

# Foundation for Freedom:

## A Study of the United States Constitution

*We the People*

*of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.*

*Article I.*

**SECTION 1.** All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

**SECTION 2.** The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.] The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

**SECTION 3.** The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislatures thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their own Officers, and also a President pro tempore, in the Absence of the Vice President, whenever he shall exercise the Office of that Officer.





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# ***FOUNDATION FOR FREEDOM: A STUDY OF THE UNITED STATES CONSTITUTION***

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—Lars Johnson

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# Foreword

The Constitution is in a state of flux now. On the one hand, it is held in high regard by much of the American people; you could almost say that it is revered by many. In fact, there has been a resurgence in appreciation for and commitment to the principles of the Constitution. To many, the Constitution is fundamental to our form of government and even to what we are as a nation.

However, Americans today often do not know much about their Constitution, and thus their own system of government. Many seem unfamiliar with the basics of the Constitution—apart from the fact that we have a President, Congress, and Supreme Court. For many, the essence of our constitutional system is the Bill of Rights. Often, however, they have little concern for the original Constitution and the system of government it established for our country. Even those who know something about the basics of the Constitution are frequently unfamiliar with its essential principles.

Moreover, those who should know better—academics, constitutional scholars, lawyers, judges, politicians—frequently do not act as if they do. Congress often passes laws that seem to have little to do with even a “loose construction” interpretation of the Constitution. Many legal scholars today suggest that the courts should go beyond the Constitution in making decisions to meet what they perceive as the needs of the people. They argue that “... the Court is not only justified in disregarding the written document, it has a positive duty to give the Constitution life by changing it to meet the changing needs of changing times.”<sup>1</sup> It would seem that the Supreme



*The Constitution on Display in the National Archives*

Court justices have often adopted this idea in recent years when reaching some of their decisions.

Others think the Constitution is so archaic, conservative, and stodgy that it is actually holding America back from fulfilling its true potential. They advocate a constitutional revolution that will completely overturn the system established by the Framers in order to make our nation more democratic and responsive. “The most fundamental freedom of all is the freedom of the democratic majority to alter the society around it as it sees fit, without any traditions or constitutional restraints to get in its way.”<sup>2</sup>

This book refuses to accept the notion that the Constitution is simply a relic of the past, which should either be ignored or overthrown. Instead, it recognizes the Constitution for what it is, one of

## FOUNDATION FOR FREEDOM: A STUDY OF THE UNITED STATES CONSTITUTION

the foundational documents of our history and the framework—the skeleton if you will—for our system of government. Without it, we become a nation of instability, subject to the varying “democratic” whims of a continually changing majority without the protections for minorities that are provided in our Constitution.

If students are to follow Paul’s admonition in Romans 13:1 to “... be subject to the governing authorities ...,” they must understand how those authorities are supposed to govern. If today’s young people are to take their place in society and be prepared to exercise their rights as citizens, they must learn how American civil government is designed to work. Of primary importance, therefore, is an understanding of the Constitution. Only by studying the Constitution will students be able as citizens to understand their rights and responsibilities and evaluate the way in which they are being governed.

It is our hope that this course will teach students about our Constitution and help them to appreciate its greatness. We make no claims for the Constitution’s perfection—no human endeavor since the Fall of Adam is free from the effects of sin—but we believe that the document we are going to be studying provides the means by which an orderly system of liberty and popular government can be made available to all.

This course has been developed for students in eighth grade through high school, although adults will certainly find it helpful, as well. It includes a textbook, a teacher’s manual, and a set of quizzes and tests. It is designed to be completed in a semester.

The textbook begins with an introductory essay by Sol Bloom (see the Authors on [page vii](#) for details about his life), published in 1937 as part of the original edition of *The Story of the Constitution*. Representative Bloom, who was director-general of the United States Constitution Sesquicentennial Commission, argued that the purpose of the Constitution is to perpetuate American liberty, a liberty that ultimately comes from God. This essay shows that, at one time, the understanding that the

Constitution and the system of government it established are foundational to our freedom was widely understood and appreciated. Regrettably, that is no longer the case.

After the introduction, the book is divided into three basic parts, each of which is important: (1) historical background, (2) detailed analysis of the original Constitution and amendments, and (3) a closing broader evaluation of the Constitution. The historical background gives the context in which the Constitution was formed, from relevant developments in England through the establishment of an independent America. It includes an examination of the Constitutional Convention and the ratification process. We have also included a series of four timelines in the book, which will place constitutional history within the larger context of American history.

The Constitution, with its amendments, is covered in some detail, with its original spelling, punctuation, and capitalization having been preserved. Each article and amendment has a general commentary, and then each specific section and clause is examined. The book does not, however, limit its analysis of the Constitution to its specific parts; it also presents the basic principles of the Constitution. Not only will the student study the individual “trees” of the Constitution, but he will also review the entire “woods” of the Constitution. It would be of little value if the student would learn the particulars of the Constitution, without understanding the principles that guide it.

Each chapter includes helpful exercises to assist the student in his study of the material. These include various objective exercises, fill-in-the-blank sentences, and essay questions. The essay questions are especially appropriate for high school students; eighth graders may consider the essays to be optional. These Chapter Review Exercises will evaluate the student’s knowledge of the course material and prepare him for taking tests.

The appendices contain several items that we think will be of use. The Constitution is reprinted, along with a helpful outline. In Appendix C, we have



provided information about, along with pictures of, many of the founders of our country, including all of those who signed the Constitution. In addition, the supplemental materials recommended in Appendix D will assist the student in his ongoing study of American history and the United States Constitution.

Finally, we have included two features that, although not unique to this text, should still make it stand out. We have referenced a wide variety of Supreme Court decisions in the text. We believe that this is necessary in light of the critical role the Supreme Court plays in our nation. What is more important, we have attempted to bring out the Christian heritage of the United States as it affects the story of our Constitution. The text is careful to neither “sanctify” American history or the Constitution nor to be politically correct by sanitizing either one in order to satisfy secular sensibilities.

We have also created important support materials to go with this workbook. The teacher’s manual includes a suggested schedule for completing the course, the answer key for the student exercises, additional teacher information, and suggested supplemental exercises. The quiz and test packet includes quizzes and tests for the various chapters, a final exam on the Constitution, and answers to the quizzes and tests. The quizzes can prove useful in evaluating whether or not students are ready for the tests.

We now invite students to begin with us an examination of the Constitution of the United States. We hope that they will find it as fascinating as we do.

## Introduction Notes—

1. Forrest McDonald, *A Constitutional History of the United States* (Malabar, FL: Robert E. Krieger Publishing Company, 1986), 4–5.
2. Daniel Lazare, *The Frozen Republic: How the Constitution is Paralyzing Democracy* (New York: Harcourt Brace & Company, 1996), 310.

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# Introduction

## The Heart and Soul of the Constitution

ADDRESS BY SOL BLOOM

*Director General of the United States Constitution Sesquicentennial Commission*

In discussing the Constitution of the United States, I wish here to consider it from a new angle. We all agree that as a legal document it establishes a successful system of government. Its precision and brevity are admirable. Millions of words have been devoted to its governmental principles. Great jurists have interpreted the meaning of the Constitution in almost all its parts. As a frame of government it has stood the test of time, war, and depression. It is based on truth, and, like truth, it laughs at the assaults of time.

But what I should like to discuss at this time is the heart and soul of the Constitution—its qualities that spring from the human heart, and not merely from the human intellect.

Unless the Constitution satisfies the aspirations of the heart, unless it feeds the human soul, unless it stirs our emotions, it cannot be regarded as a complete expression of the American spirit.

Why was the Constitution formed? Who were its framers? What was the emergency before them? What did they aim to accomplish?

In a nutshell, the Constitution was formed for the purpose of perpetuating American liberty by

uniting the States in a firm Union. All other aims were subordinate to the safeguarding of the liberty that had been won by the Revolution. It was evident after the Revolution that American liberty would be lost unless the States banded themselves together to preserve it.

If you and I believe that life comes from God, and that the Creator endows man with the right of liberty when He breathes life into him, we must agree that the framers of the Constitution were obeying the will of God when they sought a way to perpetuate liberty.

Life and the right to enjoy liberty come from God. The guarantee of the right to enjoy liberty, the power to maintain liberty, must come from the human heart and soul. The Constitution is this guarantee. It enables the American people to exercise their power to maintain their liberty against foreign attack or internal dissension.

The signers of the Declaration of Independence pledged their lives to liberty. Their hearts directed their hands when they sent forth this declaration of war for freedom.



*Sol Bloom (1870–1949)*

## FOUNDATION FOR FREEDOM: A STUDY OF THE UNITED STATES CONSTITUTION

The framers of the Constitution were no less in earnest. They saw the light of liberty dying in America as the States quarreled and threatened to disband. It was a new Declaration of Independence which the Constitution-makers prepared for the approval of the people—a declaration that their hard-won liberty should not perish, but should be made perpetual by joining the hearts and souls of the people of all the States in an indestructible Union.

These framers of the Constitution were chosen by their States to meet together. They were soldiers, planters, lawyers, physicians, merchants, and judges. Some of them were rich and others were poor. One of them, a luminous star in the human firmament, had been a penniless printer. Another, Roger Sherman, who, with Robert Morris, had the honor of signing the Declaration of Independence, the Articles of Confederation, and the Constitution, had been a poor shoemaker who studied at night to become a lawyer. The university which fitted George Washington to preside over this body of men was the stern school of war.

Being human, these delegates had human failings. They were devoted to State and local interests. Those from large States were bent upon exercising the strength of large States. Those from small States shrank from a Union that might make them the pawns of greater States. The commercial North and the agricultural South had clashing interests. All the States had been disappointed by the failure of such central government as was exercised under the Articles of Confederation. They were suspicious of any proposal for a national government. They feared it would swallow the States and the liberties of the people, or be just another failure like the Confederation.

After many jarring sessions, in which misunderstandings, jealousies, and selfish sectional interests bore down their efforts to agree, the delegates were almost in despair. Their hearts cried out for union, but their minds seemed to be overwhelmed. At this crisis, the venerable Benjamin Franklin suggested that they call upon Providence to give them guid-



ance, that their appeal to the Almighty Father might soften their temper, and, drawing strength by relying upon Divine aid, they might go forward together in common sympathy. What their hearts desired their minds discovered. They found a way to make American liberty forever secure.

We have all read the Constitution. We all know, at least in a general way, how it fulfills the people's will by uniting the States. But have we analyzed the Constitution, to search out its heart and soul? I maintain that, next to the Bible, "that holy book by which men live and die," the most precious expression of the human soul is the Constitution. In the Bible man finds solace, refreshment, and instruction in the most secret and sacred relation of the soul—its relation to God.

In the Constitution we find solace and security in the next most important thing in life—our liberty. Every word in the Constitution serves to safeguard us in our life, liberty, and pursuit of happiness. Every American, as he studies the marvelous framework of the Constitution, can say with truth and pride: "This was made for me. It is my fortress. When danger threatens my life or liberty I can take safe refuge in the Constitution. Into that fortress neither President nor Congress nor armies nor mobs can enter and take away my life or liberty."

You may ask me, where in the Constitution is there any language that throbs with a human heartbeat? Where is the soul of the Constitution? My answer is, in every paragraph. All its parts are mighty links that bind the people in an unbreakable chain of Union—a chain so beautifully wrought that it reminds us of the mystical golden chain which the poet saw binding earth to God's footstool.





Let us consider the preamble to the Constitution. We do not know from whose brain it came, but we know that it sounds the heartbeat of the framers. It is the majestic voice of the people, giving expression to their soul's desire.

**“We the People of the United States, in order to form a more perfect Union.”** *For what purpose?* To make our liberties secure. *For how long?* So long as humanity wanders through the wilderness of time. *For whom?* For every man, woman, and child under the American flag.

**“Establish Justice.”** What is justice but a guardian of liberty? My rights and immunities made secure against tyranny. Your right safeguarded against my wrong-doing. Your widow and your child protected when you are gone. Can there be a higher aspiration of the soul than to establish justice? Justice is an attribute of the Almighty Himself; for He said, “I, the Lord thy God, am a just God.”

**“Insure domestic Tranquility.”** The people longed for harmony. The framers of the Constitution saw that a central government would bring the States into common accord on all national questions, while removing other vexatious causes of disagreement. The very fact of equality of States was a guarantee of domestic tranquility. But the Constitution also provided a means whereby the government could protect the people against disturbances of public order and private security. The great charter thereby insured domestic order and peace, both among the States and among the people.

**“Provide for the common defence.”** It was well understood that the separated States were not strong enough to ward off foreign aggression. Divided, they invited invasion and conquest, even from the second-rate foreign powers. United, they constituted

a nation capable of defending itself in every part. The framers therefore clothed the common government with power to make war and peace, to raise armies and navies, to use the State militia for common defense, to build arsenals and navy yards. All that a mighty nation can do to defend its people and territory the United States of America can do; and even in its infancy the United States became a powerful nation through union of the States. The protection provided by the Constitution is the protection which a wise father provides for his family. This nation is like a strong fort defended by armed men. And far out at sea, prepared to meet and destroy any assailant, the United States Navy rides the waves in unwearied and vigilant patrol.

**“Promote the general Welfare.”** This provision has a far wider sweep than latter-day commentators accord to it. They seem to think that the government has limited powers in promoting the general welfare. They speak of relief of unemployment, flood-control, and drought-control as examples of provision for the general welfare. Those objects may come within the scope of the government's general welfare powers, it is true, but those powers extend far beyond that point. The general welfare is promoted by the unification of the States. They are thus enabled to pool their resources and concentrate their energies. An example of promotion of the general welfare is the establishment of the postal system. Another example is provision for uniform coinage and currency. Still another is the consolidation of defense forces of which I have just spoken. Indeed, the promotion of the general welfare by unification of the States is manifest in nearly every paragraph of the Constitution.

And finally, the Preamble declares that the Constitution is established to **“secure the Blessings of Liberty to ourselves and our Posterity.”** Who are we but the posterity of the great souls who wrought for our perpetual liberty? Can you agree that the forefathers of America were selfish and heartless men, when this proof is given that 150 years ago they were thinking of us, their posterity and heirs? Are we

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of this day equally fore-sighted? Do we give thought to our posterity that will live 150 years from now? If we are ready to pledge our lives, our fortunes, and our sacred honor for our distant posterity, we are worthy of the forefathers who did that much for us.

Summed up, the Preamble declares that our forefathers sought Union, Justice, Tranquility, Safety, Welfare, and Liberty. These are the virtues enjoined upon mankind by their Heavenly Father. He who seeks justice is blest with the benediction of God. It is God's wish that mankind should be free. In securing their liberty, the people obey God's will.

We hear it said that the Constitution is faulty because it does not invoke the name of the Deity. I hold that it does more than lean upon Divine strength. It strives to do God's will on earth, as it is done in heaven. Not a line, not a word in the Constitution is in conflict with the Divine will. On the contrary, every word and every declaration breathes an ardent desire to pattern the American Nation in accordance with God's holy will.

Can an atheist become President of the United States? I maintain that the spirit of the Constitution forbids it. The Constitution prescribes an oath or affirmation which the President must take in order to qualify for his office. This oath or affirmation in its essence is a covenant with the people which the President pledges himself to keep with the help of Almighty God.

All officers of the United States and of the States, all judges and defenders of the Union must bind themselves to support the Constitution. Whether given by oath or affirmation, this pledge is essentially an appeal for Divine help in keeping inviolate a sacred obligation.

Upon all the coins of the United States appears the inscription, "In God we trust." Every word of the Constitution breathes this trust in God. Read the Preamble again and again. Give wings to your thought, so that you may poise like an eagle over



*The Statue of Liberty in New York Harbor*

time and the universe, and you will find within those words all the most ardent hopes of the human heart, the holiest aspirations of the human soul.

That this nation is established upon the rock of God's favor and protection will be proved, we devoutly believe, by its indestructibility. Time does not wear down nor eat away the eternal truths of the Constitution. War cannot overturn the temple of our liberty so long as American sons are worthy of their forefathers. Instead of fading with age, the glory of the Constitution takes on new splendor with the passing of the centuries. The faith of the forefathers gave them strength to plan for the ages. May we, with equal faith, guard our birthright and hand it down to our posterity as their most precious heirloom—liberty, "the immediate jewel of the soul."

# —Chapter I—

## The Colonial Experience

The United States and its constitutional system did not arise out of a vacuum. The English colonists who came to America in the seventeenth and eighteenth centuries were well acquainted with ideas of government that had developed in their home country. They brought with them the traditions of British rights, liberties, and immunities—that is, exemptions from certain liabilities or prosecutions; British laws and customs; and the English language.

In the new land they continued to use the traditional democratic practices, which had their beginnings in Anglo-Saxon England. They established courts and enforced laws similar to those that had been used in England since the twelfth century. They knew the principles of several significant English documents that extended democracy. As time passed, American colonists adopted the principles of later English documents that were democratic advancements. Most of the principles, therefore, that influenced the writing of our Constitution, originated in England.

### Old World Influences

#### THE STRUGGLE FOR LIBERTY IN ENGLAND

Centuries of struggle had won for Englishmen many guarantees of rights, liberties, and immunities. The origins of the principles of civil liberty and self-determination go back to Anglo-Saxon England. The Normans found an advanced legal system already in place when they invaded England. Alfred the Great had established a legal code beginning with the Ten Commandments. The Anglo-Saxons had a court system based on the local shire or county. The Anglo-Saxons also had a great council of nobles known as

the Witan that met to elect and advise kings. Church law, likewise, made a contribution to the common law. The Viking settlers of northeastern England also influenced English law with their emphasis on individual rights.<sup>1</sup>

It was the Normans, however, who rationalized the English legal system, establishing the common law system. William I—William the Conqueror—kept the idea of a great council by establishing the Curia Regis, which eventually developed into the parliament and court system. King Henry II developed a system of courts, called the king's courts, and a jury system—the *grand jury* for accusations of crime and the *trial jury* for deciding the guilt or innocence of the accused. The common law, which recorded decisions handed down by judges in the king's courts, became standardized throughout England. English common law grew from decisions that were commonly applied in the land.

Although the common law system was established as early as the twelfth century, the struggle for English liberties continued. At Runnymede in 1215, the barons of England forced King John to put some of the rights and immunities that had been enjoyed from





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time immemorial into writing in the Magna Carta. The Magna Carta—the first document of the English constitutional system—established such principles as trial by jury of one’s peers and justice that could not be denied, delayed, or sold to any man. It also prevented the king from levying taxes without the consent of the Great Council, which was composed of clergymen and nobles. From this provision grew the principle that taxes should be levied by representatives of the people.

During the seventeenth century, great strides were made toward formally guaranteeing individual rights in writing. The Petition of Right of 1628 was drawn up by Parliament to limit the power of King Charles I, reaffirming the principles of the Magna Carta and prohibiting the quartering of soldiers in the homes of the people. The Habeas Corpus Act of 1679 established the principle that no person could be detained in prison unless charged with or convicted of a crime by a court. The struggle between Parliament and the monarchy culminated in the passage of the Bill of Rights in 1689. The Bill of Rights established the conditions under which William and Mary would reign after the ouster of James II by the “Glorious Revolution.” It guaranteed civil rights, the supreme power of Parliament over the monarchy, and freedom from arbitrary government. In the same year, Parliament also passed the Toleration Act, which provided religious toleration for all Protestants.

## POLITICAL THEORISTS

America may have been a long way from Europe, especially in the days of sailing ships, but the ideas of many European political scientists influenced colonial political thought, as well as the later writing of our Constitution. Americans profited from the ideas and experiences of the Greeks and Romans. Such seventeenth and eighteenth century writers as Hume, Grotius, Hobbes, and Rousseau were read and appreciated. After the Bible, however, it was the works of John Locke, William Blackstone, and the Baron de Montesquieu that were most often cited in



the writings of the Founding Fathers between 1760 and 1805.<sup>2</sup>

Montesquieu of France admired the democratic features of the English government. In *The Spirit of Laws*, he explained the principle of separating the powers of government into executive, legislative, and judicial branches. He believed that freedom and security for the citizens of a nation were best secured by the separation of powers.

John Locke became the apologist for England’s “Glorious Revolution,” providing justification for a constitutional monarchy in his *Two Treatises on Government*. Locke advanced the idea that people had natural rights to life, to liberty, and to possessions acquired by their labor. He



John Locke, 1632–1704





Sir William Blackstone, 1732–1780

believed that God had given people the power to reason and that, with this power, they could develop a government to protect their natural rights. If the ruler broke his obligation to protect these natural rights—that is, violated his social compact with the governed—then revolution was justified.

The noted eighteenth-century English jurist, Sir William Blackstone, had a critical influence on American legal thought. While a professor of law at Oxford, Blackstone published his *Commentaries on the Laws of England*. His commentaries became the primary source for information on English common law in America. They were so well received in the colonies that the noted English statesman Edmund Burke stated before Parliament in 1775 that “... they have sold nearly as many of Blackstone’s *Commentaries* in America as in England.”<sup>3</sup> Blackstone’s popularity in America continued long after the Revolution; as late as 1821 James Madison said that “I very cheerfully express my approbation of the proposed edition of Blackstone’s *Commentaries*...”<sup>4</sup> Blackstone was cited by both the Federalists and Antifederalists in the struggle for the ratification of the Constitution. Blackstone’s greatest contribution was the systematizing of English common law in a way that could be understood by the educated classes. He argued that

## Blackstone and Legal Training

William Blackstone was considered an essential part of a young man’s legal education. A few Americans, including Convention delegate Charles Cotesworth Pinckney of South Carolina, were able to study under Blackstone at Oxford. His writings became a standard textbook for legal tutors and law schools for over a century. After the War for American Independence, Benjamin Franklin recommended the study of Blackstone for his grandson, who was traveling to England to visit his father and study law. In 1784, Franklin wrote a letter to his son William that he wanted his grandson to “... study the Law, as a necessary Part of Knowledge for a public Man, and profitable if he should have occasion to practise it. I would have you therefore put into his hands those Law-books you have, viz. Blackstone, Coke, Bacon, Viner, & c.”<sup>5</sup>

at are not to make law; they are to determine what the law is and then apply it.<sup>6</sup>

Blackstone emphasized in his writings that all law was founded on God—both the law of nature and revealed law. He defined these laws in the following manner:

Law of Nature. This will of his Maker is called the law of nature... [God] laid down certain immutable laws of human nature, whereby that free will is in some degree regulated and restrained, and gave him also the faculty of reason to discover the purport of those laws...

... He has laid down only such laws as were founded in those relations of justice, that existed in the nature of things antecedent to any positive precept. These are the eternal, immutable laws of good and evil, to which the Creator Himself in all His Dispensations conforms; and which He has enabled human reason to discover, so far as they are necessary for the conduct of human actions.

This law of nature, being ... 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....

Revealed Law. This has given manifold occasion for the interposition of divine providence; which in compassion to the frailty, the imperfection, and the blindness of human reason, hath been pleased, at sundry times and in divers manners, to discover and enforce its laws by an immediate and direct revelation. The doctrines thus delivered we call the revealed or divine law, and they are to be found only in the Holy Scriptures.... [T]he revealed law is of infinitely more authenticity than that moral system, which is framed by ethical writers, and denominated the natural law.

Upon these two foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human law should be suffered to contradict these.<sup>7</sup>

These definitions are not unique to Blackstone. Sir Edward Coke, famous English jurist of the early seventeenth century, wrote that “The law of nature is that which God at the time of [the] creation of the nature of man infused into his heart, for his preservation and direction....”<sup>8</sup> These definitions, based on English common law, helped to shape the thinking of many before and during the Revolutionary War period. As they wrote and spoke about “natural law”—or the “Laws of Nature” as the Declaration of Independence puts it—they would be using them on the basis of such definitions.

## The Thirteen Colonies

### ENGLISH SETTLEMENT OF THE NEW WORLD

The English were late colonizing the New World. King Henry VII of England turned a cold shoulder to Christopher Columbus when he asked for financial aid in undertaking a highly speculative voyage in search of India by sailing westward from Europe. Henry, a keen and enterprising monarch, quickly real-

ized, however, the importance of Columbus’s discovery; and he decided that England would undertake its own voyage of exploration. He commissioned John Cabot, therefore, in 1496 to go out

and discover countries then unknown to Christian people and take possession of them in the name of the English king.

Cabot left Bristol, England, in 1497 and sailed along what is now the coasts of the United States and Canada, claiming it for England. It was not until a century and a half later, however, that the English established settlements in North America. The first permanent English settlement on this continent was made under the charter granted by King James I to Sir Thomas Gates and others in 1606. Three years later, a new and more enlarged charter was given to the “Treasurer and Company of Adventurers of the City of London for the First Colony in Virginia.” The colony was given all the lands along the seacoast, beginning from near 34° north latitude, extending northward 400 miles, and running westward “from sea to sea.” In 1620 another charter was granted to the Duke of Lenox and others, designating the Council for New England, conveying to them all the lands between 40° and 48° north latitude.

Under these charters the settlement of Virginia and New England was accomplished. Subsequent charters brought about the settlement of New Jersey, New York, Pennsylvania, Maryland, the Carolinas, and Georgia. Wars, followed by treaties, resulted in the acquisition by England of the remaining territory that comprised the thirteen original states, together with the western country east of the Mississippi River.



## COLONIAL GOVERNMENT

English common law was established by the time the colonies were begun. The system of constitutional government, safeguarded by a parliament elected by the people, was well established when the first colonial charter was granted.

Important developments in the English colonies, however, also helped shape the American Constitution. Numerous precedents were established in colonial America that influenced later constitutional developments. The colonists gained abundant experience during almost 200 years of colonial government under British authority. Eventually, the colonists gained substantial home rule and enjoyment of individual liberties equal to those enjoyed in England.

Early precedents for political liberty and representative government were established in the New England colonies with the Mayflower Compact and the Fundamental Orders of Connecticut. The Mayflower Compact, drawn up by the Pilgrims in 1620, established two principles—order should be maintained by the will of the majority, and just laws should be enforced for the general good. The Fundamental Orders of Connecticut—the first written

constitution in America—established a representative government based on the consent of the governed.

The colonies, beginning with Virginia and New England, were settled under charters granted by the king of England. These grants made large reservations of royal privilege and relatively small concessions to the emigrants. The charters under which the colonies were established, however, set precedents for limiting and distributing the powers of government. Each colony's charter also granted it some degree of freedom to manage its own affairs.

Broadly speaking, the colonists did not at first enjoy civil and political liberties as they were known in England. Protests against denial of privileges enjoyed by British freemen were made in Virginia as early as 1612. Gradually, the colonies were given larger powers of government, always provided that colonial laws should be in conformity to the laws of England and that allegiance to the crown should be acknowledged.

The first representative government in America was established in Virginia in 1619 with the convening of the House of Burgesses. This was the first step in the development of our state legislatures. Although the upper legislative house of most colonies was appointed—only the two self-governing colonies of

Connecticut and Rhode Island had elected upper houses—the lower house was elected by eligible voters in all of the colonies.

The principle of limiting executive power evolved from conflicts between colonial assemblies and governors. The colonial legislatures usually won in such conflicts because it was the lower house of each colony that held the “purse strings”—the power to appropriate money. Although most governors were



*Signing the Mayflower Compact 1620, a painting by Jean Leon Gerome Ferris, 1899*



appointed—either by a king or a proprietor like William Penn, who had been given a charter by the king to establish a colony—it was the colonial legislatures that paid their salaries.

In 1735 a precedent for freedom of the press was set by the outcome of a case involving the governor of the colony of New York and Peter Zenger, the editor of a New York weekly newspaper. Zenger was arrested and jailed on charges of printing libelous statements about the governor. When the case was tried, Zenger’s attorney attempted to prove that the statements printed by Zenger were true. Although the court cut off the attorney’s arguments, the jury declared Zenger not guilty. The Zenger case was a significant victory for freedom of the press in the colonies.

The colonies valued their strong local self-government and independence from one another. There were, however, some early attempts to achieve colonial

unity. Several of the New England colonies formed the New England Confederation in 1643 as a defensive alliance against hostile Indian tribes, the French, and the Dutch; but it only lasted until 1684. James II in 1686 forcibly united the New England colonies with New York and New Jersey in the Dominion of New England under Governor Sir Edmund Andros. This effort collapsed, however, in 1689 once the colonists learned that James II had been overthrown in the Glorious Revolution.

Benjamin Franklin suggested a plan of union to the Albany Congress of the colonies in 1754, but, foreshadowing the irrepressible conflict that was to come, the colonies rejected the plan because it gave too much control to the British government; and the British government rejected it because it gave too much liberty to the colonies. It was not until the conflict with England erupted that any serious efforts at united action by the colonies were attempted.

### The Glorious Revolution

England, Scotland, and the American colonies all suffered under the absolutism of Charles II and James II. James II combined his absolutism with Roman Catholicism, raising concerns among many English Protestants that he would become another Louis XIV. He took away the charters of several of the northern colonies and forced them into the Dominion of New England under a royal governor. Liberty came to Britain and the colonies when James was overthrown by William III, Prince of Orange, and Mary II, daughter of James II, in 1688. In spite of the fact that William and Mary came to England from Holland with only a small army, James fled to France without a fight, once he realized he had little support from either Parliament or the army. A minister from Massachusetts reflected on this time many years later in the following statement:

As an honorable historian observes—“At this time Great Britain, and Scotland, especially, was suffering under a prince inimical to civil liberty: And New-England, without a miraculous interposition, must expect to share the same judgments.” And indeed of this bitter cup, the dregs were reserved for this people, in that and the succeeding happily short, but inglorious reign.

Our Charter was dissolved, and despotic power took place. Sir Edmund Andros—a name never to be forgotten—in imitation of his Royal Master, in wanton triumph, trampled upon all our laws and rights... But the triumphing of the wicked is often short.

The glorious revolution, under the Prince of Orange, displayed a brighter scene to Great-Britain, and her colonies. And tho’ no part of its extended empire did bear a greater part in the joy of that memorable event than this province, yet it was then apprehended we were not the greatest sharers in the happy effects of it.<sup>9</sup>



**King William III and Queen Mary II,  
Ruled 1689–1702**



## Chapter 1 Review Exercises

### TRUE OR FALSE

Write *T* in the blank if the statement is true or *F* if the statement is false.

- \_\_\_\_\_ 1. Sir Edward Coke wrote *Commentaries on the Laws of England*.
- \_\_\_\_\_ 2. The case of Peter Zenger established an important precedent for the freedom of the press.
- \_\_\_\_\_ 3. Charles II created the jury system.
- \_\_\_\_\_ 4. John Cabot sailed along the coast of India, claiming it for England.
- \_\_\_\_\_ 5. The colonial legislatures paid the salaries of the colonial governors.

### MATCHING

Write the letter of the correct description beside the number of each person on the left.

- |                           |   |
|---------------------------|---|
| _____ 1. Alfred the Great | a. established the king's courts                                |
| _____ 2. King John        | b. overthrown by the "Glorious Revolution"                      |
| _____ 3. William I        | c. signed the Magna Carta                                       |
| _____ 4. Henry II         | d. established the Curia Regis                                  |
| _____ 5. James II         | e. commissioned John Cabot                                      |
| _____ 6. James I          | f. granted a charter for the colony of Virginia                 |
| _____ 7. Henry VII        | g. power limited by the Petition of Right of 1628               |
| _____ 8. Charles I        | h. established a legal code beginning with the Ten Commandments |

### MULTIPLE CHOICE

In each of the following blanks, place the letter of the word or phrase that makes the statement correct.

- \_\_\_\_\_ 1. The Anglo-Saxons had a great council of nobles known as the (a) Witan, (b) Curia Regis, (c) Shire.
- \_\_\_\_\_ 2. John Locke justified constitutional monarchy in his book (a) *The Spirit of Laws*, (b) *Two Treatises on Government*, (c) *Commentaries on the Laws of England*.
- \_\_\_\_\_ 3. The (a) Vikings, (b) Normans, (c) Anglo-Saxons rationalized the English legal system.
- \_\_\_\_\_ 4. Sir Edmund Andros was the governor of the (a) New England Confederation, (b) Council for New England, (c) Dominion of New England.
- \_\_\_\_\_ 5. The first representative government in America was established in (a) Virginia, (b) Massachusetts, (c) Connecticut.

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### FILL IN THE BLANK

*Complete each of the following sentences with the word or phrase that makes it a correct statement.*

1. Baron de Montesquieu believed that freedom and security for the citizens of a nation were best secured by \_\_\_\_\_.
2. \_\_\_\_\_ advocated the idea that when a ruler broke his social compact with the governed, then revolution was justified.
3. William Blackstone wrote that all human laws are based on \_\_\_\_\_ and \_\_\_\_\_.
4. The \_\_\_\_\_ reaffirmed the principles of the Magna Carta and prohibited the quartering of soldiers in the homes of the people.
5. The \_\_\_\_\_ established the principle that no person could be detained in prison unless charged with or convicted of a crime by a court.
6. The conditions under which William and Mary would reign were established by the \_\_\_\_\_.
7. The \_\_\_\_\_ provided religious toleration for all Protestants.
8. The Anglo-Saxon court system was based on the \_\_\_\_\_.

### ESSAY QUESTIONS

*Answer the following questions on separate paper.*

1. List the two principles established by the Mayflower Compact.
2. What were the principles developed from the Magna Carta?
3. What were the four works most often cited by the Founding Fathers between 1760 and 1805?
4. What were the three principles guaranteed by the Bill of Rights of 1689?
5. What was established by the Fundamental Orders of Connecticut?

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1. John Eidsmoe, *Christianity and the Constitution* (Grand Rapids, MI: Baker Book House, 1987), 59.
2. Eidsmoe, 51–53.
3. Edmund Burke, quoted in Verna M. Hall, *The Christian History of the Constitution of the United States of America: Christian Self-Government* (San Francisco: The Foundation for American Christian Education, 1960), 130A.
4. James Madison, quoted in Verna M. Hall, *The Christian History of the Constitution*, 130A.
5. Benjamin Franklin, “To William Franklin,” in *Benjamin Franklin: Writings*, ed. J. A. Leo Lemay (New York: Literary Classics of the United States, Inc., 1987), 1097.
6. Eidsmoe, 57–59.
7. Sir William Blackstone, *Commentaries on the Laws of England*, quoted in Verna M. Hall, *The Christian History of the Constitution of the United States of America: Christian Self-Government*, American Revolution Bicentennial ed. (San Francisco: The Foundation for American Christian Education, 1975), 141–143.
8. Herbert W. Titus, “God’s Revelation: Foundation for the Common Law,” in *The Christian and American Law*, ed. H. Wayne House (Grand Rapids, MI: Kregel Publications, 1998), 14.
9. Samuel Cooke, “An Election Sermon,” in *American Sermons: The Pilgrims to Martin Luther King Jr.*, ed. Michael Warner (New York: Literary Classics of the United States, Inc., 1999), 482–483.

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