofore* passed *on that subject,* Chap. XX, Vol. I.
- **June 18, 1798**; *An act supplementary to and to amend the act, entitled "An act to establish an uniform rule of naturalization,* Chap. LIV, Vol. I.
- **April 14, 1802**; *An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on the subject,* Chap. XXVIII, Vol. II.
- **March 26, 1804**; *An act in addition to an act entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on the subject,"* Chap. XLVII, Vol. II.
- **March 22, 1816**; *An act relative to evidence in cases of naturalization,* Chap. XXXII, Vol. III.
- **May 26, 1824**; *An act in further addition to "An act to establish an uniform rule of Naturalization, and to repeal the acts heretofore passed on that subject,"* Chap. CLXXXVI, Vol IV.
- **May 24, 1828**; *An act to amend the acts concerning naturalization,* Chap. CXVI, Vol. IV.

The basic naturalization law, that permits only free white persons to be naturalized as citizens, is still the valid or *dejure* law of the land. Congress thought they could perhaps change this in 1870, by extending naturalization to *"aliens of African nativity and to persons of African descent"* (16 Stat. 256). However, Congress cannot authorize the naturalization of someone as a citizen, who the Constitution has barred from becoming a citizen. The act of 1870 was equally as foolish and unconstitutional[34] as the 14th Amendment was. Some courts have made note of these issues:

> From the first our naturalization laws only applied to the people who had settled the country – the Europeans or white race – and so they remained until in 1870 (16 Stat. 256; § 2169 Rev. St.) when, under the pro-negro feeling, generated and inflamed by the war with the southern states, and its political consequences, congress was driven at once to the other extreme, and open the door, not only to persons of African descent, but to all those of "African nativity" – thereby proffering the boon of American citizenship to the comparatively savage and strange inhabitants of the "dark continent," while withholding it from the intermediate and much-better-qualified red and yellow races. [35]

By what reasoning would Congress be compelled to enact such legislation? *"Since negro immigration from Africa is and was totally unknown, the legislation can only be explained as a result of the sentiment created by the Civil War."*[36] Since African migration was a rare thing, little actually changed in policy that only white persons could be

34 The fact that a court has not declared an act unconstitutional does not mean it is constitutional – it is only presumed to be. A court will never pass on the issue of constitutionality of an act unless it is directly challenged. In 1883, the Supreme Court declared the Civil Rights Act of March 1, 1875, unconstitutional (Civil Rights Cases, 109 U.S. 3). However, the act did not become unconstitutional in 1883, but rather was only discovered to be so. It was always unconstitutional since its enactment in 1875. It thus was never valid but during the years between 1875 and 1883, it was a de facto law. Such is the case with the Naturalization Act of 1870 for it never has been challenged.

35 In re Camille, 6 Fed. Rep. 256, 257 (1880).

36 United States v. Balsara, 180 Fed. Rep. 694, 696 (1910).

naturalized as citizens until 1940, when Congress enacted the **"Nationality Act of 1940."** This act provided for naturalization of *"descendants of races indigenous to the Western Hemisphere."* [37] This act now included the Indian, Hispanic and Mexican of Central and South America.

The greatest change in American naturalization policy occurred with the *de facto* **"Immigration and Nationality Act of 1952,"** also known as the "McCarran–Walter Act." This act stated that: *"The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race . . ."* [38] Not only is this repugnant to the Constitution, as it allowed all races an equal footing and status in America, but it incorrectly infers aliens have a "right" to naturalization, something which has always been held to be a privilege.[39]

Prior to the adoption of these *de facto* laws, only "free white persons" were being naturalized as citizens. Today the door is virtually wide open to any race to come into this country to become "citizens" under the cloak of these unconstitutional immigration and naturalization laws. In fact, many "oppressed" or "underprivileged" racial groups are now given sums of money by the government to settle here.

FREE WHITE PERSONS: Perhaps no provision of the Naturalization Acts has been more frequently the object of interpretation by the courts than the phrase "free white person." In considering this question in the case of *Ex parte Shahid,* 205 Fed. 812, (1913), the District Court for the Eastern District of South Carolina said:

37 54 Statutes At Large, 76th Congress, Chapter 876, Sec. 303, pg. 1140.

38 66 Statutes At Large, 163, 239, Sec. 311.

39 "The opportunity to become a citizen of the United States is said to be merely a privilege and not a right." Tutun v. United States, 270 U.S. 568, 578.

The conclusion that this court has arrived at is as follows: That the meaning of "free white persons" is to be such as would naturally have been given to it when used in the first naturalization act of 1790. Under such interpretation it would mean by the term "free white persons" all persons belonging to the European races, then commonly counted as white, and their descendants. It would not mean a "Caucasian" race; a term generally employed only after the date of the statute[40] and in a most loose and indefinite way.

. . . It is safest to follow the reasonable construction of the statute as it would appear to have been intended at the time of its passage, and understand it as restricting the words "free white persons" to mean persons as then understood to be of European habitancy or descent.[41]

Later, this same question was brought before the U.S. Supreme Court in the case of *United States v. Thind,*[42] in determining whether a Hindu was a "free white person" and eligible for naturalization. Mr. Justice Sutherland delivered the opinion for the court holding that Hindus were not "white persons" within the meaning of the naturalization laws. The Court said:

We are unable to agree with the district court, or with other lower Federal courts, in the conclusion that a native Hindu is eligible for naturalization. . . . The words of familiar speech, which were used by the original framers of the law, were intended to include only the type of man which they knew as white. . . . There is much in the origin and historic development of the statute to suggest that no Asiatic whatever was included. . . . What we now hold is that the words "free white persons" are words of common speech, to be interpreted in accordance with the understanding of the common man, synonymous with the word "Caucasian" only as that word is popularly understood. As so understood and used, whatever may be the speculations of the ethnologist, it does not include the body of people to whom the appellee belongs.

40 The term "Caucasian" obtained currency from 1830 to 1860.

41 At pg. 814 & 815. Also cited in Ozawa v. United States, 260 U.S. 178, 200 (1922).

42 261 U.S. 204, 213 (1923).

In the case of *In re Feroz Din,*[43] the District Court for the Northern District of California denied a petition for citizenship to the applicant who was a native of Afghanistan being racially similar to the Hindus. The court, in denying citizenship on the ground that he was not a "white person," based their decision on the *Thind* Case.

The Supreme Court had also held that a person of the Japanese race was not within the meaning of the phrase "free white person" and was, therefore, ineligible to naturalization.[44]

Persons of other nationalities who have been excluded from naturalization by lower courts as not being "free white persons" include Filipinos,[45] Koreans,[46] Hawaiians,[47] Syrians,[48] Chinese,[49] Indians,[50] Burmese and Malayans.[51] The *Chinese Exclusion Acts* of 1882, 1892, and 1902, prohibited those of Chinese descent from coming into the U.S.

Generally speaking, "the right to become naturalized depends upon parentage and blood, and not upon nationality and status." As a result, "free white persons includes members of the white race as distinct from the black, red, yellow and brown races."[52]

43 27 Fed. (2d) 568 (1928).

44 Ozawa v. United States, 260 U.S. 178 (1922). See also: Yamashita v. Hinkle, 260 U.S. 198 (1922); Toyota v. United States, 268 U.S. 408 (1924).

45 United States v. Javier, 22 Fed. (2d) 879 (1927).

46 In re En Sk Song, 271 Fed. 23 (1921); Petition of Eosurk Emsen Charr, 273 Fed. 207

47 In re Kanaka Nian, 21 Pac. 993 (1889); 6 Utah 259.

48 Ex parte Shahid, 205 Fed. Rep. 812, 816 (1913).

49 In re Ah Yup, 1 Fed. Cas. 223 (1878); In re Gee Hop, 71 Fed. 274 (1895).

50 In re Camille, 6 Fed. 256 (1880); In re Burton, 1 Alaska 111 (1900).

51 In re PO, 28 N.Y. Supp. 383; 7 Misc. Rep. 471 (1894). Also: In re Shahid, supra

52 In re Fisher, 21 Fed. (2d) 1007 (1927).

"A person, one-half white and one-half of some other race, belongs to neither of these races, but is literally a half-breed," and not a "free white person" and not eligible to naturalization.[53] Thus, persons of mixed blood, being part Japanese,[54] Chinese,[55] Filipino,[56] and Indian[57] have all been excluded from being naturalized as citizens for failing to qualify as a white person.

THE MILITIA:

Only those who are citizens of a country carry a duty and responsibility to defend it from attack. This basic principle was no doubt applied in the first militia law enacted by Congress on May 8, 1792. The act read as follows:

> CHAP. XXXIII. – *An act to more effectually provide for the National Defence by establishing an Uniform Militia throughout the United States.*
>
> SECTION 1. That each and every free able-bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company.[58]

The Congress could only have required those who were citizens to be part of the militia, and therefore specified that those enrolled in the militia had to be white.

TERRITORIAL ACTS:

Congress was also given the power to *"make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States"* (ART. 4 SEC. 3). In

53 In re Knight, 171 Fed. 299 (1909). Morrison v. California, 291 U.S. 82, 86 (1934).

54 In re Knight, 171 Fed. 299; In re Young, 198 Fed. 715 (1912).

55 In re Fisher, 21 Fed (2d) 1007 (1927).

56 In re Lampitoe, 232 Fed. 382 (1916); In re Rallos, 241 Fed. 686 (1917).

57 In re Camille, 6 Fed. 256 (1880).

58 1 Statutes at Large 271, Chap. 33 (May 8, 1792).

numerous acts, Congress had established the boundaries, laws, and governments of territories before they became States and admitted to the Union. Throughout the various governments established, Congress has consistently provided that only white persons could vote, hold public offices, serve in juries, be counted in representation, etc.

In establishing the temporary government for the **Territories of Louisiana and Orleans,** Congress enacted the following provision on March 26, 1804:

> CHAP. XXXVIII. – *An act erecting Louisiana into two territories, and providing for the temporary government thereof.*
>
> SEC. 9. All free male white persons who are house-keepers, and who shall have resided one year, at least, in the said territory, shall be qualified to serve as grand or petit jurors in the courts of the said territory.[59]

In an act dealing with the **Mississippi Territory,** January 9th, 1808, Congress enacted the following:

> CHAP. IX – *An act extending the right of suffrage in the Mississippi Territory; and for other purposes.*
>
> Be it enacted . . . That every free white male person in the Mississippi Territory, above the age of twenty-one years, . . . shall be entitled to vote for representatives to the general assembly of the said territory.[60]

In these acts Congress was simply making territorial law consistent with the Fundamental law that recognized only whites as citizens. A continuous series of acts by Congress in dealing with territorial governments, reveal the intent of Congress to keep the American Territorial governments in control of the white population as was the case in the original States. The following territories were organized and established as being white governments by

59 2 Statutes at Large 283; 8th Congress, First Session, sec. 9.

60 2 Statutes at Large 455; 10th Congress, First Session, sec. 1.

specifically including the words "white persons" in the act in some manner as done in the above acts:

- Feb. 26, 1808; **Territory of Indiana**, 10th Congress. Also Feb. 27, 1809, 10th Congress; Mar. 3, 1811, 11th Congress
- Feb. 20, 1811; **Territory of Orleans**, 11th Congress.
- May 20, 1812; **Territory of Illinois**, 12th Congress. Also April 18, 1818, 15th Congress.
- June 4, 1812; **Territory of Missouri**, 12th Congress. Also March 2, 1819, 15th Congress; March 6, 1820.
- Oct. 25,1814; **Territory of Mississippi**, 13th Congress. Also March 1, 1817, 14th Congress.
- Feb. 16, 1819; **Territory of Michigan**, 15th Congress.
- March 2, 1819; **Territory of Alabama**, 15th Congress.
- March 30, 1822; **Territory of Florida**, 17th Congress.
- May 31, 1832; **Territory of Arkansas**, 22nd Congress.
- April 20, 1836; **Territory of Wisconsin**, 24th Congress.
- June 12, 1838; **Territory of Iowa**, 25th Congress.
- August 14, 1848; **Territory of Oregon**, 30th Congress.
- March 3, 1849; **Territory of Minnesota**, 30th Congress.
- September 9, 1850; **Territory of Utah**, 31st Congress.
- September 9, 1850; **Territory of New Mexico**, 31st Congress.
- March 2, 1853; **Territory of Washington**, 32nd Congress.
- May 30, 1854; **Territory of Nebraska**, 33rd Congress.
- May 4, 1858; **Territory of Kansas**, 35th Congress.
- February 28, 1861; **Territory of Colorado**, 36th Congress.
- March 2, 1861; **Territory of Nevada**, 36th Congress.
- March 2, 1861; **Territory of Dakota**, 36th Congress.
- March 3, 1863; **Territory of Idaho**, 37th Congress.

MISCELLANEOUS ACTS:

There are various other acts of Congress which show that the original intent of our Constitution was not to create a pluralistic nation or government. These acts likewise specify that only white persons where recognized as the sovereign and governing body.

> CHAP. XXXII – *An act to amend the charter of Georgetown.*
>
> SEC. 4. *And be it further enacted,* That on the fourth Monday of February next, the free white male citizens of Georgetown, of full age, . . . shall proceed to elect, by ballot, five fit and proper persons, citizens of the United States, . . . to compose the said board of common council. [61]

> CHAP. LXXV. – *An act further to amend the Charter of the City of Washington.*
>
> SEC. 2. *And be it further enacted,* That no person shall be eligible to a seat in the board of aldermen or board of common council, unless he shall be more than twenty-five years of age, a free white male citizen of the United States, . . . And every free white male citizen of lawful age . . . shall be qualified to vote . . . and no other person whatever shall exercise the right of suffrage at such election.
>
> SEC. 3. Any person shall be eligible to the office of mayor, who is a free white male citizen of the United States.[62]

> CHAP. LXIV. – *An act to reduce into one the several acts establishing and regulating the Post-Office Department.*
>
> SEC. 7. And be it further enacted, That no other than a free white person shall be employed in conveying the mail; and any contractor who shall employ, or permit, any other than a free white person to convey the mail, shall, for every such offence, incur a penalty of twenty dollars.[63]

61 2 Statutes at Large 332, 8th Congress, March 3, 1805.

62 2 Statutes at Large 721, 12th Congress, May 4, 1812. Also Vol. III 16th Cong., Chap. CIV, May 15, 1820, Sec. 5. Vol. IX, 30th Cong., Chap. XLII, May 17, 1848, Sec. 5.

63 4 Statutes at Large, Eighteenth Congress, March 3, 1825, Sec. 7, p. 102, 104.

All of these acts show that the propaganda depicting discrimination as being something un-American is quite inaccurate. A report compiled in 1950, showed that 37 of the 48 States had some manner of racial discrimination by State law.[64] Our ancestors were always discriminatory in who they married, did business with, etc. Discrimination is, in law and history, very much a part of the "American way."

JUDICIAL DETERMINATIONS ON CITIZENSHIP

The following are excerpts from various court cases that have decided upon the nature and character of citizenship in relation to the status and race of an individual. These cases are primarily from the early and mid-eighteen hundreds, and thus provide a more credible insight to the original intent of the Framers of the Constitution than could be rendered by any court today. These cases basically speak for themselves in showing that only white persons were, and can ever be, citizens of the United States.

AMY, a woman of color, *vs.* SMITH

11 Kentucky 326, 334; 1 Littell's 326 (1822)

It results, then, that the plaintiff [Amy] cannot have been a citizen, either of Pennsylvania or of Virginia, unless she belonged to a class of society upon which, by the institutions of the states, was conferred a right to enjoy all the privileges and immunities appertaining to the state. That this was the case, there is no evidence in the record to show, and the presumption is against it. Free negroes and mulattoes are, almost everywhere, considered and treated as a degraded race of people; insomuch so, that, under the constitution and laws of the United States, they cannot become citizens of the United States.

64 Pauli Murray, LL.M., " States' Laws on Race and Color," 1950.

It is true, that when the plaintiff resided in Pennsylvania, and removed to Virginia, the constitution of the United States had not been adopted; and prior to its adoption, the several states might make any person they chose citizens. But as the laws of the United States do not now authorize any but a white person to become a citizen, it marks the national sentiment upon the subject, and creates a presumption that no state had made persons of color citizens. And this presumption must stand, unless positive evidence to the contrary were produced.

CRANDALL *against* THE STATE OF CONNECTICUT

10 Connecticut Rep. 340, 344-47 (1834)

The [colored] persons contemplated in this act are *not citizens* within the obvious meaning of that section of the constitution of the United States [ART. 4 SEC. 2], which I have just read. Let me begin, by putting this plain question. Are *Slaves citizens?* At the adoption of the constitution of the United States, every state was a slave state. * * * We all know, that slavery is recognized in that constitution; and it is the duty of this court to take that constitution as it is, for we have sworn to support it. * * * The "other persons" [in ART. 1 SEC. 2 of the U.S. Constitution] are slaves, and they became the basis of representation, by adding them to the white population in that proportion. Then slaves were not considered citizens by the framers of the constitution. A *citizen* means a *freeman.* * * * Are *free blacks* citizens?

To my mind, it would be a perversion of terms, and the well known rule of construction, to say, that slaves, free blacks, or Indians, were citizens, within the meaning of that term, as used in the constitution. God forbid that I should add to the degradation of this race of men; but I am bound, by my duty, to say, they are not citizens. * * * And can it be entertained for one moment, that those who framed the constitution should hold one portion of a race of men in bondage, while the other portion were made *citizens?* This would be strange inconsistency.

THE STATE *vs.* CLAIBORNE

19 Tennessee 331, 339-41; 1 Meigs 331 (1838)

In this country, under the free government created by the Constitution, whose language we are expounding, the humblest white citizen is entitled to all the "privileges and immunities"

which the most exalted one enjoys. Hence, in speaking of the rights, which a citizen of one State should enjoy in every other State, as applicable to white men, it is very properly said, that he should be entitled to *all* the "privileges and immunities" of citizens in such other State. The meaning of the language is, that no privilege enjoyed by, or immunity allowed to, the most favored class of citizens in said State, shall be withheld from a citizen of any other State. How can it be said, that he enjoys *all* the privileges of citizens, when he is scarcely allowed a single right in common with the mass of the citizens of the State?

It cannot be; – And, therefore, either the free negro is not a citizen in the sense of the Constitution; or, if a citizen, he is entitled to "all the privileges and immunities" of the most favored class of citizens. But this latter consequence, will be contended for by no one. It must then follow, that they are not citizens.

Upon the whole, by whatever appellation we may designate free negroes, whether as perpetual inhabitants, or citizens of an inferior grade, we feel satisfied, that they are not citizens in the sense of the Constitution; and, therefore, when coming among us, are not entitled to all the "privileges and immunities" of citizens of this State.

THE STATE *vs.* ELIJAH NEWSOM

5 Iredell Law Rep. 250, 254 (North Carolina—1844)

As a further illustration of the will of the people, as to the light in which free people of color are to be considered as citizens, the present constitution of the State entirely excludes them from the exercise of the elective franchise * * * We *must,* therefore, regard it as a principle, settled by the highest authority, the organic law of the country, that the free people of color cannot be considered as citizens, in the largest sense of the term, * * *.

PENDLETON *vs.* THE STATE

6 Arkansas Rep. 509, 511-12 (1845)

"The citizens of each State shall be entitled to all privileges and immunities of citizens of the several States" [ART. 4 SEC. 2]. Are free negroes or free colored persons citizens within the meaning of this clause? We think not. In recurring to the past history of the constitution, and prior to its formation, to that of the confederation, it will be found that nothing beyond a kind of quasi citizenship has ever been recognized in the case of colored persons. It is a principle settled in all the states of the Union, at

least where slavery is tolerated, that a colored person, although free, cannot be a witness where the parties are white persons. See *Treaties on the law of Slavery, by Wheeler p.* 194.

* * * If citizens in a full and constitutional sense, why were they [free colored persons] not permitted to participate in its formation? They certainly were not. The constitution was the work of the white race; the government, for which it provides and of which it is the fundamental law, is in their hands and under their control; and it could not have been intended to place a different race of people in all things upon terms of equality with themselves. Indeed, if such had been the desire, its utter impracticability is too evident to admit of doubt. The two races differing as they do in complexion, habits, conformation and intellectual endowments, could not nor ever will live together upon terms of social or political equality. A higher than human power has so ordered it, and a greater than human agency must change the decree. Those who framed the constitution, were aware of this, and hence their intention to exclude them as citizens within the meaning of the clause to which we have referred.

WHITE and BASS *vs.* TAX COLLECTOR of KERSHAW DISTRICT

3 Richardson's Law Rep. 135, 139 (South Carolina—1846)

The relators have filed this suggestion to prohibit the collection from them of the capitation tax, imposed on "free negroes, mulattoes and mustizoes," claiming that they are white persons.

The claim involves all the civil and political rights of citizenship. For the law recognizes only three classes of persons; freeman under the constitution, or citizens; slaves; and free negroes, mulattoes and mustizoes, who constitute the third class. A firm and wise policy has excluded this class from the rights of citizenship in this and almost every State in which they are found. The constant tendency of this class to assimilate to the white, and the desire of elevation, present frequent cases of embarrassment and difficulty. The disqualification arises from descent from one of the African race; * * * Habit and education have so strongly associated with the European race the enjoyment of all the rights and immunities of freedom, that color alone is felt and recognized as a claim. On the contrary, a strong repugnance prevails against a participation in the rights of citizenship by any who bear in their persons the traces of their servile origin. * * * Marriage with a white person has never been held to elevate a colored person into the class of citizens; nor has mere social intercourse.

COOPER and WORSHAM *vs.* THE MAYOR and ALDERMEN of SAVANNAH

4 Georgia Rep. 68, 72 (1848)

* Free persons of color have never been recognized here as citizens; they are not entitled to bear arms, vote for members of the legislature, or to hold any civil office. They have always been considered as in a state of pupilage, and been regarded as our wards, and for that very reason we should be extremely careful to guard and protect all the rights secured to them by our municipal regulations. They have no political rights, but they have personal rights, one of which is personal liberty.

*NOTE.—By a joint resolution of the Legislature of Georgia, in 1842, it was unanimously Resolved, that free negroes are not citizens of the U. S., "and that Georgia will never recognize such citizenship." *Pam. Acts, 1842, p. 182p.*

SEABORN C. BRYAN *vs.* HUGH WALTON

14 Georgia Rep. 185, 202 (1853)

Our ancestors settled this State when a province, as a community of white men, professing the Christian religion, and possessing an equality of rights and privileges. The blacks were introduced into it, as a race of Pagan slaves. The prejudice, if it can be called so, of caste, is unconquerable. It was so at the beginning. It has come down to our day. The suspicion of taint even, sinks the subject of it below the common level. Is it to be credited, that parity of rank would be allowed to such a race? Let the question be answered by our Naturalization Laws, which do not apply to the *African*. He is not and cannot become a *citizen* under our Constitution and Laws. He resides among us, and yet is a stranger. A *native* even, and yet not a citizen. Though not a *slave,* yet [he is] not free. Protected by the law, yet enjoying none of the immunities of freedom. Though not in a condition of chattelhood, yet constantly exposed to it.

DRED SCOTT *vs.* JOHN F. A. SANDFORD

19 Howard (60 U.S.) 393, 404, 407, 419 (1856)

The words "people of the United States" and "citizens" are synonymous terms, and mean the same thing. They both describe

the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives. They are what we familiarly call the "sovereign people," and every citizen is one of this people, and a constituent member of this sovereignty. The question before us is, whether the class of persons described in the plea in abatement [descendants of Africans] compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word "citizens" in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might chose to grant them.

* * * It becomes necessary, therefore, to determine who were citizens of the several States when the Constitution was adopted. And in order to do this, we must recur to the Governments and institutions of the thirteen colonies, when they separated from Great Britian and formed new sovereignties, and took their places in the family of independent nations. We must inquire who, at that time were recognized as the people or citizens of a State, whose rights and liberties had been outraged by the English Government; and who declared their independence, and assumed the powers of Government to defend their rights by force of arms.

In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves [negroes], nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument.

* * * But the language of the [1790 Naturalization] law above quoted, shows that citizenship at that time was perfectly understood to be confined to the white race; and that they alone constituted the sovereignty in the Government.

F. B. HEIRN *vs.* E. BRIDAULT and WIFE

37 Mississippi 209, 224 (1859)

We for bear to quote further from this able, learned, and lucid opinion of the eminent Chief Justice [Taney], although *pages* might be cited further illustrative of the fact that the negro or African race have no *status,* civil or political, in this country, save such as each State may choose to confer by special legislation in its own jurisdiction.

The *reason* for this is because this race are *alien strangers,* of an inferior class, incapable of comity, with whom our government has no commercial, social, or diplomatic intercourse. * * *

Having shown, as we think, that the African is neither embraced by the terms of the Federal Constitution, nor by the laws of international comity, we will next inquire how he is regarded by our municipal laws. * * * The negro, by the laws of this State, is *prima facie* a slave. * * * It is only the intention of the legislature so to provide, that neither slaves, free negroes, or free persons of color, nor mulattoes, should be classed with the white race.

WILLIAM MITCHELL *vs.* NANCY WELLS

37 Mississippi 235, 252, 257 (1859)

Looking, then, to our public history as indicative of our policy on the subject of African slavery, we find this race in this inferior, subordinate, subjugated condition, at the time of the adoption of our Federal Constitution. They were so regarded then by all the States united, and because thus incapable of freedom or of self-government, and unfit by their nature and constitution to become citizens and equal associates with the white race in this family of States, they were rejected, and treated and acknowledged in the Constitution as slaves.

Mississippi came into the Union under this Federal Constitution as a member of this political family, to be associated on terms of political equality, comity, or courtesy with the *white race*, who *alone* by that compact had a right to be thus associated. * * * The fact that, by common consent of all the States, at the adoption of our [U.S.] Constitution, the negro race was excluded from association and political equality with the whites, as an inferior class, affords, *in itself,* strong evidence of the policy of those States at that early period.

Van CAMP *vs.* Board of Education of LOGAN
9 Ohio State Rep. 407, 411 (1859)

In determining what is to be understood by the terms "white" and "colored," as used in this [1853 common school] act, we may look to the state of things existing at the time, the evils complained of, and the remedies sought to be applied. For nearly two generations, blacks and mulattoes had been a proscribed and degraded race in Ohio. They were debarred from the elective franchise and prohibited from immigration and settlement within our borders, except under sever restrictions. They were also excluded from our common schools and all means of public instruction—incapacitated from serving upon juries, and denied the privilege of testifying in cases where a white person was a party. It would be strange, indeed, if such a state of things had not increased, in the present generation, the natural repugnance of the white race to communion and fellowship with them. Whether consistent with true philanthropy or not, it is nevertheless true, that in many portions, if not throughout the state, there was and still is an almost invincible repugnance to such communion and fellowship.

This was the typical situation that prevailed in the States where their constitutions and statutes barred Negroes, mulattoes, and colored persons from civil and political rights and privileges. Not only were they denied certain rights of citizenship, but were barred from even entering the state. This status of the "colored person" or "Negro" existed in practically every state, both north and south, just prior to the Civil War. At that point, negroes were no more considered citizens in Ohio than they were in Georgia.

THOMASSON *vs.* THE STATE
15 Ind. Rep. 449, 450 (1860)

It is said the law confers special privileges. Sec. 23 of Art. 1 of the [State] Constitution declares, that "privileges and immunities which, upon the same terms, shall not equally belong to all citizens, may not be granted."

Now who are citizens within the meaning of this provision ? Evidently none but those who participated in the formation of the government, or have a right to participate in its administration. These are, *white male citizens* of the United States, of the age of twenty-one years, and *white males* of foreign birth, of the like age, who have declared their intentions, under the act of Congress, to become *citizens* of the United States, and have resided in this State six months.

CORY et al. *vs.* CARTER
48 Indiana 327, 341 (1874)

In our opinion, the privileges and immunities secured by sec. 23 of article 1 were not intended for persons of the African race; for the section expressly limits the enjoyment of such privileges and immunities to citizens, and at that time negroes were neither citizens of the United States nor of this State.

Nor in view of the other provisions of our constitutions, and in the light of the rules of construction before stated, can it be successfully maintained that the provisions of sec. 1 of article 8 were intended for the children of the African race. It is unreasonable to suppose that the framers of the constitution, who had denied to that race the right of citizenship, of suffrage, of holding office, of serving on juries, and of testifying as witnesses in any case where a white person was a party, and had prohibited, under heavy pains and penalties, the further immigration of that race into the State, intended to provide for the education of the children of that race in our common schools with the white children of the State.

ALLEN BENNY *vs.* WILLIAM J. O'BRIEN
58 New Jersey Law Rep. 36, 38 (1895)

All white persons, or persons of European descent who were born in any of the colonies, or resided or had been adopted there before 1776, and had adhered to the cause of independence up to July 4th, 1776, were, by the declaration, invested with the privileges of citizenship.

Since that time the right to citizenship has been derived through birth or naturalization.

SLAVERY, THE CIVIL WAR & CITIZENSHIP:

It can be seen from the cases previously cited, that the legal status of colored persons was such that they were not a legal member of the political community under the original American Constitution. Even after the 14th Amendment "discriminatory" provisions were upheld. In *Cory v. Carter,* for example, a statute providing for separate schools for colored persons and whites was found to be "not in conflict with the thirteenth or fourteenth amendments."

Not all States had the backbone to enforce their local laws of this nature, and no State has ever challenged the constitutionality of the Fourteenth Amendment in regards to citizenship. It would seem that had a State done so at that time, by refusing to recognize the Negro as a citizen, their act would have been upheld by the Supreme Court and the Fourteenth Amendment would have been found to be invalid in that respects. However, after its enactment, no State was bold enough to make such a stand as they all were shell shocked and gun-shy from the aftermath of a civil war.

The manner in which the Negro and slavery issue were the cause of the war has been quite distorted. We often here of the terms "free states" and "slave states" as being totally opposite in opinions and practices. A big misconception is that the "free states" were states in which Negroes were automatically free and citizens. That this is completely untrue is verified by reading the cases from the "free states" of Connecticut, Ohio, and Indiana previously cited. Also, the States of Ohio, Indiana, Illinois, Kansas and Oregon were considered "free states," yet their laws and constitutions not only prohibited free colored persons from voting and enjoying other rights of citizenship, but also prohibited them from entering the State. Further, slaves could exist in many of the free states just as free colored persons existed in the slave

states. Thus, there were both free and slave states which did not recognize free colored persons as citizens. This is a matter of fact supported by the foregoing information.

Yet these State cases, laws and constitutions, and prevailing circumstances prior to the Civil War are never mentioned as causing that war. All the blame is always focused on slavery and the *Dred Scott* case which supported it. However, the "abolitionists" were not attacking slavery *per se* as they knew that slavery was being phased out and would probably in time be eliminated. The slavery issue was used as a base by the abolitionists from which to wage attack at their real target—The Constitution and its legal principles.

The Constitution, which had proved to serve well in protecting freedoms and providing for a prosperous nation, was now the focus of vehement rhetorical attack. The most prolific and indignant criticism ever made of the Constitution was made by the abolitionists. While the majority of the nation was enthralled in "Constitutional worship," the abolitionists, were calling the "sacred" document a "covenant with death" and "an agreement with hell."[65]

The South with its emphasis on states' rights along with the legality of the Constitution was a severe stumbling block to the abolitionist drive. The leaders of the South and the Democrats in the North opposed the abolitionist movement, not because of slavery per se, *"but because of the philosophy and theology which it represented and because they clearly saw that if this radicalism were to gain supremacy in the national government then there must certainly come in its wake a radical political and social program which would threaten the established order and constitutional government for the nation as a whole."*[66]

65 Carl Becker, "The Declaration of Independence," (N.Y. 1942), pp. 241-42.

The true forces behind the abolitionist drive (the high financial Jewish power of Europe) may have been unknown but their results were certainly not unseen or unfelt. It was these forces that were responsible for stirring up emotions and sentiment in both the North and South, for promoting radicals such as John Brown, for inciting rebellion in Negroes, and for singling out the *Dred Scott* case as "going far beyond the facts" and acting with "malicious delight" to destroy the union. These acts were all part of the subverted plans to destroy the American system of government. They were initiated by alien or outside forces who knew that the surest way of destroying a nation is from within, hence a civil war was needed. They thus employed a stealthy "divide and conquer" scheme to do so.

Even if slavery had never existed in America, the motive of these "abolitionists" would still have been directed at the destruction of the Organic Law. The obstacles mentioned would still have to be overcome through a civil war but they would have to use some other tool or pawn to work out their goals. The slavery issue was used to touch upon **economic, political and theological** principles. These three things split the country deeply enough to force the two factions to go to war to perpetuate their causes. The Negro and slavery were merely pawns used to capture and conquer the American government. The Civil War was a game of the abolition-ists in which they were the winners and America the loser.

When the *Dred Scott* case was decided in 1856, the abolitionist bitterly attacked the decision as promoting slavery and unjustly denying the Negro citizenship. These attacks, which continue to this day, are unwarranted themselves. Even if the *Dred Scott* case had never occurred, the constitutional maxim that a colored person cannot be a citizen of the United States would still stand. The *Dred Scott*

66 C. Gregg Singer, "A Theological Interpretation of American History," (1969), p. 84

case had said nothing new on this matter which had not already been said in over a half dozen cases before it.

Thus, the *Dred Scott* case did not change the prevailing legal and judicial precedents regarding slavery and citizenship. After this decision, it was Lincoln's plan to do nothing about the slavery issue, either supporting it or restricting it. Nor did Lincoln believe Negroes were equal with whites socially or politically or that they were citizens (as revealed in the Lincoln-Douglas debates).[67] This was not contested by those in the North since they elected him president. Further, Congress had been establishing territorial governments as being white up to 1863. Thus, the general consensus of the country was that the Negro was not constitutionally a citizen. But by stirring up emotions regarding slavery and the *Dred Scott* case, all these foregoing facts have been obscured from public view.

If the matter of Negroes not being citizens was a rarely disputed issue prior to the Civil War, how is it that it became the end result of the war? Because to the unseen forces that instigated the war, the target issue was not slavery *per se*, but rather the constitutional principle of white sovereignty and independent states' rights. While not even an amendment could change this, especially an unlawfully enacted amendment, those who promoted it knew it could gradually change people's thinking on the matter. Since the period of World War II, Americans have been conditioned to think of such constitutional principles as being *"un-American"* or *"racist."* Are Americans being taught to despise their own Constitution? We are led to believe that to say colored persons are not citizens is unconscionable, but the fact of the matter is, to say colored persons are citizens is unconstitutional.

67 Cf. "Created Equal?—The Complete Lincoln-Douglas Debates of 1858," Ed. by Paul M. Angle, The University of Chicago Press, 1958.

CHAPTER THREE

CHRISTIAN AMERICA

The United States of America is, undoubtedly, the single most important, industrious, advanced, and wealthiest nation to ever rise to power in 5000 years of history. Why is this and what is it that America possesses that hails it above all other nations? If any one thing could be attributed to America's amazing rise and high standing in history, it would be the Christian values of its founders.

In viewing the various nations throughout world history, it can be seen how the religious or spiritual attitude and tenets of a people have a profound effect on the nature of the society, politics, economy, government and laws of a nation.

> With equal truth may it be said that from the dawn of civilization, the religion of a country is a most important factor in determining its form of government, and that stability of government in no small measure depends upon the reverence and respect which a nation maintains toward its prevalent religion.[1]

As many a sociologist will affirm, any particular culture is merely the outgrowth of the current religion of that society. It also becomes apparent that the Christian nations of Europe were among the more advanced and prosperous cultures in the world. Yet America stands far out in front of any European nation in these areas, even though America was peopled from these very nations. For some reason, Christianity became more prominent and more a part of American ideology.

1 State v. Mockus, 113 Atl. Rep. 39, 42; 120 Maine 84 (1921).

There are two reasons why America became a greater Christian nation than any of her European sister nations. In Europe, Christianity, as it were, was administered to the people by way of a powerful central church bureaucracy, such as the Roman Catholic Church or the Church of England. These church powers created decrees which became as laws and were punishable for those who deviated from them. Also, doctrines were established that were proven to be both nonbiblical and nonsense, as revealed in the Protestant Reformation. In America Christianity was, from the very beginning, freely practiced according to the consciences of the individuals. There was no all-powerful church established which controlled the thinking and religious practices of the whole people. The principle behind the First Amendment to the Constitution was to prevent a centralized church from being established. Thus, while European nations were referred to as "Christian Nations," they were never "Free Christian Nations." America is the only nation that can claim that title.

The second reason why America is set apart from European nations by way of its Christianity, is that in America, the people established self-governing bodies to incorporate Christian principles into the government, politics, and laws of society, as they had done with their own family governments. The reason why this has been so effective is that Christianity is a system of government, a mode of politics, a body of laws and a code of conduct for society. Christianity, as understood by our forefathers, is not limited to the New Testament, but encompasses all precepts in the Bible, as verified by Christ himself (*Matt. 19:17-19; Luke 16:29*). Neither is Christianity limited to church affairs but encompasses civil and political affairs in our lives and society. Christianity is, therefore, a way a life, sanctioned and custom made by God for man.

PLURALISM IN AMERICA?:

It is well understood that many of the pilgrims and early American colonists were driven from Europe because of "religious persecution," and came to America so they could have "freedom to worship." Over the past years a philosophy has developed where the phrase "freedom of religion" has been used as a right to freely practice any and all forms of religion in America. Was it the intent of the Founding Fathers of this country practice or allow the practice of a multitude of religions such as Hinduism, Shinto, Zoroastrianism, Islam, Judaism, Buddhism, etc.? There are now many different religions practiced in this country and when rebuked the cry of "religious freedom" or "religious persecution" or even "bigotry" is heard. Thus, the sentiment that prevails today is that the Founding Father's concept of freedom of religion embraced all religions.

This same twisted interpretation of one of America's fundamental precepts, is the same type of interpretation that has recently been used to lend support for pornography under the precepts of "freedom of the press," or "freedom of speech." It would truly be a perversion of terms to say that our founding fathers condoned pornography under "freedom of the press." It would be equally a perversion of terms to say that they condoned a multitude of pagan and idolatrous religions, which were contrary to Christianity, to be freely practiced in the land.

The history of the founding legal documents of America prove that our forefathers desired, prayed for and worked for the establishment of a Christian nation. They had no intentions or desires whatsoever in setting up a

country where the god of the heathen and pagans would be worshiped along side the one true God – Jesus Christ. They in nowise established, or allowed, religious pluralism.

The founders of America had deliberately and specifically established America as a Christian country. They used the words "Christian" and "Jesus Christ" in their compacts, charters, constitutions, and laws. They even made elected officials take an oath that they were believers in Jesus Christ and that they would rule in the government according to the Christian faith and the laws of God. It is not by accident that elected officials are still required to take their oath of office with their hand on the Christian Bible; it has always been so in this land.

Not only was America built on Christian principles, but the very reason the early founders came to this country was for the purpose of spreading Christianity to the "new world." One of the reasons the pilgrims left Holland and came to America is given by William Bradford as follows:

> Lastly, (and which was not least) a great hope, and inward zeall they had of laying some good foundation, (or at least to make some way thereunto) for the propagating, and advancing the gospell of the kingdom of Christ in those remote parts of the world; yea, though they should be but even as stepping-stones, unto others for the performing of so great a work.[2]

The claim that America is a pluralistic nation and its religious foundations were as such, has not been substantiated by any consistent and concrete historical facts. It always rest on someone's belief or desire, never on fact. But through stealthy propaganda in favor of non-Christian religions, and timely attacks against Christianity itself, the philosophy of pluralism has made much headway in

2 William Bradford, "History Of Plymouth Plantation: 1620–1647," Vol. I, The Massachusetts Historical Society, (Boston-1912), p. 55.

American sentiment and society. The ultimate plan of its advocates is to destroy the true foundations of America and establish an atheistic system.

The truth is that government was established in America not to build monuments, not to tax the workers to support the nonworkers, not to tax citizens of America to give money to foreign and antichristian governments, not to finance and support abortion, not to control labor, business and industry, but government was establish for the protection of Christians in the practice of Christianity in their families, societies, politics, economics, etc. That was the main purpose of colonial government.

In none of the colonial charters, compacts, etc., will one find the false and nonsensical ideas of religious pluralism where the colonists welcomed the followers of all the religions of the world. The legal roots of America are in Jesus Christ and the Christian Faith. To prove this, let the facts be now submitted to a candid world.

COLONIAL CHARTERS, COMPACTS, ETC.:

America's founding legal documents explicitly show that America was founded on Christian ideals and principles. The main purpose of these documents was to put in writing the order of government and purpose of that government. Through these founding documents, Christianity and government were in a sense united.

The Christian Fathers of America knew that neither individuals nor Christian congregations would long remain free to follow their Christian faith if they did not establish a Christian government. They knew that the precepts of Christianity would not prosper and flourish under any form of government except one Christian in nature.

The following colonial documents bear witness of the intentions of America's founders to put Christianity in their governments and make America a Christian nation:[3]

LETTERS PATENT TO SIR HUMFREY GYLBERTE – JUNE 11, 1578

"And forasmuch, as upon the finding out, discovering and inhabiting of such remote lands, countreys and territories, as aforesayd, it shall be necessarie for the safetie of all men that shall adventure themselves in those journeys or voiages, to determine to live together in Christian peace and civil quietnesse each with other. . . . according to such statutes, lawes and ordinances, as shall be by him the said sir Humfrey, his heirs and assignes, or every, or any of them, devised or established for the better government of the said people . . . and also, that they be not against the true Christian faith or religion . . ."

CHARTER TO SIR WALTER RALEIGH – 1584

The same wording used in the *"Letters Patent to Sir Humfrey Gylberte"* were also used in this charter.

THE FIRST CHARTER OF VIRGINIA – 1606

"We, greatly commending, and graciously accepting of, their Desires for the Furtherance of so noble a Work, which may, by the Providence of Almighty God, hereafter tend to the Glory of his Divine Majesty, in propagating of *Christian* Religion to such People, as yet live in Darkness and miserable Ignorance of the true Knowledge and Worship of God, and may in time bring the Infidels and Savages, living in those parts, to human Civility, and to a settled and quiet Government."

THE SECOND CHARTER OF VIRGINIA – 1609

"AND forasmuch as it shall be necessary for all such our loving Subject as shall inhabit within the said Precincts of *Virginia* aforesaid, to determine to live together in the Fear and true Worship of Almighty God, Christian Peace and Civil Quietness each with other."

3 Reference sources: Thorpe, "The Federal and State Constitutions, etc." (1909). Poore, "The Federal and State Constitutions, etc." 2d (1878)

THE THIRD CHARTER OF VIRGINIA – 1611-12

"WHEREAS at the humble Suit of divers and sundry our loving Subjects, as well Adventurers as Planters of the first Colony in Virginia, and for the Propagation of *Christian* Religion . . ."

THE CHARTER OF NEW ENGLAND – 1620

"We according to our princely Inclination, favouring much their worthy Disposition, in Hope thereby to advance the enlargement of Christian Religion, to the Glory of God Almighty, . . ."

AGREEMENT BETWEEN THE SETTLERS AT NEW PLYMOUTH – 1620

The following compact, commonly known as *"The Mayflower Compact,"* was the first legal document forming a government that was written by individual settlers.

"IN THE NAME OF GOD, AMEN. We, whose names are underwritten, . . . Having undertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our King and Country, a Voyage to plant the first Colony in the northern Parts of *Virginia.*"

ORDINANCES FOR VIRGINIA – JULY 24, 1621

"Which said Counsellors and Council we earnestly pray and desire, . . . that they bend their Care and Endeavours to assist the said Governor; first and principally, in the Advancement of the Honour and Service of God, and the Enlargement of his Kingdom amongst the Heathen People; . . . and lastly, in maintaining the said People in Justice and *Christian* Conversation amongst themselves, and in Strength and Ability to withstand their Enemies."

THE CHARTER OF MASSACHUSETTS BAY – 1629

This charter states that the principle end of the plantation was to enable the people to be *"religiously, peaceably, and civilly governed,"* and thereby they may bring the Natives of the Country to the *"Knowledge and Obedience of* the *only true God and Savior of Mankind, and the Christian Faith."*

SIR ROBERT HEATH'S PATENT – 30 Oct. 1629

"Whereas our beloved and faithfull subject and servant Sir Robert Heath Knight our Atturney Generall, kindled with a certain laudable and pious desire as well of enlarging the Christian religion . . ."

"And furthermore the patronages and advowsons of all churches which shall happen to be built hereafter in the said Region Territory & Isles and limitts by the increase of the religion & worship of Christ Together . . ."

THE CHARTER OF MARYLAND – 1632

In concerning any future questions that should arise requiring an interpretation of the Charter, the following proviso was added:

XXII. . . . "Provided always, that no Interpretation thereof be made, whereby God's holy and true Christian Religion, . . . may in any wise suffer by Change, Prejudice, or Diminution. . . "

The intention here was that the law could not be interpreted in any way that would hurt the Christian Religion.

GRANT OF THE PROVINCE OF NEW HAMPSHIRE TO MR. MASON – 22 APRIL, 1635

"To all Christian people unto whome these presents shall come The Councill for ye affaires of New England in America send greeting in our Lord God ever lasting."

FUNDAMENTAL ORDERS OF CONNECTICUT – 1638-39

"FORASMUCH as it hath pleased the Allmighty God by the wise disposition of his divine providence so to Order and dispose of things . . . And well knowing where a people are gathered together the word of God requires that to mayntayne the peace and vnion of such a people there should be an orderly an decent Gouernment established according to God, . . . doe therefore associate and conjoyne our selues to be as one Public State or Commonwealth; and doe, for our selues and our Successors and such as shall be adjoyned to vs att any tyme hereafter, enter into Combination and Confederation together, to mayntayne and preserve the liberty and purity of the gospell of our Lord Jesus

which we now professe, as also the disciplyne of the Churches, which according to the truth of the said gospell is now practised amongst vs; As also in our Civil Affaires to be guided and gouerned according to such Laws, . . . as shall be made . . ."

AGREEMENT OF THE SETTLERS AT EXETER IN NEW HAMPSHIRE – 1639

"Whereas it hath pleased the Lord to move the Heart of our dread Sovereign Charles by the Grace of God King &c. to grant Licence and Libertye to sundry of his subjects to plant themselves in the Westerne parts of America. We his loyal Subjects Brethern of the Church in Exeter situate and lying upon the River Pascataqua with other Inhabitants there, considering with ourselves the holy Will of God and our own Necessity that we should not live without wholesome Lawes and Civil Government among us of which we are altogether destitute; do in the name Christ and in the sight of God combine ourselves together to erect and set up among us such Government as shall be to our best discerning agreeable to the Will of God, . . . and binding of ourselves solemnly by the Grace and Help of Christ and in His Name and fear to submit ourselves to such Godly and Christian Lawes as are established in the realm of England to our best Knowledge, and to all other such Lawes which shall upon good grounds be made and enacted among us according to God that we may live quietly and peaceably together in all godliness and honesty. Mo. 8. D. 4. 1639 as attests our Hands. [35 signatures follow.]"

FUNDAMENTAL AGREEMENT OF THE COLONY OF NEW-HAVEN – JUNE 4, 1639

"The 4th day of the 4th month, called June, 1639, all the free planters assembled together in a general meeting, to consult about settling civil government, according to God, . . ."

Query I. "WHETHER the scriptures do hold forth a perfect rule for direction and government of all men in all duties which they are to perform to GOD and men, as well in families and commonwealth, as in matters of the church? This was assented unto by all, no man dissenting."

Query IV. "THEN Mr. Davenport declared unto them, by the scripture, what kind of persons might best be trusted with matters of government; and by sundry arguments from scripture proved

that such men as were described in Exod. xviii. 20, 21; Deut. i. 13; with Deut. xvii. 15; and 1 Cor. vi. 1, 6, 7, ought to be intrusted by them, seeing they were free to cast themselves into that mould and form of commonwealth which appeared best for them in reference to the securing the peace and peaceable improvement of all CHRIST his ordinances in the church according to God."

It is to be noted that in the preceding three documents, the framers wished to have "government established according to God." This was the very reason they had entered into the confederation or agreement. Also, their guide for establishing their government were the Holy Scriptures.

GRANT OF THE PROVINCE OF MAINE – 1639

"Noe interpretation [shall be] made of any worde or sentence Whereby Gods worde [and] true Christian Religion now taught, professed and maynteyned in the fundamentall Laws of this Realme,. . . may suffer prejudice or diminution."

MASSACHUSETTS BODY OF LIBERTIES – 1641

89. "If any people of other Nations professing the true Christian Religion shall flee to us from tyranny or oppression of their persecutors, or from famine, wars, or the like necessary and compulsory cause, they shall be entertained and succored among us, according to the power and prudence God shall give us."

95. (10.) "We allow private meetings for edification in religion amongst Christians of all sorts of people."

THE ARTICLES OF CONFEDERATION OF THE UNITED COLONIES OF NEW ENGLAND – 1643

"Whereas we all came into these parts of America with one and the same end and aim, namely, to advance the Kingdom of our Lord Jesus Christ and to enjoy the liberties of the Gospel in purity with peace; . . ."

"The said United Colonies for themselves and their posterities do jointly and severally hereby enter into a firm and perpetual league of friendship and amity for . . . preserving and propagating the truth and liberties of the Gospel and for their own mutual safety and welfare."

CHARTER OF RHODE ISLAND AND PROVIDENCE PLANTATIONS – 1663

This charter states that the purchasers and free inhabitants of Rhode Island were *"pursueing, with peaceable and loyall minds, their sober, serious and religious intentions, of godly edifying themselves, and one another, in the holy Christian faith and worship as they were persuaded."* The charter also made provisions to protect their Christian faith:

> " . . . And to preserve unto them that libertye, in the true Christian ffaith and worshipp of God, which they have sought with soe much travaill, and with peaceable myndes, . . . And that they may bee in the better capacity to defend themselves, in theire just rights and libertyes against all the enemies of the Christian ffaith, and others, in all respects, . . ."

Under this charter, one of the very reasons for the government itself was so its citizens could defend themselves against the enemies of Christianity.

CHARTER OF CAROLINA – 1663

> 1st. "Whereas our right trusty, and right well beloved cousins and counsellors, Edward Earl of Clarendon, . . . and Sir William Berkley, knight, and Sir John Colleton, knight and baronet, being excited with a laudable and pious zeal for the propagation of the Christian faith, . . ."

> 3d. "And furthermore, the patronage and advowsons of all the churches and chappels, which as Christian religion shall increase within the country, isles, inlets and limits aforesaid, shall happen hereafter to be erected, together with license and power to build and found churches, chappels and oratories, in convenient and fit places, within the said bounds and limits . . ."

The history of colonial charters, patents, land grants, etc., show that they were issued only to Christian men who had a zeal or desire in the *"propagation of the Christian Faith."* It is also interesting to note that a civil-political document, such as the above charter, would make provisions for the establishment of Christian churches in the land. This clause was repeated in the **Carolina Charter of 1665.**

COMMISSION FOR NEW HAMPSHIRE – 1680

"And above all things We do by these presents will, require and command our said Councill to take all possible care for ye discountenancing of vice, and encouraging of virtue and good living; and that by such examples ye infidle may be invited and desire to partake of ye Christian Religion, and for ye greater ease and satisfaction of ye said loving subjects in matters of religion, We do hereby require and command that liberty of conscience shall be allowed unto all protestants; . . ."

FRAME OF GOVERNMENT OF PENNSYLVANIA – 1682

"This the Apostle teaches in divers of his epistles: 'The law (says he) was added because of transgression:' In another place, 'Knowing that the law was not made for the righteous man; but for the disobedient and ungodly, for sinners, for unholy and profane, for murderers, for whoremongers, for them that defile themselves with mankind, and for man-stealers, for liars, for perjured persons,' &c. . . ."

"This [Romans 13] settles the divine right of government beyond exception, and that for two ends: first, to terrify evil doers: secondly, to cherish those that do well; which gives government a life beyond corruption, and makes it as durable in the world, as good men shall be. So that government seems to me a part of religion itself, a thing sacred in its institution and end."

XXXIV. "That all Treasurers, Judges, Masters of the Rolls, Sheriffs, Justices of the Peace, and other officers and persons whatsoever, relating to courts, or trials of causes, or any other service in the government; and all Members elected to serve in provincial Council and General Assembly, and all that have right to elect such Members, shall be such as possess faith in Jesus Christ, and that are not convicted of ill fame, or unsober and dishonest conversation, and that are of one and twenty years of age, at least; and that all such so qualified, shall be capable of the said several employments and privileges, as aforesaid."

This last section specifically prevents anyone from occupying any position in government unless he is a professing Christian. The **Frame of Government of 1696** required all

government officers to *"make and subscribe the declaration and profession of their Christian belief."*

THE FUNDAMENTAL CONSTITUTIONS FOR THE PROVINCE OF EAST NEW JERSEY IN AMERICA, ANNO DOMINI 1683

XVI. "Yet it is also hereby provided, that no man shall be admitted a member of the great or common Council, or any other place of publick trust, who shall not profaith in Christ Jesus . . ."

THE CHARTER OF MASSACHUSETTS BAY – 1691

"Wee doe by these presents for vs Our heirs and Successors Grant Establish and Ordaine that for ever hereafter there shall be a liberty of Conscience allowed in the Worshipp of God to all Christians (Except Papists) Inhabiting or which shall Inhabit or be Resident within our said Province or Territory."

CHARTER OF DELAWARE – 1701

"AND that all Persons who also profess to believe in *Jesus Christ*, the Saviour of the World, shall be capable (notwithstanding their other Persuasions and Practices in Point of Conscience and Religion) to serve this Government in any Capacity, both legislatively and executively, . . ."

CHARTER OF PRIVILEGES GRANTED BY WILLIAM PENN, ESQ. TO THE INHABITANTS OF PENNSYLVANIA AND TERRITORIES, 1701

"That no Person or Persons, inhabiting in this Province or Territories, who shall confess and acknowledge *One* Almighty God, the Creator, Upholder and Ruler of the World; and profess him or themselves obliged to live quietly under the Civil Government, shall be in any Case molested or prejudiced, in his or their Person or Estate, because of his or their conscientious Persuasion or Practice, nor be compelled to frequent or maintain any religious Worship, Place or Ministry, contrary to his or their Mind."

"AND that all Persons who also profess to believe in *Jesus Christ*, the Saviour of the World, shall be capable (notwithstanding their other Persuasions and Practices in Point of Conscience and Religion) to serve this Government in any Capacity, both legislatively and executively. . ."

The foregoing Organic documents reveal that America was founded and settled by Christian people for Christian purposes. These early Americans not only required those in government to be Christian, but established their governments "according to God" and with Christian principles. It should be noted that none of these documents were church or missionary documents, but rather are civil or political documents, written and signed by civil or political authorities to establish a form of government.

THE BIBLE COMMONWEALTH:

It is almost impossible to cover the history of colonial America without encountering the significant impact the Bible had on colonial life and government. The Bible was "standard equipment" to the pilgrims and settlers that made the voyage to America. It was largely read and well known. "No colonial family would consider being without its Bible, and the Bible was usually kept in a carved box that stood in a place of honor."[4] The Christian ideals and principles that prevailed in the colonies are due to the strong attachments the colonists had to the Bible. The Bible was used in education and was required reading in schools, it became the basis of social intercourse and decorum, and it was fundamental in the establishment of both family and civil government. In the words of President **Andrew Jackson:** *"The Bible is the Rock on which our republic rests."*[5] Speaking on the Bible, the **U. S. Supreme Court** stated: *"Where can the purest principles of morality be learned so clearly or so perfectly as from the New Testament?"*[6] It is impossible to overestimate the social and political good which this nation has benefited from as a result

4 "Story of America," Reader's Digest Association, New York, Vol. I, (1975) p. 212.

5 See Public Law 97-280: "1983 – The year of the Bible."

6 Vidal v. Girard's Executors, 2 Howard (43 U.S.) 127, 200 (1844).

of this incessant reading and adherence to the Bible by our Founding Fathers.

Colonial America was so influenced by the Bible and its precepts that colonial America has been referred to as a "Bible Commonwealth." This is especially revealed by the Biblical laws and principles used in colonial government. For example, in 1641-1642, the Massachusetts General Court enacted several "CAPITAL LAWS" which were virtually taken verbatim out of the Bible, as each law was followed by the Bible verse it pertained to. Similar laws were enacted in many other colonies. The following are the capital laws that were passed by the General Court of Connecticut in 1650:

– BY THE GENERAL COURT –

Code of laws, established within the Jurisdiction of

CONNECTICUT – 1650 [7]

1. If any man after legal conviction shall have or worship any other God but the Lord God, he shall be put to death. *Deut.* 13:6, 17:2; *Ex.* 22:20.

2. If any man or woman be a witch, that is, has or consults with a familiar spirit, they shall be put to death. *Ex.* 22:18; *Lev.* 20:27; *Deut.* 18:10, 11.

3. If any person shall blaspheme the name of God the Father, Son, or Holy Ghost with direct, express, presumptuous, or high-handed blasphemy, or shall curse in the like manner, he shall be put to death. *Lev.* 24:15, 16.

4. If any person shall commit any willful murder, which is manslaughter, committed upon malice, hatred, or cruelty, not in a man's necessary and just defense, nor by mere casualty against his will, he shall be put to death. *Ex.* 21:12-14; *Num.* 35:30, 31.

5. If any person shall slay another through guile, either by poisonings or other such devilish practice, he shall be put to death. *Ex.* 21:14.

7 "The Code of 1650, . . . of the General Court of Connecticut," Hartford, 1822, p.20-21.

6. If any man or woman shall lie with any beast or brute creature, by carnal copulation, they shall surely be put to death, and the beast shall be slain and buried. *Lev.* 20:15, 16.

7. If any man lies with mankind as he lies with woman, both of them have committed abomination, they both shall surely be put to death. *Lev.* 20:13.

8. If any person commits adultery with a married or espoused wife, the adulterer and the adulteress shall surely be put to death. *Lev.* 20:10, 18:20; *Deut.* 22:23, 24.

9. If any man shall forcibly, and without consent, ravish any maid or woman that is lawfully married or contracted, he shall be put to death. *Deut.* 22:25.

10. If any man steals a man or mankind, he shall be put to death. *Ex.* 21:16.

11. If any man rise up by false witness, wittingly and of purpose to take away any man's life, he shall be put to death. *Deut.* 19:16, 18, 19.

12. If any man shall conspire or attempt any invasion, insurrection, or rebellion against the Commonwealth, he shall be put to death.

These laws were common laws of American colonial government. The word government means "direction," "regulation," and "control." In America, the Bible became the source and guide for that direction and regulation in both civil and family governments. Without such a sound and moral guide, government in America would be (and of recent has been) out of control.

It is important to understand that the above laws were part of the "law of the land" or the presiding law in colonial America. They thus are part of the Fundamental or Organic law of the United States. This means that when a State adopts a law similar in effect to the above laws, it will be held valid or "constitutional." This has been shown through the history of adjudications in favor of such laws.

THE ORIGINAL STATE CONSTITUTIONS

The legal principles that were expounded upon in the original State constitutions were the final building blocks of our fundamental law. Thereafter the fundamental law was embraced and sealed by the *Articles of Confederation* and the *Constitution for the United States.* All laws enacted must be in agreement to the Fundamental law, and "any laws to the contrary notwithstanding."[8]

We have seen that through the founding documents of colonial America, the law itself had supported, protected, and endorsed Christianity. An examination of the original State constitutions reveal that they did not alter the Fundamental law that had prevailed, but continued to endorse and support Christianity. In fact, in every single State (except Rhode Island) prior to the adoption of the U. S. Constitution there was a State Constitution that had recognized Christianity in some manner. In Rhode Island the Fundamental law of the land rested in its Charter of 1663 (pg. 118) and other laws its legislature had enacted.

Just as with the colonial charters, compacts, etc., the original State Constitutions gave recognition to no other faith or religion. It was not Hinduism, Judaism, or even Catholicism, but Protestant Christianity which was the motivating faith in America from the earliest colonial times, up to the adoption of the U. S. Constitution. The original State Constitutions had thus recognized only the Christian faith, and since they predate the U. S. Constitution, they are unique as being part of the Organic or Constitutional law of the United States.

8 Article VI, Para. II, Constitution of the United States.

The following are excerpts from the original State Constitutions and their references to the Bible and Christianity:[9]

CONSTITUTION OF CONNECTICUT – 1776

And forasmuch as the free Fruition of such Liberties and Privileges as Humanity, Civility and Christianity call for, as is due to every Man in his Place and Proportion, without Impeachment and Infringement, hath ever been, and will be the Tranquility and Stability of Churches and Commonwealths; and the Denial thereof, the Disturbance, if not the Ruin of both.

CONSTITUTION OF DELAWARE – 1776

ART. 22. Every person who shall be chosen a member of either house, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take the following oath, or affirmation, if conscientiously scrupulous of taking an oath, to wit:

"I, A B, do profess faith in God the Father, and in Jesus Christ His only Son, and in the Holy Ghost, one God, blessed for evermore; and I do acknowledge the holy scriptures of the Old and New Testament to be given by divine inspiration."

CONSTITUTION OF GEORGIA – 1777

ART. VI. The representatives shall be chosen out of the residents in each county, who shall have resided at least twelve months in this State, . . . and they shall be of the Protestant religion, and of the age of twenty-one years, . . .

CONSTITUTION OF MARYLAND – 1776

XXXIII. That, as it is the duty of every man to worship God in such manner as he thinks most acceptable to him; all persons, professing the Christian religion, are equally entitled to protection in their religious liberty . . . nor ought any person to be compelled to frequent or maintain, or contribute, unless on contract, to maintain any particular place of worship, or any particular ministry; yet the Legislature may, in their discretion, lay a general and

Reference Sources: Thorpe, "The Federal and State Constitutions, etc." (1909). Poore, "The Federal and State Constitutions, etc." 2d. (1878).

equal tax, for the support of the Christian religion; leaving to each individual the power of appointing the payment over the money, collected from him, to the support of any particular place of worship or minister, or for the benefit of the poor of his own denomination, or the poor in general of any particular county.

LV. That every person, appointed to any office of profit or trust, shall, before he enters on the execution thereof, take the following oath; to wit: "I, A. B., do swear, that I do not hold myself bound in allegiance to the King of Great Britian, and that I will be faithful, and bear true allegiance to the State of Maryland;" and shall also subscribe a declaration of his belief in the Christian religion.

CONSTITUTION OR FORM OF GOVERNMENT FOR THE COMMONWEALTH OF MASSACHUSETTS – 1780

PART THE FIRST – CHAPTER I

ARTICLE III. As the happiness of a people, and the good order and preservation of civil government essentially depend upon piety, religion, and morality; . . . Therefore, . . . the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public Protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

And every denomination of Christians, demeaning themselves peaceably, . . . shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.

PART THE FIRST – CHAPTER V

ARTICLE I. . . . And whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the Christian religion, and the great benefit of this and the other United States of America, . . .

PART THE SECOND – CHAPTER VI

ARTICLE I. Any person chosen governor, lieutenant-governor, councillor, senator, or representative, and accepting the trust,

shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.:

"I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seized and possessed, in my own right, of the property required by the constitution, as one qualified for the office or place to which I am elected."

CONSTITUTION OF NEW HAMPSHIRE – 1784

ARTICLE I

VI. And every denomination of christians demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another, shall ever be established by law.

SENATE

Provided nevertheless, That no person shall be capable of being elected a senator, who is not of the protestant religion, . . .

HOUSE OF REPRESENTATIVES

Every member of the house of representatives shall be chosen by ballot; and . . . shall be of the protestant religion, . . .

CONSTITUTION OF NEW JERSEY – 1776

XIX. That there shall be no establishment of any one religious sect in this Province, in preference to another; and that no Protestant inhabitant of this Colony shall be denied the enjoyment of any civil right, merely on account of his religious principles; but that all persons, professing a belief in the faith of any Protestant sect, who shall deem themselves peaceably under the government, as hereby established, shall be capable of being elected into any office of profit or trust, or being a member of either branch of the Legislature, and shall fully and freely enjoy every privilege and immunity, enjoyed by others their fellow subjects.

CONSTITUTION OF NEW YORK – 1777

XXXV. This section recognizes that Christianity was part of the common law and that any part of the law or

statute law which had previously established a particular denomination of Christians is now to be abrogated.

CONSTITUTION OF NORTH CAROLINA – 1776

FORM OF GOVERNMENT, &C

XXXII. That no person, who shall deny the being of God or the truth of the Protestant religion, or the divine authority either of the Old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit in the civil department within this State.

CONSTITUTION OF PENNSYLVANIA – 1776

SECT. 10. And each member [of the house of representatives], before he takes his seat, shall make and subscribe the following declaration, viz:

I do believe in one God, the creator and governor of the universe, the rewarder of the good and the punisher of the wicked. And I do acknowledge the Scriptures of the Old and New Testament to be *given by Divine inspiration.*

CONSTITUTION OF SOUTH CAROLINA – 1778

III. That as soon as may be after the first meeting of the senate and house of representatives, . . . they shall jointly in the house of representatives choose by ballot from among themselves or from the people at large a governor and commander-in-chief, a lieutenant-governor, both to continue for two years, and a privy council, all of the Protestant religion,. . .

XII. . . . and that no person shall be eligible to a seat in the said senate unless he be of the Protestant religion, . . .

XIII. No person shall be eligible to sit in the house of representatives unless he be of the Protestant religion, . . .

XXXVIII. That all persons and religious societies who acknowledge that there is one God, and a future state of rewards and punishments, and that God is publicly to be worshipped, shall be freely tolerated. The Christian Protestant religion shall be deemed, and is hereby constituted and declared to be, the established religion of this State. That all denominations of

Christian Protestants in this State, demeaning themselves peaceably and faithfully, shall enjoy equal religious and civil privileges.

CONSTITUTION OF VERMONT – 1777

CHAPTER I

III. That all men have a natural and unalienable right to worship ALMIGHTY GOD, according to the dictates of their own consciences and understanding, regulated by the word of God; . . . nor can any man who professes the protestant religion, be justly deprived or abridged of any civil right, as a citizen, on account of his religious sentiment, or peculiar mode of religious worship. . .

CHAPTER II

SECTION IX. And each member [of the house of representatives], before he takes his seat, shall make and subscribe the following declaration, viz:

"I do believe in one God, the Creator and Governor of the Universe, the rewarder of the good and punisher of the wicked. And I do acknowledge the scriptures of the old and new testament to be given by divine inspiration, and own and profess the protestant religion."

THE CONSTITUTION OF VIRGINIA – 1776

SEC. 16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only 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.

We thus see from the original State constitutions, that not only was Christianity recognized in every State, but it was also the **only** manner of faith or religion that was recognized. This is further substantiated when the State laws, which were enacted during this period, are also examined, yielding the same findings in support of Christianity.

THE U. S. CONSTITUTION:

While the Constitution of the United States has no expressed references to Christianity *per se,* it does however give two implied references to Christianity. One is in giving recognition to the Christian Sabbath in Article I, Sec. 7, by excepting "Sunday" as a day the President is expected to labor over a bill before returning it to Congress. A second implication to Christianity lies in Article VII which states:

> DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven

This manner of concluding a document by stipulating that it was done *"in the year of our Lord [i.e. Jesus Christ]"* is a form adopted by all Christian nations, signifying the faith of its signers. Christianity was the religion of the men who wrote, signed, and then later ratified the U. S. Constitution. But even without these implied expressions to Christianity, the Constitution is nonetheless a Christian document since it embraces and supports all the Christian laws, charters, documents, etc., that had existed prior to its adoption. America's legal roots and system of law were embedded in Christianity and the Constitution did not legally jump the tracks to another system of law. If it had, the States would never have ratified it. The Constitution is the supreme law of the land and Christianity lies at its foundation.

The Constitution also has two references to religion. One such reference is found in Article VI, Para. III:

> The senators and representatives beforementioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

It is important to discern here just what is being said and what is not being said. First, the "religious test" referred to here is not a religious "oath or affirmation." Oaths and religious tests are clearly two separate things in the above clause. The prohibition in the Constitution is only for "religious test." A religious test would typically be a question put forth to someone, such as; "What are the four Gospels of the New Testament?," or "What are the seven sacraments?," or "Who wrote the Koran?" These would be religious tests to test a persons understanding of a certain religion. The Constitution says these tests cannot be used to determine a person's "qualifications" to hold any office.

Further, this prohibition of the "religious test" was intended for the national government and not the States. We see that in ART. VI of the Constitution where it is talking about oaths of office "to support this Constitution," it is clearly referring to offices under "both of the United States and of the several States." However, when it was talking about "religious test," it was referring to offices only "under the United States." **Joseph Story** gives some insight to this:

> It [Art. VI, Par. III] had a higher object; to cut off forever every pretence of any alliance between church and state in the national government. . . . It is easy to foresee, that without some prohibition of religious tests, a successful sect in our country, might, by once possessing power, pass test-laws, which would secure to themselves a monopoly of all the offices of trust and profit under the national government. [10]

The prohibition of a religious test of a candidate for a political office was thus intended to prevent religious rivalry and control in the national government.

The other area of the Constitution where it refers to religion is in the first Article of the Bill of Rights:

10 Joseph Story, LL.D., "Commentaries on the Constitution of the United States.," Vol. II, (Boston – 1858), § 1847, 1849, pp. 648, 651.

> Congress shall make no law respecting an <u>establishment of religion</u>, or prohibiting the <u>free exercise thereof</u>; or the abridging of the freedom of speech, or of the press; . . .

Once again it is plain to see that this article is also directed at the national government – that being Congress. If this Article was directed at the States, it would again raise some potential conflicts with the State Constitutions that were existing at that time. Yet there has developed in America a *"separation of church and state"* doctrine, which attempts to use the First Amendment to completely dissolve any connection between Christianity and civil government.

However, when we look at the original State constitutions, we see that every single one recognized or supported Christianity. **Maryland** made provisions for a tax *"for the support of the Christian religion."* The **Massachusetts** Constitution provided *"for the support and maintenance of public Protestant teachers."* **New York's** Constitution recognized Christianity as part of its *"common law."* The Constitution of **South Carolina** had declared *"the Christian Protestant religion to be the established religion of this State."* Every single one of these Constitutions were in effect when the U.S. Constitution and Bill of Rights were adopted.

Did the First Amendment abrogate the State Constitutions provisions supporting Christianity? Absolutely not. It is quite clear there was no intention in the First Amendment to "separate" State government from Christianity. If there had been, the First Amendment would never have been ratified by the States since the people obviously wanted the State to recognize and support Christianity. **Justice Story** verifies this:

> Probably at the time of the adoption of the constitution, and of the [first] amendment to it, now under consideration, the general, if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state, so

far as was not incompatible with the private rights of conscience, and the freedom of religious worship. [11]

The doctrine of *"separation of church and state,"* is frequently used in a broad and loose manner and is never specifically explained. If this is to mean separation of church affairs from government it would make sense. But if it is to mean separation of Christian principles from government, then it is nonsense for history reveals that such a doctrine has never existed in America since its beginnings. These issues were clarified in a decision by the Supreme Court of Georgia:

> [U]nder the leadership of Roger Williams of Rhode Island, the movement for the separation of Church and State proceeded with ever-increasing volume and strength. It should be clearly understood, however, that <u>this was not a movement for the separation of State from Christianity</u>, but specifically a separation of Church and State.[12]

Those that promote this distorted doctrine know that Christianity will never be very strong without the support and protection of government; And also that government will never be as stable and morally just without the influence of Christianity. America's greatness can be attributed to the legal tie between Christianity and civil government. **Justice Story** also comments on the necessity of this arrangement:

> Indeed, the right of a society or government to interfere in matters of religion will hardly be contested by any persons who believe that piety, religion, and morality are intimately connected with the well-being of the state, and indispensable to the administration of civil justice. . . .It is, indeed difficult to conceive how any civilized society can well exist without them. And at all events, it is impossible for those who believe in the truth of Christianity, as a divine revelation, to doubt, that it is the especial duty of government to foster and encourage it among all the citizens and subjects. [13]

11 Joseph Story, "Commentaries on the Constitution of the United States," Vol. II, (Boston – 1858), § 1874, p. 663

12 <u>Wilkerson v. City of Rome</u>, 152 Ga. 762, 769; 20 A.L.R. 1535, (1921).

13 Story, op. cit., § 1871, p. 660.

The principle that government and religion (i.e., Christian religion) were to be connected was also revealed in the *Northwest Ordinance* of 1787 (Art. III).

It is quite obvious that the Framers of both the First Amendment and ARTICLE VI of the Constitution intended to restrict the national government and not the States regarding religious involvement. The Constitution did not create a "separation between Christianity and the State." Since our Fundamental laws were written by Christian men and based on Christian Precepts, it would be impossible for the U.S. Constitution to eradicate the Christian structure of American law and society. In a letter to the Reverend Jasper Adams (1833) regarding the "relations" Christianity has with the social, civil, and political "institutions" of America, **Chief Justice John Marshall** wrote:

> No person, I believe, questions the importance of religion to the happiness of man even during his existence in this world . . . The American population is entirely Christian, & with us Christianity & Religion are identified. It would be strange indeed, if with such a people, our institutions did not presuppose Christianity, & did not often refer to it, & exhibit relations with it.[14]

The reason we have seen in recent times court decisions adverse to Christian principles in our "institutions" or in the State's "relations" to it, is that such decisions are now made under the 14th Amendment which is non-Christian in nature. But as **Judge Cooley** explained, Christianity was always a part of the law of the land:

> The Christian religion was always recognized in the administration of the common law; and so far as that law continues to be the law of the land, the fundamental principles of that religion must continue to be recognized in the same cases and to the same extent as formerly.[15]

14 James McClellan, "Joseph Story and the American Constitution," (1971) p. 139.

15 Thomas M. Cooley, "General Principles of Constitutional Law," chap. XIII, p. 214.

FREEDOM OF RELIGION:

The terms "liberty of conscience," "religious liberty," and "freedom of religion" are of great significance and importance in the history and heritage of America. But since this is another area that involves the rights and powers of the several States, and since the States have lost their rights and powers, the fundamental principles of religious liberty and liberty of conscience, as they pertain to American law and American history, have become greatly distorted.

One of the very aims of the Founders of America was to have religious liberty, freedom to worship, and liberty of conscience. But when they established and secured this right, it basically pertained only to Christians. It is apparent that they never intended or wanted paganism, atheism, Buddhism, Judaism, etc. to be freely practiced and protected alongside Christianity.

We have already covered some of these fundamental laws of early America that provided for religious liberty. In the **Commission of New Hampshire** of 1680 (pg. 120), it had stated that; *"liberty of conscience shall be allowed unto all Protestants."* The **Charter of Massachusetts** Bay of 1691 (pg. 121), stated that there would be *"a liberty of Conscience allowed in the worship of God to all Christians (Except Papists).*

When we look at these charters, commissions, compacts, etc., we should realize that they represent only the foundation of our law and that many other laws and statutes were enacted pursuant to them. For instance, a law in **New Jersey** in 1698, provided the following:

> That no person or persons that profess faith in God, by Jesus Christ his only Son, shall not at any time be any way molested, punished, disturbed, or be called in question for any difference in opinion in matters of religious concernment, who do not under

that pretense disturb the civil peace of this province, or use this liberty to licentiousness: Provided, this shall not extend to any of the Romish religion, to exercise their manner of worship contrary to the laws and statutes of his majesty's realm of England.[16]

In **Pennsylvania** a law was enacted in 1705, pursuant to William Penn's Charter of Liberties, which provided for freedom of conscience as follows:

> Be it enacted, that no person now, or at any time hereafter, dwelling or residing within this province, who shall profess faith in God the Father, and in Jesus Christ, his only son, and in the Holy Spirit, one God blessed forevermore, and shall acknowledge the holy scriptures of the Old and New Testament to be given by divine inspiration, . . . shall, in any case, be molested or prejudiced for his or her conscientious persuasion, nor shall he or she be at any time compelled to frequent or maintain any religious worship-place or ministry whatsoever, contrary to his or her mind, but shall freely and fully enjoy his or her Christian liberty, in all respects, without molestation or interruption.[17]

That freedom of religion was a right recognized only to Christians was generally the case throughout the colonies, even in Pennsylvania which was well known for its liberal policy. Perhaps the most liberal colonial law ever enacted pertaining to religious liberty was the **Maryland Toleration Act** of 1649 which provided:

> Therefore, be it enacted, that no person or persons whatsoever within this Province, . . . professing to believe in Jesus Christ, shall from henceforth be any ways troubled, Molested, or discountenanced for or in respect of his or her religion nor in the free exercise thereof within this Province.[18]

It is quite evident that "liberty of conscience" and "freedom of religion" was a right that protected only Christians from intrusion, being molested, punished, disturbed, questioned or denied privileges because of their own prac-

16 John B. Dillon, "Oddities of Colonial Legislation in America," (1879), p. 47.

17 Ibid, p. 41. Also: Dallas' Laws of Pennsylvania, Vol. I, p. 43, 44.

18 Henry Commager, "Documents of American History," 5th Ed. (N.Y.—1948), p. 31.

tices and opinions regarding their religion – that being Christianity. This right did not extend to pagans, heathens, atheists, or idolaters. Neither did it protect those who practiced the religion and worshiped the gods of Buddhism, Islam, Mohammedanism, Confucianism, Judaism, Shinto, Hinduism, or any other non-Christian sect or religion. In fact, in most of the colonies we see that this right was not even extended to Papist or Catholics. Throughout the colonies there was a repugnance towards "Romish" practices which was revealed in the laws and fundamental documents of the colonies. So strong was this adversity towards those of the Papal persuasion that they were, as already seen, specifically excluded from this right of liberty of conscience or religious liberty. The **Charter of Georgia** of 1732 provided that:

> . . . there shall be a liberty of conscience allowed in the worship of God, to all person inhabiting, or which shall inhabit or be resident within our said province, and that all such persons, except papists, shall have a free exercise of their religion. [19]

In **Carolina** there was an act pertaining to liberty of conscience enacted in 1697 which also excluded papists:

> . . . Be it therefore Enacted, by the authority aforesaid, that all Christians which now are, or hereafter may be in this province (papists only excepted) shall enjoy the full, free, and undisturbed liberty of their consciences, so as to be in the exercise of their worship according to the professed rules of their religion, without any let, molestation, or hindrance by any power either ecclesiastical or civil. [20]

On July 31, 1700, the General Assembly of **New York** passed *"An Act against Jesuits and Popish Priest in New York."* This law provided for the expulsion and banishment of all such Jesuits and Popish Priests *"now residing within this province."* Further, such Jesuits and Priests that would be found *"preaching and teaching to others to say Popish prayers*

19 Francis Thorpe, "Federal and State Constitutions," Vol. II, (1909), p. 773.

20 John B. Dillon, "Oddities of Colonial Legislation in America," (1879), p. 50.

by celebrating mass, granting absolutions, or using any other of the Romish ceremonies and rites of worship, . . . shall be deemed and accounted an incendiary and disturber of the public peace and safety, and an enemy to the true Christian religion, and shall be adjudged to suffer perpetual imprisonment." [21]

There thus was no "freedom of religion" in New York for Papists, Jesuits, and Catholics, not to mention Jews, Buddhists, heathens, etc. This was generally the case throughout the colonies. From the earliest colonial laws to the State Constitutions, the word "Protestant" was often used to specifically exclude the Papists. In practically every State laws had been enacted that protected only Christians by extending the right of "religious liberty" to only Christians. As previously shown, this desire to extend the right of religious freedom only to Christians was so strong that it was made a matter of Constitutional law in five States – Massachusetts, New Hampshire, New Jersey, South Carolina, and Vermont. For example, the Constitution of **New Hampshire** (1784) stated:

> And every denomination of christians demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the law.

The question that might be asked here is: What about the non-Christians, the atheist, the agnostics, the Jews, the skeptics, or pagan worshipers, didn't they have any religious liberty? Were they not given equal protection under the law along with Christians? They clearly were not. If you were not a Christian in colonial America you had limited civil and political rights, and in many instances, no right to freely practice your religion. Even if one was allowed to freely follow any religion, to non-Christians there were certain civil disabilities and political restrictions.

21 John B. Dillon, "Oddities of Colonial Legislation in America," (1879), p. 46 Also Laws of New York (published according to Act of General Assembly, 1752), p. 37, 38.

Religious Liberty and State Autonomy: Just as the 1st Amendment to the Constitution did not affect or change the State's ability to support and protect Christianity, it likewise places no restrictions on the States in regards to *"religious liberty"* or *"freedom of religion."* It was the local governments of early America that had established religious liberty. Thus, for the federal government to decide how a State is to behave with respect to religious liberties, is wholly contrary to the very basis of the Jeffersonian philosophy of States' rights. The area of religious liberty was a subject that was to remain where it originated – in the State governments. This was expressed by the U. S. Supreme Court as follows:

> The constitution makes no provision for protecting the citizens of the respective states in their religious liberties; this is left to the state constitutions and laws: nor is there any inhibition imposed by the Constitution of the United States in this respect on the states.[22]

The States always had the power to support and utilize principles of the Christian religion and make it a part of civil conduct, school education, political qualifications, etc. The Constitution and the First Amendment were to provide freedom *of* religion, not *from* religion – that is to say, freedom of citizens to practice the Christian religion, not to remove its influence from citizens by restricting the State's ability to promote and protect it. It thus becomes clear why certain antichristian forces worked diligently to incite a civil war and falsely establish a 14th Amendment which states:

> "No State shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; . . .nor deny to any person within its jurisdiction the equal protection of the laws."

The effect of the 14th Amendment would allow the atheist, idolaters, heathens, pagans, and antichristians to

22 Permoli v. First Municipality, 3 Howard (44 US) 589, (1845).

have free reign in America by giving them "equal protection of the laws." Thus, the pagan and antichristian religions are put on an equal footing with Christianity and the States are powerless to interfere with this. This has gradually occurred by incorporating the First Amendment into the Fourteenth Amendment and thereby making the restrictions of the First Amendment applicable to the State governments.

This theory of incorporating the First Amendment into the Fourteenth Amendment is totally contrary and repugnant to the Fundamental law of the land and the Constitution. The First Amendment, along with all of the Bill of Rights were added to the Constitution to restrict the powers of the national government, not the State governments. Early Supreme Court cases show that the Bill of Rights *"contain no expression indicating an intent to apply them to the state governments."* [23]

But as we had seen in the previous chapter, the only effect the 14th Amendment had after its alleged adoption was a psychological effect rather than a legal effect. The States still possessed their rights and powers including their rights in the area of religious liberty. Thus, even after the 14th Amendment the Bill of Rights still could not be applied to the States:

> That the first ten Articles of Amendment were not intended to limit the powers of the state governments in respect to their own people, but to operate on the National Government alone, was decided more than a half century ago, and that decision has been steadily adhered to since.[24]

As late as 1907, the Supreme Court had still not made a decision to apply the First Amendment to the States:

23 Barron v. The Mayor and City Council of Baltimore, 7 Peters 243, 250 (1833)

24 Spies v. Illinois, 123 U.S. 131, 166 (1887). Other cases cited.

We leave undecided the question whether there is to be found in the Fourteenth Amendment a prohibition similar to that in the first.[25]

The States gradually lost or gave up their rights in certain areas. In 1913, the infamous 17th Amendment came on the scene and the States foolishly went along with it and thus surrendered their right of suffrage to the Federal government. Then in 1925, in the case of *Gitlow v. New York*, the Supreme Court had, for the first time, applied the limitations of the First Amendment to the States via the 14th Amendment:

For present purposes we may and do assume that freedom of speech and of the press—which are protected by the First Amendment from abridgment by Congress— are among the fundamental personal rights and "liberties" protected by the due process clause of the Fourteenth amendment from impairment by the States.[26]

It should be noted that the court clearly stated that this application was only an *assumption* for the "present purposes" of this case, and did so without argument. In other words, they didn't have any legal justification for applying the 14th Amendment against the State of New York.[27]

After the *Gitlow* case more of the limitations of the Bill of Rights were incorporated into the 14th Amendment and used as a restriction on State powers. In subsequent cases the Court added freedom of assembly[28] and freedom of religion.[29] Then, in 1947, the doctrine of incorporation

25 Paterson v. Colorado, 205 U.S. 454 (1907). In Prudential Insurance Co. v. Cheek, 259 U.S. 530 (1922), it was held that the 14th Amendment imposes no restrictions upon the state about freedom of speech.

26 Gitlow v. New York, 268 U. S. 652, 666 (1925).

27 It is interesting to note that this case involved the "freedom of speech and of the press" to disseminate Communist propaganda.

28 De Jonge v. Oregon, 299 U.S. 353 (1937).

29 Cantwell v. Connecticut, 310 U.S. 296 (1940).

was extended to the establishment of religion clause for the first time. Speaking for a divided Court, Justice Hugo Black announced that:

> The First Amendment, as made applicable to the states by the Fourteenth . . . commands that a state "shall make no law respecting an establishment of religion." [30]

This was a complete absurdity as there was no doubt, according all previous court decisions and other authorities, that this clause of the First Amendment was designed to restrict the national government in the establishment of "religion," not the States. Further, the debates accompanying the proposal of the 14th Amendment do not justify the incorporation doctrine.[31] In this case, and later cases, Justice Black relied upon Jefferson's erroneous 1802 *"wall-of-separation"* statement. What Black failed to point out was that the statement was retracted publicly by Jefferson himself in 1805. Jefferson had misinterpreted the First Amendment, and he knew it. The Court, however, ignored this bit of history.

Since 1947, the State's ability to support Christian principles has been greatly eroded by judicial dictum, especially during the Warren era (1953-1969). We have seen decisions denouncing Bible reading, prayer and Christian education in public schools, to decisions favoring abortion; none of which could have been made without applying the Fourteenth Amendment to the States. But the blame for this actually lies not with the courts, but rather the States for waiving their rights and acquiescing to this godless system of law, thereby changing their legal status.

30 Everson v. Board of Education, 330 U.S. 8 (1947). This assumption was also made in the Cantwell case, which, however, involved the free exercise of religion clause.

31 For a thorough and richly annotated publication on the congressional debates which led to the proposal and adoption of the Fourteenth Amendment see: "The Reconstruction Amendments' Debates" ed. by Alfred Avins, (Richmond, 1967).

Today the States are merely a vassal of the (*de facto*) Federal government. The Bill of Rights, which was designed by the Founding Fathers as an assurance of Christian freedoms, is now being utilized to restrict and render the States impotent. Instead of a Bill of Rights it has become a "Bill of Chains" to the State governments.

BLASPHEMY:

The history of laws involving blasphemy in America reveals the intense desire of its Christian inhabitants to preserve, protect, and defend the sanctity of their faith, their Bible, and their God. One definition of blasphemy is:

> To curse God means to scoff at God; to use profanely insolent and reproachful language against him. This is one form of blasphemy under the authority of standard lexicographers. To contumeliously reproach God, His Creation, government, final judgment of the world, Jesus Christ, the Holy Ghost, or the Holy Scriptures, is to charge Him or Them with fault, to rebuke, to censure, to upbraid, doing the same with scornful insolence, with contemptuousness in act or speech. This is another form of blasphemy [32]

Blasphemy was made a criminal act in every single colony in America with punishments that varied from fines to the death penalty. The Bible was most often the subject of such legislation. In **Massachusetts** the General Court had enacted a law titled, *"An Act Against Atheisme and Blasphemie,"* under its Province Laws of 1697 which declared:

> "That if any person shall presume wilfully to blaspheme the holy name of God, Father, Son, or Holy Ghost, either by denying, cursing or reproaching the true God, his creation, or government of the world; or by denying, cursing or reproaching the Holy Word of God, that is the canonical Scriptures contained in the books of the Old and New Testaments; namely, Genesis, Exodus, . . . Jude, Revelation; every one so offending shall be

32 The State v. Mockus, 113 Atl. 39, 42; 120 Me 84, (1921).

punished by imprisonment not exceeding six months and until they find sureties for the good behaviour, by setting in the pillory, by whipping, boreing through the tongue with a red hot iron, or setting upon the gallows with a rope about their neck."[33]

The General Assembly of **Maryland** had passed a law in 1723, which prohibited any one from *"wittingly, maliciously and advisedly, by writing or speaking, blaspheme or curse God, or deny our Savior Jesus Christ to be the Son of God,. . .shall, for the first offense, be bored through* the *tongue, and fined twenty pounds sterling . . ."* On a second offence the offender was to *"be stigmatized by burning in the forehead with the letter B, and fined forty pounds sterling."* For the third offence the offender was to *"suffer death without the benefit of the clergy."*[34]

A **Pennsylvania** act of 1700 provided:

That whosoever shall wilfully, premeditatedly and despitefully blaspheme or speak loosely and profanely of Almighty God, Christ Jesus, the Holy Spirit, or the Scriptures of Truth, and is legally convicted thereof, shall forfeit and pay the sum of ten pounds, for the use of the poor of the county where such offense shall be committed, or suffer three months imprisonment at hard labor as aforesaid, for the use of the said poor.[35]

In **Delaware**, a law passed in 1741, required that one guilty of blasphemy was to *"be branded in his or her forehead with the letter B, and be publicly whipped, on his or her bare back, with thirty-nine lashes well laid on."*[36] The General Court of **Connecticut,** in 1750, enacted a law that required the death penalty for any person guilty of blasphemy.[37]

33 The Acts and Resolves of the Province of the Massachusetts Bay, Vol. I, (Boston—1869), p. 297.

34 John B. Dillon, "Oddities of Colonial Legislation in America," (1879), p. 30, 31. Also; Maxcy's Laws of Maryland, Vol. I, p.169.

35 Dillion, p. 36, 37. Also; Dallas' Laws of Pennsylvania, Vol. I, p. 11.

36 Dillion, p. 39.

37 Dillion, p. 39.

In none of the colonies was the act of blasphemy tolerated or allowed as evident by the laws that prevailed throughout the colonial period. Such laws remained in effect and were continued to be enacted after the adoption of the U. S. Constitution. The courts invariably have held such laws to be valid and constitutional. Laws against blasphemy have been upheld so as to maintain public order and decency. Also, being intoxicated *"is no excuse, and only aggravates the offence."*[38]

The earliest case in the United States involving blasphemy, that of ***THE PEOPLE against RUGGLES,***[39] the New York Supreme Court, in 1811, found the defendant guilty of blasphemy for "wantonly, wickedly, and maliciously uttering the following words; *Jesus Christ was a bastard, and his mother must be a whore.*"[40] Chancellor Kent read the opinion of the court:

> The authorities show that blasphemy against God, and contumelious reproaches and profane ridicule of Christ or the holy scriptures, are offences punishable at common law, whether uttered by words or writings. . . . in both instances, the reviling is still an offence, because it tends to corrupt the morals of the people, and to destroy good order. Such offences have always been considered independent of any religious establishment or the rights of the church. They are treated as affecting the essential interests of civil society.
>
> The people of this state, in common with the people of this country, profess the general doctrines of christianity, as the rule of their faith and practice; and to scandalize the author of these doctrines is not only, in a religious point of view, extremely impious, but even in respect to the obligations due to society, is

38 The People vs. William Porter, 2 Parker's Crim. Rep. 14 (N.Y. – 1823)

39 The People against Ruggles, 8 Johnson Rep. 290 (N.Y. – 1811).

40 These words have been a very common expression in blasphemy cases. The origin of this phrase stems from teachings in the Jewish Babylonian Talmud, where in the books Sanhedrin and Kallah, stories refer to Mary as a prostitute & giving illegitimate birth.

> a gross violation of decency and good order. Nothing could be more offensive to the virtuous part of the community, or more injurious to the tender morals of the young, than to declare such profanity lawful.

In 1838, the Supreme Judicial Court of Massachusetts decided the case of ***COMMONWEALTH versus KNEELAND,*** in which it had convicted an editor of a newspaper for writing, printing and publishing a libelous and blasphemous article denying Jesus Christ, a willful denial of God and ridicule of addressing prayers to God, and blasphemous words concerning the Holy Scriptures. In deciding on the constitutionality of the statute against blasphemy, the court held that such legislation is not repugnant to constitutional guarantees of "religious freedom" or involving "liberty of the press."[41]

In the case of ***THE STATE vs. CHANDLER***[42] the defendant, Thomas J. Chandler, was indicted for blasphemy for *"unlawfully,* wickedly, and *blasphemously* in the presence and hearing of divers citizens, pronounced these profane and *blasphemous* words, viz: *that the virgin Mary was a whore and Jesus Christ was a bastard."* The defense relied on the alleged unconstitutionality of the statute against blasphemy, as being a law preferring Christianity to other modes of worship. The Supreme Court for Delaware, in finding the defendant guilty of blasphemy, gave the following decision:

> It appears to have been long perfectly settled by the common law, that blasphemy against the Deity in general, or a malicious and wanton attack against the christian religion individually, for the purpose of exposing its doctrines to contempt and ridicule, is indictable and punishable as a temporal offence.

41 Commonwealth vs. Kneeland, 20 Pickering 206.

42 The State vs. Chandler, 2 Harrington 553; 2 Delaware 553, (1837).

> And it further appears that although a written publication of blasphemous words, thereby affording them a wider circulation, would undoubtedly be considered as an aggravation of the offence, and affect the measure of punishment, yet so far as respects the definition and legal character of the offence itself, it is immaterial whether the publication of such words be oral or written.

In the State of Pennsylvania, the Supreme Court heard the case of ***UPDEGRAPH against THE COMMONWEALTH*** in 1824,[43] regarding the issue of blasphemy. The defendant, Abner Updegraph, was indicted for blaspheming *"the Christian religion and the scriptures of truth."* The court stated:

> No society can tolerate a wilful and despiteful attempt to subvert its religion, no more than it would to break down its laws—a general, malicious and deliberate intent to overthrow Christianity, general Christianity. This is the line of indication, where crime commences, and the offence becomes the subject of penal visitation.
>
> The species of offence may be classed under the following heads— 1. Denying the being and providence of God. 2. Contumelious reproaches of Jesus Christ; profane and malevolent scoffing at the scriptures, or exposing any part of them to contempt and ridicule. 3. Certain immoralities tending to subvert all religion and morality, which are the foundations of all governments. Without these restraints no free government could long exist. It is liberty run mad, to declaim against the punishment of these offences, or to assert that the punishment is hostile to the spirit and genius of our government. They are far from being true friends to liberty who support this doctrine.

In a later and similar case in Pennsylvania, that of ***ZEISWEISS versus JAMES et al***,[44] there was a charge filed against an individual for blasphemy of the Holy Scriptures. The Supreme Court, in upholding the charge, stated:

43 Updegraph against The Commonwealth, 11 Sergeant and Rawle's Rep. 393.

44 Zeisweiss vs. James, et al., 63 Penn. State Rep. 465, (1870).

It is in entire consistency with this sacred guarantee of the rights of conscience and religious liberty to hold that, even if Christianity is no part of the law of the land, it is the popular religion of the country, an insult to which would be indictable as directly tending to disturb the public peace. The laws and institutions of this state are built on the foundation of reverence for Christianity. To this extent, at least, it must certainly be considered as well settled that the religion revealed in the Bible is not to be openly reviled, ridiculed or blasphemed, to the annoyance of sincere believers who compose the great mass of the good people of the Commonwealth.

In the case of ***STATE vs. MOCKUS,***[45] the Supreme Court of Maine decided that a statute *"making it a crime to blaspheme, is not unconstitutional as denying religious freedom or freedom of speech."* The respondent was found guilty of blasphemy for speaking in a public address; that *"there was no virgin birth by Mary through the Holy Ghost, that there is no truth in the Bible as it is only monkey business, and that Jesus Christ was a fool."*[46] The court held that:

In view of all these things, shall we say that any word or deed which would expose the God of the Christian religion, or the Holy Scriptures, "to contempt and ridicule," or which would rob official oaths of any of their sanctity, thus undermining the foundations of their binding force, would be protected by a constitutional religious freedom whose constitutional limitation is nondisturbance of public peace? We register a most emphatic negative.

From the tenor of the words, it is impossible to say that they could have been spoken seriously and conscientiously, in the discussion of a religious or theological topic; there is nothing of arguement in the language; it was the outpouring of an invective so vulgarly shocking and insulting that the lowest grade of civil authority ought not to be subject to it, but when spoken in a Christian land, and to a Christian audience, it is the highest offence *contra bonos mores* (against good morals).

45 State vs. Mockus, 113 Atlantic Rep. 39; 120 Maine 84, (1921).

46 The phrase, "Jesus Christ was a fool," is also of Talmudic origin.

The fact that only the Christian religion has ever been protected by law from blasphemy in America, is further proof that America was established as a Christian Nation. Under our Organic law, Christianity is the only faith or religion that can be protected in such manner. However, when the people voluntarily accept another system of law (*i.e.,* 14th Amendment & socialism) other religions will be held to be as sacred as Christianity under that system and likewise protected by it, thereby given *"equal protection of the law."*

Since all other religions on earth are merely a device of man, whereas Christianity is the will of the eternal God, all of man's religions are naturally repugnant to Christianity. To practice and promote the tenets of any of man's religions would tend to result in blasphemy of Christianity. This is one reason why the founding fathers of this nation did not tolerate such religions to be practiced in their midst. They had made the God of the Christian Bible the center and author of their faith and made it a crime to blaspheme Him. *"For if slander against men is not left unpunished, much more do those deserve punishment who blaspheme God."* [47]

THE CHRISTIAN SABBATH:

The Sabbath, commonly called "the Lord's Day," and universally recognized as Sunday by Christendom, was established by God in the Bible as a day of rest and was to be kept holy (*Exodus* 20:8-11). The keeping of Sunday as the Sabbath or the day of rest, has been practiced by Christians throughout the Christian era back to the early Christian Fathers in the first century A.D. The observance of the Sabbath on Sunday was brought to America from Europe, and has been asserted, recognized, and followed in

47 John Bouvier, "A Law Dictionary of the United States," Vol. I, (Boston – 1880).

America from its very beginning. In every single colony laws were enacted to preserve the sanctity of the Sabbath as commanded in the Bible.

The early Sabbath laws in America generally prohibited any type of labor or work to be performed on that day, but other activities were also prohibited. The following is a law from the colony of **New Jersey** in 1675, pertaining to "the Lord's Day:"

> *It is further enacted by this Assembly*, that whosoever shall profane the Lord's Day, otherwise called Sunday, by any kind of servile work, unlawful recreations or unnecessary travels on that day not falling within the compass of works of mercy or necessity, either wilfully or through careless neglect, shall be punished by fine, imprisonment or corporally, according to the nature of the offense, at the judgment of the court, justice or justices where the offense is committed.[48]

The Sabbath has traditionally been a day of worship for Christians since it was often the only free time available for church gatherings by all the people. This has also been the subject of Sabbath laws. The **Massachusetts** General Court had enacted the following law in 1692:

> *An Act For The Better Observation and Keeping The Lord's Day*
>
> That all and every person and persons whatsoever, shall, on that day, carefully apply themselves to duties of religion and piety, publickly and privately; and that no tradesman, artificer, labourer or other person whatsoever, shall, upon the land or water, do or exercise any labour, business or work of their ordinary callings, nor use any game, sport, play or recreation on the Lord's Day, or any part thereof (works of necessity and charity only excepted), upon pain that every person so offending shall forfeit five shillings.[49]

48 John B. Dillon, "Oddities of Colonial Legislation in America," (1879), p. 53 Also: Leaming & Spicer's Laws of New Jersey, p. 98.

49 The Acts and Resolves of the Province of Massachusetts Bay, Vol. I, (1869), p.58.

The issue of the Sabbath is so prevelant, that it has entered the provisions of constitutional law. The constitution of **Vermont** of 1786, Chapter I, states the following:

> III. Nevertheless, every sect or denomination of Christians ought to observe the Sabbath or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.

The Constitution of the United States also recognizes Sunday as a day of rest by not counting it as a day the President should be compelled to work when deciding whether to approve or reject a Bill from Congress:

> ARTICLE I, SECTION 7: . . . If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, . . .

It is quite evident that the Framers of the Constitution respected the Sabbath as a day of rest. Similar wording can be also be found in a majority of the State Constitutions.

The laws passed relating to the Sabbath have most often involved the closing of shops, businesses, retail stores, liquor establishments, restaurants, barber shops, and even businesses of amusement and recreation. They in essence prohibit most servile labor or worldly employments on Sunday.

Generally, these "Sabbath" laws which prohibit certain acts on Sunday are commonly referred to as "Sunday legislation," "Sunday closing laws," or as "Blue Laws."[50] *"The constitutionality of general Sunday closing laws, which have been enacted in nearly every state, is no longer to be doubted. Such statutes have been uniformly upheld."* [51]

50 The term "blue laws" originated in 1781, when the Sunday laws of New Haven, Connecticut were printed on blue paper.

51 Broadbent v. Gibson, 140 Pac. (2d) 939, 943; 105 Utah 53 (1943).

As to how the courts of our land have defined the Sabbath according to our law, a Maryland court, in the case of ***Kilgour vs. Miles and Goldsmith,*** defined it as follows:

> The Sabbath is emphatically the day of rest, and the day of rest here is the "Lord's day" or christian's Sunday. Ours is a christian community, and a day set apart as the day of rest, is the day consecrated by the resurrection of our Saviour, and embraces the twenty-four hours next ensuing the midnight of Saturday. [52]

The Sabbath laws that have been instituted in America are primarily aimed at keeping Sunday a day of rest. Thus, the marketplace has always been effected by such laws. In the case of ***Karwisch vs. The Mayor and Council of Atlanta,*** [53] the Supreme Court of Georgia upheld an ordinance in Atlanta against dealers keeping open doors on Sunday stating:

> We do not think that the ordinance against dealers keeping open doors on Sunday can be regarded as affecting conscience or enforcing any religious observance. The law fixes the day recognized as the Sabbath day all over Christendom, and that day, by Divine injunction, is to be kept holy—"on it thou shalt do no work." The Christian Sabbath is a civil institution, older than our government, and respected as a day of rest by our Constitution, and the regulation of its observance as a civil institution has always been considered to be, and is, within the power of the Legislature as much as any regulations and laws, having for their object the preservation of good morals and the peace and good order of society.

It is important to note that the "Sabbath" is regarded as a "civil institution." The Sabbath is a maxim of Christianity that regulates and affects civil affairs in our lives. It regulates our work and business, our interrelationships with one another, our dealings in the marketplace, and our family affairs. The Sabbath is not a religious institution, regulated by a religious authority (i.e. a church), for

52 Kilgour vs. Miles and Goldsmith, 6 Gill and Johnson Rep. 268, (Md—1834).

53 Karwisch vs. The Mayor and Council of Atlanta, 44 Georgia 204, (1871).

religious goals and purposes. It is a civil institution regulated by civil authorities for civil goals and purposes. This was no doubt the Creator's intent when He gave Moses, a civil authority in Israel, the Fourth Commandment.

In the case of ***SHOVER vs. STATE,***[54] The Supreme Court of Arkansas heard an indictment against George Shover for Sabbath-breaking by keeping a grocery store open on Sunday. The court stated the following:

> Sunday or the Sabbath is properly and emphatically called the Lord's day, and is one amongst the first and most sacred institutions of the christian religion. This system of religion is recognized as constituting a part and parcel of the common law, and as such all of the institutions growing out of it, or, in any way, connected with it, in case they shall not be found to interfere with the rights of conscience, are entitled to the most profound respect, and can rightfully claim the protection of the law-making power of the State.
>
> The act of keeping open a grocery on Sunday is not, in itself, innocent or even indifferent, but it is, on the contrary, highly vicious and demoralizing in its tendency, as it amounts to a general invitation to the community to enter and indulge in the intoxicating cup, thereby shocking their sense of propriety and common decency, and bringing into utter contempt the sacred and venerable institution of the Sabbath.

The Christian Sabbath in America is in itself part of the common law that our ancestors brought to this country and made a part of their civil life. The Supreme Court of New York had held that *"the sabbath exists as a day of rest by the common law, and without the necessity of legislative action to establish it."* [55] The observance of the Sunday Sabbath is strictly a Christian act and therefore it has been argued that such Sabbath laws are unconstitutional because they promote and establish Christianity. This argument

54 Shover vs. State, 5 English 259; 10 Arkansas 259, (1850).

55 Lindenmuller v. The People, 33 Barbour's Rep. 548 (1861).

has never been sustained in any court as indicated by a decision of the U. S. Supreme Court:

> It is undoubtedly true that rest from secular employment on Sunday does have a tendency to foster and encourage the Christian religion—of all sects and denominations that observe that day—as rest from work and ordinary occupation enables many to engage in public worship who probably would not otherwise do so. But it would scarcely be asked of a Court, in what professes to be a Christian land, to declare a law unconstitutional because it requires rest from bodily labor on Sunday, (except works of necessity and charity,) and thereby promotes the cause of Christianity. If the Christian religion is, incidentally or otherwise, benefited or fostered by having this day of rest, as it undoubtedly is, there is all the more reason for the enforcement of laws that help to preserve it. Whilst Courts have generally sustained Sunday laws as "civil regulations," their decisions will have no less weight if they are shown to be in accordance with divine law as well as human.[56]

The Sabbath laws prohibiting shops, businesses, and stores to be open on Sunday, have been primarily met with opposition from those merchants who have a greater love and respect for money than they do for the Sabbath. These laws have also been opposed by Jews who keep their sabbath on Saturday and treat Sunday as a day of work. In the case of *CITY OF CANTON vs. NIST*,[57] a Jew had been "arrested, tried and found guilty of having opened his grocery store on Sunday." The Supreme Court of Ohio affirmed the decision in stating that the Sunday Sabbath ordinance offers no exceptions in favor of "creeds." Rather, "it attempts to compel the observance of Sunday by Jew and Christian alike." What this is essentially saying is that those who live in a Christian land must follow the laws and customs of that land—whether they be Christian or not.[58]

56 McGowan v. Maryland, 366 U.S. 420, 447 (1960); citing: Judefind v. State, 78 Md 510

57 9 Ohio State Rep. 439, (1859). See also: Frolickstein v. Mayor, 40 Ala. 725

58 It has generally been held that "Persons professing the Jewish religion, and others who keep the seventh day as their sabbath, are liable to the penalty imposed by the law for the offence" of violating the Sunday Sabbath. The Commonwealth v. Wolf, 3 Sergeant & Rawle 48 (Penn.—1817); Commonwealth vs. Gehring, 122 Mass. 40 (1877).

In 1961, the U. S. Supreme Court had heard two cases, ***Braunfeld v. Brown***[59] and ***Gallagher v. Crown Kosher Super Market,***[60] involving Orthodox Jewish Sabbatarian merchants who had voluntarily closed their shops on Saturday in observance of the Jewish Sabbath, but attempted to remain open on Sunday in violation of Sunday closing laws in Pennsylvania and Massachusetts respectively. They argued that the laws violated the equal protection clause of the Fourteenth Amendment and prohibit the free exercise of their religion by requiring Jewish Sabbatarians to observe Sunday as the Sabbath. The Supreme Court denied these arguments, holding that Sunday laws are valid for reasons discussed in the *McGowan v. Maryland* case.

In the case of ***Brimhall v. Van Campen,*** 8 Minn. 1, 5 (1858), the Minnesota Supreme Court held that a note executed on Sunday was void under its Sabbath law stating:

> "This Sunday act can have no other object than the enforcement of the fourth of God's commandments, which are a recognized and excellent standard of both public and private morals. A violation of the [Sabbath] act, therefore, is *contra bonos mores,* and cannot be sustained by the courts. No action can be predicated upon a note made on Sunday."

Sunday Sabbath laws have also been upheld in prohibiting recreation and entertainment on Sunday. Laws have been upheld which prohibit the operation of theater and motion picture shows,[61] the playing of card games on Sunday,[62] and the playing of baseball on Sunday for profit by a professional club,[63] and fishing on Sunday.[64]

59 Braunfeld v. Brown, 366 U.S. 599 (1961).

60 Gallagher v. Crown Kosher Super Market, 366 U.S. 617 (1961).

61 State Ex Rel. Temple v. Barnes, 22 North Dakota 18 (1911). Rosenbaum v. State, 131 Arkansas 251 (1917). State v. Haining, 131 Kansas 853 (1930).

62 Stockden vs. The State, 18 Arkansas 186 (1856).

63 Commonwealth v. American Baseball Club of Philadelphia, 290 Penn. Rep. 136 (1927). Hiller v. State, 124 Maryland 385 (1914).

Sunday is well recognized by the various branches of government in America, as was indicated in our Constitutions. "At common law Sunday was *dies non juridicus,* and no strictly judicial act could be performed upon that day."[65] Contracts to take effect on Sunday, or requiring work on Sunday, are void, and cannot be enforced in court.[66] No charge may be made to a jury on Sunday,[67] and summonses may not legally be served on that day.[68] Arrests made on Sunday are deemed unjustifiable and void except in cases of necessity.[69] It has also been held that a corporation may be indicted for sabbath breaking.[70]

JUDICIAL DETERMINATIONS ON AMERICA'S CHRISTIAN LEGAL FOUNDATIONS

History clearly declares that the legal roots of America are so strongly based on Christianity, and Christianity itself has become so interwoven into American society, culture, and governmental institutions, that to attack Christianity is to attack the heart and soul of America. This is why Christianity has received the support and protection of the law and the courts in the past. Christianity itself is not established by the law, but rather is a part of the law of the land.[71]

64 People v. Moses, 140 N. Y. Rep. 214, (1893).

65 Danville v. Brown, 128 U.S. 503, 505, (1888).

66 O'Donnell v. Sweeney, 5 Ala. 467 (1843).

67 Guerrera v. State, 124 S.W. (2d) 595 (1939).

68 Pedersen v. Logan Sq. State & Savings Bank et al., 377 Ill. 408, (1941); Knight v. Press Company, 75 A. 1083, 227 Pa. 185 (1910); Beitenman's Appeal, 55 Pa. 183 (1867).

69 Bryan v. Commstock, 220 S.W. 475, 143 Ark. 394 (1920); Malcolmson v. Scott, 56 Mich. 459, 23 N.W. 166, 169 (1885).

70 The State vs. B. & O. R.R. Co., 15 W.Va. 362 (1879).

71 Similarly it has been held that "the Bible is the foundation of the Common Law" Wylly et al. vs. Collins & Co., 9 Georgia 223, 237 (1851).

To what degree has Christianity been imbued into the legal framework of America? A good many States have actually claimed that Christianity is the religion of the State or part of the common law of the State. Others have recognized the Christian origin and nature of their State constitution or in the organic laws of the State. The following are some examples of this recognition of Christianity from various courts:

RUNKEL *vs.* WINEMILLER, et al.

4 Harris & M'Henry Rep. 429, 450 (Maryland—1799)

By our form of government, the christian religion is the established religion; and all sects and denominations of christians are placed upon the same equal footing, and are equally entitled to protection in their religious liberty.

THE PEOPLE *against* RUGGLES

8 Johnson Rep. 290, 292 (New York—1811)

While the constitution of the state has saved the rights of conscience, and allowed a free and fair discussion of all points of controversy among religious sects, it has left the principle engrafted on the body of our common law, that christianity is part of the laws of the state, untouched and unimpaired.

UPDEGRAPH *against* THE COMMONWEALTH

11 Sergeant and Rawle's Rep. 393, 399 (Penn.—1824)[72]

We will first dispose of what is considered the grand objection—*the constitutionality of Christianity*—for, in effect, that is *the question*. Christianity, general Christianity, is and always has been a part of the common law of *Pennsylvania;* Christianity, without the spiritual artillery of *European* countries; for this Christianity was one of the considerations of the royal charter, and the very basis of its great founder, *William Penn.*

72 This case was supported by the United States Supreme Court in the case of Vidal v. Girard's Executors, 2 Howard 127, 198 (1844) stating in part: "It is also said, and truly, that the Christian religion is a part of the common law of Pennsylvania." And also supported in United States v. Laws, 163 U.S. 258, 263 (1895).

SAMUEL M'CLURE *vs.* STATE OF TENNESSEE

1 Yerger's Rep. (9 Tenn.) 206, 224 (1829)

An atheist cannot be a witness. * * * By our Constitution such a person could not hold a civil office – he could not be a constable, nor even an administrator. * * * no person who denies the being of God, or a future state of rewards and punishments, shall hold any office in this government; why? it may be asked. It is answered, because *he cannot take an oath* – he cannot be trusted. * * * No law can place an atheist upon a footing with a christian, because the constitution has placed the barrier between them.

THE STATE *vs.* CHANDLER

2 Harrington (Del.) 553, 567 (1837)

[S]ince the settlement of Delaware by the Swedes and Fins, which was one of the earliest settlements on this continent, down to the present day, Christianity has been that religion which the people as a body have constantly professed and preferred.

We hold these [the organic records of the State] to be legal proofs of what has been and now is the religion *preferred* by the people of Delaware. * * * We know, not only from the oaths that are administered by our authority to witnesses and jurors, but from that evidence to which every man may resort beyond these walls, that the religion of the people of Delaware is *Christian.*

CITY COUNCIL *vs.* BENJAMIN

2 Strobhart 508,523 (South Carolina—1848)

Again, our law declares all contracts *contra bonos mores* [against good morals], as illegal and void. What constitutes the standard of good morals? Is it not Christianity? There certainly is none other. Say *that* cannot be appealed to, and I don't know what would be good morals. The day of moral virtue in which we live would, in an instant, if that standard were abolished, lapse into the dark and murky night of Pagan immorality.

In the Courts over which we preside, we daily acknowledge Christianity as the most solemn part of our administration. A Christian witness, having no religious scruples against placing his hand upon the book, is sworn upon the holy Evangelists – the books of the *New Testament,* which testify of our Saviour's birth, life, death and resurrection; this is so common a matter, that it is little thought of as an evidence of the part which Christianity has in the common law.

THE STATE *vs.* AMBS
20 Missouri 214 (1854)

We must regard the people for whom it [our organic law] was ordained. It appears to have been made by Christian men. The constitution, on its face, shows that the Christian religion was the religion of its framers. At the conclusion of that instrument, it is solemnly affirmed by its authors, under their hands, that it was done in the year of our Lord one thousand eight hundred and twenty – a form adopted by all Christian nations, in solemn public acts, to manifest the religion to which they adhere.

ANDREW *vs.* N.Y. BIBLE and PRAYER BOOK SOCIETY
4 Sandford (6 N.Y. Sup. Ct.) 156, 182 (1850)

Christianity, it has been asserted, is now, in a modified sense, the religion of the State. It is so, as a part of that common law which our ancestors introduced and we have retained. * * * The maxim that Christianity is part and parcel of the common law has been frequently repeated by judges and text writers, * * *.

MOHNEY *vs.* COOK
23 Penn. 342, 347 (1855)

The declaration that Christianity is part of the law of the land, is a summary description of an existing and very obvious condition of our institutions. We are a Christian people, in so far as we have entered into the spirit of Christian institutions, and become imbued with the sentiments and principles of Christianity.

LINDENMULLER *vs.* THE PEOPLE
33 Barbour's Rep. 548, 563 (N.Y.—1861)

The several constitutional conventions also recognize the Christian religion as the religion of the state, by opening their daily sessions with prayer, by themselves observing the Christian sabbath, and by excepting that day from the time allowed to the governor for returning bills to the legislature.

HALE *vs.* EVERETT
53 New Hampshire 9, 58 (1868)

Thus we see that the requirements of our constitution, in relation to these officers, demand something more than that they should

be simply anti-Roman Catholic. It is no negative qualification that is required, but a positive, an affirmative one. They must be of the Protestant religion. * * * We do not understand by this that such officers must be members of any Christian church, but that they must assent to the truth of Christianity, and thus be nominally Christian.

CHURCH *vs.* BULLOCK

109 S.W. 115, 118; 104 Texas 1 (1908)

Christianity is so interwoven with the web and woof of the state government that to sustain the contention that the Constitution prohibits reading the Bible, offering prayers, or singing songs of a religious character in any public building of the government would produce a condition bordering upon moral anarchy.

STATE, ex rel. TEMPLE *v.* BARNES

132 N.W. Rep. 215, 216, 217; 22 North Dakota 18 (1911)

A number of the courts of the different states have passed upon the question [of the validity of Sabbath legislation], and have held that this is a Christian nation, and that laws enacted to prevent the desecration of the Sabbath are valid for that reason. * * * A Sunday law was enacted in each of the colonies, and such a law is found in the statutes of every state in the Union.[73]

STATE *vs.* MOCKUS

113 Atlantic Rep. 39, 42; 120 Maine 84 (1921)

It may be truly said that, by reason of the number, influence, and station of its devotees within our territorial boundaries, the religion of Christ is the prevailing religion of this country and of this state.

WILKERSON *vs.* CITY OF ROME

152 Georgia 762, 769; 20 A.L.R. 1535 (1921)

Christianity entered into the whole warp and woof of our [U.S.] governmental fabric. Many of the statesmen of this country treated Christianity as a part of the law of the land. * * * Christianity is the only religion known to our American law.

73 This case cites numerous authorities supporting the validity of Sabbath Laws.

PIRKEY BROS. *vs.* COMMONWEALTH

114 S.E. 764, 765, 766; 134 Va. 713 (1922)

[F]rom the creation of the state until the present time, this state has been recognized as a Christian State * * * The framers of those [early] laws knew then, as we know now, that we are a Christian people, and the morality of the country is deeply engrafted upon Christianity.

KAPLAN *vs.* INDEPENDENT SCHOOL DIST. OF VIRGINIA

214 N.W. 18, 19 (Minnesota—1927)

[W]e think it cannot be successfully controverted that this [U.S.] government was founded on the principles of Christianity by men either dominated by or reared amidst its influence.

HUDGINS *vs.* STATE

116 Southern Rep. 306, 307 (Alabama—1928)

It has been well said: "Christianity is a part of the common law of the state in a qualified sense, that is, its divine origin and birth are admitted; and therefore it is not to be maliciously and openly reviled and blasphemed against, to the annoyance of believers and the injury of [the] public."

SNAVELY *vs.* BOOTH et al

176 Atlantic Rep. 649, 653 (Delaware—1935)

A statute of this state, requires that at least five verses of the Holy Bible be read on every school day, and it may well be supposed that these defendants, being members of the board of education, conceived that one of the purposes of the statutory requirement is that morality be taught from the standpoint of Christianity, and that young children be imbued with that idea of chaste conduct which the Christian religion teaches, a religion which is part of our common law.

ROGERS et al. *v.* STATE

4 S.E. 2d 918, 919; 60 Ga. App. 722 (1939)

This is a Christian nation. The observance of Sunday is one of our established customs. It has come down to us from the same Decalogue that prohibited murder, theft, etc. It is more ancient than our common law or our form of government.

STRAUSS *vs.* STRAUSS

3 South 2d 727; 147 Florida 23 (1941)

> Every system of law known to civilized society generated from or had as its complement one of the three well known systems of ethics, pagan, stoic, or Christian. The common law draws its subsistence from the latter, its roots go deep into that system, the Christian concept of right and wrong or right and justice motivates every rule of equity. It is the guide by which we dissolve domestic frictions and the rule by which all legal controversies are settled.

These cases from State courts further illustrate the strong degree to which our society, government, and laws have been based upon the principles of Christianity. In the case of ***HOLY TRINITY CHURCH v. UNITED STATES,*** The Supreme Court of the United States had reviewed and cited some of the foregoing cases and organic documents of this land, and arrived at the following conclusion:

> These, and many other matters which might be noticed, add a volume of unofficial declarations to the mass of organic utterances that this is a Christian nation.[74]

In **U.S. *v.* Macintosh,** 283 U.S. 605, 625 (1931), the Supreme Court verified this by stating: *"We are a Christian people . . . acknowledging with reverence the duty of obedience to the will of God."* Not only was America's legal foundations planted in Christianity, but other creeds, faiths, and religions have no legal foundations. In fact, they were not even tolerated since they were naturally repugnant to Christianity. The early settlers to America saw this land as a "Promised Land," and that God had a special plan for America – a plan that certainly did not include Hinduism, Judaism, Confucianism or any other form of idolatry. Since these pagan and idolatrous religions were never legally "planted" into what is now the Organic law of America they will never be preserved. This was assured by Christ's own prophecy in **Matthew 15:13.**

74 Holy Trinity Church v. United States, 143 U.S. 457, 471 (1892).

CONCLUSION

The foregoing evidence and information reveal the historical legal foundations of America which now makes up the Fundamental or Constitutional law of our land. That law emphatically asserts that America was legally established as a free nation, a white nation, and a Christian nation. All laws, court cases and historical events verify this.

No one can deny that America was founded and built by free, white, Christian men and women. No other religious element except Christianity had any influence in any of the colonies nor was any other recognized or tolerated. No other race provided any significant contribution to the creation of America as freemen. No person of any race other than the white race had established any laws or governments throughout America's early history.

Only those who were free, white, and Christian were recognized as members, or the effectual equivalent of citizens, in colonial America. These three attributes created a legal status of the highest order. By themselves they carried very little meaning in relation to a persons status and standing in this country. The laws and governments established in America were for the benefit, and protection of only free, white, Christian inhabitants. The significance of these attributes in America's legal foundations are revealed in the following decision by a Federal Circuit Court of Maryland:

> The colonists were all of the white race, and all professed the Christian religion; from the situation of the world at that time, no persons but white men professing the Christian religion could be expected to emigrate to Maryland; and if any person of a

different color, or professing a different religion, had come into the colony, he would not, at that time, have been recognized as an equal by the colonists, or deemed worthy of participating with them in the privileges of this community. The only nations of the world which were then regarded, or perhaps entitled to be regarded, as civilized, were the white Christian nations of Europe; and certainly emigrants were not expected or desired from any other quarter.

The political community of the colony was composed entirely of white men professing the Christian religion; they possessed all the powers of government granted by the charter. Christian white men could not be reduced to slavery, or held as slaves in the colony; they might, according to the laws of the colony, lawfully hold in slavery negroes or mulattoes, or Indians. The white race did not admit individuals of either of the other races to political or social equality; they were regarded and treated as inferiors, of whom it was lawful, under certain circumstances, to make slaves.[1]

This gives further verification that only free, white, Christian persons were entitled to rights as a citizen since only free, white, Christian persons had settled America and formed its laws and political communities. This also reveals how these three attributes are interrelated and cannot stand independently of one another. America cannot remain free without adherence the Christian principles which are the very source of such freedoms. Nor can America remain Christian if other races, with inclinations toward pagan or even anti-Christian religions, are allowed an equal standing with the white Christian citizenry.

The forefathers of this nation knew the foolishness and dangers of integrating various races and religions into their societies and governments. They knew that there has never existed a single nation based on a pluralism of law, race, or religion which has ever prospered or survived very long.

1 United States v. Dow, 25 Fed. Cas. 901, 903; Case No. 14,990 (1840).

Such absurd principles have never existed in American law. They have existed only in Communist nations where natural freedom is nonexistence. Only in Communist nations are all races and religions given equal standing:

> ART. 123. Equality of rights of citizens of the USSR, irrespective of their nationality or race, in all spheres of economic, government, cultural, political and other public activity, is an indefeasible law.
>
> ART. 135. All citizens of the USSR who have reached the age of eighteen, irrespective of race or nationality, sex, religion, education, etc., have the right to vote in the election of deputies.[2]

In reviewing the information covered herein, it becomes apparent how far we have departed from the true and fundamental laws and principles America was founded on. It has been through a scheme known as "psycho-politics" that Americans have gradually accepted and become believers in Communistic principles. As a result, many of the original principles of American law and government are now seen as foreign and even repugnant to a good many Americans who have been unknowingly subject to this method of mind control. It is surprising how many well established American principles are believed to be "un-American" and vice versa by Americans. The Scriptures warned of those that would "call evil good, and good evil" (*Isaiah 5:20*).

However, none of this can change the real and legal meaning of America's fundamental or constitutional law. It cannot be changed by lack of knowledge or wishful thinking, nor by media propaganda, nor by the failure to enforce its principles, not even by the practice of another system of law. It was by the hand of *Divine Providence* that America was legally established as a free, white, Christian nation, and only by such means can that ever be changed.

2 Amos J. Peaslee, "Constitution of Nations," 2d ed. Vol. III, Constitution of the Union of Soviet Socialist Republic —Dec. 5, 1936, p. 498-500.

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