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"A History of the Anglican Church—Part XXXV: An Essay on the Role of Christian Lawyers and Judges within the Secular State"©

By

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The ideas expressed in this Apostolate Paper are wholly those of the author, and subject to modification as a result of on-going research into this subject matter. This paper is currently being revised and edited, but this version is submitted for the purpose of sharing Christian scholarship with clergy, the legal profession, and the general public.

INTRODUCTION[1]

The Bishops' War of 1639-40 was a war of religious intolerance carried out in an effort to make the Scottish Presbyterians conform to the religious rites and dogma of the Church of England and to acknowledge King Charles I (1600-1649) as supreme head or governor of the Church of Scotland. In many respects, then, *the freedom of conscience, speech, assembly and religion— within the context and tradition of Anglo-American constitutional law— trace their roots to this period of British history*.[2] This period in British history coincided with the Protestant Reformation against religious uniformity, intolerance, and brutal suppression—all of which caused hundreds of thousands of Englishmen and women to migrate from England to British North America, where they were able to experiment in newer forms of self-government.

As the seventeenth-century rolled on, as continental Europe lost eight million lives in the Thirty Years' War (1618-1648), and as the English Civil Wars (1642- 1651) ravished England for a decade— both wars were wars of religious suppression and intolerance— the colonists of British North America realized that religious uniformity and intolerance were not practical or desirable. American clergyman such as the Puritan-Baptist theologian Roger Williams (1603-1683), for

[1] This paper is dedicated to Kenneth Talbot, President of the **Whitefield College and Theological Seminary** in Lakeland, Florida. Dr Talbot is an ordained minister in the Reformed Presbyterian Church and a life-long student of Calvinist or Reformed-Church covenant theology, and Church-State theory, philosophy, and jurisprudence. I am honored to study with Dr. Talbot as a post-doctoral fellow at the Whitefield Theological Seminary.

[2] In many respects, the First Amendment to the United States Constitution traces its roots to this period in British history.

instance, began to lay the theological foundations for the doctrine of "separation of church and state," on the theological basis that Jesus' "Parable of the Wheat and the Tares"[3] supported religious freedom. Jesus Christ himself, argued Rev. Williams, would not have wanted his saints and apostles to utilize the secular government or the civil magistrate to <u>force</u> non-believers and infidels into church fellowship.

Instead, Rev. Williams and other Protestant leaders argued that the civil magistrate must establish civil justice based upon *the natural rights of all human beings, regardless of religious creed*; and that the Christian church, while functioning as an independent corporate body, must function simply as a "college of physicians," providing moral guidance and spiritual healing to those in need. Under Roger Williams' Protestant or Puritan scheme, the Church and the State would function in tandem, one with the other, under a "Two-Tables" theory of civil government, based upon the Mosaic Decalogue. See, e.g., Appendix A, "The Puritan Two-Table's Theory of Civil Government and the 'Doctrine of Separation of Church and State.'" The Church would administer the first four Commandments of the Decalogue (i.e., the Ten Commandments), whereas the State would maintain responsibility for administering the last six Commandments. Under both orthodox and Protestant theological dogma, the Decalogue represented the laws of nature, or natural law.

In many respects, the events which led to The Bishop's War of 1639-40, together with the ensuing struggle for religious freedom in seventeenth-century England and North America, laid the foundation for freedom of conscience and

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[3] The **"Parable of the Wheat and the Tares" (Matthew 13:24-30)**:

> **24** Another parable put he forth unto them, saying, The kingdom of heaven is likened unto a man which sowed good seed in his field:
>
> **25** But while men slept, his enemy came and sowed tares among the wheat, and went his way.
>
> **26** But when the blade was sprung up, and brought forth fruit, then appeared the tares also.
>
> **27** So the servants of the householder came and said unto him, Sir, didst not thou sow good seed in thy field? from whence then hath it tares?
>
> **28** He said unto them, An enemy hath done this. The servants said unto him, Wilt thou then that we go and gather them up?
>
> **29** But he said, Nay; lest while ye gather up the tares, ye root up also the wheat with them.
>
> **30** Let both grow together until the harvest: and in the time of harvest I will say to the reapers, Gather ye together first the tares, and bind them in bundles to burn them: but gather the wheat into my barn.

freedom of religion within Anglo-American constitutional law. (In many respects, the First Amendment to the United States Constitution traces its roots to this period in British history.) *The Bishops' War was a war of religious intolerance in an effort to make the Scottish Presbyterians conform to Anglican religious rites of the Church of England and acknowledge King Charles I (1600-1649) as head or governor of the Church of Scotland*. In a larger sense, the Bishops' War was part of the Thirty Years' War (1618-1648) on continental Europe, as well as first phase of the English Civil War (1642-1651) on the British Isles—these were wars of religious suppression in efforts to reinforce the orthodox faith. But the Bishops' War of 1639-40 ultimately exemplified the futility of wars being waged to impose a particular religious creed upon an unwilling, unbelieving minority group.

In this case, King Charles I and his Archbishop of Canterbury William Laud attempted to impose orthodox Anglican dogma and ideals upon a non-conforming Scottish minority population. Since the early days of the Protestant Reformation, John Knox (1514- 1572), who was a friend and student of John Calvin (1509-1564), had led the Scots; and the Church of Scotland, under Knox's leadership, had been, since the 1580s, Presbyterian and Calvinist. Nevertheless, King Charles I arrogantly believed that the theory of "divine right of kings" justified his summarily dispensing with Presbyterianism in Scotland, and replacing Calvinist-Presbyterianism with High-Church Anglican orthodoxy. This was a grave and costly mistake for King Charles I, because Presbyterian resistance led to the Bishops' War of 1639-40 and to the embarrassing defeat of Charles I's royal army. The net result of the Bishop's War was an important precedent for Anglo-American constitutional law, which laid the foundations for the constitutional right to freedom of conscience, freedom of thought and speech, freedom of assembly, and the free exercise of religion.

SUMMARY

King Charles I (1600-1649) ascended the throne of England in 1625 upon the death of his father, King James I. Charles I had been the second son and the Duke of York, not expecting to inherit the throne until his older brother had passed. But apparently Charles I had been raised to serve some day as the sovereign, and he seemed to inherit all of his father's beliefs in the "divine right of kings." He flaunted English public opinion through marrying a Roman Catholic, the French princess Henrietta Maria. Needless to say, this marriage caused great alarm among the English Puritans. One of Charles I's most important initiatives was religious conformity to the standard of High-Church Anglicanism. He expected that Scotland, Wales, and England would honor one ecclesiastical

authority in the person of the Archbishop of Canterbury, and that the Church of England would remain orthodox, catholic, and headed up by the English monarchy. Under Charles I, religious dissenters such as Puritans and Independents were susceptible to treason and, as such, they should be curtailed, imprisoned, or executed. He recruited Archbishop of Canterbury William Laud to do his bidding. And one of their first projects, involving the suppression of Presbyterian-Calvinist dissenters, was in Scotland. The seventeenth-century Church of Scotland, to be sure, had bishops, but these Scottish bishops served within a Presbyterian form of church government, and did not acknowledge the King of England as the earthly governor or head of the Church of Scotland—only the Lord Jesus Christ was so acknowledged as head and governor. Though the Scots were loyal to the English crown, King Charles I did not find that this loyalty alone was suitable, without a formal acknowledgement of the King of England as head of the Church of Scotland. Therefore, when Archbishop Laud essentially ripped John Knox and John Calvin out from the pages of Scotland's ecclesiastical history, through replacing Scottish rites and doctrines with a new *Book of Common Prayer (1637)* for Scotland, the Scots rioted and prepared for war. The result of all of this history was The Bishops' War of 1639-1640, which became the prelude to the English Civil War of 1642- 1651.

Part XXXV. Anglican Church: "King Charles I and The Bishops' War 1639-1640)"

In 1625, the Duke of York ascended to the throne of England and became King Charles I. For it seemed as if he had inherited a double portion of his father's troublesome spirit, attitude, and worldview. If King James I had believed in the "divine right of kings" and the "royal prerogative," then his son King Charles I believed in "absolute divine right of kings" and "absolutist royal prerogative"—King Charles I, who was more radical than his father, simply could not comprehend a "higher law" that was to be interpreted and administered by lawyers, judges, and Parliamentarians, and that was above the purview of his own royal prerogative and absolutist royal will. To Charles I, the idea of "higher law" seemed anathema to the whole idea of monarchy. See, e.g., Table 1, "Religion & Politics in 17th-Century England, 1660-1650."

RELIGION & POLITICS IN 17TH CENTURY ENGLAND (1600-1650)	**MONARCHY**	**PARLIAMENT**

Constitutional Form	"Divine Right of Kings"; Powerful Monarchy; Royal Prerogative	"Higher Law or Natural Law theory"; Magna Charta; English Common Law; Due Process of law
Ecclesiastical Government	High-Church Anglican and Episcopal; Religious Uniformity; No Religious Freedom	Religious Freedom (limited to Protestant Christians, including Puritans, Baptists, Presbyterians, Independents, etc.; but excluding Roman Catholics, Jews, etc.)
Economic Programme	Economic monopoly and patents; commercial and colonial expansion; economic development	Economic development; commercial expansion; social regulation to protect human rights of disenfranchised Englishmen.
Political Party	Tories/ some Whigs	Whigs/ some Tories

At the same time, King Charles I could not hide his affinity toward ecclesiastical elitism—whether Roman Catholicism or high-church Anglicanism—so long as Church leadership bent its efforts toward promoting his royal prerogative. "No bishop, no king!" had been his father's shibboleth! And King Charles I lived by the same royal decree. And in 1633, Charles I found in the Rev. William Laud a man willing to do the king's bidding, and so he elevated him to the position of Archbishop of Canterbury.

In the eyes of Parliament and millions of other Britons, Archbishop Laud and King Charles I made for a very dangerous combination,-- the Archbishop of Canterbury and the King of England, the Church and the State, now cooperating to perpetuate arbitrary government and tyranny against the interests of the majority of the people England, Wales, Scotland, and Ireland! There were, of course, other important matters that were plaguing seventeenth-century England, such as the problem of monopolies, forced loans, taxation without Parliamentary consent, and arbitrary arrests and detentions—all of this in flagrant violation of *Magna Carta!* And, although the "royal law"[4] and the "law of Christ"[5] ultimately also regulated

[4] James 2:8 ("If ye fulfill the royal law according to the scripture, Thou shalt love thy neighbor as thyself, ye do well.")

[5] The central message of Jesus of Nazareth (i.e., the **"law of Christ"**) was to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3), and that message was

these secular matters, these secular concerns were, for all practical purposes, largely left to Parliament and the Courts to resolve, not the Church of England.[6] Nevertheless, in seventeenth-century England, Christian theology naturally infiltrated the domain of secular politics. Indeed, "[t]he first half of the seventeenth century confronted many critical questions: If the king's power was absolute how could there be any rights against him? If his prerogative was limited, who placed the limits upon it and how would determined the extent of those curbs? *Quis suctodes custodiet*? Was the king's discretionary power derived from and limited by the law or not? Could it be abridged by an act of Parliament? Were the common law courts to vacate jurisdiction in any cases where the royal prerogative was involved, in the areas that James I called 'transcendent matters"?[7] Indeed, could Parliament interfere with or control the royal prerogative in any legitimate way? Did the privileges and liberties claimed by Parliament belong to it by right or as the result of a royal act of grace?" These critically important questions during the 1640s propelled men, such as Sir Thomas Hobbes, to publish political treaties to address this issue.

"The Anglican Church, torn by dissent within and attacked by hostile forces without, zealously attempted to impose the Laudian uniformity."[8] It was Archbishop William Laud's stern policy of ecclesiastical uniformity and suppression that sent the second wave of Puritans—men such as Governor John Winthrop and Rev. Roger Williams—to British North America.[9]

King Charles I was thus convinced that "religious uniformity" based upon a Roman-Catholic/ High-Church Anglican model was in the best interests of the English crown, and Archbishop Laud fully agreed. Therefore, Charles I led a

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sown into the English common law through the canon law of the Roman Catholic Church, the Church of England, the English Inns of Court, and the law faculty of Oxford and Cambridge universities.

[6] But who in society, government or church would be entrusted to determine the meaning of the "royal law" of Christ? Who were permitted to deliver sermons as to the gospel of the "law of Christ"? To these questions, King Charles I vested ultimate authority in the high-church Anglican Archbishop William Laud who was given authority to impose his ecclesiastical will upon all of England.

[7] Goldwin Smith, *A Constitutional and Legal History of England* (New York, N.Y.: Dorset Press, 1990), p. 325.

[8] Ibid.

[9] It was, in many respects, the legacy of Archbishop William Laud, and other High-Church Anglican clerics who followed in his footsteps, which led to the constitutional heritage of religious freedom in North America, as later codified in several of the colonial charters of British North America and in the First Amendment to the United States Constitution.

campaign of religious intolerance and suppression throughout England. As Professor Goldwin Smith has written:

> Meanwhile the religious issues between the Anglicans, led by Archbishop Laud, and the Puritans became steadily more bitter. The various phases of the tumultuous controversy need not concern us here. Laud, with his demonic energy and with the support of the king's personal government, tried to make a single ecclesiastical system prevail throughout England. All must be reduced to uniformity. All publications must be strictly censored. Local compounds of heresy and indifference must be wiped away. To the Puritans a man could settle his accounts with God by personal efforts. He needed no loving ritual, no fine music, no allegedly papistical tendencies. The Laudian policy antagonized important social groups, especially those of power and rank in an expanding commercial and industrial society touched by the new dynamic faiths from across the Channel. These men were often convinced that their material gains in this world were given them by God because He approved of individuals who were diligent in their business. As the Court of Star Chamber persecuted the Puritans and inflicted heavy penalties strong rides began to run against the opponents of his ecclesiastical policy. At the same time, Laud's master, the king, continued to alienate the moderates who might have supported the royal cause in matters of government. The support of the men who stand in the middle of the way is always important.
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> The proposal of Archbishop Laud and Charles I to impose the Anglican Episcopal system in Scotland was stark insanity. Laud prepared a liturgy similar to the English Prayer Book to be used in all Scottish churches. He decided that bishops should rule the Scottish Kirk [i.e., the Scottish Parliament]. The result was widespread revolt, tumult, riots and a forest of claymores. A woman in Edinburgh threw a stool at the Bishop which nearly hit the Dean. The Scotsmen raised an army and dared Charles to fight. The words of James I echoed over the moors: 'No bishop, no king.'[10]

[10] Goldwin Smith, *A Constitutional and Legal History of England* (New York, N.Y.: Dorset Press, 1990), pp. 323-324.

Indeed, Charles I's father, King James I of England (James VI of Scotland) had already commenced the process of converting the Scottish Church to an Episcopalian system of ecclesiastical government, with the English monarchy as its head. But this process had not been fully completed when Charles I ascended the throne in 1625—nor could it be, given the Scottish penchant toward Calvinism and Presbyterianism. Although the Scottish Church had technically been brought underneath the Anglican umbrella, it was nevertheless a Calvinist Church and its bishops governed through a Presbyterian system of ecclesiastical government. For this reason, when Archbishop Laud published a *Book of Common Prayer(1637)* for the Scottish church, and which was patterned after the Church of England, the Scottish rioted and prepared for war; and, much to the chagrin of King Charles I, the English Puritans did not dissuade their Scottish brethren. Thus, when King Charles I and Archbishop Laud declared war on Scotland in 1639, they did so without the consent of the English Puritans who felt disinterested in the squabble.

The Bishops' War (1639-1640) was thus a fight over English control over the Church of Scotland. It was, perhaps, a part of the Thirty Years' War (1618-1648) in Central Europe, where the war between Protestants and Catholics cost 8 million lives. In Scotland, many of the Presbyterians had special ties to Geneva, to France, and to the French Huguenots; many of them had studied at French Huguenot universities, and they were staunch Calvinists. They thus shared a special religious affinity with the England's Puritans, Independents, Baptists and the like, many of whom were Calvinists or Calvinist-leaning. Up this point, in 1639, Charles I had ruled 11 years without Parliament, and his pride led him to attempt to launch a war against Scotland without support from Parliament—this was a mistake. Charles I's voluntary Royal forces were small and had low morale; the Irish contingent was promised, but it never materialized; and England's general public generally did not support the war; and the only major battle of the war (the Battle of the Brig of Dee) resulted in a crushing defeat of Charles I's forces. All of these reasons caused Charles I to pull back from waging the war effort; and, in 1639, he moved to enter into treaty negotiations with Scotland (i.e., the Treaty of Ripon, October 1640)—with the ultimate aim of reneging whenever, if ever, he ever regained the upper hand.

While the Scottish parliament sat in early 1640 to consider Charles I's settlement terms, Charles I attempted to double-cross the Scotsmen through mending his broken relations with Parliament in an effort to persuade it to support his war effort. Charles I recalled Parliament in early 1640; but on May 5, 1640, he dissolved the "Short Parliament," which had sat for only five weeks, because this Parliament would not agree to fund Charles I's proposed follow-up military

campaign against the rebellious Scotsmen. In response, the Scottish Parliament reacted to the events in England:

> The new General Assembly then re-enacted all the measures passed by the Glasgow Assembly, and the Scottish Parliament went further, abolishing Episcopacy and declaring itself free from Royal control. Charles, believing that the Scots were intriguing with France and that under these circumstances, the English would be more ready to rally to his standard, once more called an English parliament – after having ruled alone in England for eleven years. In April 1640, the so-called Short Parliament convened but first demanded redress of grievances, the abandonment of the royal claim to levy ship money, and a complete change in the ecclesiastical system. Charles considered these terms unacceptable and dissolved parliament.[11]

Charles I then turned to Thomas Wentworth, Earl of Strafford, who offered to fund the war effort. But Charles I's royal forces returned to humiliating defeat on the battlefield against the Scots. The Scots captured two English counties, which they held as collateral until the English paid the war reparations to the Scottish parliament. Faced with humiliation, Charles I recalled Parliament—now the Long Parliament—in 1640, and plead for assistance in raising the revenue needed to reimburse the Scottish. In 1641, Charles I negotiated a humiliating peace treaty with Scotland. But a dangerous precedent had been set: Scotland had successfully stood up against King Charles I and had won an amazing victory on the battlefield; and now Ireland and the English Puritans were emboldened. The new Long Parliament would sit from 1640 to 1660, without interruption, making demands upon King Charles I, who resisted Parliament at every turn. All of this resulted in the English Civil Wars of 1642-1651.

CONCLUSION

The constitutional idea of freedom of conscience, thought, assembly, speech, and religion finds its roots in The Bishops' War of 1639-40. And, in many respects, the First Amendment to the United States Constitution also traces its roots to this period in British history. The efforts on the part of English monarch to impose religious conformity, first upon the Scottish Presbyterians, and, second, upon the Puritans and others, began during the reign of King Charles I and continued throughout the 1600s. Religious persecutions became relentless and bloody, not only in England, but also on continental Europe (e.g., the Thirty Year's War of

[11] "The Bishops' War" https://en.wikipedia.org/wiki/Bishops%27_Wars

1618-1648, which cost over 8 million lives) and even in North America.

The influence of all of these events was felt most poignantly in the men and women who would found the colony of Rhode Island in British North America. There, Baptist theologian and pastor Roger Williams (1603-1683) would publish *The Bloudy Tenet of Persecution for Cause of Conscience Discussed*, a polemic against religious persecution, wherein he cited Jesus' "Parable of the Wheat and the Tares,"[12] as his chief argument as to the meaning of the "law of Christ"[13] regarding freedom of religion and conscience. *The Lord Jesus Christ himself, argued Rev. Williams, never intended for a state-sponsored church to impose its religious will upon infidels, unbelievers, and non-conformists*. According to Rev. Williams, the persecutions which the High-Church Anglicans and the Roman Catholics had perpetuated to promote religious uniformity throughout history were demonic forms of ungodly religious heresy. What was really and truly Christian, Rev. Williams argued, was for the Christian church to function as a "community of saints" or as a "college of physicians," within a larger secular state. The primary function of this "community" or "college" would be to facilitate the establishing civil peace through serving as the "salt of the earth" and as a "beacon of light," through prophetic advocacy of the moral law and the law of reason. The Church and the State, under Rev. Williams' scheme, were to share power under a "Two-Tables" theory of civil government undergirded by natural law, but the Church would have no civil

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[12] The **"Parable of the Wheat and the Tares" (Matthew 13:24-30)**:

> **24** Another parable put he forth unto them, saying, The kingdom of heaven is likened unto a man which sowed good seed in his field:
>
> **25** But while men slept, his enemy came and sowed tares among the wheat, and went his way.
>
> **26** But when the blade was sprung up, and brought forth fruit, then appeared the tares also.
>
> **27** So the servants of the householder came and said unto him, Sir, didst not thou sow good seed in thy field? from whence then hath it tares?
>
> **28** He said unto them, An enemy hath done this. The servants said unto him, Wilt thou then that we go and gather them up?
>
> **29** But he said, Nay; lest while ye gather up the tares, ye root up also the wheat with them.
>
> **30** Let both grow together until the harvest: and in the time of harvest I will say to the reapers, Gather ye together first the tares, and bind them in bundles to burn them: but gather the wheat into my barn.

[13] The central message of Jesus of Nazareth (i.e., the "law of Christ") was to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3), and that message was sown into the English common law through the canon law of the Roman Catholic Church, the Church of England, the English Inns of Court, and the law faculty of Oxford and Cambridge universities.

authority to impose its religious doctrine upon the secular State; and, vice versa, the State, at least formally or legally, could not impose its secular political agenda upon the Church. But Rev. Williams' ideas on religious freedom did not instantly, simply, or quickly materialize in England or North America—the idea of the separation of Church and State evolved over the seventeenth and eighteenth centuries, from the 1640s up to the time of the American Revolution.

THE END

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APPENDIX A. "The Puritan Two-Tables Theory of Civil Government and the 'Doctrine of Separation of Church and State,'" by Roderick O. Ford, Litt.D.

The Puritan doctrine of the "Separation of Church and State" incorporated the catholic ideal of natural law and natural justice, especially as set forth in St. Paul's letter to the Romans.[14] According to Puritan and other Protestant Reformers, the role of the civil magistrate (i.e., the secular government) was not to impose ecclesiastical laws and religion upon dissenters, non-believers, infidels, and the like. Instead, the role of the civil magistrate was to administer the natural law and to establish natural justice. But this natural law and natural justice were coterminous with the Decalogue and the "law of Christ,"[15] and so, in the view of the Puritans such as Baptist theologian Roger Williams, the idea of "Separation of Church and State" was deemed to be much more "Christian" than the Anglican and Roman Catholic regimes of Medieval and late-Medieval Europe and England; and much more "Puritan" than the one-church regime of the Massachusetts Bay Colony.

TEN COMMANDMENTS (Decalogue)	**NATURAL LAW** (The Laws of Nature upon which the Secular Civil Government is founded)
FIRST TABLE I am the Lord thy God, which have brought thee out of the land of Egypt, out of the house of bondage. Thou shalt have no other gods before me! Ex. 20:2-3.	**FIRST TABLE (Church)** God's Divine Providence governs the universe; it is superior to human law. **Civil Rights/ Human Rights**: the Puritans and other Reformed Protestants deduced from this commandment that no civil government can compel an individual person to worship God in

[14] See, e.g., Romans 2:11-16 and Romans 13:1-10.

[15] The central message of Jesus of Nazareth (i.e., the **"law of Christ"**) was to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

	a particular way—thus freedom of conscience, assembly, religion are thus natural rights of all human beings.
Thou shalt not make make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the water under the earth. Thou shalt not bow down thyself to them, nor serve them: for I the LORD thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me; and shewing mercy unto thousands of them that love me, and keep my commandments. Ex. 20:4-6	Same as above
Thou shalt not take the name of the LORD thy God in vain; for the LORD will not hold him guiltless that that taketh his name in vain. Ex. 20: 7	Same as above
Rember the Sabbath day, to keep it holy. Six days shalt thou labour, and do all thy work: but the seventh day is the Sabbath day of the LORD thy God: in it thou shalt not do any work, thou , nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates: for in six days the LORD made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the LORD blessed the Sabbath day, and hallowed it.	Same as above
SECOND TABLE Honor thy father and thy mother: that thy days may be long upon the land which the LORD	**SECOND TABLE (State; Civil Magistrate)** This is a fundamental "law of nature"; domestic government (i.e., the family) is the foundation of the body politic

thy God giveth thee. Ex. 20:12	
Thou shalt not kill! Ex. 20:13	This is a fundamental "law of nature"; civil government must protect citizens against the crime of homicide, murder, and genocide.
Thou shalt not commit adultery! Ex. 20: 14	This is a fundamental "law of nature"; civil government must protect the integrity of marriage and the family, since domestic government (i.e., the family) is the foundation of the body politic). Adultery should be proscribed and punished.
Thou shalt not steal! Ex. 20: 15	This is a fundamental "law of nature"; civil government must protect citizens against fraud, theft, conversion, embezzlement, and like crimes and offenses.
Thou shalt not bear false witness against thy neighbor! Ex. 20:16	This is a fundamental "law of nature"; civil government must protect the integrity of the justice system and protect citizens against injustices established through false swearing and false testimony.
Thou shalt not covet thy neighbor's house, thou shalt not covet thy neighbor's wife, nor his manservant, nor his maidserevant, nor his ox, nor his ass, nor any thing that is thy neighbor's. Ex. 20: 17	This is a fundamental "law of nature"; civil government must protect the integrity of private property, marriage, the family, employment relations, master-servant relations, contractual relations, etc.

Under the Anglican-Protestant ideology during the seventeenth and eighteenth centuries, doctrine of the separation of "Church and State" essentially meant that the church and the civil magistrate shared power in governing the body politic. The Church was far superior to the State, but could exercise no legal authority over the State; but rather, the Church was to function as the superior moral guide for the State and the rest of the secular society—i.e., the Church was to function as a "college of physicians" within the secular civil society. The State, therefore, could not replace the Church; since it lacked the power to enforce the first four Commandments within the Decalogue. Nor could the Church replace the State, since Church lacked authority to enforce the last six Commandments within the *Decalogue*. The moral superiority of the Church, however, required it to suggest, and indeed to request, that the State legislate righteous and moral laws in order to establish justice throughout the body politic-- a sort of prophetic function for the Church to discharge within the new scheme of "Separation of Church and State." Hence, in a strictly legal sense, within western jurisprudence, a "church" can be a form ecclesiastical body but can carry over into any body of private citizens or persons who assemble together for the objective of moral improvement, establishing justice, and redressing grievances through association, speech, press, assembly, and redress of grievances. For this reason, it is been argued that the "Freedom of Religion" is the cornerstone of all other fundamental rights, because it contains within it the right to conscience, belief, association, and speech (or to redress injustices or grievances). Whether a "church" or an "assembly of private persons who assemble that functions like a church" avails itself of these sacred rights of conscience, belief, association, speech, and the like, it makes no difference to the Protestant governmental scheme. Nor does it matter within the Protestant governmental scheme that these "sacred Christian rights" are extended to "Christian" and "non-Christian," alike. What matters most within the Protestant scheme of government is that the civil magistrate (i.e., the secular government) establish natural justice for both Christian and non-Christian alike. Within the Roman Catholic, Anglican, and Anglo-American juridical tradition, both natural justice and natural law constitute the "law of reason." Throughout the seventeenth- and eighteenth-centuries, the Protestant Reformers had reasoned that this theory of secular, civil government, based upon natural justice and natural law, had clearly been set forth in the New Testament, and particularly within the writings of St. Paul (e.g., Romans 13:1-10), and, likewise, the Old Testament had affirmed the same result: even the pagan rulers were ordained by God to establish civil justice.[16]

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[16] Finally, I would be quite remiss if I did not here point out, that the organic idea of the "Freedom of Religion" can be found in Pentateuch, i.e., the story of Moses and the Exodus from Egypt; and in the Old Testament's prophetic

The First Amendment, U.S. Constitution is thus the product of the Protestant Christian theology of the Protestant Reformation. The "freedom of religion" that is a "fundamental right" that is codified in the First Amendment of the United States Constitution is a reflection of Protestant Christian theology—particularly of the Lutherans and the Puritans (i.e., the English Calvinists) of seventeenth-century England and colonial British North America.

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works, including the Jewish interactions with Nebuchadnezzar, Darius, Cyrus, and several other kings, where the "Freedom of Religion" was acknowledged as a positive right. In more recent times, in the United States, the institution of chattel slavery was said to have denied to slaves the "Freedom of Religion," as the precursor of denying them all other human and civil rights.[16] Hence, the Thirteenth Amendment, U.S. Constitution, may also be described as a guarantor of the "Freedom of Religion" in the United States.

APPENDIX B: "The Two Tables of the Law" by Alan Reinach[17]

"For centuries Protestants have found a convenient division between the first and second tables of the ten-commandment law. **Roger Williams, the founder of Rhode Island, was the first American to associate two concepts: the separation of church and state and the two tables of the law.** It was Williams, not Thomas Jefferson, who coined the phrase about a hedge, or wall, separating the garden of the church from the wilderness of the state.

"Williams also conceived that the first four commandments, or the first table of the law, addressed one's obligations to worship God, while the last six commandments, the second table, addressed one's civil obligations. **The American Protestant concept of separation of church and state was largely built on this distinction.** Thus state law could properly address moral issues such as adultery, stealing, and murder because these were in the second table of the law.

"However, Puritan era 'first table' laws against blasphemy, idolatry, and even Sunday laws fell into disfavor, not merely because of secular trends, but because in the Protestant conception, these obligations pertained not to the state but to God alone.

"This division between the first and second tables of the law roughly corresponds to the distinction between legislating religion and morality. **Under the First Amendment, the state has no jurisdiction to address essentially religious questions, such as when, where, how, or whom to worship. The first table of the law is out of bounds to the state. However, the second table of the law has always been the subject of civil law,** despite the familiar adage that 'you can't legislate morality.' Actually, you can, and we do. The debate is never really about whether to legislate morality, but to what extent and from what source.

"Under the American constitutional system, the state has no charge to order public morality according to the second table of the ten-commandment law, but

[17] Alan J. Reinach is Executive Director of the Church State Council, the religious liberty educational and advocacy arm of the Pacific Union Conference of Seventh-day Adventists, representing five western states: Arizona, California, Hawaii, Nevada and Utah. His legal practice emphasizes First Amendment religious freedom cases, and religious accommodation cases under Title VII of the Civil Rights Act of 1964 and related state civil rights laws. Reinach is also a Seventh-day Adventist minister who speaks regularly on religious freedom topics, and is the host of a nationally syndicated weekly radio broadcast, "Freedom's Ring." He is the principal author and editor of Politics and Prophecy: The Battle for Religious Liberty and the Authentic Gospel, and a frequent contributor to Libertymagazine.

neither is the state compelled to reject the second table. It is entirely legitimate for Americans to invoke the commandments in public policy debate, so long as the distinction between the first and second tables is observed. The Constitution does not permit the state to arbitrate religious belief and practice or to promote specific religious ideas. This means that the same Ten Commandments that many Americans look to for the content of public morality may be subject to constitutional restrictions when it comes to state efforts to publicly display and honor them. Although many view restricting the display of the commandments as official disrespect, it is far better for government to maintain a strict "hands-off" policy with respect to religion than to open a Pandora's box of public promotion of religion."

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APPENDIX C: FIRST AMEMENDMENT by the Legal Information Institute (LII) at Cornell Law School

"First Amendment: An Overview

"The First Amendment of the United States Constitution protects the right to ***freedom of religion*** and ***freedom of expression from government interference***. It prohibits any laws that **establish a national religion**, impede **the free exercise of religion**, abridge the **freedom of speech**, infringe upon **the freedom of the press**, interfere with **the right to peaceably assemble**, or prohibit **citizens from petitioning for a governmental redress of grievances**.

"It was adopted into the Bill of Rights in 1791. The Supreme Court interprets the extent of the protection afforded to these rights. The First Amendment has been interpreted by the Court as applying to the entire federal government even though it is only expressly applicable to Congress. Furthermore, the Court has interpreted the Due Process Clause of the Fourteenth Amendment as protecting the rights in the First Amendment from interference by state governments.

"Freedom of Religion

"Two clauses in the First Amendment guarantee freedom of religion. **The Establishment Clause prohibits the government from passing legislation to establish an official religion or preferring one religion over another. It enforces the "separation of church and state."** However, some governmental activity related to religion has been declared constitutional by the Supreme Court. For example, providing bus transportation for parochial school students and the enforcement of "blue laws" is not prohibited. The **Free Exercise Clause prohibits** the government, in most instances, **from interfering with a person's practice of their religion**.

"Freedom of Speech / Freedom of the Press

"The **most basic component of freedom of expression is the right to freedom of speech**. Freedom of speech may be exercised in a direct (words) or a symbolic (actions) way. Freedom of speech is recognized as **a human right** under article 19 of the Universal Declaration of Human Rights. The right to freedom of speech allows individuals to express themselves without government interference or regulation. The Supreme Court requires the government to provide substantial justification for the interference with the right of free speech where it attempts to regulate the content of the speech. Generally, a person cannot be held liable, either

criminally or civilly for anything written or spoken about a person or topic, so long as it is truthful or based on an honest opinion and such statements.

"A less stringent test is applied for content-neutral legislation. The Supreme Court has also recognized that the government may prohibit some speech that may cause a breach of the peace or cause violence. For more on unprotected and less protected categories of speech see advocacy of illegal action, fighting words, commercial speech and obscenity. The right to free speech includes other mediums of expression that communicate a message. The level of protection speech receives also depends on the forum in which it takes place.

"Despite the popular misunderstanding, the right to **freedom of the press guaranteed by the First Amendment is not very different from the right to freedom of speech**. **It allows an individual to express themselves through publication and dissemination**. It is part of the constitutional protection of freedom of expression. **It does not afford members of the media any special rights or privileges not afforded to citizens in general**."

"Right to Assemble / Right to Petition

"The **right to assemble allows people to gather for peaceful and lawful purposes**. Implicit within this right is **the right to association and belief**. The Supreme Court has expressly recognized that a right to freedom of association and belief is implicit in the First, Fifth, and Fourteenth Amendments. Freedom of assembly is recognized as **a human right** under article 20 of the Universal Declaration of Human Rights under article 20. This implicit right is limited to the right to associate for First Amendment purposes. It does not include a right of social association. The **government may prohibit people from knowingly associating in groups that engage and promote illegal activities**. The right to associate also prohibits the government from requiring a group to register or disclose its members or from denying government benefits on the basis of an individual's current or past membership in a particular group. There are exceptions to this rule where the Court finds that governmental interests in disclosure/registration outweigh interference with First Amendment rights. **The government may also, generally, not compel individuals to express themselves, hold certain beliefs, or belong to particular associations or groups**.

"The **right to petition the government for a redress of grievances guarantees people the right to ask the government to provide relief for a wrong through litigation or other governmental action**. It works with the right of assembly by allowing people to join together and seek change from the government."

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Appendix D. "The First and Thirteenth Amendments, U.S. Constitution—An Analysis of Religious Freedom and Slavery"
by
Roderick O. Ford, Litt.D.

The objective of this essay is to show how the First Amendment, U.S. Constitution relates to slavery, involuntary servitude, and to conditions similar to slavery. The Rev. William Goodell tells us that "[*r]eligious liberty* secures the right of the worshipers to choose and arrange their own modes and forms of religious worship, and to select their own teachers; not the privilege of being permitted to worship when, where, and how *the Government* or *a slaveholder* may appoint, and under such religious teachers as they may select."[18] Hence, the implication that the denial of "religious liberty"—whether committed by the Government against a white Englishman, or a slaveholder against an black African stolen from the west coast of Ghana— is of critical importance to Anglo-American constitutional-law scholars, lawyers, judges, pastors, theologians, legislators, government officials, etc.

It must here be remembered that the First Amendment, U.S. Constitution grew out of a long train of abuses, beginning in the early 1600s, by British monarchs and the Church of England to enforce a uniform High-Church Anglican religious faith upon all Englishmen. (It may likewise be said that the Roman Catholic Church had commenced similar despotic practices in other parts of Europe). The First Amendment, which was part of the American Bill of Rights, guarantees the freedom of religion, speech, conscience, and assembly, together with the right to petition the government for the redress of grievances. These rights have been deemed to be "fundamental" under the United States Constitution, and by "fundamental," no state or federal government may abrogate those rights without being subjected to judicial review called "strict scrutiny," which requires that laws which impair "fundamental" rights be "narrowly tailored" to achieve a "compelling governmental interest." And, here, I would be remiss if I did not state that the word "fundamental" in American constitutional law, denotes the "fundamental moral law," as we have inherited it from the Judea-Christian ethic

[18] William Goodell, *The American Slave Code in Theory and Practice* (1853)(reprinted by the University of Michigan Press)(original citation omitted), p. 331.

(i.e., the Pentateuch, the Decalogue, the Beatitudes, etc.), and as that phrase has come down to us through the development of the English Common Law throughout the centuries.

As it turns out, those same "First Amendment" freedoms were the yardsticks for measuring the juridical freedom within the Anglo-American and western traditions. And the same was true in the antebellum American South with respect to African Americans—for indeed, the whole system of chattel slavery had systematically denied religious rights and religious freedom to millions of African American slaves. But what is it about those "First Amendment" freedoms which make them "sacred" fundamental rights? Consider, for instance, Rev. William Goodell's account of *The American Slave Code*, wherein he writes:

> Religion and its duties are based on human relations, including family relations. These relations, the 'relation of slave ownership' and chattlehood abrogates. Religion requires and cherishes self-control; but the 'owner's' authority supersede and prohibits self-control. Religion implies free agency; but 'the slave is not a free agent.' His 'condition is merely a passive one.' So says the Slave Code, and so says ecclesiastical law, and therefore releases him from the obligations of the seventh commandment. Witness the decision of the Savannah River Baptist Association, while allowing its slave members, without censure, to take second or third companions, in obedience to their masters, by whom their original connections had been severed!
>
> **Rights of conscience require, and therefore authorize a man to choose his own place of worship, and not 'forsake the assembling together;' nay, to choose and follow the avocation, and select the residence and the associates where, in his own judgment, he can best serve God, fit his own soul for heaven, and lead his fellow-men to the Saviour**.
>
> **It commands and authorizes him to 'search the Scriptures,' and train up his family 'in the nurture and admonition of the Lord.'** The master emancipates his slave, and ceases to be his 'owner' when

he fully accords to him, *in practice* and in theory, these Heaven-conferred RIGHTS. It is useless to attempt evading this, by adducing the case of children and minors. The slave, at maturity, is entitled to the rights and responsibilities of *a man*, and without them he is despoiled of his religious rights.

The slave master may withhold education and the Bible; he may forbid religious instruction, and access to public worship. He may enforce upon the slave and his family a religious worship and a religious teaching which he disapproves. In all this, as completely as in secular matters, he is 'entirely subject to the will of a master, *to whom he belongs*.' The claim of chattelhood extends to the soul as well as to the body, for the body cannot be otherwise held and controlled.

There is no other religious despotism on the face of the earth so absolute, so irresponsible, so soul-crushing as this. It is not subjection to an ecclesiastical body or functionary of any description; a presbytery, a conference, a bishop, a prelate, a pope, who may be supposed to be sensible, in some sort, of their sacred and responsible charge! **The free white American exults in his exemption from the jurisdiction of these, except during his own free consent. He would freely part with his life's blood, in martyrdom or in war, rather than relinquish or compromise this right! But he thinks it a light matter (if he thinks of it at all) that three millions of his countrymen are in a worse spiritual thralldom than this, under bishops that regard and treat them as 'chattels personal!' a bishopric entailed by descent, or conferred by the hammer of the auctioneer, the writ of the sheriff, or the chances of the billiard-table, and transferrable in the same manner!**... The absolute power of the Pope, though conferred, as it once was, by the almost unanimous consent of all Christendom, they can denounce as 'THE Antichrist,' forgetful of the more absolute power of every 'owner' of an American slave! **The doom of the former they read in the Apocalypse; the latter they deem Heaven sanctioned and approved, blaming only *its abuse*!** Why may not Papal power have

> the benefit of the same apology? **Whence comes it that the absolute religious despotism (for such it is) of the slave owner is so much more sacred and unapproachable than that of the Protestant or Catholic Church?**[19]

For, indeed, such "religious liberty," wrote Rev. Goodell, is the foundation of democratic and free government:

> The rise of an oppressive oligarchy of slave owners begins here. And religious liberty is the very last thing to be tolerated by it. **Religious liberty is the precursor of civil and political liberty** and **enfranchisement**, and must be suppressed. **The gospel would indeed abolish American slavery**,[20] (as is often said,) **if it could only be introduced among the slaves** so far as to confer upon them religious liberty. This our American slaveholders understand….[21]

The First Amendment, U.S. Constitution ("religious freedom, right of speech, assembly, petition, etc."), therefore, has a direct correlation to the Thirteenth Amendment, U.S. Constitution ("freedom from slavery, involuntary servitude, or the badges and incidents of slavery").

THE END

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[19] Ibid., pp. 251-257.

[20] Thus commenting on this subject, the great French social theorist Alex De Tocqueville opined that "[a]ntiquity could only have a very imperfect understanding of this effect of slavery on the production of wealth. Then slavery existed throughout the whole civilized world, only some barbarian peoples being without it. **Christianity destroyed slavery by insisting on the slave's rights; nowadays it can be attacked from the master's point of view; in this respect interest and morality are in harmony."** Alexis de Tocqueville, *Democracy in America* (New York, N.Y.: Harper Perennial, 1988), p. 348.

[21] William Goodell, *The American Slave Code in Theory and Practice* (1853)(reprinted by the University of Michigan Press)(original citation omitted), p. 328.