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### “A History of the Anglican Church—Part LII: An Essay on the Role of Christian Lawyers and Judges within the Secular State”©

By

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-- Rev. Algernon Sidney Crapsey (Anglican Priest)

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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.

**PREFACE**

The organized Christian church of the Twenty-First Century is in crisis and at a crossroad. Christianity as a whole is in flux. And I believe that Christian lawyers and judges are on the frontlines of the conflict and changes which are today challenging both the Christian church and the Christian religion. Christian lawyers and judges have the power to influence and shape the social, economic, political, and legal landscape in a way that will allow Christianity and other faith-based institutions to evangelize the world for the betterment of all human beings. I write this essay, and a series of future essays, in an effort to persuade the American legal profession to rethink and reconsider one of its most critical and important jurisprudential foundations: the Christian religion. To this end, I hereby present the sixty-ninth in this series: “A History of the Anglican Church—Part LII.”

**Introduction<sup>1</sup>**

These notes on the Reverend Doctor John Witherspoon’s *Lectures On Moral*

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<sup>1</sup> This paper is dedicated to the Faculty and Staff of the Whitefield Theological Seminary (Lakeland, Florida), to the Christ Presbyterian Church (Lakeland, Florida), and to the Calvinist wing of the Church of England.

*Philosophy* are perhaps one of the clearest evidences of the Christian foundation of the American *Declaration of Independence* (1776) and of the *United States Constitution* (1787). Indeed, the religious and political motivations of many of the American founding fathers were clearly framed through Dr. Witherspoon's lectures and sermons, given originally, during the late 1700s, at what is today known as Princeton University. Through the writings, sermons, and lectures of one of the most influential of America's founding fathers John Witherspoon, we see clearly the influence of the Western Church upon America's founding principles and constitutional ideals. St. Augustine of Hippo's conceptualization of "nature," "providence" and of God as being the creator and author of nature and natural law is clearly manifest in Witherspoon's writings. Thus, the influence of St. Thomas Aquinas conceptualization of the fundamental relationship between natural law and human law are also apparent in Witherspoon's writings.

Dr. Witherspoon's work at the College of New Jersey (Princeton) should also be considered as part of the culminating work of the influence of the Elizabethan Settlement of 1559.<sup>2</sup> In colonial British North America, the orthodox Anglicans ("Arminian") and the orthodox Calvinists ("Puritans") were beginning to reach a consensus Christian polity and religious liberty. And in colonial British North America, these two Protestant groups were well represented, as follows;

**Southern Colonies:**

Virginia—Anglican  
Carolinas—Anglican/ Baptist  
Georgia—Anglican/ Baptist

**Middle Colonies:**

Maryland—Anglican/ Catholic  
Delaware- Anglican/ Catholic  
Pennsylvania—Anglican/Quaker

**Northern Colonies:**

New York—Anglican/ Quaker  
New Jersey—Anglican/ Quaker  
Massachusetts – Calvinist/ Puritan Congregational  
Connecticut—Calvinist/ / Puritan Congregational  
Rhode Island—Calvinist/ / Puritan Congregational  
New Hampshire—Calvinist/ / Puritan Congregational

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<sup>2</sup> See "Elizabethan Settlement" <https://www.episcopalchurch.org/glossary/elizabethan-settlement/>

Throughout these colonies, Americans were reaching toward a consensus that “orthodox” Christianity need not be imposed upon individuals through the machinery of secular politics, civil law, and the civil magistrate. But that the only thing essential was that men and women adhere to the Golden Rule (i.e., man’s duty to man) and to worship God according to his own conscience (i.e., religious liberty). , but all that was mandatory was the ratification of natural law and natural religion into the secular civil government. Their general consensus was that “Christianity is a republication of natural religion,” and natural religion should be the foundation of civil polity. Indeed, natural religion was the only medium through which the various Protestant sects could form a political alliance in order to lay the foundations of an American republic.

At the same time, Rev. Witherspoon was a Calvinist who did not see any contradiction between his orthodox Calvinism and natural theology and science. He embraced the ideals of the Anglican bishop John Butler’s *The Analogy of Religion*, which held that “Christianity is a republication of natural religion.” To that end, Dr. Witherspoon’s philosophy was in perfect alignment with those influential latitudinarian Anglicans Matthew Tindal, William Warburton, and Joseph Butler.

Dr. Matthew Tindal (1657- 1733)(Anglican, Church of England)	<i>Christianity as Old as the Creation; or, the Gospel a Republication of the Religion of Nature</i> (1730)
Bishop Matthew Warburton (1698 - 1779) (Anglican, Church of England)	<i>The Alliance between Church and State, or the Necessity of an Established Religion, and a Test Law demonstrated</i> (1736)
Bishop Joseph Butler (1692 - 1752) (Anglican, Church of England)	<i>The Analogy of Religion</i> (1736)
Rev. Dr. John Witherspoon (1723- 1794)(Presbyterian, Church of Scotland)	<i>Lectures on Moral Philosophy; The Works of John Witherspoon, D.D.</i> (circa, 1768 – 1790)

Hence, natural law, natural religion, and the Augustinian theological tradition flowed into colonial British North America from two directions: first, through the Anglican Church (i.e., latitudinarian Anglicanism; the College of William and Mary, where founding father Thomas Jefferson read the writings of Lord Bolingbroke) and, second, through the Presbyterian Church (i.e., Scottish Common Sense Realism; the College of New Jersey (Princeton), where founding father James

Madison read or heard the lectures of Dr. Witherspoon on moral philosophy). Witherspoon's course on moral philosophy was mandatory for all juniors and seniors at this college.<sup>3</sup> Through this college course, together with his own personal example and involvement in politics, Witherspoon would have significant influence upon the founding of the United States:

Witherspoon transformed a college designed predominantly to train clergymen into a school that would equip the leaders of a new country. Students who later played prominent roles in the new nation's development included James Madison, Aaron Burr, Philip Freneau, William Bradford, and Hugh Henry Brackenridge. From among his students came 37 judges (three of whom became justices of the U.S. Supreme Court); 10 Cabinet officers; 12 members of the Continental Congress, 28 U.S. senators, and 49 United States congressmen.<sup>4</sup>

Witherspoon's course on moral philosophy is indeed a barometer as to the mindset of American founding fathers, particularly James Madison, who was father of the U.S. Constitution, as well as scores of lesser-known magistrates and public officials. Most of the signers of the American *Declaration of Independence* (1776) were merchants and lawyers—Witherspoon was the only minister. See **Appendix B**. Nevertheless, the document is a clear replica of natural religion and natural rights philosophy that characterized the Scottish Enlightenment and latitudinarian Anglicanism of the late 18<sup>th</sup> century.

### Summary

The Protestant Reformation which Martin Luther started in 1517 did not end on a particular day or in a specific year but instead remained in a state of continuous flux and evolution, even up to the time period of the American Revolutionary War (1775 – 1783). The reformed Protestant faith was itself being reformed inside of the Church of England and throughout colonial British North America. In America, the Anglican and Calvinists wings of that Protestant faith were predominant, and both groups were shifting away from “orthodox Medieval forms” of Church-State governance to modern 18<sup>th</sup>-century and secular forms of government undergird by

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<sup>3</sup> This is extremely important, because in the person of John Witherspoon and his work at the College of New Jersey (Princeton) we find the premier political and moral philosophy that fueled and undergird the American Revolution—and this was 18th-century natural theology and natural law theory, as developed amongst the latitudinarian Anglicans of the period. They were advocating the position that “Christianity is a republication of natural religion.” And through the Scottish Common Sense Realism movement, this doctrine was incorporated into orthodox Calvinism and, under Rev. Witherspoon's leadership, it found a home at the College of New Jersey in Princeton.

<sup>4</sup> Ibid.

natural religion and natural. Both the Anglicans and the Calvinists had been traditional competitors and opposers of each other's theological approaches to government, but in colonial British North America they found common ground in many areas—particularly their desire for independence from Great Britain, economic growth and commerce, and method of religious discourse that would provide religious freedom to a broad range of Protestant Christians and even nonbelievers. In many ways, they were carrying on the Elizabethan Settlement<sup>5</sup> and the result was 18<sup>th</sup> century latitudinarian Anglicanism, which held that “Christianity is a republication of natural religion,” and that natural religion should be the foundation of the modern nation state. This was the new trend; this was the Age of Reason and the Enlightenment. In Scotland, these ideals became popular and were recast as the Scottish Enlightenment and as a new philosophy called Scottish Common Sense Realism, which also held that “Christianity is a republication of natural religion.” In colonial British North America, Rev. Dr. John Witherspoon brought “Scottish Common Sense Realism” to the Presbyterian College of New Jersey located at Princeton. While at Princeton, Dr. Witherspoon's lectures on moral philosophy would have a profound impact on dozens of young men who would become leaders in the American Revolution, including American founding father James Madison. Witherspoon's “Lectures on Moral Philosophy” provide insight on the American attitude toward natural religion, religious freedom, and government. It reflected the growing opinion during the 18<sup>th</sup> century that “orthodox” Christianity must not be imposed upon anyone but that natural religion was an absolute necessity. That Protestant Christianity, re-cast as natural law and natural religion, lay at the very foundation of the American *Declaration of Independence* (1776) and the new *United States Constitution* (1787) is sufficiently evidenced in the life and legacy of the Rev. Dr. John Witherspoon.

**Part LI. Anglican Church: Notes on American Founding Father Rev. Dr. John Witherspoon's *Lectures on Moral Philosophy*—a Prelude to the American Revolution of 1776**

We turn now to one of the great American founding fathers, Rev. Dr. John Witherspoon, President of the College of New Jersey (“Princeton University”) and the only ordained clergyman to sign the American *Declaration of Independence* (1776). His life and legacy are the exemplification of the convergence of American constitutional jurisprudence and the Christian faith.

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<sup>5</sup> See “Elizabethan Settlement” <https://www.episcopalchurch.org/glossary/elizabethan-settlement/>

## I. **Biography of American Founding Father John Witherspoon (1723 – 1794)**

John Witherspoon (1723 – 1794)<sup>6</sup> was of Scottish descent. He was born on February 5, 1723 in Beith, North Ayrshire, Scotland, as the eldest child of Rev. James Alexander Witherspoon and Anne Walker. The young John Witherspoon attended Haddington Grammar School, attained the Master of Arts degree from the University of Edinburgh in 1739. In 1745, Witherspoon became a Presbyterian minister in the Church of Scotland at Beith, Ayrshire. He served in that role from 1745 to 1758. Witherspoon was a “staunch Protestant, nationalist, and supporter of republicanism. Consequently, he was opposed to the Roman Catholic Legitimist Jacobite rising of 1745–46. Following the Jacobite victory at the Battle of Falkirk (1746), he was briefly imprisoned at Doune Castle, which had a long-term effect on his health.”<sup>7</sup> While serving as minister, Rev. Witherspoon met and married Elizabeth Montgomery, with whom he had ten children (with five surviving to adulthood).

From 1758 to 1768, Rev. Witherspoon served as a minister of the Laigh Kirk, Paisley (Low Kirk). While there, Rev. Witherspoon became prominent in the Church of Scotland and known for his evangelical views. He became an opponent of the “Moderate Party.” He wrote three well-known works on theology, including *Ecclesiastical Characteristics* (1753), which opposed the ideas of Francis Hutcheson. Rev. Witherspoon was later awarded an honorary Doctor of Divinity degree from the University of St. Andrews in 1764.

In 1766, Dr. Witherspoon received an offer to become the President of the College of New Jersey in Princeton, but he turned down the offer. “At the urging of Benjamin Rush and Richard Stockton, whom he met in Paisley, Witherspoon finally accepted their renewed invitation” and he and his family emigrated to New Jersey in colonial British North America in 1768.<sup>8</sup> “Witherspoon had been a

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<sup>6</sup> A brief summary of the biography of John Witherspoon is located at [https://en.wikipedia.org/wiki/John\\_Witherspoon](https://en.wikipedia.org/wiki/John_Witherspoon) (“John Witherspoon (February 5, 1723 – November 15, 1794) was a Scottish American Presbyterian minister, educator, farmer, slaveholder, and a Founding Father of the United States. Witherspoon embraced the concepts of Scottish common sense realism, and while president of the College of New Jersey (1768–1794; now Princeton University) became an influential figure in the development of the United States' national character. Politically active, Witherspoon was a delegate from New Jersey to the Second Continental Congress and a signatory to the July 4, 1776, Declaration of Independence. He was the only active clergyman and the only college president to sign the Declaration. Later, he signed the Articles of Confederation and supported ratification of the Constitution. In 1789 he was convening moderator of the First General Assembly of the Presbyterian Church in the United States of America.”)

<sup>7</sup> [https://en.wikipedia.org/wiki/John\\_Witherspoon](https://en.wikipedia.org/wiki/John_Witherspoon)

<sup>8</sup> Ibid.

prominent evangelical Presbyterian minister in Scotland before accepting the Princeton position. As the college's primary occupation at the time was training ministers, Witherspoon became a major leader of the early Presbyterian Church in America. He also helped organize Nassau Presbyterian Church in Princeton, New Jersey.”<sup>9</sup>

But Rev. Witherspoon would also become very instrumental in expanding the mission of the College of New Jersey (Princeton) into an intellectual powerhouse servicing scholars training for professions other than the ministry, including law and public service. Dr. Witherspoon’s work at the college soon elevated that institution into a major competitor with Harvard and Yale:

Upon his arrival, Witherspoon found the school in debt, with weak instruction, and a library collection which clearly failed to meet student needs. He immediately began fund-raising—locally and back home in Scotland—added three hundred of his own books to the library, and began purchasing scientific equipment including the Rittenhouse orrery, many maps, and a terrestrial globe.

Witherspoon also instituted a number of reforms, including modeling the syllabus and university structure after that used at the University of Edinburgh and other Scottish universities. He also firmed up entrance requirements, which helped the school compete with Harvard and Yale for scholars.

Witherspoon personally taught courses in eloquence or belles lettres, chronology (history), and divinity. However, **none was more important than moral philosophy (a required course). An advocate of natural law within a Christian and republican cosmology, Witherspoon considered moral philosophy vital for ministers, lawyers, and those holding positions in government (magistrates)....**

Nonetheless, Witherspoon transformed a college designed predominantly to train clergymen into a school that would equip the leaders of a new country. Students who later played prominent roles in the new nation's development included James Madison, Aaron Burr, Philip Freneau, William Bradford, and Hugh Henry Brackenridge.[15]

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<sup>9</sup> Ibid.



From among his students came 37 judges (three of whom became justices of the U.S. Supreme Court); 10 Cabinet officers; 12 members of the Continental Congress, 28 U.S. senators, and 49 United States congressmen.<sup>10</sup>

During the Revolutionary War, both the College of New Jersey and Dr. Witherspoon were at the epicenter of the struggle for American independence.<sup>11</sup>

Long wary of the power of the British Crown, Witherspoon saw the growing centralization of government, progressive ideology of colonial authorities, and establishment of Episcopacy authority as a threat to the Liberties of the colonies. Of particular interest to Witherspoon was the crown's growing interference in the local and colonial affairs which previously had been the prerogatives and rights of the American authorities. When the crown began to give additional authority to its appointed Episcopacy over Church affairs, British authorities hit a nerve in the Presbyterian Scot, who saw such events in the same lens as his Scottish Covenanters.<sup>12</sup>

Rev. Witherspoon joined the Committee of Correspondence and Safety in 1774, elected to the Continental Congress in 1776, and signed the *American Declaration of Independence* later that same year. He would go on to serve in the Continental Congress from 1777 to 1784.<sup>13</sup>

At age 68, Witherspoon re-married to a 24-year old widow, with whom he had two additional children. Having suffered eye injuries, Witherspoon was blind during his last two years of life, and he died in 1794.

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<sup>10</sup> Ibid.

<sup>11</sup> [https://en.wikipedia.org/wiki/John\\_Witherspoon](https://en.wikipedia.org/wiki/John_Witherspoon) ("In November 1777, American forces neared, Witherspoon closed and evacuated the College of New Jersey. The main building, Nassau Hall, was badly damaged and his papers and personal notes were lost. Witherspoon was responsible for its reconstruction after the war, which caused him great personal and financial difficulty.")

<sup>12</sup> Ibid.

<sup>13</sup> [https://en.wikipedia.org/wiki/John\\_Witherspoon](https://en.wikipedia.org/wiki/John_Witherspoon) ("He served on over 10,000 committees, most notably the sitting committees, the board of peace and the committee on public correspondence or common affairs. He spoke often in concurrence; helped draft the Articles of Confederation; helped organize the executive departments; played a major role in shaping public policy; and drew up the instructions for the peace commissioners. He fought against the flood of paper money, and opposed the issuance of bonds without provision for their amortization. "No business can be done, some say, because money is scarce", he wrote. He also served twice in the New Jersey Legislature, and strongly supported the adoption of the United States Constitution during the New Jersey ratification debates.")

## II. Notes on Rev. John Witherspoon's *Lectures On Moral Philosophy*

Moral philosophy addresses the “laws of Duty or Morals.” “[I]t is an inquiry into the nature and grounds of moral obligation by *reason*, as distinct from *revelation*.”<sup>14</sup> In his *Lectures on Moral Philosophy*, Dr. Witherspoon reminds us that natural and moral philosophy are not inconsistent with the Holy Bible or Sacred Scripture.<sup>15</sup> “If the Scripture is true,” wrote Dr. Witherspoon, “the discoveries of reason cannot be contrary to it....”<sup>16</sup>; “I am of the opinion that the whole Scripture is perfectly agreeable to sound philosophy; yet certainly it was never intended to teach us every thing”<sup>17</sup>; and “[t]here is nothing certain or valuable in moral philosophy, but what is perfectly coincident with the scripture; where the glory of God is the first principle of action arising from the subject of the creature—where the good of others is the great object of duty, and our own interest the necessary consequence.”<sup>18</sup>

<b>Moral Philosophy= Ethics + Politics + Jurisprudence<sup>19</sup></b>
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<b>Moral Philosophy= “perfectly agreeable” to the Sacred Scriptures.<sup>20</sup></b>
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In sum, Dr. Witherspoon promoted the liberal arts, science, and philosophy as subcomponents of the “law of Christ.”<sup>21</sup> Dr. Witherspoon was in agreement with St. Paul who wrote: “[f]or when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: which shew the work of the law written in their hearts, their conscience also bearing witness, and their thoughts the mean while accusing or else excusing one another.”<sup>22</sup> Along the same lines, Dr. Witherspoon adopted a theory of nature that included the “light of nature” and the “law of nature,”<sup>23</sup> stating:

We must distinguish here between the light of nature and the law of nature: by the first is to be understood what we can or do discover by

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<sup>14</sup>John Witherspoon, *Lectures on Moral Philosophy* (Princeton, N.J.: Princeton University Press, 1912), p. 1.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid., pp. 1-2.d

<sup>17</sup> Ibid., p. 4.

<sup>18</sup> Ibid., p. 141.

<sup>19</sup> Ibid., p. 4.

<sup>20</sup> Ibid.

<sup>21</sup> The fundamental “Law of Christ,” to wit, is 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).

<sup>22</sup> Romans 2: 14-15.

<sup>23</sup> John Witherspoon, *Lectures on Moral Philosophy*, supra, p. 3.

our own powers, without revelation or tradition: by the second, that which, when discovered, can be made [to] appear to be agreeable to reason and nature.<sup>24</sup>

Thus, under Dr. Witherspoon's scheme of moral philosophy, science was not in contradiction or competition with the Sacred Scriptures:

The noble and eminent improvements in natural philosophy, which have been made since the end of the last century, have been far from hurting the interest of religion; on the contrary, they have greatly promoted it.<sup>25</sup>

“It is true, that infidels do commonly proceed upon pretended principles of reason. But as it is impossible to hinder them from reasoning on this subject, the best way is to meet them upon their own ground, and to show from reason itself, the fallacy of their principles. I do not know any thing that serves more for the support of religion than to see from the different and opposite systems of philosophers, that there is nothing certain in their schemes, but what is coincident with the word of God.”<sup>26</sup>

At the College of New Jersey (“Princeton”), Dr. Witherspoon promoted natural religion and natural philosophy as being fully compatible with Calvinism and the Christian faith. In fact, they—religion and philosophy—were re-statements of one another. This convergence transformed the provincial Calvinism of 17<sup>th</sup>-century Puritan New England into the cosmopolitan Calvinism of the 18<sup>th</sup>-century Age of Reason. As Dr. Witherspoon brought Scottish Common Sense Realism to colonial British North America, his ideas would have a significant impact upon the College of New Jersey and the American Revolution.

### **A. On Slavery and Emancipation**

In *Lectures on Moral Philosophy*, Dr. Witherspoon addressed the institution of slavery. Slavery and the transatlantic slave trade had been sewn into the society of colonial British North America through British colonialism and mercantilism. And when the American Revolution came in 1775, these things proved difficult to remove. A historical enigma is presented in the question of how could the American

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid., p. 2.

<sup>26</sup> Ibid.

founding fathers, who were enlightened men, ignore the inconsistency of African slavery and the slave trade with both the Christian faith and the new ideals which they had expounded in America's new *Declaration of Independence* in 1776. Lord Mansfield's opinion in *Somerset v. Stewart* (1772) 98 ER 499 had held that the institution of slavery was "odious" and could not be justified through any "reasons, moral or political." And soon thereafter, tribunals in Scotland (1778), Vermont (1777), Pennsylvania (1780), Massachusetts (1783), and Connecticut (1784) reached the very same conclusions. Gradual emancipation of African slaves became the settled policy in colonial New England following the American Revolution.

Rev. Witherspoon has been labelled as a "slave holder" by Wikipedia online; however, I think it important here to put this matter into a proper historical context: the general sentiment among America's founding fathers, including Witherspoon himself, was that the institution of African slavery would die naturally within that very generation (i.e., 1780s or 90s). Dr. Witherspoon also believed that American slavery should be phased out, or die out naturally, within a generation:

In this connection it may be noted that in 1790 President Witherspoon, while a member of the New Jersey Legislature, was chairman of a committee on the abolition of slavery in the state, and brought in a report advising no action, on the ground that the law already forbade the importation of slaves and encouraged voluntary manumission. He suggested, however, that the state might enact a law that all slaves born after its passage should be free at a certain age—e.g., 28 years, as in Pennsylvania, **although in his optimistic opinion the state of society in America and the progress of the idea of universal liberty gave little reason to believe that there would be any slaves at all in America in 28 years' time**, and precipitation therefore might do more harm than good.<sup>27</sup>

Renowned historian W.E.B. Du Bois, in his *Suppression of the African Slave Trade*, confirmed that Dr. Witherspoon's belief that slavery would die out naturally was also the general sentiment amongst many of the American revolutionary patriots in colonial New England, including Pennsylvania, New York, and New Jersey. On this very point, Du Bois writes:

Meantime there was slowly arising a significant divergence of opinion

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<sup>27</sup> Ibid., p. 74.

on the subject. Probably the whole country still regarded both slavery and the slave-trade as temporary; but the Middle States expected to see the abolition of both within a generation, while the South scarcely thought it probable to prohibit even the slave-trade in that short time. Such a difference might, in all probability, have been satisfactorily adjusted, if both parties had recognized the real gravity of the matter. As it was, both regarded it as a problem of secondary importance, to be solved after many other more pressing ones had been disposed of. The anti-slavery men had seen slavery die in their own communities, and expected it to die the same way in others, with as little active effort on their own part. The Southern planters, born and reared in a slave system, thought that some day the system might change, and possibly disappear; but active effort to this end on their part was ever farthest from their thoughts. Here, then, began that fatal policy toward slavery and the slave-trade that characterized the nation for three-quarters of a century, the policy of laissez-faire, laissez-passer.<sup>28</sup>

And it should also be pointed out that, during the American Revolutionary period, the Methodist movement, under leadership of the Wesley brothers, was decisively anti-slavery in sentiment. In the new United States, Methodist abolitionists such as Bishop Thomas Coke<sup>29</sup> and Bishop Francis Asbury<sup>30</sup> petitioned General George

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<sup>28</sup> W.E.B. DuBois, *The Suppression of the African Slave Trade*, (New York, N.Y.: The Library of America, 1986), pp. 55-56.

<sup>29</sup> The Methodist Church engaged in a valiant anti-slavery protest movement during the late 1780s. See, e.g., <http://consulthardesty.hardspace.info/wp-content/uploads/2016/09/Hardesty-timeline-Rev10.pdf>, stating:

9 April 1785 Coke and Asbury personally inform General Washington (four years prior to his election as President) of their opposition to slavery. Coke is stalked by an assassin - then violently threatened in Virginia - for equating slavery with injustice. Instead of accepting a bounty for giving Coke a hundred lashes with the whip, a local magistrate - after hearing the evangelist preach in a barn - emancipates his 15 slaves. A chain reaction ensues, wherein perhaps an additional nine souls are freed from servitude.

Coke organizes church members in North Carolina to petition their legislature that manumission become legal. Failing, Coke returns to Virginia to lead calls for legislative change. This effort too is unsuccessful. Two counties set out indictments against him.

<sup>30</sup> The Methodist Church engaged in a valiant anti-slavery protest movement during the late 1780s. See, e.g., "The Long Road: Francis Asbury and George Washington," (October 1, 2015), <https://www.francisasburytrptych.com/francis-asbury-and-george-washington/>

For example, in 1785, Methodists superintendents Bishop Francis Asbury and Thomas Coke met personally with future President George Washington at his home at Mount Vernon. They both asked Gen. Washington to sign their abolition petition to be submitted to Virginia legislature. Gen. Washington stated that he shared their abolition sentiments but felt that it would not be appropriate

Washington and many others to end the institution of slavery and the transatlantic slave trade, even relying upon the *Somerset* decision to advocate that neither the revealed law of the Christian religion or the natural law of human reason could support the “odious” institution of African slavery.

In his *Lectures on Moral Philosophy*, Rev. Witherspoon plainly and clearly did not state or argue the position that slavery was natural, that Africans were inferior to white persons, or that slavery should not be abolished. Rev. Witherspoon was careful to stress the valid point that slavery was seldom, if ever justifiable; that there was no valid “right of the sword” to justify slavery; and that the enslavement of unwilling, innocent captives was inhumane. Although Rev. Witherspoon owned slaves, he advocated for the humane treatment of all laborers (including slaves) and against the institution of slavery, stating that the state of New Jersey should follow the lead of other New England states which had enacted gradual emancipation laws. In his *Lectures on Moral Philosophy*, Dr. Witherspoon wrote:

#### Relation of Master and Servant

This relation is first generated by the difference which God hath permitted to take place between man and man.

Some are superior to others in mental powers and intellectual improvement—some by the great increase of their property through their own, or their predecessors industry, and some make it their choice, finding they cannot live otherwise better, to let out their labor to others for hire.

Let us shortly consider (1.) How far this subjection extends. (2.) The duties on each side.

As to the first it seems to be only that the master has a right to the labors and ingenuity of the servant for a limited time, or at most for life. **He can have no right either to take away life, or to make it insupportable by excessive labor. The servant therefore retains all his other natural rights.**

The practice of ancient nations, of making their prisoners of war slaves,

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for him to sign any petition, but that if the Virginia legislature brought the matter to the floor, then he would give his opinion on the subject.

was altogether unjust and barbarous; for though we could suppose that those who were the causes of an unjust war deserved to be made slaves; yet this could not be the case of all who fought on their side; besides the doing so in one instance would authorize the doing it in any other; and those who fought in defense of their country, when unjustly invaded, might be taken as well as others. **The practice was also impolitic, as slaves never are so good or faithful servants, as those who become so for a limited time by consent.**<sup>31</sup>

It may thus be correctly stated that Rev. Witherspoon did not support “chattel” slavery of the type which dominated the southern “cotton kingdom” during the 19<sup>th</sup> century. Moreover, Rev. Witherspoon’s own actions towards African Americans tend to lead us naturally to the conclusion that he held the same views as did Rev. Richard Baxter on slave-holding as a form of Christian stewardship. But on the whole, there is not a scintilla of evidence to support any assertion that Rev. Witherspoon was a “pro-slavery” advocate who vindicated the transatlantic slave trade or the institution of African slavery.<sup>32</sup> In fact, the plain weight of evidence support the finding that Dr. Witherspoon had concluded that slaveholding was unnatural and unjust<sup>33</sup>; that slave-catching or men-stealing should never be used to subdue so-called barbarous nations in order to “civilize” them<sup>34</sup>; that slavery should be rarely used and, if so, only as a punishment of crime<sup>35</sup>; and, the African slaves then dwelling in colonial British North America should be manumitted on a “gradual” basis, so as not “to make them free to their own ruin.”<sup>36</sup>

## **B. On the Natural Moral Law and the Law of Christ**

Dr. Witherspoon believed that “love,”<sup>37</sup> even the religious Christian principle of the Golden Rule,<sup>38</sup> was the necessary foundation of the civil state. “Love” embodied the natural moral law, and, according to Dr. Witherspoon, civil laws must

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<sup>31</sup> John Witherspoon, *Lectures on Moral Philosophy* (Princeton, N.J.: Princeton University Press, 1912), pp. 85-86.

<sup>32</sup> This is a very important point. There are “revisionists” historians who wish to paint the picture of all of the American founding fathers to be slave-holding white supremacists and racists.

<sup>33</sup> John Witherspoon, *Lectures on Moral Philosophy* (Princeton, N.J.: Princeton University Press, 1912), pp. 73-74.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*, p. 74.

<sup>37</sup> “If ye fulfill the royal law according to the scripture, Thou shalt love thy neighbor as thyself, ye do well....” (James 2:8).

<sup>38</sup> Matthew 7:12 (“Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for tis is the law and the prophets.”)

ratify this natural moral law. Throughout this series we have seen how the “royal law,”<sup>39</sup> the “fundamental law,” and “the law of Christ”<sup>40</sup> have been repeatedly referenced as a natural moral law upon which civil society must build the social compact. And to the illustrious list of authorities who have made this claim throughout British history we must add the name of the Reverend Doctor John Witherspoon, who believed that secular civil laws must “ratify” natural moral law. The “objects of all civil laws,” writes Dr. Witherspoon, are “[t]o ratify [natural] moral laws... [t]he transgression of such laws are called *crimes*....”<sup>41</sup> “On the great law of love to others,” says Witherspoon, “I shall only say further that it ought to have for its object their greatest and best interest, and therefore implies wishing and doing them good in soul and body.”<sup>42</sup> Adopting the “Parable of the Good Samaritan,” Rev. Witherspoon stated:

But if fairly considered, as the Scripture, both by example and precept, recommends all particular affections, so it is to its honor that it sets the love of mankind above them every one, and by so much insisting on the forgiveness of injuries and the love of enemies, it has carried benevolence to its greatest perfection. The parable of the Samaritan in answer to the question, who is my neighbor? Is one of the greatest beauties in moral painting any where to be seen.<sup>43</sup>

According to Dr. Witherspoon, the civil society was absolutely dependent upon human beings living under a social contract or obligation to deal respectfully and fairly with each other—to seek and promote the good of the whole community. And this essential obligation was the heart and soul of the Christian principle.<sup>44</sup> “There is nothing certain or valuable in moral philosophy,” writes Dr. Witherspoon, “but what is perfectly coincident with the scripture; where the glory of God is the first principle of action arising from the subject of the creature—where the good of others is the great object of duty, and our own interest the necessary consequence.”<sup>45</sup>

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<sup>39</sup> “If ye fulfill the royal law according to the scripture, Thou shalt love thy neighbor as thyself, ye do well....” (James 2:8).

<sup>40</sup> The fundamental “Law of Christ,” to wit, is 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).

<sup>41</sup> *Ibid.*, p. 116.

<sup>42</sup> *Ibid.*, p. 54.

<sup>43</sup> John Witherspoon, *Lectures on Moral Philosophy*, p. 53.

<sup>44</sup> “If ye fulfill the royal law according to the scripture, Thou shalt love thy neighbor as thyself, ye do well....” (James 2:8).

<sup>45</sup> *Ibid.*, p. 141.



## The Law of Nature in Anglo-American Constitutional Law

“Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets.”

– Jesus of Nazareth ( 1 – 33 A.D.)<sup>46</sup>

“The first branch of which rule containeth the first and fundamental law of nature; which is, to seek peace and follow it. The second, the sum of the right of nature; which is, by all means we can, to defend ourselves.... This is that law of the Gospel: whatsoever you require that others should do to you, that do ye to them.”

– Thomas Hobbes (1588 -1679)

“The state of nature has a law of nature to govern it, which obliges everyone; and reason, which is that law, teaches all mankind who will but consult it, that, being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions.”

– John Locke (1632 – 1704)

“[W]hat is Justice in England... is raised upon... principal Foundations.... Upon the Law of Nature, though we seldom make Use of the Terms, The Law of Nature. But we say, that such a Thing is reasonable, or unreasonable....”

– Thomas Wood, *Institutes of the Laws of England* (1720)

“This law of nature, being coeval with mankind, and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe in all countries, and at all times: no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force and all their authority, mediately or immediately, from this original.”

– William Blackstone, *Commentaries on the Laws of England* (1753)

“When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these

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<sup>46</sup> Ibid.

truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.-- ... In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.... And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.”

– Thomas Jefferson, *Declaration of Independence*  
(1776)

“We come now to our duty to man. This may be reduced to a short sum, by ascending to its principle. Love to others, sincere and active, is the sum of our duty.”

– John Witherspoon, *Lectures on Moral Philosophy* (circa 1770s - 90s)<sup>47</sup>

For Dr. Witherspoon, the duty to “love” was a necessary prerequisite for civil society. Here, we should state also that Dr. Witherspoon’s definition of “love” was an all-encompassing that included good-faith and fair dealing between men and men, men and women, and women and women, in every aspect of life, both sacred and secular. Indeed, as explained below, Dr. Witherspoon’s lecture on civil contracts—where he explains that the “oath”— which was required by law in all civil contracts in Great Britain during the 18<sup>th</sup> century— represented a solemn acknowledgement of God’s sovereignty over secular contracts, including commercial transactions. The “law of Christ”<sup>48</sup> was thus recast as a sort of law of equity administering “love” (i.e., good faith and fair dealing) even in the contractual relationship. According to Dr. Witherspoon, “love” was not just a religious teaching confined within the four corners of the church, but “love” was a “duty to God and the society.”<sup>49</sup> Hence, the moral obligation to “love” was for Dr. Witherspoon an integral component of civility and civil obligation to do “justice” and to show “mercy.”<sup>50</sup> “We come now to our duty to man,” wrote Dr. Witherspoon. “This may

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<sup>47</sup> Ibid., p. 52.

<sup>48</sup> The fundamental “Law of Christ,” to wit, is 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).

<sup>49</sup> Ibid., p. 139

<sup>50</sup> Ibid., p. 57 (“Our duty to others, therefore, may be all comprehended in these two particulars, justice and mercy.... Justice consists in giving or permitting others to enjoy whatever they have a perfect right to.... Mercy is

be reduced to a short sum, by ascending to its principle. Love to others, sincere and active, is the sum of our duty.”<sup>51</sup> Thus, in order to mete out true justice, the secular civil laws must ratify the natural law, which is nothing other than the obligation to “love.”<sup>52</sup>

### C. On Civil Law: Natural Moral Law, Virtue, and Morality

Dr. Witherspoon’s Scottish Presbyterianism conceptualized secular jurisprudence as sub-branch of moral philosophy.<sup>53</sup> And moral philosophy had to do with “the principles of duty and obligation” derived from our understanding of “the nature of man.”<sup>54</sup> This “knowledge of human nature,” say Dr. Witherspoon, is such a “strong presumption of the truth of the Scripture,” that “I am of opinion that the whole Scripture is perfectly agreeable to sound philosophy.”<sup>55</sup> Thus it may correctly be asserted that Dr. Witherspoon believed that all sound philosophy, politics, ethics, and jurisprudence are not inconsistent with, or contradictory to, the Christian religion. Hence, according this rule of thumb, all good and sound jurisprudence is “Christian” jurisprudence. “Jurisprudence,” writes Dr. Witherspoon, “is the method of enacting and administering civil laws in any constitution,”<sup>56</sup> and the “objects of all civil laws” are “[t]o ratify [natural] moral laws....”<sup>57</sup>

Interestingly, Dr. Witherspoon believed that folkways, mores, customs, traditions, and the general predisposition of citizens must be virtuous, moral, and, indeed, “Christian” in nature, so that the spirit, essence, and force of civil laws could be properly administered. He opined that a society in which the vast majority of a people are uncivil, avaricious, and immoral, that enforcing civil laws is next to impossible. According to Rev. Witherspoon, all human beings have a duty of “due moderation,” which can be cultivated only by each individual person upholding a personal moral standard. Due moderation requires an obligation “to keep our **thoughts, desires and affections**, in due moderation.”<sup>58</sup> “If it be asked what is due

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the other great branch of our duty to man, and is the existence of the benevolent principle in general, and of the several particular kind affections.”)

<sup>51</sup> Ibid., p. 52.

<sup>52</sup> Matthew 7:12 (“Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for tis is the law and the prophets.”); the fundamental “Law of Christ,” to wit, is 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).

<sup>53</sup> Ibid., p. 4 (“Moral philosophy is divided into two great branches, Ethics and Politics, to this some add Jurisprudence.”)

<sup>54</sup> Ibid., p. 4.

<sup>55</sup> Ibid., pp. 4-5.

<sup>56</sup> Ibid., p. 110.

<sup>57</sup> Ibid. p. 116.

<sup>58</sup> Ibid.

moderation, I answer it may be discovered three ways. (1.) When the indulgence interferes with our duty to God, (2.) To ourselves, and (3.) to our neighbor.”<sup>59</sup> Due moderation involves: “(1) Self-government. (2) Self-interest.”<sup>60</sup> Indeed, “excessive indulgence of any passion” is “an evil instead of a blessing.”<sup>61</sup> The civil magistrate ought to promote the four cardinal virtues—fortitude, prudence, justice, temperance—amongst the general population.<sup>62</sup> Unless the general population is capable of self-governance, through promoting their own self interest,

In other words, there has to be a method of instilling virtue and character among the people who are governed, and jurisprudence and law were among the needed tools for achieve this purpose. Thus, according to Dr. Witherspoon, one of the most important objectives of jurisprudence is to promote “virtue.” According to Dr. Witherspoon, both law and government must promote virtue and character. It is necessary to “**direct the manners of the people**” in the first instance, says Dr. Witherspoon.<sup>63</sup> The ancient Stoics, writes Dr. Witherspoon taught a laudable philosophy: “pain is no evil, nor pleasure any good,”<sup>64</sup> because “[o]utward possessions when bestowed upon a bad man, make him no better but worse, and finally more miserable.”<sup>65</sup>

The civil magistrate must set a personal example and promote piety and virtue among the governed. The civil magistrate should promote among the governed a “general opinion” that piety and virtue are not only to be desired, but also serve their best interests.<sup>66</sup> “The result of the whole,” wrote Dr. Witherspoon, “is that the obligation to virtue ought to take in all the following particulars: A sense of its own intrinsic excellence—of its happy consequences in the present life—a sense of duty and subjection to the Supreme Being—and a hope of future happiness, and fear of future misery from his decision.”<sup>67</sup> And, lastly, the civil magistrate should punish public lewdness and disorder. Here we can see traces of Mosaic theology in Witherspoon’s thinking about law and jurisprudence:

**Table The Mosaic Life-Death Grid**

Virtue	Life
Vice	Death

<sup>59</sup> Ibid., p. 58.

<sup>60</sup> Ibid., pp. 58-67.

<sup>61</sup> Ibid., p. 59.

<sup>62</sup> Ibid., p. 60.

<sup>63</sup> Ibid., p. 110.

<sup>64</sup> Ibid., p. 61.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid., p. 111.

<sup>67</sup> Ibid., p. 35.

Dr. Witherspoon preached civic virtue as the life-blood of the body politic. Without virtue there could be no viable republic, democracy or body politic. For this reason, Witherspoon’s moral philosophy was largely focused upon the inquiry of the foundations of morality, piety and virtue.<sup>68</sup> In the “state of natural religion,” moral philosophers must “distinguish it from the opposite vice”<sup>69</sup> and inquire into:

1. The nature of **virtue**-- We ask, “What is the opposite, vice?”<sup>70</sup>
2. The foundation of **virtue**-- We ask, “Why is it so?”<sup>71</sup>
3. The obligation of **virtue**<sup>72</sup>-- We ask, “From what principle or law must we be bound?”

“The different foundations of virtue are many of them,” wrote Dr. Witherspoon, “not opposite or repugnant to each other, but parts of one great plan—as benevolence and self-love &. They all conspire to found real virtue: **the authority of God**—the dictates of conscience—public happiness and private interest all coincide.”<sup>73</sup>

The “spirit of the civil laws,” writes Witherspoon, “is such as to have a tendency to prevent offences [vices] and **make them good**, [virtue] as much as to punish them when they do evil.”<sup>74</sup> “This is necessary in some measure; for when **the general disposition of a people** is against the laws, they cannot long subsist even by a strict and rigorous execution on the part of the rulers.”<sup>75</sup> For Rev. Witherspoon the State must promote *virtue* and *piety*, and discourage and punish *vice* and *impiety*, in order for the *spirit* of the civil laws to be properly administered and obeyed. Otherwise, a people who are without virtue and piety would simply ignore, evade, and refuse to obey the civil laws. At the same time, the lowering of the moral or ethical standards of civil laws—in order to adjust to the lowered moral standards of the society—would prove disastrous and lead to the decadence and demise of the civil order. Unlike Bishop William Warburton’s *The Alliance of Church and State*, Rev. Witherspoon does not go so far as to advocate for the establishment of an official church to work in partnership with the civil government.

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<sup>68</sup> Ibid., p. 23.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid., p. 141.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

## **D. On Civil Law: Natural Moral Law and the Enforcement of Contracts**

Since the early Middle Ages, the Western Church had exercised moral authority and an sacred obligation to comment upon, and to preach against, injustice in economic relations. In his *Lectures on Moral Philosophy*, Dr. Witherspoon similarly noted that commercial transactions and contracts, via the “oath,” are subject to divine providence and high standards of honesty and integrity. For this reason, Dr. Witherspoon concluded that the law of contracts is one of the most seminal and foundational of all civil laws. Human interaction, commercial transactions, terms of barter, trade, and exchange, are the most essential and fundamental of human activities. These interactions are uniquely human—no other species of animal have been known to carry on the economy of exchange experienced by human beings. Without such relational interactions, human civilization as we understand it simply could not exist. It is for this reason, that Dr. Witherspoon concluded: “[c]ontracts are absolutely necessary in social life. Every transaction almost may be considered as a contract, either more or less explicitly.”<sup>76</sup>

Moreover, these contracts needed to be organized around ethical principles, and enforced by civil law. In Dr. Witherspoon’s day, the “**Oath**” was affixed to all lawful contracts, so as to ensure the duty of Good Faith and fair dealing. **The Oath implies “a belief in God, and his Providence, and indeed is an act of worship.”**<sup>77</sup> Dr. Witherspoon wrote that Oaths “are appendages to all lawful contracts...it is necessary not only that what we say be true, but that the occasion be of sufficient moment to require or justify a solemn appeal to God.”<sup>78</sup> “The most common and universal application of it has been to add greater solemnity to the testimony of witnesses...”<sup>79</sup> The oath “has been adopted by all nations in their administration of justice, in order to discover truth.”<sup>80</sup>

Indeed, the “oath” of public office in the United States, as well as the “oath” of witness testimony in the civil courts, have signified the sovereignty and providence of God over secular human affairs. Similarly, in his *Farewell Address*

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<sup>76</sup> Ibid., p. 121.

<sup>77</sup> Ibid., p. 130.

<sup>78</sup> Ibid., p. 132.

<sup>79</sup> Ibid., p. 131.

<sup>80</sup> Ibid., pp. 130 – 131.

in 1796, President George Washington said of the oath: “Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts of justice?” It is perhaps for this very reason that the Reverend Crapsey has written:

The only survival of the bond of union which once united these two institutions is the formal acknowledgment of the sovereignty of God which is expressed in the oath of office that the state requires of its officers as they enter upon their duties. This oath of office is a solemn religious act, giving divine sanction to the functions of the legal officer. When the mayor takes this oath he is bound, not simply to the service of the people, but also and more solemnly to the service of God.<sup>81</sup>

And so, the judge, the members of the bar, and the private citizens of the body politic are solemnly bound, under “oath,” to deal with each other with honesty, good faith, and fair dealing. This is true, whether or not they are bound by oaths containing the words “*so help me God,*” because no civil government can properly administer civil laws or mete out true justice, without honesty, virtue, piety, and respect for truth.

#### **E. On Civil Law: Civil Liberty and the Right of Conscience**

The Scotting Presbyterians lived underneath the dominance of the Church of England and the Anglican religion, and so naturally Dr. Witherspoon and his Presbyterian brethren were strong advocates of religious freedom. What the Presbyterians believed was that the secular civil government could operate underneath the sovereignty God, but while simultaneously guaranteeing religious freedom. In his *Lectures on Moral Philosophy*, Dr. Witherspoon wrote that the civil magistrate must guard against religious bigotry and oppression, and must protect the “rights of conscience.”<sup>82</sup> Men must be allowed to believe whatsoever they wish (i.e., religious liberty; conscience).

#### **F. On Civil Law: God and Natural Religion**

Like St. Augustine of Hippo, Dr. Witherspoon could not conceptualize a God who did not absolutely control human affairs. And like Bishop Joseph Butler, Dr. Witherspoon believed that God was constantly exercising his sovereignty over the destiny and fortunes of mankind through a system of “rewards and punishments,”

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<sup>81</sup> Algernon Sidney Crapsey, *Religion and Politics* (New York, N.Y.: Thomas Wittaker Pub., 1905), p. 256.

<sup>82</sup> *Ibid.*

and that through deduction we might reasonably conclude an eternal reward and punishment await us in the afterlife.<sup>83</sup> Dr. Witherspoon reached the conclusion that “a sense of duty, of self-approbation and remorse” “plainly show us to be under a law, and that a law to have a sanction.”<sup>84</sup> Society is under a “natural sense of dependence”<sup>85</sup> upon a higher natural moral law. “Our duty to God. To this place I have reserved what was to be said upon the proof of the being of God,” writes Dr. Witherspoon, “the great foundation of all natural religion; without which the moral sense would be weak and insufficient.”<sup>86</sup>

Stated differently, human beings ARE IN A STATE OF RELIGION or a state of moral choice. That is to say, the human condition is such that human beings have the power of reason, of memory, of deliberation and conscience, of choice, and of self-government. Humans have the power to determine right from wrong, good from evil, and to make choices—this is a “State of Religion.” This state of religion is called “natural religion,” and Dr. Witherspoon believed that civil government was built up upon the foundation of natural religion.

Natural religion teaches us that there is one God, and that confirmation is supported by the Sacred Scripture, stating “[f]or the invisible things of him from the creation of the world are clearly seen, being understood by the things that are made, even his eternal power and Godhead; so that they are without excuse.”<sup>87</sup> Similarly, Dr. Witherspoon believed that the existence of God may be demonstrated through observations and deduction through *a posteriori* reasoning: this “begins with contemplating the universe in all its parts; observing that it contains many irresistible proofs that it could not be eternal, could not be without a cause; that this cause must be intelligent; and from the astonishing greatness, the wonderful adjustment and complication of things, concludes that we can set no bounds to the perfection of the Maker, because we can never exhaust the power, intelligence and benignity that we see in his works. In this way of arguing **we deduce the moral perfections** of the deity from the faint resemblances of them that we see in ourselves.”<sup>88</sup>

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<sup>83</sup> (“We may consider that by the light of nature as well as by revelation, the **future reward of virtue** is considered as a state of perfect virtue, and the happiness is represented as arising from this circumstance Here there is nothing at all of a mercenary principle, but only an expectation that true goodness, which is here in a state of imperfection and liable to much opposition, shall then be improved to the highest degree, and put beyond any possibility of change.”) p. 33.

<sup>84</sup> Ibid., p. 32.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid., p. 37.

<sup>87</sup> Romans 1:20.

<sup>88</sup> Ibid., p. 38.



Next, Dr. Witherspoon believed that we may deduce the existence and the truths of God through *a priori* reasoning. Scientifically, we start with “creation” and conclude that man has created nothing but is subject through necessity to the general laws of creation. “That we are not necessarily existent,” writes Dr. Witherspoon, “therefore must have a cause; that something must have existed from all eternity or nothing ever could have existed; that this being must exist by an internal necessity of nature; that what exists necessarily must exist alike every where; must be perfect; act every where; be independent, omnipotent, omniscient, infinitely good, just, true—Because as all these are evidently perfections or excellencies, that which exists by a necessity of nature must be possessed of every perfection.”<sup>89</sup>

The civil magistrate and government must therefore acknowledge and honor God. Our Duty to God (in both natural religion and revealed religion) is love, fear, and trust.<sup>90</sup> “The love of God,” writes Dr. Witherspoon, “is the first and great duty both of natural and revealed religion.” “The love of God” “may be resolved into the four following acts, (1) esteem, (2) gratitude, (3) Benevolence, (4) desire.”<sup>91</sup> By “fear” of God, Rev. Witherspoon means “Dutiful fear is what may be called veneration”<sup>92</sup> and expressing or displaying an honor toward God, as opposed to merely a “fear of evil or punishment from him.”<sup>93</sup> By “trust” of God, Rev. Witherspoon means “a continual dependence on God for every thing we need... and absolute resignation to his providence.”<sup>94</sup>

Moreover, Dr. Witherspoon believed that private and public prayer was also absolutely necessary—not to implore God to change his mind or eternal will, but rather to keep us in a proper and healthy state of mind:

It may be proper however, to take notice in general of the worship due to God, that whether we consider the nature of things, or the universal practice of mankind, in all ages, worship, and that not only private, but public and social worship is a duty of natural religion.

Some of the enemies of revealed religion, have spoken with great virulence against this, as unreasonable, and even dishonorable to the Divine Being.... But I ought to be observed, that he does not require

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<sup>89</sup> Ibid., p. 37.

<sup>90</sup> Ibid., p. 47.

<sup>91</sup> Ibid.

<sup>92</sup> Ibid., p. 48.

<sup>93</sup> Ibid.

<sup>94</sup> Ibid., p. 49.

these acts and exercises as any gratification to himself, but as in themselves just and necessary and suited to the revelation we stand in to him, and useful for forming **our temper** and **universal practice**....

Thus a parent requires respect and submission from his children, a master from his servants; and though the injury is merely personal, he thinks himself entitled to punish every expression of contempt or disregard....

On the whole then we see that if the worship of God be what is due from us to him in consequence of the relation we stand in to him, it is proper and necessary that he should require it. To honor God is to honor supreme excellence; for him not to expect and demand it, would be to deny himself....

Thus in moral matters, prayer has as real an influence in procuring the blessing as ploughing and sowing has in procuring the crop; and it is as consistent with the established order of nature and the certainty of events in the one case, as in the other....<sup>95</sup>

Dr. Witherspoon does not comment upon whether a civil polity must acknowledge “Jesus Christ” as the mediator between God and man or as Lord and Saviour. It is clear, however, that Dr. Witherspoon adopts a scheme similar to that of the Anglican bishop William Warburton’s.<sup>96</sup> The God who must be prayed to and honored is not mentioned. He does not implicitly or explicitly excluded Roman Catholics, Jews, or Muslims from participation in the civil society or government. But he does explicitly state that the civil magistrate must protect the “right of conscience” and religious freedom. Privately, Dr. Witherspoon espouses the truth and validity of the Christian faith, but publicly he does not advocate enforcing his own view upon others. What matters most to Dr. Witherspoon is that civil liberty accord to every human being civil liberty and a right of conscience. At the same time, he promotes piety and virtue as the necessary ingredients for a vibrant, functional civil polity.

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<sup>95</sup> Ibid., pp. 49-50.

<sup>96</sup> This natural religion is usually described in the same latitudinal-Anglican manner in which Bishop William Warburton described it in his *Alliance of Church and State* (1736), which set forth the “Three Articles of Natural Religion,” to wit:

1. First, the being of God;
2. Second, the Providence of God over human affairs; and,
3. Third, the “natural essential difference between moral good and evil.”

### G. On Civil Law: Natural Law and the *Declaration of Independence* (1776)

Dr. Witherspoon was a natural law constitutional and political theorist. He certainly incorporated natural law and natural religion discourse into orthodox Calvinism and Scottish Common Sense Realism. Like Bishop Joseph Butler, Witherspoon believed in a law of nature,<sup>97</sup> and that it had its own sanction.<sup>98</sup> Dr. Witherspoon believed that the “law of nature” is self-evident and “is plain from the reasons that show the obligation which on man lies under to another. If there are natural rights of men, there are natural rights of nations. Bodies politic in this view, do not differ in the least from individuals. Therefore as before, reason, conscience, and common utility, show that there is a law of nature and nations.”<sup>99</sup>

Here we should acknowledge that Dr. Witherspoon was an original signer of the American *Declaration of Independence* (1776), which sets forth a doctrine of natural law that acknowledges the inalienable rights of men and nations to self-defense and liberty in order preserve their natural rights. It has been suggested that it was Witherspoon who influenced the inclusion of the words “the protection of divine Providence” into that Declaration.<sup>100</sup>

“When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which **the Laws of Nature and of Nature's God** entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are **Life, Liberty and the pursuit of Happiness**-- ... In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.... And for the support of this Declaration, **with a firm reliance on the protection of divine Providence**, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.”

<sup>97</sup> Ibid., p. 99.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid., pp. 99 – 100.

<sup>100</sup> <https://oll.libertyfund.org/page/1776-witherspoon-dominion-of-providence-over-the-passions-of-men-sermon>

Witherspoon’s *The Dominion of Providence Over the Passions of Men* caused a great stir when it was first preached in Princeton and published in Philadelphia in 1776, about a month before he was elected to the Continental Congress on June 22. He reminds his auditors that the sermon is his first address on political matters from the pulpit: ministers of the Gospel have more important business to attend to than secular crises, but, of course, liberty is more than a merely secular matter.

– Thomas Jefferson, *Declaration of Independence*  
(1776)

Dr. Witherspoon made no difference between the natural rights of individual human beings and the natural rights of nation-states. Both individuals and nations had inalienable rights and the right to life, liberty, property, happiness, self-defense, etc. “The violation of the natural rights of mankind being a transgression of the law of nature,” wrote Dr. Witherspoon, “and between nations as in a state of natural liberty, there being no method of redress but force, the law of nature and nations has as its chief or only object the manner of making war and peace.”<sup>101</sup> Nations have certain natural rights, as though existing in a “state of nature” to seek peace, to form alliances, but also to defend itself in the event of aggressive actions of an adversary. “In war,” wrote Dr. Witherspoon, “it is proper to consider distinctly (1) The causes for which a just war may be carried on. (2) The time of commencing. (3) the duration (4) the means by which it may be carried on.”<sup>102</sup>

When Dr. Witherspoon arrived in the American colonies in 1768, he reviewed the political situation between Great Britain and the colonies and concluded that the American colonists had definite natural and God-given rights that Britain had violated. In his famous sermon titled “The Dominion of Providence over the Passions of Men”<sup>103</sup> (delivered at Princeton, N.J. on May 17, 1776), Dr. Witherspoon defined the American colonists’ struggle against British colonialism as a divine and Calvinistic pilgrimage that was wholly favored and governed by divine providence. Dr. Witherspoon’s sermon is perhaps the best Calvinistic interpretation of the American Revolution in print. He begins the sermon with a definitive explanation of divine providence:

*PSAL. lxxvi. 10.*

Surely the Wrath of Man shall praise thee; the remainder of Wrath

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<sup>101</sup> Ibid., pp. 100-101.

<sup>102</sup> Ibid., p. 101.

<sup>103</sup> “The dominion of Providence over the passions of men. A sermon preached at Princeton, on the 17th of May, 1776. Being the general fast appointed by the Congress through the United Colonies. : To which is added, an address to the natives of Scotland residing in America.”

<https://quod.lib.umich.edu/e/evans/N12065.0001.001/1:3?rgn=div1;view=fulltext>

shalt thou restrain.

THERE is not a greater evidence either of the reality or the power of religion, than a firm belief of God's universal presence, and a constant attention to the influence and operation of his providence. It is by this means that the Christian may be said, in the emphatical scripture language, *to walk with God, and to endure as seeing him who is invisible....*

THE doctrine of divine providence is ve|ry full and complete in the sacred oracles. It extends not only to things which we may think of great moment, and there|fore worthy of notice, but to things the most indifferent and inconsiderable: *Are not two sparrows sold for a farthings, says our Lord, and one of them falleth not on the ground without your heavenly Father; nay, the very hairs of your head are all numbered.* It extends not only to things beneficial and salutary, or to the direction and assistance of those who are the servants of the living God; but to things seemingly most hurtful and destructive, and to persons the most refractory and disobedient. He over-rules all his creatures, and all their actions. Thus we are told, that *fire, hail, snow, vapour, and stormy wind, fulfil his word,* in the course of nature; and even so the most impetuous and disorderly passions of men, that are under no restraint from themselves, are yet perfectly subject to the dominion of Jehovah. They carry his commission, they obey his orders, they are limited and restrained by his authority, and they conspire with every thing else in promoting his glory....

Dr. Witherspoon brings spiritual comfort to the American colonists, reminding them that the “purpose of God” cannot be defeated by the unruly British Empire, though they might seem invincible in their flagrant breach of God’s divine laws.<sup>104</sup> Even the evil deeds of man “shall praise” the Lord in the end. “The truth is plainly asserted, and nobly expressed by the Psalmist in the text, *Surely the wrath of man shall praise thee; the remainder of wrath shall thou restrain....*

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<sup>104</sup> Ibid (“IN discoursing of this subject, it is my intention, through the assistance of divine grace,

“I. To point out to you in some particulars, how the wrath of man praises God.

“II. To apply these principles to our present situation, by inferences of truth for your instruction and comfort, and by suitable exhortations to duty in the important crisis.”)

The fury and injustice of oppressors, shall bring in a tribute of praise to thee; the influence of thy righteous providence shall be clearly discerned; the countenance and support thou wilt give to thine own people shall be gloriously illustrated; thou shalt set the bounds which the boldest cannot pass.”<sup>105</sup> Dr. Witherspoon assures the American colonists that the will and providence of God cannot be defeated and will ultimately triumph.

THE truth, then, asserted in this text, which I propose to illustrate and improve, is,—*That all the disorderly passions of men, whether exposing the innocent to private injury, or whether they are the arrows of divine judgment in public calamity, shall, in the end, be to the praise of God: Or, to apply it more particularly to the present state of the American Colonies, and the plague of war,—The ambition of mistaken princes, the cunning and cruelty of oppressive and corrupt ministers, and even the inhumanity of brutal soldiers, however dreadful, shall finally promote the glory of God, and in the meantime, while the storm continues, his mercy and kindness shall appear in prescribing bounds to their rage and fury.*<sup>106</sup>

And without question, Dr. Witherspoon cast the American Revolution in the light of a continuing tradition of protest that began with the Protestant Reformation—from the time of Martin Luther (1483 – 1546) to the days of Queen Elizabeth I (1533- 1603) to the days of Oliver Cromwell (1599 – 1658) and the English Civil War (1642 – 1651). And in recounting this history, it is clear that Dr. Witherspoon is paying homage not only to the Protestant Reformation in general but also to the Puritans in England and of colonial New England, to wit:

IT is proper here to observe that at the time of the reformation, when religion began to revive, nothing contributed more to facilitate its reception, and increase its progress than the violence of its persecutors. Their cruelty and the patience of the sufferers, naturally disposed men to examine and weigh the cause to which they adhered with so much constancy and resolution. At the same time also, when they were persecuted in one city they fled to another, and carried the discoveries of Popish fraud to every part of the world. It was by some of those who were persecuted in Germany, that the light of the reformation was brought so early into Britain.

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<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

THE power of divine providence appears with the most distinguished lustre, when small and inconsiderable circumstances, and sometimes, the weather and seasons have defeated the most formidable armaments, and frustrated the best concerted expeditions. Near two hundred years ago, the monarchy of Spain was in the height of its power and glory, and determined to crush the interest of the reformation. They sent out a powerful armament against Britain, giving it ostentatiously, and in my opinion profanely, the name of the Invincible Armada. But it pleased God so entirely to discomfit it by tempests, that a small part of it returned home, though no British force had been opposed to it at all.

WE have a remarkable instance of the influence of small circumstances in providence in the English history. The two most remarkable persons in the civil wars, had earnestly desired to withdraw themselves from the contentions of the times, Mr. Hampden and Oliver Cromwell. They had actually taken their passage in a ship for New-England, when by an arbitrary order of council they were compelled to remain at home. The consequence of this was, that one of them was the soul of the republican opposition to monarchical usurpation during the civil wars, and the other in the course of that contest, was the great instrument in bringing the tyrant to the block.

THE only other historical remark I am to make is, that the violent persecution which many eminent Christians met with in England from their brethren, who called themselves Protestants, drove them in great numbers to a distant part of the world, where the light of the gospel and true religion were unknown. Some of the American settlements, particularly those in New-England, were chiefly made by them; and as they carried the knowledge of Christ to the dark places of the earth, so they continue themselves in as great a degree of purity of faith, and strictness of practice, or rather a greater than is to be found in any protestant church now in the world. Does not the wrath of man in this instance praise God? Was not the accuser of the brethren, who stirs up their enemies, thus taken in his own craftiness, and his kingdom shaken by the very means which he employed to establish it §.<sup>107</sup>

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<sup>107</sup> Ibid.

This was Dr. Witherspoon's conceptualization and understanding of the spiritual meaning of the American Revolution—it was a war brought on by the sins or the fallen state of mankind but nevertheless operated under the auspices by Divine Providence in order to fulfill God's purpose and will.<sup>108</sup> According to Dr. Witherspoon, the American Revolution deeply rooted in an ongoing and historical struggle, deeply rooted in the Protestant Reformation, to establish "true religion."<sup>109</sup> His admonition to his fellow American colonists was that Christ was central to their struggle:

SUFFER me to beseech you, or rather to give you warning not to rest satisfied with a form of godliness, denying the power thereof. There can be no true religion, till there be a discovery of your lost state by nature and practice, and an **unfeigned acceptance of Christ Jesus**, as he is offered in the gospel. Unhappy they who either despise his mercy, or are ashamed of his cross! **Believe it, there is no salvation in any other. There is no other name under heaven given amongst men by which we must be saved.** Unless you are united to him by a lively faith, not the resentment of a haughty monarch, but the sword of divine justice hangs over you, and the fulness of divine vengeance shall speedily overtake you. I do not speak this only to the heaven daring profligate, or grovelling sensualist, but to **every insensible secure sinner; to all those however decent and orderly in their civil deportment, who live to themselves and have their part and portion in this life;** in fine to all who are yet in a state of nature, for *except a man be born again, he cannot see the kingdom of God.* The fear of man may make you hide your prophanity; prudence and experience may make you abhor intemperance and riot; as you advance in life, one vice may supplant another and hold its place; but **nothing less than the sovereign grace of God can produce a saving change of heart and temper, or fit you for his immediate presence.**<sup>110</sup>

Dr. Witherspoon was careful to not neglect his duty as a pastor to remind all American colonists—Christian, agnostic, atheist, deist, etc.—about the need for Christ's redemption throughout their struggle against the British. He felt that their goals and aims during the struggle must come from a higher ideal and a divine purpose. He implored the non-Christians during the struggle to find Christ; he implored the Christians during the struggle to remain steadfast

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<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.



in their commitment to holiness. Dr. Witherspoon felt is “criminal” for the American colonists to seek God’s favor during the war, only to turn their backs on God after successfully defeating their enemies. “From what has been said upon this subject,” said Dr. Witherspoon, “you may see what ground there is to give praise to God for his favours already bestowed on us, respecting the public cause. **It would be a criminal inattention not to observe the singular interposition of providence hitherto, in behalf of the American colonies.**”<sup>111</sup> Dr. Witherspoon seemingly invoked the spirit of Oliver Cromwell through imploring the Americans to not take credit for their military victories but to ascribe them to the power of God—not to an “*arm of flesh*.”<sup>112</sup> Dr. Witherspoon stated:

WHILE we give praise to God the supreme disposer of all events, for his interposition in our behalf, let us guard against the dangerous error of trusting in, or boasting of an *arm of flesh*. I could earnestly wish, that while our arms are crowned with success, we might content ourselves with a modest ascription of it to the power of the highest. It has given me great uneasiness to read some ostentatious, vaunting expressions in our news papers, though happily I think, much restrained of late. Let us not return to them again. If I am not mistaken, not only the holy scriptures in general, and the truths of the glorious gospel in particular, but the whole course of providence seems intended to abase the pride of man, and lay the vain-glorious in the dust.<sup>113</sup>

Dr. Witherspoon preached “humility” to the American colonists during the war period, reminding them that bragging, boasting, and ungodliness were an affront to divine providence, stating in the same sermon that:

PARDON me my brethren for insisting so much upon this which may seem but an immaterial circumstance. It is in my opinion of very great moment. I look upon ostentation and confidence to be a sort of outrage upon providence, and when it becomes general, and infuses itself into the spirit of a people, it is a forerunner of destruction. How does Goliath the champion, armed in a most formidable manner express his disdain of David the stripling with his sling and his stone. *And when the Philistine looked about and saw David, he disdained him: for he was but a youth, and ruddy,*

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<sup>111</sup> Ibid.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

*and of a fair countenance. And the Philistine said unto David, Am I a dog, that thou comest to me with slaves? And the Philistine cursed David by his gods, and the Philistine said to David come to me and I will give thy flesh unto the fowls of the air, and to the beasts of the field. But how just and modest the reply? Then said David to the Philistine, thou comest to me with a sword and with a spear, and with a shield, but I come unto thee in the name of the Lord of hosts, the God of the armies of Israel, whom thou hast defied....*

From what has been said you may learn what encouragement you have to put your trust in God, and hope for his assistance in the present important conflict. He is the Lord of hosts, great in might, and strong in battle. Whoever hath his countenance and approbation, shall have the best at last. I do not mean to speak prophetically, but agreeably to the analogy of faith, and the principles of God's moral government. Some have observed that true religion, and in her train dominion, riches, literature, and arts, have taken their course in a slow and gradual manner, from east to west since the earth was settled after the flood, and from thence forbode the future glory of America. I leave this as a matter rather of conjecture than certainty, but observe, that if your cause is just,—if your principles are pure,—and if your conduct is prudent, you need not fear the multitude of opposing hosts.<sup>114\*</sup>

And finally, within the context of the American *Declaration of Independence* (1776), Dr. Witherspoon's sermon can be understood as a stern admonition to keep the goals of the American Revolution noble, holy and pure. Indeed, he forewarned the colonists against seeking purely mundane, worldly, and economic objectives.

From what has been said you may learn what encouragement you have to put your trust in God, and hope for his assistance in the present important conflict. He is the Lord of hosts, great in might, and strong in battle. Whoever hath his countenance and approbation, shall have the best at last. I do not mean to speak prophetically, but agreeably to the analogy of faith, and **the principles of God's moral government**. Some have observed that true religion, and in her train dominion, riches, literature, and arts, have taken their course in a slow and gradual manner, from east to west since the earth was settled after the flood, and from thence

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<sup>114</sup> Ibid.

forbode the future glory of America. I leave this as a matter rather of conjecture than certainty, but observe, that **if your cause is just,—if your principles are pure,—and if your conduct is prudent, you need not fear the multitude of opposing hosts....**

UPON the whole, I beseech you to make a wise improvement of the present threatening aspect of public affairs, and to remember that your duty to God, to your country, to your families, and to yourselves, is the same. **True religion is nothing else but an inward temper and outward conduct suited to your state and circumstances in providence at any time.** And as peace with God and conformity to him, adds to the sweetness of created comforts while we possess them, so in times of difficulty and trial, it is in the man of piety and inward principle that we may expect to find the uncorrupted patriot, the useful citizen, and the invincible soldier.—God grant that in America true religion and civil liberty may be inseparable, and that the unjust attempts to destroy the one, may in the issue tend to the support and establishment of both.<sup>115</sup>

Nearly two months after delivering his sermon on “The Dominion of Providence over the Passions of Men” (May 17, 1776), Dr. Witherspoon was the only active clergyman to sign the Declaration of Independence on July 4, 1776. It has been suggested that it was Dr. Witherspoon who influenced the inclusion of the words “the protection of divine Providence” into that Declaration.<sup>116</sup> We may reasonably draw this conclusion from historical evidence and commentary from Witherspoon’s contemporaries, that the American founding fathers adopted Dr .Witherspoon’s Calvinistic definition of divine providence<sup>117</sup>:

This Judeo-Christian view of a providential God was widely recognized by and impacted early Americans of the revolutionary and founding eras, including many founders and congressmembers. For example, in his 1776 political sermon *The Dominion of Providence over the Passions of Men*, Declaration signer and **Presbyterian minister John**

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<sup>115</sup> Ibid.

<sup>116</sup> <https://oll.libertyfund.org/page/1776-witherspoon-dominion-of-providence-over-the-passions-of-men-sermon>

Witherspoon’s *The Dominion of Providence Over the Passions of Men* caused a great stir when it was first preached in Princeton and published in Philadelphia in 1776, about a month before he was elected to the Continental Congress on June 22. He reminds his auditors that the sermon is his first address on political matters from the pulpit: ministers of the Gospel have more important business to attend to than secular crises, but, of course, liberty is more than a merely secular matter.

<sup>117</sup> See Appendix A.

**Witherspoon spoke of Providence as many colonists generally understood it, as a wise and directing presence in their lives.** He preached, “He [God] overrules all his creatures, and all their actions. ...It is the duty of every good man to place the most unlimited confidence in divine wisdom, and to believe that those measures of providence that are most unintelligible to him, are yet planned with the same skill, and directed to the same great purposes as others....

It was with this belief that the First and Second Continental Congresses sought God’s guidance and favor and encouraged the people to do the same during the Revolutionary War.<sup>118</sup>

Is the American *Declaration of Independence* as Christian document? Thus taken together as a whole, taking into account Cicero’s widely known definition of natural law; St. Paul’s rendition of the law of nature in Romans 1:20 (“For the invisible things of him from the creation of the world are clearly seen, being understood by the things that are made, even his eternal power and Godhead; so that they are without excuse”) and Romans 2:14-15 (“For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: which shew the work of the law written in their hearts...”); St. Augustine of Hippo’s theology of nature; St Thomas Aquinas’ theory of law; Dr. Richard Hooker’s Anglican-Catholic theology of nature and law; the 18<sup>th</sup>-century latitudinarian Anglicans Dr. Matthew Tindal’s and Bishop Joseph Butler’s theology on natural religion; and the Scottish Common Sense Realism which emerged at the Presbyterian college at Princeton, New Jersey (and was taught to dozens of American revolutionary leaders by Dr. John Witherspoon), the accumulated weight of historical evidence demonstrate that the words “law of nature and of Nature’s God” and “the protection of Divine Providence” are the sentiments and ideas evoking the “true religion,” or the “natural religion,” which Christian theologians widely understood to be restatements of the law of Christ.

#### **H. On Civil Law: Witherspoon’s Legacy, James Madison, and the U.S. Constitution (1787)**

Having come to this last section of this paper, I think that it will be helpful to construe Dr. Witherspoon’s political theories in light of American founding father James Madison’s political and constitutional essays in *The Federalist Papers*. We

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<sup>118</sup> See Appendix A, “Divine Providence in the Declaration of Independence” (September 26, 2019) <https://thefounding.net/americas-founding-with-a-firm-reliance-on-the-protection-of-divine-providence/>

should note here that James Madison<sup>119</sup>, who is considered to be the Father of the United States Constitution, is perhaps Dr. Witherspoon's most famous student, and in *The Federal Papers*, we find clear parallels to Witherspoon's moral philosophy. And it is important to note, too, that John Witherspoon was himself an original signer of the American Declaration of Independence (1776) and a New Jersey delegate to the constitutional convention and member of the Continental Congress. And so it is safe to say that Witherspoon had direct influence upon most of the other American founding fathers, including James Madison, who became the father of the United States Constitution. As Madison was Witherspoon's student at the College of New Jersey, some important and interesting parallels between their political ideals are most appropriate and worthy of consideration here.

First, both Witherspoon and Madison made "human nature" the foundation of civil polity and law. Dr. Witherspoon states that principles of law, obligation and duty are "drawn from the nature of man."<sup>120</sup> Drawing perhaps from his Calvinist background, Dr. Witherspoon states that man is "morally depraved," writing:

The knowledge of human nature... is perplexed and difficult of itself.... Perhaps this circumstance itself, is a strong presumption of the truth of the Scripture doctrine of **the depravity and corruption of our nature**.... Those who deny this depravity, will be apt to plead for every thing, or for many things as dictates of nature, which are in reality propensities of nature in its present state....<sup>121</sup>

Similarly, in Paper No. 51 of *The Federalist Paper*, James Madison writes

Government reflects and [is] built upon **human nature**—not saints or angels. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on **human nature**, that such devices should be necessary to control the abuses of

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<sup>119</sup> Educated by Presbyterian clergymen, Madison, as a student at Princeton (1769-1772), seems to have developed a "transient inclination" to enter the ministry. In a 1773 letter to a college friend he made the zealous proposal that the rising stars of his generation renounce their secular prospects and "publicly . . . declare their unsatisfactoriness by becoming fervent advocates in the cause of Christ." Two months later Madison renounced his spiritual prospects and began the study of law. The next year he entered the political arena, serving as a member of the Orange County Committee of Safety. Public service seems to have crowded out of his consciousness the previous imprints of faith. For the rest of his life there is no mention in his writings of Jesus Christ nor of any of the issues that might concern a practicing Christian. Late in retirement there are a few enigmatic references to religion, but nothing else.  
<https://www.loc.gov/loc/madison/hutson-paper.html>

<sup>120</sup> Ibid.

<sup>121</sup> Ibid., p. 5.

government. **But what is government itself, but the greatest of all reflections on human nature?** If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.

What, then, must the new United States government do to curtail vice, promote virtue, and govern properly? In *Lectures on Moral Philosophy*, Dr. Witherspoon analyzed various forms of civil polity—Monarchy, Aristocracy, and Democracy—and compared their several “virtues” with the several “vices.” In this framing or crafting civil polity, Dr. Witherspoon suggested that we must included as many “virtues” and eliminate as many “vices” as possible.

**Table Dr. Witherspoon’s Analysis of Civil Polity (Mosaic Life-Death Grid)**

<p><b>Virtue</b></p> <p>“<b>Monarchy</b> has plainly the advantage in unity, secrecy and expedition....</p> <p><b>Aristocracy</b> has the advantage of all the others for wisdom in deliberations, that is to say, a number of persons of the first rank must be supposed by their consultations to be able to discover the public interest....</p> <p><b>Democracy</b> has the advantage of both the others for fidelity; the multitude collectively always are true in intention to the interest of the public, because it is their own. They are the public.”<sup>122</sup></p>	<p><b>Life</b></p>
<p><b>Vice</b></p> <p>“<b>Democracy</b>... has very little advantage for wisdom, or union, and not at all for secrecy, and expedition. Besides, the multitude are exceeding apt to be deceived by demagogues and ambitious persons. ...</p> <p><b>Monarchy</b>, everyone knows is but another name for tyranny, where the arbitrary will of one capricious ma disposes of the lives and properties of all ranks....</p>	<p><b>Death</b></p>

<sup>122</sup> Ibid., p. 91.

**Aristocracy** always makes vassals of the inferior ranks, who have no hand in government, and the great, commonly rule with greater severity than absolute monarchs....

**Pure democracy** cannot subsist long, nor be carried far into the departments of state—it is very subject to caprice and the madness of popular rage. They are also very apt to chuse a favorite and vest him with such power as overthrows their own liberty,-- examples, Athens and Rome.”<sup>123</sup>

For this reason, Dr. Witherspoon advocated for a mixed form of civil government—one that would include general features of monarchy, aristocracy, and democracy, but in a more complex form. Founding fathers John Witherspoon and James Madison both wished to incorporate the “virtues” of the three types of basic government and to incorporate them into a compound republican form of government. It has been argued that through Dr. Witherspoon’s Calvinist-Presbyterian influence, the American government was modeled after both Calvin’s Geneva Switzerland and Greco-Rome’s republican form of representative government.

<b>Basic Government</b>	<b>Compound Government—British Commonwealth (Anglican)</b>	<b>Compound Government—American Republic (Calvinist/ Presbyterian)</b>
Monarch	King/ Queen of Britain	President
Aristocracy	House of Lords	Senate
Democracy	House of Commons	House of Representatives

Dr. Witherspoon suggested, also, that there be “checks and balances” upon the various powers of the civil government, stating:

Hence it appears that **every good form of government must be complex**, so that the **one principle may check the other**. It is of consequence to have as much virtue among the particular members of a

<sup>123</sup> Ibid., pp. 92-93.

community as possible; but it is folly to expect that a state should be upheld by integrity in all who have a share in managing it. They must be so balanced, that when every one draws to his own interest or inclination, there may be an over poise upon the whole.

The second observation upon the forms of government is, that where there is a balance of different bodies, as in all mixed forms, there must be always some *nexus imperii*, something to make one of them necessary to the other. If this is not the case, they will not only draw different ways, but will often separate altogether from each other. In order to produce the nexus, some of the great essential rights of rulers must be divided and distributed among the different branches of the legislature. Example in the British government, the king has the power of making war and peace,-- but the parliament have the levying and distribution of money, which is a sufficient restraint.<sup>124</sup>

Similarly, in Paper No. 51 of *The Federalist Papers*, James Madison gives the very same prescription (i.e., separation of powers and checks-and-balances) for the executive and legislative branches of government that are authorized in the United States Constitution, where he writes:

But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is **to divide the legislature into different branches [the House and the Senate]**; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the **weakness of the executive may require, on the other hand, that it should be fortified. An absolute negative [veto] on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed.** But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions it might not be exerted with the requisite firmness, and on extraordinary occasions it might be perfidiously abused. May not this defect of an

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<sup>124</sup> Ibid., p. 94.



absolute negative be supplied by some qualified connection between this weaker department and the weaker branch of the stronger department, by which the latter may be led to support the constitutional rights of the former, without being too much detached from the rights of its own department? If the principles on which these observations are founded be just, as I persuade myself they are, and they be applied as a criterion to the several State constitutions, and to the federal Constitution it will be found that if the latter does not perfectly correspond with them, the former are infinitely less able to bear such a test....

In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by **a division of the government into distinct and separate departments**. In the **compound republic of America**, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments....

It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different **interests** necessarily exist in **different classes of citizens**. If a majority be united by a **common interest**, the **rights of the minority** will be insecure....

Hence, we find three major political themes in the writings of Dr. Witherspoon which we also find in Madison's papers in *The Federalist Papers*. The first is that human nature is the basis and foundation of civil government. The propensities of human beings to act out of selfish interests is the fundamental reason for the need of civil government. The second and third themes are designed to check, through governmental measures, the excesses of human nature: doctrines of the "separation of powers" and "checks and balances." These governmental doctrines are derived from the fallen state of human nature— an excessive amount of power must not be concentrated into the hands of a single magistrate or a single branch of government. Madison discusses all three of Witherspoon's basic themes in *The Federalist Papers*.

However, Dr. Witherspoon does make one significant recommendation in *Lectures on Moral Philosophy* which Madison does not make in *The Federalist Papers*. Dr. Witherspoon highly commends the civil magistrate to promote piety and virtue, and to set a moral example for the general population to emulate.

Indeed, in Christian theology and political theory, there is a link between personal piety and justice:

And justice, whose office it is to render to every man his due, whereby there is in man himself a certain just order of nature, so that the soul is subjected to God, and the flesh to the soul, and consequently both soul and flesh to God—does not this virtue demonstrate that it is as yet rather labouring towards its end than resting in tis finished work? For the soul is so much the less subjected to God as it is less occupied with the thought of God; and the flesh is so much the less subjected to the spirit as it lusts more vehemently against the spirit. So long, therefore, as we are best by this weakness, this plague, this disease, how shall we dare to say that we are safe?<sup>125</sup>

- St. Augustine of Hippo

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For, brethren, ye have been called unto liberty; only use not liberty for an occasion to the flesh, but by love serve one another. For all the law is fulfilled in one word, even in this; Thou shalt love thy neighbour as thyself. But if ye bite and devour one another, take heed that ye be not consumed one of another. This I say then, Walk in the Spirit, and ye shall not fulfil the lust of the flesh. For the flesh lusteth against the Spirit, and the Spirit against the flesh: and these are contrary the one to the other: so that ye cannot do the things that ye would. But if ye be led of the Spirit, ye are not under the law. Now the works of the flesh are manifest, which are these; Adultery, fornication, uncleanness, lasciviousness, Idolatry, witchcraft, hatred, variance, emulations, wrath, strife, seditions, heresies, Envyings, murders, drunkenness, revellings, and such like: of the which I tell you before, as I have also told you in time past, that they which do such things shall not inherit the kingdom of God. But the fruit of the Spirit is love, joy, peace, longsuffering, gentleness, goodness, faith, Meekness, temperance: against such there is no law. And they that are Christ's have crucified the flesh with the affections and lusts. If we live in the Spirit, let us also walk in the Spirit. Let us not be desirous of vain glory, provoking one another, envying one another.<sup>126</sup>

- St. Paul

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<sup>125</sup> St. Augustine, *The City of God*, supra, p. 678.

<sup>126</sup> Galatians 5: 13-26.

Whereas Witherspoon pays great homage to the ultimate goals of “virtue and happiness” and shows great reverence for moral philosophers throughout the ages, including the Stoics, the Platonists, and the Academics, James Madison never does this in *The Federalist Papers*. As with St. Augustine of Hippo’s *The City of God*, which cited the fall of the Roman Empire as a historical example of what may occur when there is a collapse of virtue and piety throughout the body politic,<sup>127</sup> Dr. Witherspoon’s *Lectures on Moral Philosophy* reaches the same conclusion and includes great emphasis on the “different foundations of virtue” and “the nature of virtue.”<sup>128</sup> Dr. Witherspoon also credits and cites the following authors in making his arguments:

**Witherspoon’s *Lectures on Moral Philosophy*  
Bibliography and List of  
Distinguished Moral Philosophers**

Samuel Clark. *Discourse concerning the Being and Attributes of God*. London, England: 4<sup>th</sup> Edition (1716).

----- *Letters to Mr. Dodwell*. London, England (1745).

Francis Hutcheson. *Inquiry into the original of our ideas of Beauty and Virtue*. London, England (1725).

William Wallaston. *The Religion of Nature Delineated*. London, England (1722).

Anthony Collins. *Philosophical Inquiry Concerning Human Liberty*. London, England (1717).

Thomas Nettleton. *Treatise on Virtue and Happiness*. London, England (1729).

David Hume. *Essays Moral and Political*. London, England (1729).

<sup>127</sup> St. Augustine, *The City of God*, pp. 60-62 (“But if our adversaries do not care how foully and disgracefully the Roman republic be stained by corrupt practices, so long only as it holds together and continues in being, and if they therefore pooh-poo the testimony of Sallust to its ‘utterly wicked and profligate’ condition, what will they make of Cicero’s statement, that even in his time it had become entirely extinct, and that there remained not Roman republic at all?... For I mean in its own place to show that—according to the definitions in which Cicero himself, using Scipio as his mouthpiece, briefly propounded what a republic is, and what a people is, and according to the many testimonies, both of his own lips and of those who took part in that same debate—Rome never was a republic, because true justice had never a place in it. But accepting the more feasible definitions of a republic, I grant there was a republic of a certain kind, and certainly much better administered by the more ancient Romans than by their modern representatives. But the fact is, true justice had no existence save in the republic whose founder and ruler is Christ, if at least any choose to call this a republic; and indeed we cannot deny that it is the people’s weal. But if perchance this name, which has become familiar in other connections, be considered alien to our common parlance, we may at all events say that in this city is true justice; the city of which Holy Scripture says, ‘Glorious things are said of the, O city of God.’”)

<sup>128</sup> John Witherspoon, *Lectures On Moral Philosophy*, supra.

Lord Kames. *Essay on the Principles of Morality and Natural Religion*. Edinburgh, Scotland (1751).

Adam Smith. *The Theory of Moral Sentiments*. London, England (1759).

Thomas Reid. *Inquiry into the Human Mind on the Principles of Common Sense*. London, England (1764).

James Balfour. *Delineation of the Nature and Obligation of Morality, with Reflections Upon Mr. Hume's Book*. Edinburgh, Scotland (1753).

Joseph Butler. *The Analogy of Religion, Natural and Revealed*. London, England (1726).

John Balguy. *A Collection of Tracts, Moral and Theological*. London, England (1734).

L.J. Levesque de Pouilly. *Theory of Agreeable Sensations*. London, England (1766).

James Beattie. *Essay on the Nature and Immutability of Truth in Opposition to Sophistry and Skepticism*. Edinburgh, Scotland (1770).

But James Madison and none of the other authors of *The Federalist Papers* ever emphasize the necessity of improving or cultivating piety, morals, and virtue. None of them ever tie the fate of the American republic to the strength of the morals and virtue of its citizens. Madison, who was the father of the Constitution, never makes such a recommendation in *The Federalist Papers*. In fact, Madison has no confidence that religion alone can curtail the fallen nature of mankind, and he makes no provision in the civil government for the promotion or cultivation of piety, morals, and virtue among American citizens. Madison's Paper No. 10 of *The Federal Papers* clearly rules out adopting a public policy that relies upon religion, virtue, piety or morals as bulwarks against social or political oppression:

If the impulse and the opportunity [to carry out schemes of political and social oppression] be suffered to coincide, **we well know that neither moral nor religious motives can be relied on as an adequate control**. They are not found to be such on the injustice and violence of individuals, and *lose their efficacy in proportion* to the number **combined together**, that is, in proportion as their efficacy becomes needful....

Instead, rather than relying upon institutions such as schools and churches to instill moral values, piety and virtue in the body politic, Madison simply accepts the fact that human nature is depraved and sinful—no provision is thereafter made to

cultivate or improve that nature, and there is no acknowledgement that a man must take an oath of allegiance to the Christian faith or be “born again” in order to participate in civil government or hold office.

Instead, Madison places firm reliance upon adopting a system of government where diverse interests are represented in the civil government, so that the strong and powerful are not allowed to oppress the weak and the powerless. Madison thus concluded that the “causes” of these social and political oppressions are deeply-rooted in human nature, and cannot be removed. Churches, religious institutions, schools, colleges and the like cannot be relied upon to change this human nature. The only solution, concluded Madison, is to develop a system of government that permits a large diversity of classes to be represented in the government. In Madison’s Paper No. 10 of *The Federalist Papers*, he writes:

As long as the **reason of man continues fallible**, and he is at liberty to exercise it, **different opinions will be formed**. As long as the connection subsists between **his reason** and **his self-love**, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves.

The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties....

The **latent causes of faction** are thus **sown in the nature of man**; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society....

But **the most common and durable source of factions has been the various and unequal distribution of property**. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different

classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of the government....

The inference to which we are brought is, that the CAUSES of faction cannot be removed, and that relief is only to be sought in the means of controlling its EFFECTS.

Thus controlling these “effects” led Madison to conclude that the republican form of government was necessary. For one thing, like Dr. Witherspoon, Madison also felt that “pure democracies” carried the vices of the demagogue.<sup>129</sup> The remedy was to create a “compound republic,” where there was a sufficient number of representatives who could represent a plurality of interests.

In the extended republic of the United States, and **among the great variety of interests, parties, and sects** which it embraces, **a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good**; whilst there being thus less danger to a minor from the will of a major party, there must be less pretext, also, to provide for the security of the former, by introducing into the government a will not dependent on the latter, or, in other words, a will independent of the society itself.

But this de-emphasis on need to cultivate piety, morality, religion, and virtue on the part of both James Madison and the other authors of *The Federalist Papers* could be viewed as a significant constitutional defect when construed from an Augustinian perspective—i.e., to acknowledge “**God Himself, the fountain of all justice.**”<sup>130</sup> Dr. Witherspoon adopts the Augustinian view that “chastity,”<sup>131</sup> (i.e., “virtue and piety”) must “be included in justice... and to have the clearest foundation both in nature and public utility.”<sup>132</sup> President George Washington’s *Farewell Address* (1796) also adopts the same Augustinian view, that morality is a

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<sup>129</sup> James Madison, *The Federalist Paper*, No. 10 (“When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.”)

<sup>130</sup> St. Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 27.

<sup>131</sup> John Witherspoon, *Lectures on Moral Philosophy*, supra, p. 57.

<sup>132</sup> Ibid.

necessary support of private and public prosperity.<sup>133</sup> But James Madison and the authors of *The Federal Papers* do not seem to adopt, or at least explicitly acknowledge, this Augustinian view—the failure to acknowledge of which, from an Augustinian perspective, is a major constitutional defect.

Indeed, according to Saint Augustine of Hippo, a major constitutional crisis begins when rulers and governors “are nowise concerned that the republic be less depraved and licentious.”<sup>134</sup> Augustine thus described the irresponsible attitude of governors and rulers, which lead to social misery and ruin:

Only let it remain undefeated, they say, only let it flourish and abound in resources; let it be glorious by its victories, or still better, secure in peace; and what matters it to us? This is our concern, that every man be able to increase his wealth so as to supply his daily prodigalities, and so that the powerful may subject the weak for their own purposes. Let the poor court the rich for a living, and that under their protection they may enjoy a sluggish tranquility; and let the rich abuse the poor as their dependants, to minister to their pride. Let the people applaud not those who protect their interests, but those who provide them with pleasure. Let no severe duty be commanded, no impurity forbidden. Let kings estimate their prosperity, not by the righteousness, but by the servility of their subjects. Let the provinces stand loyal to the kings, not as moral guides, but as lords of their possessions and purveyors of their

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<sup>133</sup> See, e.g., *The Farewell Address* (1796) of President George Washington, stating:

Of all the dispositions and habits which lead to political prosperity, **religion and morality are indispensable supports.** In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. **A volume could not trace all their connections with private and public felicity.** Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. **Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.**

Observe good faith and justice towards all nations; cultivate peace and harmony with all—religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? **Can it be, that Providence has not connected the permanent felicity of a nation with its virtue?**

<sup>134</sup> St. Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 59.

pleasures; not with a hearty reverence, but a crooked and servile fear. Let the laws take cognizance rather of the injury done to another man's property, than of that done to one's own person. If a man be a nuisance to his neighbor, or injure his property, family, or person, let him be actionable; but in his own affairs let every one with impunity do what he will in company with his own family, and with those who willingly join him. Let there be a plentiful supply of public prostitutes for every one who wishes to use them, but specially for those who are too poor to keep one for their private use. Let there be erected houses of the largest and most ornate description: in these let there be provided the most sumptuous banquets, where every one who pleases may, by day or night, play, drink, vomit, dissipate. Let there be everywhere heard the rustling of dancers, the loud, immodest laughter of the theatre; let a succession of the most cruel and the most voluptuous pleasures maintain a perpetual excitement. If such happiness be distasteful to any, let him be branded as a public enemy; and if any attempt to modify or put an end to it, let him be silenced, banished, put an end to. Let these be reckoned the true gods, who procure for the people the condition of things, and preserve it when once possessed. Let these be worshipped as the wish; let them demand whatever games they please, from or with their own worshippers; only let them secure that such felicity be not imperiled by foe, plague, or disaster of any kind....<sup>135</sup>

Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on. If, by the admittance of abandoned men, this evil increases to such a degree that it holds places, fixes abodes, takes possession of cities, and subdues peoples, it assumed the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity. Indeed, that was an apt and true reply which was given to Alexander the Great by a pirate who had been seized. For when the king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, 'What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet art styled emperor.'<sup>136</sup>

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<sup>135</sup> Ibid., p. 59-60.

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Significantly, St. Augustine also observed that once subdued, people who are “weak and unlearned” often encounter great difficulties with escaping “the deceits of both the princes of the state and the demons.”<sup>137</sup> Saint Augustine thus described this technique of deception: “[f]or just as the demons cannot possess any but those whom they have deceived with guile, so also men in princely office, not indeed being just, but like demons, have persuaded the people in the name of religion to receive as true those things which they themselves knew to be false; in this way, as it were, binding them up more firmly in civil society, so that they might in like manner possess them as subjects.”<sup>138</sup> Under such circumstances, where there is no justice, Augustine concluded that nations and empires must inevitably decline. Augustine compared the decline of the ancient Roman empire to disobedient ancient Israel, and concluded that disobedience to the one true God was the ultimate cause of their calamity.<sup>139</sup> Hence, Saint Augustine concluded that the Romans lost their Roman empire because they had abandoned equity and justice, and administered the Roman provinces like great robber barons. “But to make war on your neighbours,” wrote Augustine, “and thence to proceed to others, and through mere lust of dominion to crush and subdue people who do you no harm, what else is this to be called but great robbery?”<sup>140</sup>

From this Augustinian view, “**God Himself is the fountain of all justice.**”<sup>141</sup> And both Witherspoon’s and Madison’s constitutional schemes place “justice” at the epicenter of the constitution of the civil polity. In his *Lectures on Moral Philosophy*, Dr. Witherspoon writes:

When we come to the second great division of moral philosophy, politics, the above distinctions will be more fully explained—at present it is sufficient to point at them in order to show what are the great lines of duty from man to man.

Our duty to others, therefore, may be all comprehended in these two particulars, justice and mercy.

Justice consists in giving or permitting others to enjoy whatever they have a perfect right to- and making such an use of our own rights as not to encroach upon the rights of others....

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<sup>137</sup> Ibid., p. 140.

<sup>138</sup> Ibid.

<sup>139</sup> Ibid., pp. 140 – 141.

<sup>140</sup> Ibid., p. 114.

<sup>141</sup> St. Augustine, *The City of God*, supra, p. 27.

Mercy [i.e., the “law of equity”] is that other great branch of our duty to man, and is the exercise of the benevolent principle in general.... Its acts, generally speaking, belong to the class of imperfect rights, which are strongly binding upon the conscience, and absolutely necessary to the subsistence of human society; yet such as cannot be enforced with rigor and precision by human laws.<sup>142</sup>

To that end of Justice, Madison also writes in Paper No. 51 of *The Federalist Papers* that:

**Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit.** In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful.<sup>143</sup>

Given this extrapolation of both Witherspoon’s and Madison’s conceptualization of Justice, we certainly do find in Madison’s *Federalist Papers* a clear expression of the same “justice” that is the plain heritage of western civilization (both pagan and Christian)—as exemplified in the classical writings of Plato, Aristotle, Cicero, St. Paul, and St. Augustine of Hippo.<sup>144</sup> The American Founding fathers clearly

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<sup>142</sup> John Witherspoon, *Lectures on Moral Philosophy*, supra, pp. 57-58.

<sup>143</sup> **Federalist Papers No. 51 (1788)** [https://billofrightsinstitute.org/primary-sources/federalist-no-51?gclid=CjwKCAjw95yJBhAgEiwAmRrutK5GbEuF0yZd7dfZlaV8nESnv1MWipFsTwpZubP6EFiOgDTWp9wCORoCz\\_AQAvD\\_BwE](https://billofrightsinstitute.org/primary-sources/federalist-no-51?gclid=CjwKCAjw95yJBhAgEiwAmRrutK5GbEuF0yZd7dfZlaV8nESnv1MWipFsTwpZubP6EFiOgDTWp9wCORoCz_AQAvD_BwE)

<sup>144</sup> Perhaps St. Augustine’s affinity to Plato is best explained in Bertrand Russell’s descriptions of Plato’s political theory in *A Theory of Western Philosophy*, supra, p. 106, stating:

“From Socrates [Plato] probably learnt his preoccupation with ethical problems, and his tendency to seek teleological rather than mechanical explanations of the world. ‘The Good’ dominated his thought more than that of the pre-Socratics, and it is difficult not to attribute this fact to the influence of Socrates. How is all this connected with **authoritarianism in politics**? In the first place: Goodness and Reality being timeless, **the best state will be the one which most nearly copies the heavenly model**, by having a minimum of change and a maximum of static perfection, and **its rulers should be those who best understood the eternal Good.**”

adopted that definition of justice when it ratified the United States Constitution. For, indeed, the “Preamble” to that constitution may rightly be defined as an “Augustinian” expression of justice.<sup>145</sup>

In closing this paper, I would be remiss if I did not state that, first and last, Rev. Dr. John Witherspoon was a Presbyterian minister and pastor. He did not place his ultimate hope in any human government. He did not advised his fellow Christians to associate any secular human government with being a replica of the “kingdom of God” on earth. What he advocated, though, was something that was similar in content and tone to St. Augustine’s teachings in *The City of God*.<sup>146</sup> Witherspoon did not believe that a republican form of government, which guaranteed “civil liberty,” was either “necessary to virtue” or “personal private happiness.” Christian liberty, virtue and personal happiness are indeed feasible and possible even under tyrannical governments. A man can achieve sainthood and eternal salvation while living under a tyrannical government. However, says Dr. Witherspoon, “civil liberty”<sup>147</sup> promotes “industry”<sup>148</sup> and “is the nurse of riches, literature and heroism”<sup>149</sup>—it puts in “motion all the human powers.”<sup>150</sup> That certainly is not an unchristian endeavor, for as Christ himself has said, “I am come

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<sup>145</sup> The Preamble to the United States Constitution is “natural religion.” See, e.g., Algernon Sidney Crapsey, *Religion and Politics* (New York, N.Y.: Thomas Whittaker, 1905), pp. 305-306 (“When the Constitutional Convention of 1787 sent forth the Constitution which it devised for the government of the nation it did so in these words: ‘We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our children, do ordain and establish this Constitution for the United States of America.’ **Now can any man write a more perfect description of the Kingdom of God on earth or in the heaven than is to be found in these words? A government resting upon such principles as these is not a godless policy; it is a holy religion....** When the people of the United States decreed by constitutional amendment that the government should never by law establish any religion, they did actually establish the only religion that could comprehend in its membership the whole American people.”)

<sup>146</sup> St. Augustine, *The City of God*, pp. 60-62 (“But if our adversaries do not care how foully and disgracefully the Roman republic be stained by corrupt practices, so long only as it holds together and continues in being, and if they therefore pooh-poo the testimony of Sallust to its ‘utterly wicked and profligate’ condition, what will they make of Cicero’s statement, that even in his time it had become entirely extinct, and that there remained not Roman republic at all?... For I mean in its own place to show that—according to the definitions in which Cicero himself, using Scipio as his mouthpiece, briefly propounded what a republic is, and what a people is, and according to the many testimonies, both of his own lips and of those who took part in that same debate—Rome never was a republic, because true justice had never a place in it. But accepting the more feasible definitions of a republic, I grant there was a republic of a certain kind, and certainly much better administered by the more ancient Romans than by their modern representatives. But the fact is, true justice had no existence save in the republic whose founder and ruler is Christ, if at least any choose to call this a republic; and indeed we cannot deny that it is the people’s weal. But if perchance this name, which has become familiar in other connections, be considered alien to our common parlance, we may at all events say that in this city is true justice; the city of which Holy Scripture says, ‘Glorious things re said of the, O city of God.’”)

<sup>147</sup> John Witherspoon, *Lectures on Moral Philosophy*, supra, p. 98.

<sup>148</sup> Ibid.

<sup>149</sup> Ibid.

<sup>150</sup> Ibid.

that they might have life, and that they might have it more abundantly.”<sup>151</sup> That is, at least in my estimation, the ultimate goal and crowing achievement of the 18<sup>th</sup>-century Protestant Reformation known as the American Revolution, which set in motion new and revolutionary ideals regarding the liberty, dignity, and divinity of the common man.

## CONCLUSION

The Reverend Doctor John Witherspoon was a Calvinist-Presbyterian clergyman and president of the College of New Jersey. As a founding father of the new United States of America, Rev. Witherspoon became one of the most influential clergymen and college presidents of his era. He was the only clergymen and college president to sign the American *Declaration of Independence* (July 4, 1776), which reflected the tone and themes of one of Dr. Witherspoon’s sermons, “The Dominion of Providence over the Passions of Men” (May 17, 1776). Dr. Witherspoon’s spirit and ideals about the laws of nature were reflected in the following language in the *Declaration of Independence*: “**the Laws of Nature and of Nature's God.**” And his ideals about Divine Providence were reflected in the following language in that *Declaration*: “And for the support of this Declaration, **with a firm reliance on the protection of divine Providence**, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.” Dr. Witherspoon’s *Lectures on Moral Philosophy*, which is a series of Witherspoon’s lectures presented at the College of New Jersey (“Princeton”), had a large and widespread influence upon founding father James Madison and many others. Madison’s various federalist papers reflect several of the same political ideals which Witherspoon advocated in his *Lectures*—including the principle of creating a philosophy of self-centered human nature, separation of powers, checks and balances, and mixed constitution. Much of Witherspoon’s moral philosophy focused on the essential necessity of “virtue and piety” to a properly functioning civil polity—an essential necessity that is absent in Madison’s contributions to *The Federalist Papers*. Witherspoon adopted the same classic definition of “justice”—i.e., God is justice<sup>152</sup>—as being the sole purpose of law and civil polity. Rev. Dr. John Witherspoon’s writings, lectures, sermons, and moral philosophy clearly demonstrate that America’s founding constitutional documents--the *Declaration of Independence* (1776) and the *U.S. Constitution* (1787)—are indeed Christian constitutional documents.

## THE END

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<sup>151</sup> John 10:10.

<sup>152</sup> St. Augustine, *The City of God*, supra, p. 27 (“God Himself, the fountain of all justice.”)

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## APPENDIX A

### Divine Providence in the Declaration of Independence

By Angela E. Kamrath September 26, 2019

During the American Revolution, when the American Founders wrote the Declaration of Independence to form the new nation of the United States, they included principles in the document that characterized America's founding philosophy. One of these principles was the idea of God as "Divine Providence." The Founders concluded the Declaration by stating, "For the support of this Declaration, with **a firm reliance on the Protection of Divine Providence**, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor [emphasis mine]." Their description shows that they acknowledged and upheld a Judeo-Christian, Bible-based view of God as actively involved in the lives of human beings. Such were the views of many early Americans, which greatly impacted their thoughts and actions at that time.

Veering from the Enlightenment's deistic view of God as uninvolved in the world, many early Americans' recognized a biblical God or "Divine Providence" who intervenes in the lives, events, and affairs of men. In the midst of a fallen world corrupted by sin, this God cares for and guides people by His wisdom and love and for His divine purpose. This perspective comes from the Bible which describes God as "wonderful in counsel *and* excellent in guidance" [Isaiah 28:29], "my refuge and my fortress" [Psalm 91:2], and someone who "cares for you" [1 Peter 5:7]. It was understood by Jews and Christians through history. It was acknowledged by the early church, Augustine, Thomas Aquinas, reformers Martin Luther and John Calvin, and the colonial American Puritans and Awakeners.

This Judeo-Christian view of a providential God was widely recognized by and impacted early Americans of the revolutionary and founding eras, including many founders and congressmembers. For example, in his 1776 political sermon *The Dominion of Providence over the Passions of Men*, Declaration signer and Presbyterian minister John Witherspoon spoke of Providence as many colonists generally understood it, as a wise and directing presence in their lives. He preached, "He [God] overrules all his creatures, and all their actions. ... ..It is the duty of every good man to place the most unlimited confidence in divine wisdom, and to believe that those measures of providence that are most unintelligible to him, are yet planned with the same skill, and directed to the same great purposes as others....[1]"

It was with this belief that the First and Second Continental Congresses sought God's guidance and favor and encouraged the people to do the same during the Revolutionary War.

The First Continental Congress of 1774 appointed congressional chaplains and began the practice of opening sessions with prayer. The first opening prayer was led on September 7, 1774, by Rev. Jacob Duché who also read from Psalm 35, the scripture of the day in the *Book of Common Prayer*. Duché's prayer, as it were, also reflected a biblical view of a providential God. He prayed, ...

As Declaration signer John Adams noted in a letter to his wife, Abigail, this devotional greatly encouraged the delegates facing war. He observes, "You must remember this was the next morning after we heard the horrible rumor of the cannonade of Boston. I never saw a greater effect upon an audience. It seemed as if Heaven had ordained that Psalm to be read on that morning. After this, Mr. Duché, unexpected to everybody, struck out into an extemporary prayer, which filled the bosom of every man present."<sup>[3]</sup> Believing that their cause was just and that God would help and guide them, the colonists were encouraged and emboldened to fight for their freedom.

In addition to maintaining chaplains and congressional prayer, the Second Continental Congress of 1775-1781 frequently proclaimed national days of public fasting and prayer to beseech God's favor during the war; proclaimed days of public praise and thanksgiving to God for His blessings, every year from 1777 through 1784; appointed military chaplains; exhorted the Continental Army to practice godly behavior; and attributed successes to God. They also affirmed God's providence on numerous occasions. In their first day of "public humiliation, fasting, and prayer" in 1775, for instance, they acknowledged that "the great Governor of the World, by his supreme and universal Providence, not only conducts the course of nature with unerring wisdom and rectitude, but frequently influences the minds of men to serve the wise and gracious purposes of his providential government" and "our indispensable duty devoutly to acknowledge his superintending providence..., to revere and adore his immutable justice as well as to implore his merciful interposition for our deliverance."<sup>[4]</sup> In a 1781 Congressional Proclamation during the war, they expressed, "Through the whole of the contest [revolution], from its first rise to this time, the influence of divine Providence may be clearly perceived in many signal instances."<sup>[5]</sup> Indeed, Congress played a large role in promoting in the colonies a reliance on Divine Providence throughout the revolution.

Even the few American Founders who some claim were deist, including Thomas Jefferson and Benjamin Franklin, specifically expressed the belief that God is active in the world. Jefferson, after all, was the primary author of the Declaration with its "Divine Providence." Later, in a 1815 letter to Baptist minister and abolitionist David Barrow, former President Jefferson again acknowledged Providence. He writes, "We are not in a world ungoverned by the laws and the power of a superior agent. Our efforts are in His hand, and directed by it; and He will give them their effect in his own time."<sup>[6]</sup> Similarly, when the 1787 Constitutional Convention almost fell apart, during a long and difficult deadlock among representatives in their drafting of the United States Constitution, Declaration and Constitution



signer Franklin stood up and gave an impassioned speech advising delegates to remember God's aid during the revolution and to pray again for God's direction in constructing their government. In this speech, Franklin expressed with striking biblical illustrations his view of a providential God. In doing so, he alluded to Bible verses including Job 12:25, James 1:17, Matthew 10:29-31, Luke 12:6-7, Psalm 127:1, Genesis 11:1-9, Deuteronomy 28:37, and others. He exhorts, ...

Since God had answered their prayers during the revolution, Franklin offered, the Founders could rely on God to help them construct the new nation and its laws. Soon after, the convention deadlock was broken, and the discussions continued successfully. Such expressions of God's intervention in human affairs clearly departed from the deist view of a distant, passive God in favor of a near, loving God as conveyed in the Bible.

Indeed, the ultimate formation of the new nation and adoption of the U. S. Constitution was, to the Founders, a miraculous accomplishment. That the states overcame so many differences and came together in unity was, in their minds, the work of God. Constitution architect James Madison expressed in *Federalist Paper 37* his belief that the success of the Constitution was due to God's assistance. He writes, ...

Franklin was also convinced that God was instrumental in the founding of the nation. Alluding to Acts 17:26-28, he expresses,

...I have so much faith in the general government of the world by Providence, that I can hardly conceive a transaction of such momentous importance to the welfare of millions now existing, and to exist in the posterity of a great nation, should be suffered to pass without being in some degree influenced, guided, and governed by that omnipotent, omnipresent, and beneficent Ruler, in whom all inferior spirits live, and move, and have their being [Acts 17:26-28].[9]

Declaration signer Benjamin Rush likewise expressed God's role in the formation of the New Republic:

I do not believe that the Constitution was the offspring of [divine] inspiration, but I am perfectly satisfied, that the union of the states, in its *form* and *adoption*, is as much the work of divine providence, as any of the miracles recorded in the Old and New Testament were the effects of a divine power. 'Tis done! We have become a nation.<sup>[10]</sup>

In making countless references to Divine Providence in their prayers, speeches, writings, and actions during the revolutionary and founding eras, many early Americans clearly upheld and frequently expressed a philosophical worldview that recognized a providential God as known from the Bible and Judeo-Christian tradition. This God, they believed, has a divine plan and

provides guidance and care for mankind. Notably, early Americans' faith in and reliance on the protection of Divine Providence—as indicated, among other places, in the Declaration—gave them courage to fight for freedom during the Revolutionary War. Without such faith, the revolution would never have occurred. What is more, this faith instilled in them and their diverse thirteen colonies a desire and capacity to come together and unite under a new civil order and an agreed-upon body of laws. In both feats of revolution and national construction, Americans believed that Divine Providence could and did help their cause—granting them the blessing of a free constitutional republic.

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[1] John Witherspoon, “The Dominion of Providence Over the Passions of Men,” 17 May 1776, in *The Works of John Witherspoon, in Three Volumes*, vol. 2, ed. John Rodgers (Philadelphia, PA: William W. Woodward, 1800), 408, 410.

[2] Benson John Lossing, ed., *Harper's Encyclopaedia of United States History from 458 A.D. to 1906: Based Upon the Plan of Benson John Lossing*, volume 3 (New York: Harper & Bros., 1906), 158; *United States Congressional Record: Proceedings and Debates of the 85<sup>th</sup> Congress*, First Session, vol. 103, Part 2, Aug 9-21, 1957 (Washington DC, Government Printing Office, 1957), 14805.

[3] John Adams to Abigail Adams, Philadelphia, 16 September 1774, *Familiar Letters of John Adams and His Wife Abigail Adams During the Revolution*, ed. Charles F. Adams (New York: Hurd and Houghton, 1876), 37, 38.

[4] United States Continental Congress, Congressional Resolution, Monday, June 12, 1775, in United States Library of Congress, *Journals of the Continental Congress, 1774-1789*, vol. 2/May 10-Sept 20, 1775, ed. Worthington C. Ford (Washington, DC: Government Printing Office, 1905), 87-88.

[5] United States Continental Congress, Congressional Resolution, Treasury Office, October 26, 1781, in United States Library of Congress, *Journals of the Continental Congress, 1774-1789*, vol. 21/July 23-Dec 31, 1781, ed. Gaillard Hunt (Washington, DC: Government Printing Office, 1912), 1075.

[6] Thomas Jefferson to David Barrow, Monticello, 1 May 1815, in *The Writings of Thomas Jefferson*, Definitive ed., vol. 13-14, ed. Albert E. Bergh (Washington, DC: Thomas Jefferson Memorial Association, 1907), 297.

[7] James Madison, *The Writings of James Madison*, vol. 3/1787: The Journal of the Constitutional Convention, ed. Gaillard Hunt (New York: G. P. Putnam's Sons, 1902), 310-311; Dreisbach, "Bible in the Political Rhetoric," 17-18. Job 12:24-25: "He [God] takes away the understanding of the chiefs of the people of the earth, And makes them wander in a pathless wilderness. They grope in the dark without light, And He makes them stagger like a drunken *man*." James 1:17: "Every good gift and every perfect gift is from above, and comes down from the Father of lights, with whom there is no variation or shadow of turning." Daniel 4:17: "'The Most High rules in the kingdom of men.'" Matthew 10:29-31 (Luke 12:6-7): "Are not two sparrows sold for a penny? Yet not one of them will fall to the ground outside of your Father's care. And even the very hairs of your head are all numbered. So don't be afraid; you are worth more than many sparrows [NIV]." Psalm 127:1: "Unless the Lord builds the house, They labor in vain who build it..." Genesis 11:1-9: "Now the whole earth had one language and one speech. ... And they said, 'Come, let us build ourselves a city, and a tower whose top *is* in the heavens; let us make a name for ourselves, lest we be scattered abroad over the face of the whole earth.' But the Lord came down to see the city and the tower which the sons of men had built. And the Lord said, 'Come, let Us go down and there confuse their language, that they may not understand one another's speech.' So the Lord scattered them abroad from there over the face of all the earth, and they ceased building the city. Therefore its name is called Babel, because there the Lord confused the language of all the earth; and from there the Lord scattered them abroad over the face of all the earth." Deuteronomy 28:15, 37: "'If you do not obey the voice of the Lord your God, to observe carefully all His commandments and His statutes...all these curses will come upon you and overtake you. ... You shall become an astonishment, a proverb, and a byword among all nations where the Lord will drive you.'" 1 Kings 9:6-7: "If you or your sons at all turn from following Me..., but go and serve other gods and worship them, then I will cut off Israel from the land which I have given them; and this house which I have consecrated for My name I will cast out of My sight. Israel will be a proverb and a byword among all peoples." Psalm 44:13-14: "You make us a reproach to our neighbors, a scorn and derision to those all around us. You make us a byword among the nations...."

[8] James Madison, Federalist Paper #37, *The Federalist Papers*, ed. Clinton Rossiter (New York: Mentor Penguin, 1961), 230-31.

[9] Benjamin Franklin, "A Comparison of the Conduct of the Ancient Jews and of the Anti-Federalists in the United States of America," in *The Works of Benjamin Franklin*, vol. 5, ed. Jared Sparks (New York: Hillard, Gray, and Co., 1837), 162. Franklin alluded to Acts 17:26-28 in which the Apostle Paul states, "And He has made from one blood every nation of men to dwell on all the face of the earth, and has determined their preappointed times and the boundaries of their dwellings, so that they should seek the Lord, in the hope that they might grope for Him

and find Him, though He is not far from each one of us; for in Him we live and move and have our being, as also some of your own poets have said, 'For we are also His offspring.'”

[10] Benjamin Rush, Observations on the Fourth of July Procession in Philadelphia, in *Documentary History of the Ratification of the Constitution*, vol. 18, eds. John P. Kaminski, Richard Leffler, and Gaspare J. Saladino (Madison, WI: State Historical Society of Wisconsin, 1976), 266; Benjamin Rush, Observations on the Federal Procession of the Fourth of July, 1788, in the City of Philadelphia, in a Letter From a Gentleman in This City to His Friend in a Neighboring State, in Sarah Alcock, *A Brief History of the Revolution* (Philadelphia, PA: Published by Sarah Alcock, 1843), 109-110. See also *Pennsylvania Mercury*, 15 July 1788, reprinted in *American Museum*, July 1788.

## **APPENDIX B**

### **Signers of the Declaration of Independence**

By American Council of Learned Societies

## Signers of the Declaration of Independence

Name	State Rep.	Date of Birth	Birthplace	Age at Signing	Occupation	Number of Marriages	Number of Children	Date of Death	Age at Death
Adams, John	MA	10/30/1735	Quincy, MA	40	Lawyer	1	5	7/4/1826	90
Adams, Samuel	MA	9/27/1722	Boston, MA	53	Merchant	2	2	10/2/1803	81
Bartlett, Josiah	NH	11/21/1729	Amesbury, MA	46	Physician	1	12	5/19/1795	65
Braxton, Carter	VA	9/10/1736	Newington, VA	39	Plantation	2	18	10/10/1797	61
Carroll, Charles of Carrollton	MD	9/19/1737	Annapolis, MD	38	Merchant, Plantation	1	7	11/14/1832	95
Chase, Samuel	MD	4/17/1741	Somerset Co., MD	35	Lawyer	2	4	6/19/1811	70
Clark, Abraham	NJ	2/15/1726	Elizabethtown, NJ	50	Lawyer, Surveyor	1	10	9/15/1794	68
Clymer, George	PA	3/16/1739	Philadelphia, PA	37	Merchant	1	8	1/24/1813	73
Ellery, William	RI	12/22/1727	Newport, RI	48	Lawyer, Merchant	2	16	2/15/1820	92
Floyd, William	NY	12/17/1734	Brookhaven, NY	41	Land Speculator	2	3	8/4/1821	86
Franklin, Benjamin	PA	1/17/1706	Boston, MA	70	Scientist, Printer	1	3	4/17/1790	84
Gerry, Elbridge	MA	7/17/1744	Marblehead, MA	32	Merchant	1	7	11/23/1814	70
Gwinnett, Button	GA	c. 1735	Gloucester, England	41	Merchant, Plantation	1	3	5/15/1777	42
Hall, Lyman	GA	4/12/1724	Wallingford, CT	52	Physician, Mimister	2	1	10/19/1790	66
Hancock, John	MA	1/12/1737	Quincy, MA	40	Merchant	1	2	10/8/1793	56
Harrison, Benjamin	VA	4/7/1726	Charles City Co., VA	50	Plantation, Farmer	1	7	4/24/1791	65
Hart, John	NJ	c. 1711	Hunterdon Co, NJ	65	Land owner	1	13	5/11/1779	68
Hewes, Joseph	NC	1/23/1730	Kingston, NJ	46	Merchant	-	-	10/10/1779	49
Heyward Jr., Thomas	SC	7/28/1746	St. Helena Parish, SC	30	Lawyer, Plantation	2	8	3/6/1809	62
Hooper, William	NC	6/17/1742	Boston, MA	34	Lawyer	1	3	10/14/1790	48
Hopkins, Stephen	RI	3/7/1707	Providence, RI	69	Merchant	2	7	4/13/1785	78
Hopkinson, Francis	NJ	10/2/1737	Philadelphia, PA	38	Lawyer, Musician	1	5	5/9/1791	53
Huntington, Samuel	CT	7/3/1731	Windham, CT	45	Lawyer	1	2	1/5/1796	64
Jefferson, Thomas	VA	4/13/1743	Albemarle Co, VA	33	Lawyer, Plantation, Scientist	1	6	7/4/1826	83
Lee, Francis Lightfoot	VA	10/14/1734	Mt. Pleasant, VA	41	Plantation	1	0	1/11/1797	62
Lee, Richard Henry	VA	1/20/1732	Stratford, VA	44	Plantation, Merchant	2	6	6/19/1794	62
Lewis, Francis	NY	3/21/1713	Llandaff, Wales	63	Merchant	1	7	12/30/1802	89
Livingston, Philip	NY	1/15/1716	Albany, NY	60	Merchant	1	9	6/12/1778	62
Lynch Jr., Thomas	SC	8/5/1749	Prince George's Parrish, SC	26	Lawyer	1	0	c. 1779	30
McKean, Thomas	DE	3/19/1735	Chester Co., PA	42	Lawyer	2	11	6/24/1817	83
Middleton, Arthur	SC	6/26/1742	Charleston, SC	34	Plantation	1	9	1/1/1787	44
Morris, Lewis	NY	4/8/1726	West Chester Co., NY	50	Plantation	1	10	1/22/1798	71
Morris, Robert	PA	1/31/1734	Liverpool, England	42	Merchant, Land Speculator	1	7	5/8/1806	72

Name	State Rep.	Date of Birth	Birthplace	Age at Signing	Occupation	Number of Marriages	Number of Children	Date of Death	Age at Death
Morton, John	PA	c. 1724	Ridley Township, PA	52	Farmer	1	8	c. 1777	53
Nelson Jr., Thomas	VA	12/26/1738	Yorktown, VA	37	Merchant, Plantation	1	13	1/4/1789	50
Paca, William	MD	10/31/1740	Abington, MD	35	Lawyer, Plantation	2	5	10/13/1799	58
Paine, Robert Treat	MA	3/11/1731	Boston, MA	45	Lawyer, Scientist	1	8	5/12/1814	83
Penn, John	NC	5/6/1740	Carolina Co, VA	36	Lawyer	1	3	9/14/1788	48
Read, George	DE	9/18/1733	Northeast MD	42	Lawyer	1	5	9/21/1798	65
Rodney, Caesar.	DE	10/7/1728	Dover, DE	47	Plantation, Military	0	0	6/29/1784	55
Ross, George	PA	5/10/1730	New Castle, DE	46	Lawyer	1	3	7/14/1779	49
Rush, Benjamin Dr.	PA	1/4/1746	Philadelphia, PA	30	Physician	1	13	4/19/1813	67
Rutledge, Edward	SC	11/23/1749	Christ Church Parish, SC	26	Lawyer, Plantation	2	3	1/23/1800	50
Sherman, Roger	CT	4/19/1721	Newton, MA	55	Lawyer	2	15	7/23/1793	72
Smith, James	PA	c. 1719	Northern Ireland	57	Lawyer	1	5	7/11/1806	87
Stockton, Richard	NJ	10/1/1730	Princeton, NJ	45	Lawyer	1	6	2/28/1781	50
Stone, Thomas	MD	c. 1743	Charles Co., MD	33	Lawyer	1	3	10/5/1787	44
Taylor, George	PA	c. 1716	Ireland	60	Merchant	1	2	2/23/1781	65
Thornton, Matthew	NH	c. 1714	Ireland	62	Physician	1	5	6/24/1803	89
Walton, George	GA	c. 1741	Cumberland Co, VA	35	Lawyer	1	2	2/2/1804	63
Whipple, William	NH	1/14/1730	Kittery, ME	46	Merchant	1	0	11/28/1785	55
Williams, William	CT	4/18/1731	Lebanon, CT	45	Merchant	1	3	8/2/1811	80
Wilson, James	PA	9/14/1742	Carskerdo, Scotland	33	Lawyer ?	2	7	8/21/1798	55
Witherspoon, John	NJ	2/5/1723	Gifford, Scotland	53	Minister	2	12	11/15/1794	71
Wolcott, Oliver	CT	11/20/1726	Windsor, CT	49	Lawyer	1	4	12/1/1797	71
Wythe, George	VA	c. 1726	Elizabeth City Co, VA	50	Lawyer	2	1	6/8/1806	80

Information obtained from:

American Council of Learned Societies. **American National Biography**. New York: Oxford University Press, 1999.

**Who Was Who in America: Historical Volume 1607-1896**. Chicago: The A.N. Marquis Company, 1963.