The Laws of Nature and of Nature's God: The True Foundation of American Law

KERRY LEE MORGAN

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INTRODUCTION

An examination of the true foundation of American law must begin with the question: "Is the law of God supreme or is it subject to the laws of peoples and nations?" Two answers to this question are possible. The first answer is that God exists and his law, including his laws pertaining to the creation of nations, governments and constitutions, are supreme, right and absolute. The second answer is that whether or not God or his law exist, the law of peoples and nations, are supreme, right and absolute at least until they are changed.

Ascertaining the requirements of any law - human or Divine - requires people to make judgments about what the rule of law is and what that law commands. It requires people to understand the sources and foundations of law.

This essay explores the sources and foundations of American law. The thesis of this essay is that the essential American legal principles of equality, rights and government by consent, are derived from the laws of God, articulated in the Declaration of Independence under the general appellation of the "Laws of Nature and of Nature's God," and incorporated into the various state constitutions and the federal Constitution. This essay briefly surveys the laws of nature and of nature's God as that law was first expressed in Creation and then verbalized in the Declaration's text and the Constitution's clauses.

It is hoped that as a result of this examination and survey, the basic outline of God's law of Creation as it has found expression in the American legal and constitutional context will plainly emerge. The emergence of such an outline will enable students of law generally, and of constitutional law specifically, to begin thinking in terms of the law of God with an eye toward reinvigorating the true foundations of American law and government.

WHAT ABOUT THE BIBLE?

As one might expect, the Bible is fairly clear on the subject of the supremacy of God and his law. It indicates that there is no God except the Lord God.[1] God is the God of creation and He is the Creator of all things visible and invisible.[2] God impressed his laws upon creation and he governs its operation accordingly.[3] God gave his law so that people would seek after God and know what God requires of every person.[4] Of course, the laws of God are right, perfect, and eternal.[5] They apply over the entire globe and are written in God's creation because God is the Creator of all the earth.[6] These rules also apply to all people and are written within each man, woman and child

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1. Isaiah 45:22-23. *See also*, Revelation 22:13.
2. Genesis 1:1, Romans 1:20, Colossians 1:16.
3. Psalm 19:1-3,7-9,11.
4. Genesis 2:16-17. *See also*, Acts 17:24-28a.
5. Psalms 119:128a [right], 142,151 [perfect], 160 [eternal].
6. Genesis 1:1-2:3 [Account of creation of heavens and earth]. Acts 4:24 & 14:15; [Affirmation that God made the

because God is the Creator of all people.[7] God also reiterated the basic elements of his rules of right and wrong in the Bible.[8]

The implications of this situation are straightforward. Since God created all things, he also has the right to rule them according to his laws.[9] He rules the nations according to his laws.[10] His laws rule the nations irrespective of whether a given nation believes in God or recognizes his laws.[11] This does not mean that the nations are perfect nor does it mean that people who do not worship God cannot rule.[12] Nor does it mean that God will judge lawbreakers according to our timetables of justice.

It does mean, however, that God will not let a corrupt government rule forever.[13] God judges justly on the earth and punishes lawless leaders and nations.[14] Nations which forget God may completely perish.[15] Nations which honor God and try to follow his laws, however, can expect to receive his care and protection.[16]

WHO CAN SAY WHAT IS GOD'S LAW?

Of course, the substance of the law of God can be misunderstood. It can be invoked to require that which it does not and prohibit that which it may not. Historically, God's law has been twisted by priest and pagan alike.[17] There is no infallible Oracle to say which declaration or interpretation of God's law is authentic. There is, however, evidence which provides a sufficient indication of the general requirements and prohibitions of God's law. These expressions provide reliable standards of right and wrong. The first expression of law is God's physical creation - the universe. A second expression resides within all people, namely, conscience and reason. A third expression of God's law is found in His written revelation, the Bible. These are concurrent expressions of God's law which we may consider in our effort to adequately determine what the law prohibits, allows and

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heavens, earth, the sea and all therein]. Acts 17:24 [God made the world and dwells in heaven, not in man-made temples].

7. Romans 2:14-15.

8. Exodus 20:1-17, Matthew 22:36-40, Romans 5:20 and 13:8-10.

9. Psalm 24:1, 29:10, 90:2. *See also*, Psalm 2:10.

10. Psalm 2:1-4.

11. 1 Chronicles 29:11-12. Compare Exodus 5:2 with Exodus 9:27-28. *See also*, Exodus 12:31-32.

12. Jeremiah 27:4-8.

13. Jeremiah 25:9 and Daniel 4:30-37.

14. Psalm 58:11, 82:1-8, Ezekiel 14:12-14, Job 12:17-24.

15. Jeremiah 12:14-17.

16. Daniel 4:30-37, Deuteronomy 11:26-29.

17. Jeremiah 8:8, 14:14-15, Matthew 7:15.

commands.[18]

In contrast to God's law, the civil laws of nations are not written on anyone's conscience or mind. They are not written in the physical creation. Nor are they appended to the Bible. The civil laws of nations are only written in their own lawbooks. Consequently, the validity and force of such laws are based solely on national authority. There is no other supporting evidence or "witness" to testify for the validity of specific civil laws. This shortcoming, however, is not necessarily a fatal one. In order for the civil laws of any nation to be authoritative, they must at least be supported by the testimony of another source and that they are consistent with God's delegation of authority to civil governments.

In order for the laws of a nation to be valid, they must at the very least harmonize with, and not contradict, the law of God. We know the law of God by looking to its expressions. If the laws of a nation conflict with one of the expressions of the law of God, then something is amiss. Or, perhaps we do not understand one or the other clearly.

The optimum situation would be where the laws of a nation are consistent with each of the expressions of the law of God. But, perhaps the best that can be generally hoped for is that civil laws be found to not contradict the most universal expression of the law of God in creation - the law of nature. The heavens and the earth declare that law. Thus we may deduce a rule to guide us: only when civil law does not contradict this fundamental and universal expression of the law of God can it be recognized as *prima facie* valid. That is to say, civil laws, so far as can be judged from first appearances, are valid if they do not violate God's law as reflected in the law of nature. And we can know if our interpretation of the law of nature is correct if it comports with the Bible.

Consistency with creation, therefore, is the minimum test to validate the laws of nations. Historically, this was recognized in the legal maxim, *lex spectat naturæ ordinem,* the law regards the order of nature. A law which fails this initial test is of no binding legal effect because it remains unsupported. Every civil law requires the supporting testimony of the law of God in at least one of its expressions in order to be of binding effect. Indeed, no nation should be bound to a *malum in se* rule or law simply because it is written in a statute book.[19]

THE LINK TO ENGLISH COMMON LAW

The supremacy of God's law was generally recognized in the English common law. Sir William

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18. Acts 17:24-28.

19. *Malum in se* means a wrong in itself. "An act is said to be *malum in se* when it is essentially and inherently evil, that is, immoral in its nature and injurious in its consequences, without regard to the fact of its being noticed or punished by the law of the state. Such are most or all of the offenses cognizable at common law, (without the denouncement of a statute;) as murder, larceny, etc." An offense which is *malum in se* differs from one that is *malum prohibitum. Malum prohibitum* is a "thing which is wrong because prohibited: an act which is not inherently immoral, . . . an act involving an illegality resulting from positive law." Thus, laws which claim to punish an act that is inherently evil must be supported by the law of nature. Acts which are merely wrong because they are prohibited do not belong to the class of things that are inherently evil.

Blackstone, the preeminent English legal authority widely followed by the American founders, recognized the binding legal nature of the law of God as understood in its basic principles. Blackstone maintained that English law (and therefore, American law) had its roots in the laws of God.

Blackstone recognized that "law, in its most general and comprehensive sense, signifies a rule of action." He identified the essential *legal* relationship that exists between God and his creation by observing, "Man, considered as a creature, must necessarily be subject to the laws of his Creator, for he is entirely a dependent being."[20] God was acknowledged as the lawgiver and therefore the one who laid down certain immutable rules of action, that is, of right and wrong conduct.

Recognizing the relevance of the creation and the Bible, Blackstone noted that "[u]pon these two foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human laws should be suffered to contradict these."[21] In other words, the law of God whether written in God's creation (nature) or in the Bible (revelation), spoke with a unified voice. Moreover, this law is absolute: any law of man to the contrary is of no effect.

Various individuals, peoples, and governments have interpreted God's laws differently at different times.[22] The framers of the American system of government, however, were in one accord in "presuppos[ing] the existence of a God, the moral ruler of the universe, and a rule of right and wrong, of just and unjust, binding upon man, preceding all institutions of human society and government."[23] In other words, the framers recognized that God laid down rules that governed the

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20. William Blackstone, Commentaries on the Laws of England (Oxford: Clarendon Press, 1765; reprint ed., Birmingham: The Legal Classics Library, 1983) 1:38-39. While searching for the relationship between God and the American founding, some authors have focused on the personal religious beliefs of the Founders and Framers. *See*, M.E. Bradford, A Worthy Company (Plymouth Rock Foundation; N.H., 1982) and John Eidsmoe, Christianity and the Constitution (Grand Rapids: Baker Book House, 1987). Others have tended to concentrate on the condition of colonial religious liberty, the presence of an established church, the decline of Puritan influence and the effects of enlightenment and deistic thinking. With respect to the latter point, *see generally*, C. Gregg Singer, A Theological Interpretation of American History (Philadelphia: Presbyterian and Reformed Publishing Co., 1981).

These yardsticks, however, do not measure foundational *legal concepts.* In other words, operating on the belief that matters such as the eternal salvation or religious predilections of the framers constitute the indispensable criteria for measuring our legal heritage, may cause us to overlook the laws of God's creation as the expositor of the American system of law, government and rights. For a very interesting background on the Bible and law, *see*, D. Seaborne Davies, The Bible in English Law (The Jewish Historical Society of England: London, 1954) 3-23.

21. Blackstone, *supra* note 20, at 42.

22. For a discussion of Puritan adaptation of Biblical laws, *see generally*, Cotton Mather, Magnalia Christi Americana [The Great Works of Christ in America] (Edinburgh Carlisle, PA: Banner of Truth Trust, 1979). One of their first codified statute books, entitled "The Laws and Liberties of Massachusetts of 1648," cited capital offenses next to their corresponding Biblical chapter and verse. The Laws and Liberties of Massachusetts of 1648 (Reprint ed., Birmingham: The Legal Classics Library, 1982) 5-6. For a discussion of Virginia's adaptation of the same, see "For the Colony in Virginea-Britannia: Lawes Divine, Morall and Martiall, &c." (1612) reprinted in Tracts and Other Papers Relating Principally to the Origin, Settlement, and Progress of the Colonies in North America, (Compiled by Peter Force, Washington, D.C., 1844; reprint ed., Gloucester, MA: Peter Smith, 1963) Vol. 3:10-19.

23. John Quincy Adams, The Jubilee of the Constitution, a discourse delivered at the request of the New York

universe and nations and that these laws could be sufficiently understood because they are communicated by a God who wants people to know them.[24] They presupposed a God who is not silent.

President John Quincy Adams, writing in 1839, looked back at the founding period and recognized the true meaning of the Declaration's reliance on the "Laws of Nature and of Nature's God." He observed that the American people's "charter was the Declaration of Independence. Their rights, the natural rights of mankind. Their government, such as should be instituted by the people, under the solemn mutual pledges of perpetual union, founded on the self-evident truths proclaimed in the Declaration."[25]

THE LAWS OF NATURE AND OF NATURE'S GOD

The Declaration of Independence is a document with its roots in the law of God. Perhaps the best place to begin understanding how the Declaration serves in this capacity is to discern how the framers understood and applied its principles to the creation and formation of civil government. If we can understand how they took the Declaration's principles and applied them to the formation of constitutions, then we too should be able to apply those same principles to any other legal difficulties that our constitutional governments may face.

The first paragraph of the Declaration of Independence sets the stage for the American revolution and its indispensable reliance on the laws of God, the Creator.[26] It declares:

> When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with one 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 entitles them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

By invoking the "Laws of Nature and of Nature's God" the 56 signers of the Declaration incorporated a legal standard of freedom into the forms of government that would follow. The theory of freedom adopted was simply that God's law was supreme and gave freedom. The phrase "Laws of Nature and of Nature's God" referred to the laws that God in his capacity as the Creator of the universe had established for the governance of people, nations and nature. These laws are

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Historical Society, on Tuesday, April 30, 1839, reprinted in 1986 Journal of Christian Jurisprudence 1, at 6.

24. Not every law of God, however, has been made known to man or is knowable by man. This condition is inherent in the fact that God is infinite and mankind, his creation, is finite and fallen.

25. Adams, *supra* note 23, at 4.

26. The Declaration of Independence, July 4, 1776, quoted in Richard L. Perry, ed., Sources of Our Liberties (Chicago: American Bar Foundation, 1978), at 317. The term "Creator" appears in the second paragraph of the Declaration. The terms "Supreme Judge" and "Divine Providence" which appear in the last paragraph, refer to God in the first paragraph, *i.e.*, the "Laws of Nature and of Nature's God." *See*, Gary T. Amos, Defending The Declaration (Brentwood, Tennessee: Wolgemuth & Hyatt, Publishers Inc., 1989), pp. 40-41 and pp. 50-59.

variously described as the laws of Creation, God's Creation laws or as the framers elected to refer to them, as the laws of nature and of nature's God. This body of law, whatever it is called, can be ascertained by people through an examination of God's creation, the text of the Bible, and to a certain degree, instinct or reason.

The decision to expressly rely upon God's law of creation was not a superficial one, but ably debated for many years before and after the Declaration was drafted.[27] Thomas Jefferson, for instance, reflecting on the Declaration of Independence, wrote in 1825 that its essential point was "not to find out new principles, or new arguments, never before thought of, not merely to say things which had never been said before; but to place before mankind the common sense of the subject."[28] For the common sense of the subject, the framers turned to the laws of creation. They gave the principles of that law expression in the Declaration. The American Revolution was the context in which the Declaration's principles were discerned and expressed for all the world to hear and consider anew.[29]

A FINITE ARTICULATION OF THE LAWS OF CREATION

What does the Declaration say about the laws of nature and of nature's God? By its own terms the Declaration of Independence reflects only a finite articulation of that law. The Declaration outlines and explains only a few of the most important principles that are embodied in the law of God. The Declaration was not meant to define and enumerate every legal idea God has ever expressed. The Declaration simply provides us with the essential legal principles. The document enumerated the essential ingredients of the law of nature: equality, unalienable rights and government by consent.

These ingredients or principles were subsequently incorporated into both the federal and to a lesser extent, state constitutions. The framers of the federal Constitution deliberately left to the states the business of fleshing out the particulars of the law of nature and of nature's God in their respective state constitutions. It is deplorable that this task has remained largely unaccomplished. This condition is owing in no insignificant measure to the rise of federal judicial preemption of state legislative power,[30] and the decline of serious reflection about the origins of law among lawyers, law

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27. For reference to the framer's discussion pertaining to reliance on the idea of the laws of nature, *see*, The Works of John Adams, Delegates in The Continental Congress of 1774 (Books for Libraries Press: Freeport, New York) 2:371-374.

28. Thomas Jefferson, in a letter to Richard Henry Lee dated May 8, 1825, quoted in Thomas Jefferson's Writings (New York: The Library of America, 1984), 1501.

29. This understanding was not a peculiarly American concept by any means. Montesquieu, who was well known to the framers, had also acknowledged that God was the lawgiver and Creator of the universe. He wrote, "God is related to the universe as creator and preserver; the laws by which he has created all things are those by which he preserves them." Baron de Montesquieu, The Spirit of Laws (Dublin: G & A Ewing, 1751; reprint ed., Birmingham: The Legal Classics Library, 1984), 2.

30. See generally, Robert H. Bork, The Tempting of America: The Political Seduction of the Law (New York: The Free Press) 1990. Federal courts have not been given any general jurisdiction to construe the "Laws of Nature and of Nature's God." Federal courts only have jurisdiction to construe those unalienable rights that are constitutionally enumerated (including offenses against the law of nations) and are properly before the court in an Article III case or controversy, or come within the court's jurisdiction as a result of being enumerated in a treaty, or a federal or state Constitution or statute.

school professors, seminarians and the clergy. Despite these conditions, the fact remains that the Declaration's articulation of universal legal principles are nevertheless true for all time, all peoples, states and nations.

The framers understood that the principles of the Declaration not only empowered them to define the purpose of civil government, but also to create or establish one or more civil governments. They understood that the civil governments they would establish had a definite purpose - the equal security of God-given rights. It seems fairly clear, therefore, that they accepted the idea that God gave rights to people and that people could know these rights with some degree of sophistication. The framers would not have gone to the trouble of creating a new government dedicated to securing the unalienable rights of the people, if they really believed that it was impossible for the people to know what those rights were or if the people could not understand where those rights came from.

In determining the extent the framers mirrored the laws of Creation in both the Declaration and then subsequently in the Constitution, we may expectantly look to the actual text of those documents. An examination of the Declaration and federal Constitution's text reveals that in its most basic sense the Constitution was designed to carry into effect the principles of the Declaration (which in turn were a finite expression of the Creation law of God).

The Declaration articulated five derivative principles of the laws of nature and of nature's God. They are, first, that people are all created by God, and that by virtue of this circumstance are therefore entitled to be treated equally before the law. Second, all people are endowed by God with certain unalienable rights. Third, the people are also endowed with the right to govern themselves according to their written consent. Fourth, the people retain the right to alter or abolish an unlawful form of government as an exercise of self-government. Fifth, the people are free to organize the civil government's powers in such a way as to secure their happiness.

CREATED EQUAL

The first principle articulated in the Declaration of Independence declares that "all men are created equal . . ."[31] The Bible indicates that men and women are created in God's image, that they are equally human before God.[32] The rule of equality is tied to the creation of man in God's image. Thomas Jefferson realized the political and legal implications of this in the context of slavery. He

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The power to discover and declare any other rights that are derived from the "Laws of Nature and of Nature's God" is reserved to the state legislatures or the people under the Ninth and Tenth Amendments.

Commentators understand that the people retain rights not enumerated in the Constitution's Bill of Rights, but many are uncertain about turning to the laws of nature and of nature's God in order to define the substance of those rights. *See generally*, Raoul Berger, "The Ninth Amendment," 66 Cornell Law Review 1 (1981); Russell L. Caplan, "The History and Meaning of The Ninth Amendment," 69 Virginia Law Review 223 (1983) and R. Barnett, ed., The Rights Retained By The People (George Mason University Press, 1989). *See also*, Note, "On Reading and Using the Tenth Amendment," 93 Yale Law Journal 723 (1984).

31. Declaration of Independence, *supra* note 26.

32. Genesis 1:26-27 notes that God created man in his own image, in the image of God he created him; male and female he created them.

declared that "the mass of mankind has not been born with saddles on their backs, nor a favored few booted and spurred, ready to ride them . . . ."[33]

The principle of equality was subsequently reflected in the Constitution. Article I, Section 9, Clauses 4, 5 and 6 reflect the principle of equality with respect to taxation. These clauses stress proportionality and permit no preferences in regulating commerce. Article IV, Section 2, Clause 1 asserts "the Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." The equal application of the law to all citizens can only be rightly understood and practiced in light of the principle of equality. The prohibitions against titles of nobility found in Article I, Section 9 and Article I, Section 10 also stem from the equality principle.[34] These constitutional provisions were instrumental in eradicating both emoluments and hereditary succession of power.

The principle of equality is perhaps most importantly articulated in Article I, Section 2 which provides for popular election of representatives to the House of Representatives. The Fourteenth Amendment subsequently expanded that provision to require that representatives "be apportioned among the several States according to their respective numbers . . . ." This change, accompanied by the Fifteenth [voting without regard to race], Seventeenth [direct election of Senators], Nineteenth [voting without regard to gender], Twenty-Fourth [no poll tax] and Twenty-Sixth [18 year old vote] Amendments, provides all adult citizens (excepting those in the District of Columbia) with the equal opportunity to participate in selecting Representatives and Senators.

The Fourteenth Amendment also embodies the equality principle and provides that no "State shall . . . deny to any person within its jurisdiction the equal protection of the laws." With respect to equality between the states in the Senate, Article Five asserts that "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

UNALIENABLE RIGHTS

Second, the Declaration of Independence states that all men are "endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness . . ." The Declaration recognizes that unalienable rights are defined *a priori* by God. In this sense, the law governing the exercise of unalienable rights is from eternity. *Lex est ab æterno.*[35] Neither the Declaration or the Constitution could enumerate all the rights which were to be protected. They could, however, point to the source of rights - our Creator - for reference by future generations. Each succeeding generation could then look to God the Creator and the particular rights he has

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33. Thomas Jefferson, in a letter to Roger C. Weightman dated June 24, 1826, quoted in Jefferson, *supra* note 28, at 1517.

34. "[A]nother great advantage, sir, in the Constitution before us, is, its excluding all titles of nobility . . . which hath been a main engine of tyranny in foreign countries. But the American revolution was built upon the principle that all men are born with an equal right to liberty and property. . . ." Isaac Backus, quoted in Jonathan Elliot, ed., The Debates in the Several State Conventions on the Adoption of the Federal Constitution. (New York: Burt Franklin, 1888), 2:150.

35. Law is from everlasting. This is a strong expression to denote the remote antiquity of the law.

granted which that generation considered were most suitable to assuring its own safety and happiness.

The legal definition of "unalienable," and "rights" are worth reviewing. By definition, unalienable means incapable of transfer. In other words an unalienable right cannot be given away. More importantly, however, that which is unalienable cannot be taken away, especially by the civil government, except by forfeiture.[36] The idea of rights as unalienable, indefeasible, indubitable or inherent was part and parcel of the framers' worldview. Though these different words may not have precisely the same meaning, they carry the same essence - that people have certain rights from their Creator which civil government is not authorized to deny or disparage.[37]

The idea of unalienability is easier to grasp than the idea of rights. This condition is owing to the deterioration of the definition of rights. The definition of rights has been alloyed through impure construction. Unalienability on the other hand, has simply been ignored and thus has not suffered definitional corrosion of its meaning. To the modern jurist, a right is considered as such simply because it is asserted as a right. For instance, Black's Law Dictionary declares that a right is "a power, privilege, faculty, or demand, inherent in one person and incident upon another."[38]

It is noted that "the primal rights pertaining to men are enjoyed by human beings purely as such, being grounded in personality, and existing antecedently to their recognition by positive law." The source of rights identified here is the "primal" aspect of man *qua* man. This approach reflects a humanistic jurisprudence and is an absolute *non sequitur* from the laws of nature and of nature's God. The humanistic approach is the antithesis of the Declaration's observation that people are "endowed" with unalienable rights by their Creator.

Compare the humanist view with Noah Webster's 1828 dictionary definition. Webster did not declare that rights are primal or grounded in personality. He declared that a right is:

> conformity to the will of God, or to his law, the perfect standard of truth and justice. In the literal sense, right is a straight line of conduct, and wrong a crooked one. Right therefore is rectitude or straightness, and perfect rectitude is found only in an infinite being and his will.

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36. Noah Webster's 1828 Dictionary defines unalienable as that which "cannot be legally or justly alienated or transferred to another." The concept of unalienability (assuming due process), however, does not preclude civil government from alienating human life in punishment for murder, from alienating a man's liberty through imprisonment upon conviction of crimes, or alienating a man's property through levy and execution for payment of legal judgements. The concept of unalienable rights does, however, preclude civil government from balancing rights against governmental interests, whether such interests are compelling, rational or otherwise.

37. Virginia 1776 Constitution declared that "all men are by nature free and independent, and have certain inherent rights . . . ." Perry, Sources, *supra* note 26, at 311. Pennsylvania's 1776 Constitution stated that "all men are born equally free and independent, and have certain natural, inherent and inalienable rights . . . ." *Id*. at 329. Delaware and North Carolina's 1776 Declaration of Rights proclaimed that "all men have a natural and unalienable right to worship Almighty God . . . ." *Id*. at 338 and 356.

38. Black's Law Dictionary (5th ed. 1979).

Webster defines a right as conformity to the law of God - to rectitude. Humanist jurisprudence founded upon evolution and mere positivism, however, discards the need for rectitude. It envision a system of justice aminated by a jurisprudence in which rights may be wrongs.[39] This vision of justice, however, is thoroughly contrary to the established rule that *jus ex injuria non oritur*.[40]

RIGHTS IN THE CONSTITUTION'S TEXT

Unalienable rights animate both the text and the amendments to the national Constitution.[41] Examples of enumerated unalienable rights are found in the text of Article I, Sections 9 and 10 and include prohibitions against Bills of Attainder and ex post facto laws. Such prohibitions are designed to secure the right to due process and freedom from the legislature exercising non-legislative power. Likewise the prohibition of laws impairing contractual obligations secures the right to contract. In order to ensure the unalienable right of government by the consent of the people, the United States is barred from granting titles of nobility in Clause 8. Certain officeholders are also strictly regulated in receiving such titles or their advantages from any foreign power by that same Clause. Treasury appropriation can only be made pursuant to the consent of the people's representatives by laws according to Clause 7.

Congressional control of migration subsequent to 1808 found in Article I, Clause 1 secures the right of the people to self-defense, property and security of their borders. The import of that clause was also designed to eventually secure equality, the unalienable right of life, and due process against the countervailing interests of the slave trade. The habeas corpus provision of Clause 2 is also tied to these rights and due process requirements. And lastly, the rights incidental to equality are reflected in Clauses 4, 5 and 6 as they relate to proportionality of direct taxes, equal advantages of tax free exports, and the prohibition of preferences among ports from one state over those of another. Many of these rights and principles are also reflected in Article I, Section 10.

RIGHTS IN THE AMENDMENTS

An example of an enumerated unalienable right found in the First Amendment prohibits Congress, *inter alia*, from making any law prohibiting the free exercise of religion. This provision has its roots in Thomas Jefferson's "Virginia Bill for Establishing Religious Freedom,"[42] as well as the

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39. The right of "privacy," for instance, permits abortion, an act which was historically regarded as subject to criminal sanction. The right of "privacy" is invoked to excuse common law crimes such as adultery, fornication, and prostitution. Conduct such as sodomy and bestiality, which are crimes "against nature," have also been advocated as rights.

40. A right does (or can) not rise out of a wrong.

41. When James Madison introduced the proposed amendments on June 8, 1789, he moved to insert them between the third and fourth paragraphs of Article I, Section 9. That Article and Section placed express limitations on the power of Congress. Madison proposed to amend Article I, Section 10 by defining certain liberties protected from state action, as that Section in the original deals with state limitations. It is important to note that Madison understood the Constitution to already enumerate certain unalienable rights and privileges prior to the amendments. Some of these were protected against congressional action, some from state action. Perry, Sources, *supra* note 26, at 422-23

42. An Act for Religious Freedom, adopted by the Virginia Assembly on January 16, 1786, recited in Code of Virginia,

Declaration's unalienable right of liberty. One of the controlling premises of this statute, like that of the First Amendment, is that "Almighty God hath created the mind free."[43] Jefferson asserted that freedom of the mind was "of the natural rights of mankind," and therefore beyond the scope of civil jurisdiction. Other freedoms, such as speech, press, assembly and petition, are also found in the First Amendment. These freedoms are also based in part on the fact that "Almighty God created the mind free."

In addition, the Second Amendment prohibits Congress from infringing upon the right "to keep and bear arms" which is immediately derived from the unalienable right to life and that of self-government. The Fifth and Fourteenth Amendments assure that neither the Congress nor the States have power to deprive a person of "life, liberty or property, without due process of law." Not all constitutional provisions, however, deal with unalienable rights, such as the twenty dollar prerequisite to jury trials in the Seventh Amendment.

GOVERNMENT BY CONSENT

The Declaration notes that "Governments are instituted among Men, deriving their just Powers from the Consent of the Governed." The Bible recognizes that civil government is "instituted among men" and its purpose thus instituted is to exercise its power under the authority of God's laws. Its authority is defined and power is limited by that law. The authority of civil government can be summarized as the right to "punish those who do wrong and to commend those who do right."[44] It follows that when those who do wrong are punished, then those who exercise their unalienable rights may do so without further interference. Punishing those who do wrong protects those who do right, or in other words, punishment of those lawfully convicted of crime, secures freedom.

The Declaration says that civil governments are instituted to secure our unalienable God-given rights. Civil governments protect those who do right, and the exercise of God-given rights is always right. Consequently, the Declaration reflects a legal principle of biblical origin. This relationship is not a perfect match, but a concrete nexus exists. In essence, God gives rights and civil government secures rights. Rights are secured when they are protected from interference or denial. It is wrong to deny another his God-given rights. Punishment of those who interfere or deny another their rights serves to promote freedom.

President George Washington declared that, "The basis of our political systems is the right of the people to make and to alter their constitutions of government."[45] Abraham Lincoln called this "the leading principle - the sheet anchor of American republicanism."[46] This principle requires that civil

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Sec. 57-1 (1950).

43. *Id.*

44. I Peter 2:13, Romans 13:3-4.

45. George Washington, "Farewell Address," quoted in James D. Richardson, ed., Messages and Papers of the Presidents, 1789-1897. (Washington, D.C.: Government Printing Office, 1896), 1:217.

46. Roy P. Basler, ed., The Collected Works of Abraham Lincoln. (New Brunswick: Rutgers University Press, 1953),

government exercise only those powers which are specifically granted and is found throughout the Constitution. The Preamble asserts that "We the People, of the United States, . . . do ordain and establish this Constitution . . ." The whole notion of constitutional government is predicated upon the requirement that people consent together to establish the form of civil government, and that political sovereignty is delegated directly to that government. Article I, Section 1 reinforces this proposition. It notes that only the legislative powers specifically "granted" by the people of the United States may be exercised by the Congress. Congress may only legislate with respect to those objects the people constitutionally extended to Congress in writing. Government by consent is also reflected in Article I, Section 9, Clauses 7 and 8, and Article I, Section 10 as noted earlier. At no time may a judicial body exercise legislative power whatsoever.

Article IV, Section 4 indicates that " the United States shall guarantee to every State in this Union a Republican Form of Government . . ." Both the national and state governments are republican in nature. Republican means that the people's representatives govern according to a written delegation of authority. This is in contrast to a democratic system in which the representatives govern according to the popular consent of the people, whether that consent is written or unwritten.

If the people desire any branch of the national government to engage in an activity which would require the exercise of a power not enumerated or extended, or with respect to Congress, necessary and proper to carry such a power into execution, then the people need to amend the Constitution. This will ensure that there is no mistake as to the nature, extent and type of power given, or the proper scope of its exercise, including the branch to which it has been entrusted.[47]

The jury trial provisions of the Sixth and Seventh Amendments reflect government by consent in the context of a judicial case or controversy. The jury literally must consent to the state proceeding against a peer, or in civil suits, by determining liability and assessing damages.

Article VII provided the specific means by which the people originally consented to be governed by the Constitution. It declares that the "Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same."

There are many other constitutional provisions which reflect government by consent. They include Article I, Sections 2 and 4 (congressional elections); Article II, Section 1 (Presidential elections); the Twelfth Amendment (regarding the election of the President and Vice-President); the Fifteenth Amendment (prohibiting abridgement of the vote on account of race or color, etc.); the Seventeenth Amendment (regarding popular election of Senators); the Nineteenth Amendment (regarding abridgement of the vote on account of sex); the Twenty-Second Amendment (limiting to two the terms of the President); the Twenty-Fourth Amendment (prohibiting a poll or other tax on voting); and the Twenty-Sixth Amendment (granting eighteen-year olds the right to vote). All these concern or protect the process by which the consent of the governed is made manifest. Article V, which outlines the amendment process, is also built upon that principle.

2:266.

47. James Monroe, "First Annual Message," quoted in Richardson, Messages, *supra* note 45, 2:181.

ALTER OR ABOLISH

The Declaration of Independence acknowledges another unalienable right - the right to alter or abolish the form of government. It asserts

> that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness.

The phrase "destructive of these Ends" refers to the unalienable rights which civil government is instituted to preserve. It was the right to alter or abolish the form of government which the people exercised when independence was declared. The nature of this right presumes that it is not to be exercised lightly. If wrongly employed, it may constitute treason, defined by Article III, Section 3.

The framers declared that the people were free to organize the powers of government in whatever form they considered would secure their liberty. Accordingly, the people took steps to exercise their right and abolished the monarchial form of government because it was destroying their liberty. The framers recognized in the Declaration that "such has been the patient Sufferance of these Colonies." They noted that in "every stage of these Oppressions we have Petitioned for Redress in the most humble Terms." Petitioning, however, was not a sufficient remedy for the people, for

> 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.

In other words, the people will right themselves, but not for light and transient causes.

Article V is an excellent example of the rule regarding alteration or abolition of the national form of government. Through amendments, the people can establish a more perfect government of the United States, that is, render it better able to accomplish its purposes.

Many of the founders recognized that slavery, as practiced in the United States at the time of independence, was an affront to the principles acknowledged in the Declaration. During the Constitutional Convention, the delegates could not arrive at a consensus completely conforming the constitution to the principle of equality in this context. Abraham Lincoln noted that the spirit of the founders toward the principle of slavery, "was hostility to the *principle*, and toleration, *only by necessity*."[48] Article I, Section 9, Clause 1 contemplated a move toward conformity to the Declaration principle, by permitting Congress to impose taxes upon the slave trade and to abolish it altogether after 1808.

In the period preceding the Civil War, many persons, led by orators such as Steven Douglas and jurists such as Chief Justice Roger Taney, separated the interpretation and implementation of the

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48. Basler, Lincoln, *supra* note 46 at 2:275.

Constitution with regard to slavery from the principles of the Declaration of Independence. By making this separation, these men attempted to transform a tolerated evil soon to expire into a positive right. This is the essence of the Supreme Court's holding in *Dred Scott*.[49] Chief Justice Taney wrongly concluded that because the practice of some of the Declaration's framers was slavery, their practices rather than the standard of equality, should govern. While it is always proper to consider the factual situation existing at the founding, it is the immutable rule of law which controls, not the sometimes inconsistent practices of men.

The Thirteenth, Fourteenth and Fifteenth Amendments, however, changed this practice. The Thirteenth Amendment, abolishing slavery, finds its justification in the Declaration's principle "that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among theses are Life, Liberty and the Pursuit of Happiness."

The Fourteenth Amendment, Section 1 further reflects the principles of equality and unalienable rights by acknowledging that men, created equal, are entitled to enjoy the equal protection of the law and share equally in the privileges and duties of citizenship. In addition, state governments were barred as a matter of constitutional law from denying due process of law to their citizens.

The Fifteenth Amendment, which extended the vote to non-whites and former slaves, drew its justification from the principles of government by consent. This Amendment assured that Blacks could also share in the making of the law by which all would be equally judged. Though the analogy is less than complete, this same principle is found in the Nineteenth Amendment granting women the right to vote.

ORGANIZATION OF POWERS

Lastly, the Declaration asserts that the people are responsible for instituting new government, "laying its Foundation on such Principles, and organizing its Powers in such form as to them shall seem most likely to effect their Safety and Happiness."

The representatives in the First Continental Congress organized the powers of the new national government in 1774 under the "Articles of Association."[50] In 1777 this organization took on a different character. Drafted by John Dickinson, then a delegate from Pennsylvania who voted against the Declaration of Independence, the "Articles of Confederation and Perpetual Union" were put forward.[51] According to President John Quincy Adams, however, "there was no congeniality of principle between the Declaration of Independence and the Articles of Confederation."[52] The confederation's powers were organized in such a way as to undermine rather than "to provide new

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49. *Dred Scott v. Sanford*, 60 U.S. (19 How.) 393, 15 L.Ed. 691 (1857).

50. The Association of the Continental Congress, October 20, 1774. As printed in Documents of American History, vol. I, Henry Steele Commanger, ed., (Englewood, N.J.: Prentice-Hall, 1973), p. 84.

51. Adams, Discourse, *supra* note 23, at 17.

52. *Id.*

Guards for their future Security."[53] Adams declared that the "fabric of the Declaration and that of the Confederation . . . were the products of different minds and adverse passions."[54] In an effort to revise the Articles of Confederation, a convention was called. More than revision, however, took place. Within four months the framers had written a national Constitution in order to secure the safety and virtue of the people in a more perfect union.

They achieved this compatibility by first abolishing the monarchial form of government and instituting in its place a republican one. Reflecting on a republican form, James Madison wrote:

> It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every votary of freedom to rest all our political experiments on the capacity of mankind for self-government.[55]

Beyond this, the framers subsequently set out to alter their system of government in two ways. First, with respect to the national government, they separated its power into executive, legislative and judicial branches. Noting that "The accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny,"[56] the founders made each branch separate and distinct, with few exceptions. For instance, the President's veto power noted in Article I, Section 7 extends to the Executive a check on legislative authority. The Senate, as a check on the other branches, is granted authority to try impeachments according to Article I, Section 3. This includes impeachment of judicial officers as noted by Alexander Hamilton in Federalist No. 81.

The three separate branches are also independent of one another. Madison said:

> If it be a fundamental principle of free Government that the Legislative, Executive & Judiciary powers should be separately exercised, it is equally so that they be independently exercised.[57]

If one national branch did exercise another's power, it would not be according to the Constitution, but by usurpation.

Second, the framers divided civil power between the states and the national government. The jurisdiction of the national component of the federal system "extends to certain enumerated objects

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53. Id.

54. Id.

55. James Madison, The Federalist Papers, No. 39. (New York: The New American Library, Inc., 1961), p. 240.

56. Madison, Federalist No. 47, *supra* note 55 at 301.

57. James Madison, Notes of Debates in the Federal Convention of 1787. (Athens: Ohio University Press, 1966), p. 326.

only, and leaves to the several States a residuary and inviolable sovereignty over all other objects."[58] The states do not exercise national power, and the national government does not exercise state power. Each government exercises only those powers granted in their respective constitutions.

Article I, Section 8 lists most of the powers that have been granted to the national legislature. The Tenth Amendment affirms the division of powers between the state and national government by declaring, "the powers not delegated to the United States by the Constitution nor prohibiting it to the States, are reserved to the States respectively, or to the people." This division reflects an underlying commitment to self-government as well as reaffirming that the national government has only a few powers best handled by the people as one nation. The vast bulk of civil power rests constitutionally with the people acting through state and local governments according to state constitutions, and in their capacity as individual citizens.

BINDING ON THE U.S. CONSTITUTION

Once the Declaration was signed, it defined the non-negotiable principles essential to the lawful formation of any civil government.[59] If a government departed from these principles, it forfeited its authority to continue governing. This was the situation in 1776, when Americans relied upon these principles to legitimate their revolution against English tyranny.[60] The people maintained that their unalienable rights came to them from "our Creator" and that "in order to secure these rights, governments are instituted among men." They no longer contended for the rights of Englishmen as they had in 1774 and 1775.[61] Necessarily, the government of the United States and, of course, the government of the individual states must be guided by and conform to these principles if they are to sustain their authority to continue governing.

When approved, the Declaration announced to the world that the colonists were indeed "one people."[62] This collective legal entity was referred to as the United States of America. The Preamble of the Constitution followed suit by reaffirming that Americans were a "people." Furthermore, the Preamble indicated the "people of the United States" (already "one" by the Declaration) sought to form "a more perfect union" - a union more perfect than that created by the Articles of Confederation. The Articles of Confederation which preceded the Constitution were

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58. Madison, Federalist No. 39, *supra* note 55.

59. To employ a concept from the law of corporations, the Declaration is America's original and only "Articles of Incorporation." The Constitution which followed several years later constitutes its "Bylaws."

60. Richard Henry Lee's resolution adopted July 2, 1776 constituted the actual legal basis for independence. The Declaration which followed two days later established its legitimacy in the eyes of the international community appealing to the "Laws of Nature and of Nature's God" as international law.

61. *See*, "The Declaration and Resolves of the First and Second Continental Congress" in Perry, Sources, *supra* note 26.

62. "The Statesmen who drew the law of citizenship in 1776 made no distinction of Nationalities, or Tribes, or ranks, or occupations, or faiths, or wealth, and knew only inhabitants bearing allegiance to the governments of the several states in Union." George Bancroft, History of the Formation of the Constitution of the United States of America (New York: Appleton & Co. 1885) p. 443.

inconsistent with the Declaration's premise that the *people* establish the form of government. The Articles were erroneously premised upon the notion that the *states alone* could establish a civil government.

The Constitution also reaffirmed the binding legal force of the Declaration by its other terms. Article I, Section 2, for instance, stipulates that representatives must have been "seven years a citizen of the United States" prior to holding office. It would not have been possible for the first House of Representatives to convene in 1789 if the Declaration lost its legally binding authority after the Constitution was adopted. The framers would have looked silly had they established a government in which no one could serve for seven years. This same proposition holds true for Senators who are required by Article I, Section 3 to have been "nine years a citizen of the United States." Americans became citizens in 1776 on the strength of the Declaration, not by virtue of the Constitution.[63]

Finally, Article VII of the Constitution again reaffirms the binding characteristics of the Declaration's principle of government by consent. This Article also recognizes that the unanimous consent of those in the Constitutional convention was recorded in the year of "the independence of the United States of America the twelfth." This reaffirms that the United States began in 1776, not 1787, and that the Constitution and the Declaration are inseparable as a matter of law and principle.[64]

APPLICABLE TO ALL SUBSEQUENT STATES

The Declaration's principles apply to states newly admitted into the Union as well as the original thirteen states. One precedent for this rule is evidenced by Virginia's pre-constitutional cession of its land claims northwest of the Ohio river. Virginia stipulated that states formed within that territory would have to be "distinct republican states, and admitted members of the federal Union, having the same rights of sovereignty, freedom and independence as the other states." The Northwest Compact subsequently crystallized the agreement between the states and national government and provided for the formation of future states out of the territory under certain conditions.[65]

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63. Article II, Section 1 of the Constitution places a similar requirement upon the office of President. To be eligible for the office of President a person must have been "fourteen years a resident within the United States. The Constitution emphasizes a residency requirement in addition to a native born citizenship requirement. Such a residency requirement dates to 1775 and refers to the United States not so much as a government or legal entity, but more as a geographical place. This the requirement is that the President be "fourteen years a resident *within* the United States." This is contrasted with the seven and nine year "citizen *of* the United States" requirement. It is also of interest to note that in his Inaugural Address, President Abraham Lincoln observed that the *republic* was older than the Constitution. Lincoln found that the republic dated from 1774, when the first Congress met on the American Continent. Richardson, Messages, *supra* note 45.

64. See, *Monongahela Navigation Co. v. United States*, 148 U.S. 312, 324 (1893) in which the U.S. Supreme Court observed that the Bill of Rights to the Constitution was adopted to protect "those rights of persons and property which by the Declaration of Independence were affirmed to be unalienable rights." The Great Seal of the United States also affirms the inseparability of the Declaration and the Constitution.

65. The states of Michigan, Ohio, Indiana, Illinois and Wisconsin would be required to acknowledge: "the fundamental

The subsequent admission statutes for Louisiana, Mississippi, Alabama, and Tennessee refer to the Articles of the Northwest Ordinance as authoritative even though those states are clearly south of the Ohio river. The Articles declared that all such states "shall be republican, and in conformity to the principles contained in these articles," and furthermore, shall stand on "equal footing" with the original states. As a matter of fact, all admission statutes contain the words "equal footing" or, to identical effect, "same footing."

By affirming "equal footing with the original states" in subsequent admission statutes, the framers intended to bind new states to the principles of the Declaration. The admission statutes of several states expressly provide that their respective state Constitutions shall be both republican in form and "not repugnant to the principles of the Declaration of Independence." These states include Nevada (1864), Nebraska (1867), Colorado (1876), Washington (1889), Montana (1889), Utah (1896), North and South Dakota (1899), Arizona, New Mexico (1912), Alaska (1958) and Hawaii (1959).[66] By virtue of the "equal footing" doctrine, the legal principles of the Declaration of Independence must be observed by every state government.

GOVERNING ALL PUBLIC OFFICIALS

It is essential that state officials (and federal officials to the extent constitutionally permitted) recognize they are bound to observe the principles of the Declaration as well as those of the Constitution. This does not present a conflict since both are part of one consistent whole. Congressional recognition of the legally binding nature of the Declaration's principles on state governments is of special importance to those citizens who are seeking to be secure in their unalienable rights vis-a-vis state power. Such recognition carries special responsibility for the thoughtful state delegate, representative or senator.

State legislators have a weighty responsibility to draft and enact only those laws which conform to the principles contained in the Declaration. Federal representatives in Congress also have this responsibility as far as their power is Constitutionally grounded or enumerated. Such laws must reflect the fact that unalienable rights are not derived from civil government, nor subject to alienation. The Declaration makes it clear that civil governments are instituted to secure such rights. Of course, the people have the duty and right to turn out of office officials who refuse to abide by these principles, as well as alter or abolish governments which fail to systematically secure their God-give rights.

It is the challenge of each generation to rediscover our unalienable rights in every area of life as well

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principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed . . . and for their admission . . . on equal footing with the original states." The Northwest Ordinance of 1787, quoted in Perry, Sources, *supra* note 26.

66. For instance, the requirement that a state Constitution shall be republican and "not repugnant to the principles of the Declaration of Independence" is found at 72 Stat. 339 (P.L. 85-508 July 7, 1958) for Alaska and at 73 Stat. 4 (P.L. 86-3, March 18, 1959) for Hawaii. *See* Edward Dumbald, The Declaration of Independence and What it Means Today (Norman: University of Oklahoma Press, 1950), p. 63.

as ensure that civil government work for the preservation of those rights, and not their alienation.[67] Without the standard of the "Laws of Nature and of Nature's God," however, such an inquiry will more closely approximate the blind leading the blind. This is an apt depiction of our government's present approach to defining rights: lawyers, special interest groups and government officials leading their clientele through the quagmire of relativistic legal rules which lack substantial footing in law, history, or fact. It is vital that the integrity of unalienable rights and objects of civil government be kept constantly in mind so that proper action can be taken when these standards are abused by government officials, special interests or the people themselves.

CONCLUSION

In reviving the American republic of the 1860's, Abraham Lincoln referred to the Declaration of Independence. He affirmed that the United States was "conceived in liberty, and dedicated to the proposition that all men are created equal."[68] Like the framers, Lincoln realized that certain truths, or rules of right and wrong conduct applied to all men and nations without regard to the age in which they lived, their location on the globe, or the circumstances of history which surrounded them.

The framers acknowledged their dependence on the immutable laws of God. These laws were "binding over all the Globe, in all countries, and at all times."[69] These laws were applicable to the formation and governance of free and independent states as well as any union they might subsequently establish. With precision the framers articulated certain legal principles derived from those immutable laws. First, people are all created by God, therefore enjoying equality before the law. Second, all people are endowed by God with certain unalienable rights. Third, the people are endowed with the right to govern themselves according to their written consent. Fourth, the people retain the right to alter or abolish an unlawful form of government as an exercise of self-government. Fifth, the people are free to organize the civil government's powers in such a way as to secure their happiness.

Neither the Declaration nor the Constitution can interpret themselves, nor is the Declaration the ultimate standard for interpreting the Constitution. The laws of nature and of nature's God are the standard. The Declaration, however, clearly articulates principles of that law and the Constitution reflects the practical interweaving of those principles in its provisions. Without the immutable laws of nature and of nature's God as an interpretive guide, however, the Declaration of Independence and the Constitution lose their moral force.

On the occasion of the fiftieth anniversary of the inauguration of George Washington, President John Quincy Adams noted:

> The Declaration of Independence and the Constitution of the United States, are parts of

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67. Examination of particular rights and their impact on law and public policy is beyond the scope of this article.

68. Abraham Lincoln, "Gettysburg Address," quoted in A. Craven, W. Johnson and F.R. Dunn, eds., A Documentary History of the American People (Boston: Ginn & Co., 1951), 409.

69. Blackstone, supra note 20, at 41.

> one consistent whole, founded upon one and the same theory of government . . . . (yet) even in our own country, there are still philosophers who deny the principles asserted in the Declaration as self-evident truths.[70]

Let us no longer deny those principles which formed the "theory of government." Let them be reaffirmed so that we may freely celebrate our tricentennial, less than one hundred years hence.

70. Adams, Discourse, *supra* note 23 at 17.

Other publications by Kerry Lee Morgan:

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