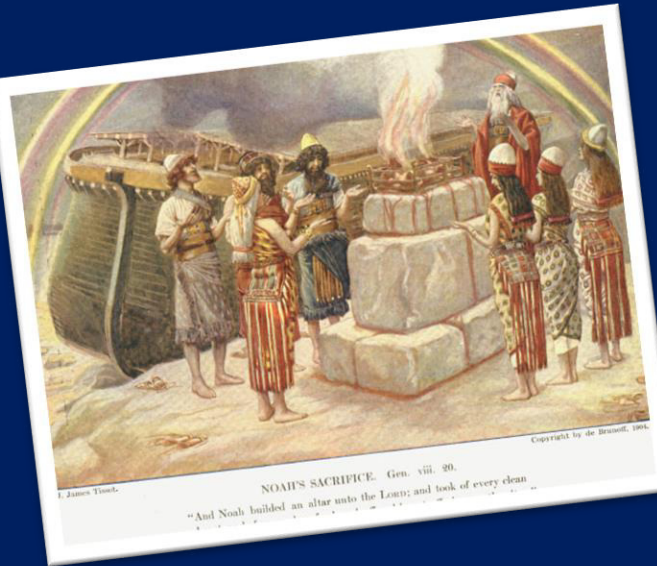


How Free is the Land of the Free?

By Dr. Andy Woods

Genesis 8:21



The Lord smelled the soothing aroma; and the Lord said to Himself, "I will never again curse the ground on account of man, for the intent of man's heart is evil from his youth; and I will never again destroy every living thing, as I have done. [emphasis mine].

Lord Acton



“All power tends to corrupt and absolute power corrupts absolutely.”

Federalist # 51



“But what is government 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. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”

Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers*, trans. Clinton Rossiter (New York, NY: Penguin, 1961), 322.



Legislative
(makes laws)

Senate

**House of
Representatives**



Executive
(carries out laws)

President

**Vice
President**

Cabinet



Judicial
(evaluates laws)

**Supreme
Court**

**Other
Federal Courts**

How Free is the Land of the Free?

1. The Way it Was
2. What Went Wrong?
3. The Way It Is
4. What Can Be Done?



How Free is the Land of the Free?

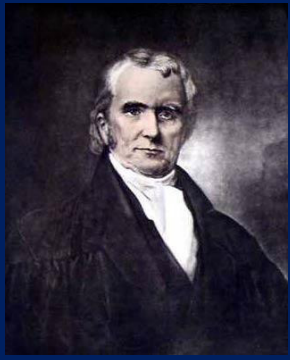
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Thomas Jefferson, Writings of Thomas Jefferson, Albert Bergh, ed. (Washington D.C.: Thomas Jefferson Memorial Association, 1904), Vol. XV, p. 449, in a letter from Jefferson to Justice William Johnson on June 12, 1823.

“Carry ourselves back to the time when the Constitution was adopted, recollect the spirit in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.”



Chief Justice John Marshall in *Ogden v. Saunders*, 6 L. Ed. 606, 647 (1827).

“To say that the intention of the instrument must prevail; that this intention must be collected from its words; that its words are to be understood in that sense in which they are generally used by those for whom the instrument was intended; that its provisions are neither to be restricted into insignificance nor extended to objects not comprehended in them nor contemplated by its framers, is to repeat what has been already said more at large, and is all that can be necessary.”



Joseph Story, *Commentaries on the Constitution of the United States*, 3rd ed. (Boston, 1858), vii

“The reader must not expect to find in these pages any novel views and novel constructions of the Constitution. I have not the ambition to be the author of any new plan of interpreting the theory of the Constitution, or of enlarging or narrowing its powers, by ingenious subtleties and learned doubts... Upon subjects of government, it has always appeared to me that metaphysical refinements are out of place. A constitution of government is addressed to the common sense of the people, and never was designed for trials of logical skill, or visionary speculation.”



*G. Edward White, "Reflections on the
Role of the Supreme Court," 63
Judicature 162, 163 (1979).*

“The only power that judges had, under Marshall’s view, was their professional power; their technical expertise enabled them to be better ‘finders of the law’ than other persons.”

George Washington

“If, in the opinion of the people, the distribution or modification of the Constitutional powers be at any particular wrong, let it be corrected by an amendment the way the Constitution designates. But let there be no change by usurpation; though this may in one instance be the instrument of good, it is the customary weapon by which free governments are destroyed.”



George Washington quoted in John Eidsmoe, *Christianity and the Constitution* (Grand Rapids, Baker, 1987), 392-93.



David Barton, *The Myth of Separation*,
5th ed. (Aledo, TX: Wallbuilder Press,
1992), 221

“As in many documents, the Constitution lists the most important aspects first, progressing to those of lesser consequence; following the preamble, Article I describes the Congress, Article II the Presidency, and Article III the Judiciary. Not only does the order of listing reveal their relative position of importance, the amount of detail provided by each branch also reflects its relative importance. The Legislature (Article I) received 255 lines of print while the Presidency (Article II) required only 114 lines. The judiciary (Article III) merited a mere 44 lines.”

How Free is the Land of the Free?

1. The Way it Was

2. What Went Wrong?

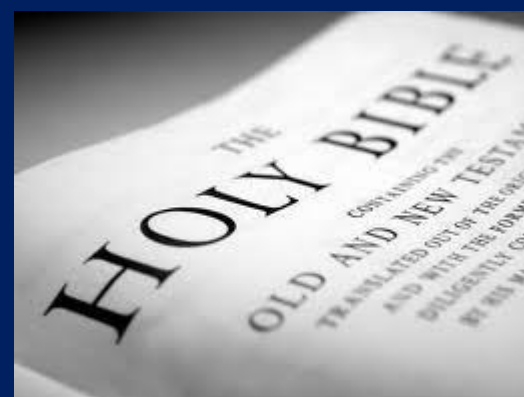
3. The Way It Is

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Sowing and Reaping

Galatians 6:7-9, “Do not be deceived, God is not mocked; for whatever a man sows, this he will also reap. For the one who sows to his own flesh will from the flesh reap corruption, but the one who sows to the Spirit will from the Spirit reap eternal life. Let us not lose heart in doing good, for in due time we will reap if we do not grow weary.”





Cited in Mark A. Beliles and Stephen K. McDowell, *America's Providential History* (Charlottesville, VA: Providence, 1989), 95.

“The philosophy of the school room in one generation will be the philosophy of government in the next.”

ON

THE ORIGIN OF SPECIES

BY MEANS OF NATURAL SELECTION,

OR THE

PRESERVATION OF FAVOURED RACES IN THE STRUGGLE
FOR LIFE.

By CHARLES DARWIN, M.A.,

FELLOW OF THE ROYAL, ANTHROPOLOGICAL, LITERARY, ETC., SOCIETIES;
AUTHOR OF "JOURNAL OF RESEARCHES DURING N. H. S. BEAGLE'S VOYAGE
ROUND THE WORLD."

LONDON:

JOHN MURRAY, ALBEMARLE STREET.

1859.

The right of Translation is reserved.

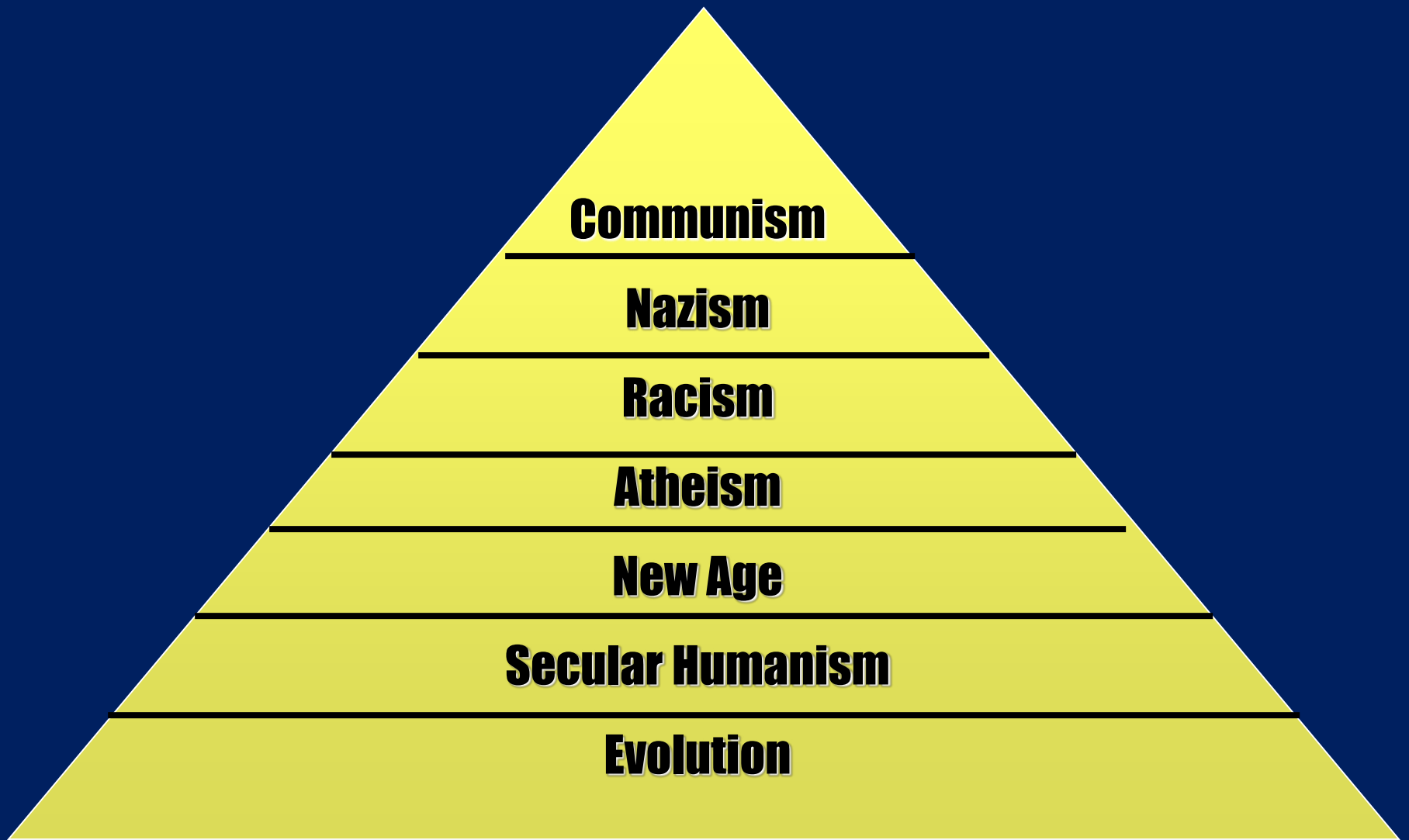
ON

THE ORIGIN OF SPECIES

BY MEANS OF NATURAL SELECTION,

OR THE

PRESERVATION OF FAVOURED RACES IN THE STRUGGLE
FOR LIFE.



Source: Henry Morris, The Long War Against God



Fred Cahill, 1952, Yale University Political Science professor; quoted in John Whitehead, The Second American Revolution (IL: Crossway, 1982), 46.

“The appearance in the mid-nineteenth century of the concept of evolution was an event of transcending importance to the development of American Jurisprudence... This involved... a shift... from the rationalistic deductive pattern, characteristic of the pre Darwinian period, to the empirical, evolutionary approach... that is followed... today.”



Justice Brennan, Teaching Symposium,
Georgetown University, Washington, D.C.,
October 12, 1985, p. 51.

In a 1985 address to the American Bar Association Justice William Brennan contended that this “evolutionary process is inevitable and is...the true interpretive genius of the text.”



Laurence Tribe, *American Constitutional Law*,
p.iii.

“The Constitution is an intentionally incomplete, often deliberately indeterminate structure for the participatory evolution of political ideas and governmental practices.”



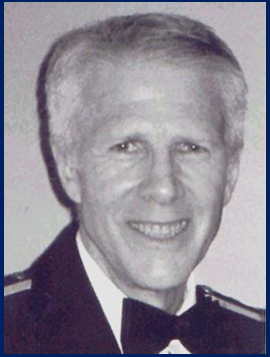
Laurence Tribe, *American Constitutional Law*, p.iv.

“The highest mission of the Supreme Court, in my view, is not to conserve judicial credibility, but in the Constitution’s own phrase, ‘to form a more perfect union’ between right and rights within that charter’s necessarily evolutionary design.”



Joseph Story, *Commentaries on the Constitution of the United States*, 3rd ed. (Boston, 1858), vii

“The reader must not expect to find in these pages any novel views and novel constructions of the Constitution. I have not the ambition to be the author of any new plan of interpreting the theory of the Constitution, or of enlarging or narrowing its powers, by ingenious subtleties and learned doubts... Upon subjects of government, it has always appeared to me that metaphysical refinements are out of place. A constitution of government is addressed to the common sense of the people, and never was designed for trials of logical skill, or visionary speculation.”



John Eidsmoe, "Creation, Evolution and
Constitutional Interpretation," *Concerned
Women for America* 9 (September 1987):
7

“Underlying the disagreement over interpretation of the Constitution-is a confrontation between the two world views-the creationist, absolutist, Newtonian views of the framers, versus the evolutionist, relativist, Darwinian views of most legal scholars today.”

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3. The Way It Is

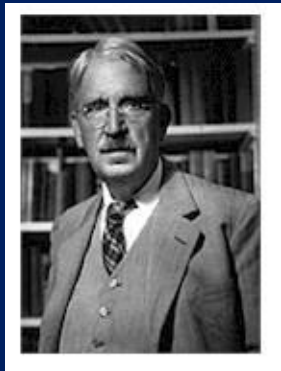


- a. Shift in education
- b. Transfer in authority
- c. Threat to unalienable rights
- d. Threat to Democracy
- e. Illustrations

3. The Way It Is



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John Dewey; quoted in Barton, *Original Intent*,
228.

“The belief in political fixity, of the sanctity of some form of state consecrated by the efforts of our fathers and hallowed by tradition, is one of the stumbling blocks in the way of orderly and direct change.”



Wayne Grudem, *Systematic Theology*, p. 287.

“...if human beings are continually evolving for the better, then the wisdom of earlier generations...is not likely to be as valuable as modern thought.”



Justice Iredell; quoted in Barton,
Original Intent, 217.

“For nearly thirty years it [Blackstone’s Commentaries] has been the manual of almost every law student in the United States, and its uncommon excellence has also introduced it into the libraries, and often to the favorite reading of private gentlemen.”



Blackstone, *Commentaries on the Laws of England*
(Wendell's Ed. 1847), p. 38-39, n. 10; p. 42.

“Thus, when the Supreme Being formed the universe, and created matter out of nothing, he imposed certain principles upon that matter, from which it can never depart, and without which it would cease to be...If we farther advance, from mere inactive matter to vegetable and animal life, we shall find them still governed by laws, more numerous indeed, but equally fixed and invariable...Man, considered as a creature, must necessarily be subject to the laws of his creator, for he is entirely a dependent being...no human laws should be suffered to contradict the laws of nature and the law of revelation.”



Pat Robertson, *America's Dates With Destiny*
(Nashville: Thomas Nelson Publishers, 1986), 95.

“I spent three years getting my law degree at Yale Law School. From the moment I enrolled, I was assigned huge, leather-bound editions of legal cases to study and discuss. I read what lawyers and judges, professors, and historians said about the Constitution. But never once was I assigned the task of reading the Constitution itself...”



William J. Brennan, Jr.; quoted in Eidesmoe,
Christianity and the Constitution, 397-98.

“It is arrogant to pretend that from our vantage we can gauge accurately the intent of the framers on application of principle to specific contemporary questions. All too often sources of potential enlightenment such as records of the ratification debates provide sparse or ambiguous evidence of the original intention...And apart from the problematic nature of the sources, our distance of two centuries cannot but work as a prism refracting all we perceive.”

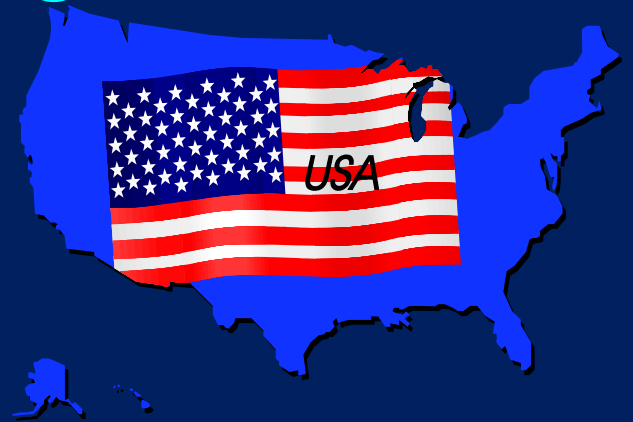
An Unknowable Constitution?



According to staff writer for The Washington Post and MSNBC Contributor Ezra Klein, “The issue with the Constitution is that the text is confusing because it was written more than 100 years ago and what people believe it says differs from person to person and differs depending upon what they want to get done.”

<http://www.youtube.com/watch?v=bc4qHHIRcJw&feature=related>.

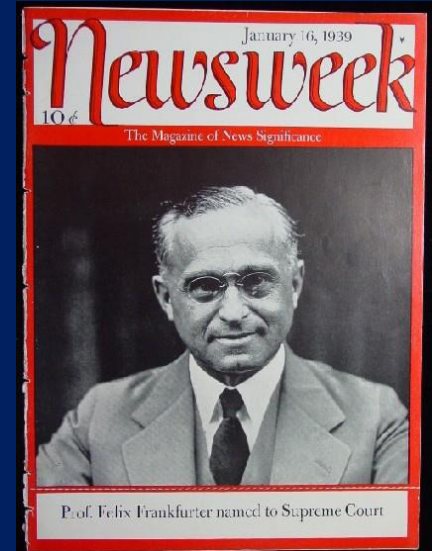
3. The Way It Is



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Felix Frankfurter in *Graves v. New York ex rel. O'Keefe*, 306 U.S. 466,
491-492 (1939).

“The ultimate touchstone of constitutionality
is the Constitution itself and not what we
have said about it.”





Charles Evans Hughes; quoted by Craig R. Ducat and Harold W. Chase, *Constitutional Interpretation* (St. Paul: West Publishing Co., 1974, 1983), 3.

“We are under a Constitution, but the Constitution is what the judge says it is.”



Edwin Meese, III, Address to American Bar Association, 1985; adapted in “Toward a Jurisprudence of Original Understanding,” *Benchmark* Vol. II, no. 1, (January-February 1986): 6.

“Under the old system the question was *how* to read the Constitution; under the new approach, the question is *whether* to read the Constitution.”

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Declaration of Independence



“the Laws of Nature and of Nature’s God,”



“we hold these truths to be self evident, that all men are created equal,”



“they are endowed by their Creator with certain unalienable Rights,”



“appealing to the Supreme Judge of the world for the rectitude of our intentions,”



“with firm reliance on the protection of Divine Providence.”



Oliver Wendell Holmes cited in Richard Hertz,
Chance and Symbol (Chicago: University of Chicago
Press, 1948), 107.

“I see no reason for attributing to man a
significance different in kind from that
which belongs to a baboon or a grain
of sand.”



Speech by Attorney General Janet Reno, Newark, New Jersey, May 5, 1995. Quoted in James Bovard, "Waco Must Get a Hearing," *Wall Street Journal*, May 15, 1995.

“You are part of a government that has given its people more freedom...than any other government in the history of the world.”

3. The Way It Is

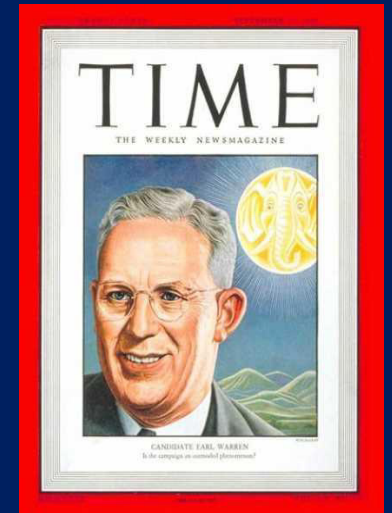


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Infamous Warren Court Quip Attributed to Justice William O. Douglas



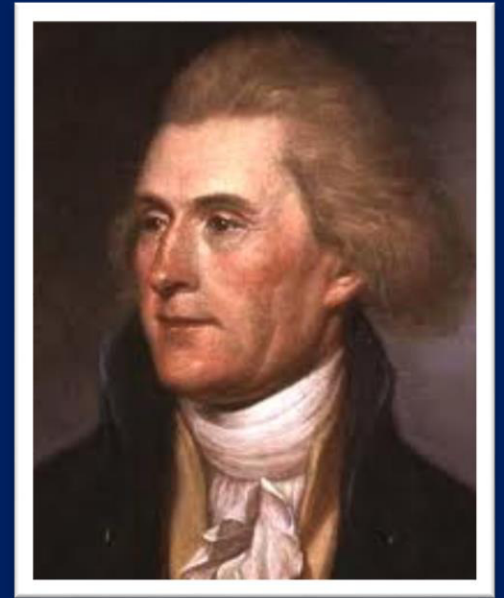
“With five votes we can do anything”



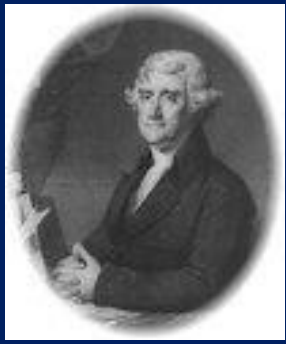
Owen M. Fiss, “Objectivity and Interpretation,” in *Interpreting Law and Literature: A Hermeneutic Reader*, ed. Stanford Levinson and Steven Mailloux (Evanston, IL: Northwestern University Press, 1988), 244.

Thomas Jefferson

“...a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please.”



Jefferson, *The Writings of Thomas Jefferson*, 15:213, in a letter from Jefferson to Judge Spencer Roane on September 6, 1819.



Thomas Jefferson, *Writings of Thomas Jefferson*, Albert Bergh, ed. (Washington D.C.: Thomas Jefferson Memorial Association, 1904), Vol. XV, p. 277, September 28, 1820.

“You seem...to consider judges as the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so...and their power the more dangerous as they are in office for life, and not responsible, as the other functionaries are to the elective control. The Constitution has erected no such single tribunal...”

Lino A. Graglia, "Judicial Review on the Basis of 'Regime Principles': A Prescription for Government by Judges, *South Texas Law Journal*, Vol. 26, No. 3 (Fall 1985), pp. 435-52, at 441.

...judicial usurpation of legislative power has become common and so complete that the Supreme Court has become our most powerful and important instrument of government in terms of determining the nature and power of American life. Questions literally of life and death (abortion and capital punishment), of public morality (control of pornography, prayer in the schools, and government aid to religious schools), and of the public safety (criminal procedure and street demonstrations), are all, now, in the hands of judges under the guise of constitutional law. The fact that the Constitution says nothing of...abortion...has made no difference. The result is that the central truth of constitutional law today is that it has nothing to do with the Constitution except that the words 'due process' or 'equal protection' are almost always used by the judges in stating their conclusions...constitutional law has become a fraud, a cover for a system of government by the majority vote of a nine-person committee of lawyers, unelected and holding office for life.

**The
Supreme
Court
Justices**



Roberts



Ginsburg



Breyer



Scalia



Thomas



Alito



Kennedy



Sotomayor



Kagan

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e. Illustrations

1. Engle v. Vitale (1962)

2. Roe. Wade (1973)

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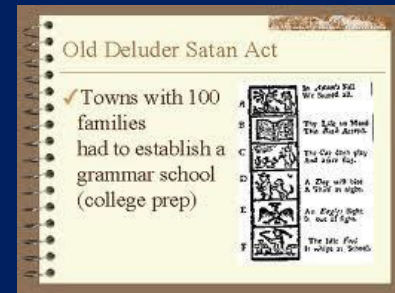
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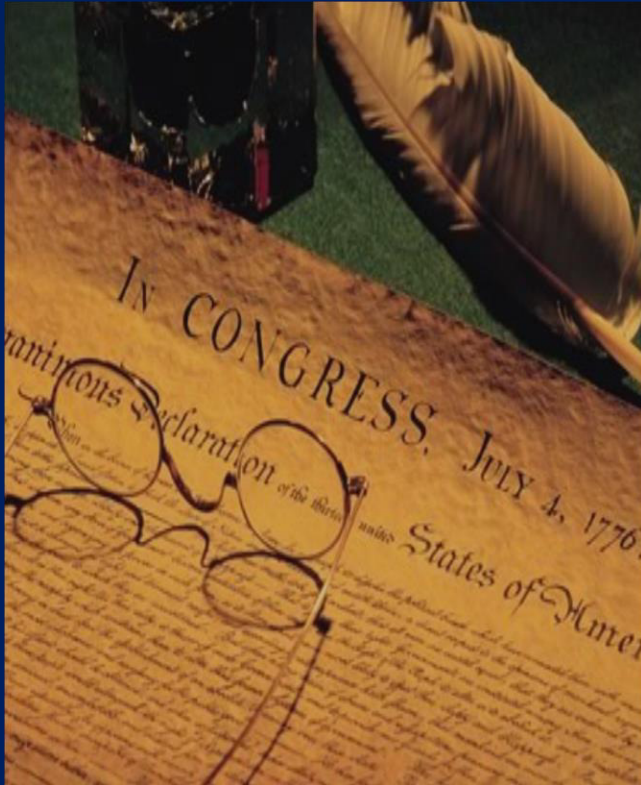
Old Satan Deluder Law



“It being one chief project of that old deluder, Satan, to keep men from the knowledge of the Scriptures, as in former time...It is therefore ordered...that after the Lord hath increased the settlement...they shall...appoint one within their town, to teach all such children to read...they shall set up a grammar school to instruct youths...”

Church of the Holy Trinity v. U.S., 143 U.S. 457, 467 (1892)

Article III of the Northwest Ordinance



“Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.”

Documents of American History, Henry S. Commager, ed.,
5th ed. (NY: Appleton-Century-Crofts, Inc., 1949), 131.

Engle v. Vitale, 370 U.S. 421-22 (1962).

“Almighty God, we
acknowledge our
dependence upon
Thee, and we beg thy
blessings upon us, our
parents, our teachers,
and our country.”



No Precedent

“Finally, in *Engel v. Vitale*, only last year, these principles were so universally recognized that the court, *without the citation of a single case*... reaffirmed them” (italics added).



School District of Abington Township v. Schempp, 374 U.S. 203, 220-21 (1963).

First Amendment

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise there of” (italics added).





Justice Anthony Scalia's dissenting opinion in *Board of County Commissioners v. Umbehr*, 518 U.S. 668, 711.

“What secret knowledge, one must wonder, is breathed into lawyers when they become members of this court, that enables them to discern that a practice which the text of the Constitution does not clearly proscribe, and which our people have regarded as constitutional for 200 years, is in fact unconstitutional?...Day by day, case by case, [the Court] is busy designing a Constitution for a country I do not recognize.”

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U.S. SUPREME COURT

- **BOWERS V. HARDWICK (1986)**
- **LAWRENCE V. TEXAS (2003)**



e. Illustrations

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So What? Seven Points of Application!

- Gain knowledge (Hos. 4:6)
- Give yourself to prayer (1 Tim. 2:1-4)
- Don't lose hope (Titus 2:13)
- Educate the next generation (Judges 2:10)
- Greater civic involvement (1 Cor. 4:2)
- Support common sense legislation
- Realize that you have more power than you think



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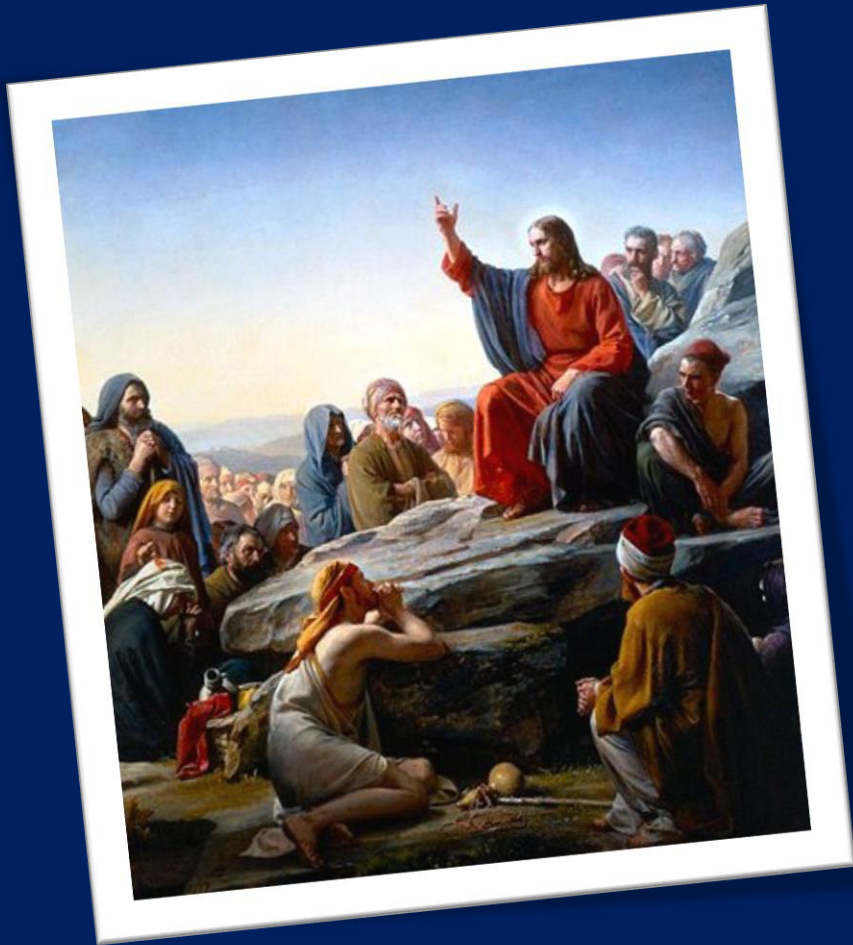


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A City Set Upon a Hill



Matt 5:13, 16:

“You are the light of the world. A city set on a hill cannot be hidden...Let your light shine before men in such a way that they may see your good works, and glorify your Father who is in heaven.”



"I will protect the German people. You take care of the church. You pastors should worry about getting people to heaven and leave this world to me."

Adolf Hitler to Martin Niemoller, cited in Charles Colson, *Kingdoms in Conflict: An Insider's Challenging View of the Politics, Power, and the Pulpit* (Grand Rapids: Zondervan, 1987), 140.

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When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another...a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation...That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government...But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.

Conclusion

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