

## Chapter Four

### “Puritan-Quaker Theology and the United States Constitution”<sup>187</sup>

We turn now to the Christian theological legacy upon the United States Constitution (1787) of the Society of Friends, commonly known as the Quakers.<sup>188</sup> Arguably, even the Puritan-Quakers had embraced Augustine of Hippo’s very broad and expansive soteriology which he described in *The City of God*, as follows:

God, then, the most wise Creator and most just Ordainer of all natures, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace, such as the objects which are accommodated to our outward senses, light, night, the air, and waters are suitable for us, and everything the body requires to sustain, shelter, heal, or beautify it: and all under this most equitable condition, that every man who made a good use of these advantages suited to the peace of his mortal condition, should receive ampler and better blessings, namely, *the peace of immortality*, accompanied by glory and honour in an

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<sup>187</sup> The word “Puritan-Quaker” has been adopted to reflect the original or traditional form of “orthodox” Quakerism that was practiced by George Fox (1624 – 1691) and William Penn (1644 – 1718). Today, the programmed Quakers who acknowledge the Christian religion, have Christian pastors, and conduct structured religious services that are similar in nature to other Protestant churches are carrying on the same traditions of the original Puritan-Quakers. See, e.g., David Yount, *How the Quakers Invented America*, supra, pp. 145 – 147 (describing the programmed Quakers). See, also, **Appendix F**, “The Quaker Influence Upon the U. S. Constitution.”

<sup>188</sup> See, e.g., David Yount, *How the Quakers Invented America*, supra, pp. 1-2, 14 – 17 (describing “How Quaker Values Infused the Constitution,” particularly the American Bill of Rights of 1791), stating:

The vaunted American tradition of church-state separation exists to guarantee freedom of religion, not its discouragement, and to mandate religious tolerance by all peoples. Moreover, the overwhelming religiosity of the American people continues to serve as a bulwark protecting democracy, the rule of law, trial by one’s peers, consent of the governed, universal education, and equal opportunity. Far from being the products of secular minds, these innovations were successfully incorporated into colonial life by a religiously motivated people as early as a century before the American Revolution. Quakers, the most harshly persecuted Christians in seventeenth-century England, found refuge in Pennsylvania, founded by William Penn, himself a member of the Society of Friends. Over time, Pennsylvania became the model for the United States. The liberty that Americans take for granted originated not in the minds of secular Enlightenment thinkers but from the application of the Quakers’ Christian faith.

See, also, James S. Bell Jr. and Tracy Macon Sumner, *The Reformation & Protestantism*, supra, p. 316, stating:

Pennsylvania- The Colony with a Difference! In the late 1600s, William Penn helped Quakers settle in his place, Pennsylvania. This new colony offered freedom of religion for anybody who believed in one God. The founding of Germantown, Pennsylvania, marked a decisive moment because it incorporated two religions—German Mennonites and Dutch Quakers—into one town! The Penn administration treated Native Americans fair and square.

endless life made fit for the enjoyment of God and of one another in God; but that he who used the present blessings badly should both lose them and should not receive the others.<sup>189</sup>

Hence, the Quakers wished end all formalized religion here, and allow every man to follow his own conscience in Christian liberty, and without further ecclesiastical requirements from established churches such as the Church of England.<sup>190</sup> Notably, even evangelist George Whitefield (1714 - 1770) preached under the auspices of the Quakers.<sup>191</sup>

In the American colonies, there had been a haphazard mixture of various Christian denominations, with the Calvinists denominating colonial New England and the Anglicans dominating the South and Mid-Atlantic regions. During the 1770s, these two groups were unified particularly through the intellectual leadership of the Scottish Presbyterian and neo-orthodox Calvinist Rev. Dr. John Witherspoon who became president of the College of New Jersey at Princeton, where many Anglicans, Congregationalists, and Presbyterians alike attended. For it was there at Princeton where a sort of “Anglican-Scottish” constitutional settlement or consensus was reached on certain vital questions as the establishment of religion, freedom of conscience, natural law, natural rights, divine providence, and constitutional law. But what is less known, and recognized, is the Puritan-Quaker influence at the College of New Jersey, in the local city of Princeton, and in the colony and state of New Jersey. The Puritan-Quakers are a powerful testament to the fact that stature, size, and popularity have no bearing whatsoever upon the positive influence of an individual or a group; for, indeed, the Puritan-

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<sup>189</sup> Ibid., p. 691.

<sup>190</sup> Arguably, the Quakers were the first to reach this theological and constitutional conclusion, which it gifted to the United States through the colonies of Pennsylvania and New Jersey. In his “Notes on the State of Virginia” (1781), Jefferson highly appraised both the Quakers and the Quaker political experient in the colony of Pennsylvania. Thomas Jeffersons, *Writings* (New York, N.Y.: The Library of America, 1984), pp. 283 - 287. Puritan-Quaker, principle founder of Pennsylvania, and trustee of New Jersey, William Penn (1644 - 1718) “believed politics to be ‘a part of religion itself, a thing sacred in its institution and its end.’” This basic Quaker philosophy and ideology was reflected in the teachings of Dr. Martin Luther King, Jr. (1929 - 1968), who had apparently been heavily influenced by an African American Quaker/ Baptist minister named Rev. Howard Thurman. See, generally, David Yount, *How the Quakers Invented America* (Lanham: Maryland: Rowman & Littlefield Pub., 2007), pp. 14, 129 (“Dr. King’s spiritual mentor was Howard Thurman (1900 - 1981)”).

<sup>191</sup> Arnold Dallimore, *George Whitefield: The Life and Times*, Vol. II, supra, p. 257.

Quakers wielded enormous power in colonial British North America not because their popularity or numbers but because of the potency of their ideas.

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Not enough credit is given to the 17<sup>th</sup>-century Puritan-Quakers of colonial New Jersey and Pennsylvania, particularly to William Penn (1644 - 1718) and many other notable Quaker leaders,<sup>192</sup> but Thomas Jefferson, in his “Notes On the State of Virginia” at Query XVII, appears to have done so, and to have impressed by the Quaker example of religious freedom.<sup>193</sup> In comparison, the purported influence upon the American Founding Fathers and America’s constitutional heritage by Englishman John Locke (1632 - 1704), who wrote no constitutional charters and founded no colonies in North America, has been seemingly overemphasized. Indeed, John Locke (Anglican) deserves great credit, but the work of Roger Williams (Baptist) and William Penn (Quaker) deserve even greater credit than Locke’s, because both Williams and Penn were practical statesmen, governors, and clergymen who actually established local

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192 THE PURITAN-QUAKER INFLUENCE: The “Law of the Gentiles” is the law of nature or Natural Law— i.e., the Golden Rule—which is reason implanted in all human beings; a reason which the Greeks called *Logos*, whom the Apostles John and Paul identified as Jesus Christ. The *Book of Job*, which may be the oldest book in the Bible, demonstrates that the Gentiles had access to this *Logos* (i.e., Christ) even before there were formal religions called Judaism, Christianity, or Islam. Similarly, the Quaker belief of “God in everyone” and in an “inner light” in every human being is a restatement of the Noahic covenant of nature. The Quakers believed that this “inner light” is the voice of God (or the voice of Christ) in every human being. For this reason, the Quakers held that all human beings—regardless of sex, color, race, religious creed, nationality, etc.—were brothers. George Fox (1624 – 1691), who founded the Quaker denomination, did not believe in deism, and he held to orthodox Trinitarianism, but at the same time it is fair to say the Fox and the Quakers believed that the voice of Jesus Christ—as the incarnate *Logos* of God—was already present inside of all human beings, regardless of their formal religion, cultural heritage, ethnicity, race, etc. See, e.g., Lewis Benson, “That of God in Every Man’—What Did George Fox Mean by It?” *Quaker Religious Thought*, Vol XII, No. 2 (Spring 1970). (“That Fox saw ‘that of God in every man’ **in the context of Romans 1** is evident from the following passage written in 1658: ‘**So that which may be known of God is manifest within people, which God hath showed unto them... and to that of God in them all must they come before they do hold the truth in righteousness, or retain God in their knowledge, or retain his covenant of light**’.... It is true that Fox’s starting point with non-Christians was usually the fact that there is that of God in them. But in his dealings with non-Christians his greatest concern is that the Gentiles should be fellow-heirs and partakers of God’s promise in Christ by the gospel). And if see carefully study Augustine of Hippo’s *The City of God*, supra, pp. 690-692, we find the same theological conclusions regarding nature, natural law, and general revelation. Although an orthodox Catholic bishop, Augustine of Hippo makes the same references to nature and natural law, to Romans 1: 19-20, and to righteous Gentiles such as Job. Thus, this Quaker belief was at the foundation of the colony of Pennsylvania and the city of Philadelphia, where the “Fatherhood of God and the brotherhood” of man was espoused as fundamental constitutional doctrines. See, e.g., *Frame of Government of Pennsylvania* (1682). The Quakers held to a belief in a religion of nature. And it was partly due to Quaker influence that both Anglicans and Puritans adopted more latitudinarian approaches to Christian polity and to civil government, which found its consummate expression in the American Declaration of Independence (1776). See, also, **Appendix F**, “The Quaker Influence Upon the U. S. Constitution.”

193 Thomas Jefferson, *Writings* (New York, N.Y., 1984), p. 283.

constitutions and civil polities which served as examples for they laying of the foundations of the Declaration of Independence, the United States Constitution, and the Bill of Rights.<sup>194</sup> Notably, the Puritan-Quaker William Penn who “believed politics to be ‘a part of religion itself, a thing sacred in its institution and its end.’”<sup>195</sup>

Accordingly, this postdoctoral study has concluded that the neo-orthodox Calvinistic and Augustinian foundations of American constitutional law and jurisprudence were established in the colonies of Rhode Island (Puritan-Baptist), New Jersey (Quaker), and Pennsylvania (Quaker):

Colony	Year Founded	Founder	Alma Mater	Denomination	Constitution
Rhodes Island	1636 (Chartered in 1643)	Roger Williams (1603 – 1683)	Cambridge (Pembroke College)	Puritan-Baptist (Reformed)	Royal Charter of 1663
New Jersey (“West Jersey,” or the western part of the future colony of New Jersey)	1681	Three Quakers appointed as Trustees (including Gawen Laurie; Nicholas Lucas; and William Penn)	--	Puritan-Separatist-Quaker (Arminian)	Right of Government of 1681
Pennsylvania	1682	William Penn (1644 – 1718)	Oxford (Christ Church)	Puritan-Separatist-Quaker (Arminian) <sup>196</sup>	Frame of Government of 1682

<sup>194</sup> See, e.g., David Yount, *How the Quakers Built America* (Lanham, MD: Rowan & Littlefield Pub., 2007), pp. 14-17.

<sup>195</sup> David Yount, *How the Quakers Invented America* (Lanham, MD: Rowan & Littlefield, Pub., 2007), p. 14.

<sup>196</sup> See, e.g., “Religion and the Founding of the American Republic: America as a Religious Refuge: The Seventeenth Century, Part 2”:

The Quakers (or Religious Society of Friends) formed in England in 1652 around a charismatic leader, George Fox (1624-1691). Many scholars today consider Quakers as **radical Puritans**, because the Quakers carried to extremes many Puritan convictions. They stretched the sober deportment of the Puritans into a glorification of "plainness." Theologically, they **expanded the Puritan concept of a church of individuals regenerated by the Holy Spirit to the idea of the indwelling of the Spirit or the "Light of Christ" in every person.** Such teaching struck many of the Quakers' contemporaries as dangerous heresy. Quakers were severely persecuted in England for daring to deviate so far from orthodox Christianity. By 1680, 10,000 Quakers had been imprisoned in England, and 243 had died of torture and mistreatment in the King's jails. This reign of terror impelled Friends to seek refuge in New Jersey in the 1670s, where they soon became well entrenched. In 1681, when Quaker leader William Penn (1644-1718) parlayed a debt owed by Charles II to his father into a charter for the province of Pennsylvania, many more Quakers were prepared to grasp the opportunity to live in a land where they might worship freely. By 1685



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Indeed, the Quakerism of George Fox and William Penn won the hearts and minds of the vast numbers of American colonists. But because the Quakers did not establish a university or college, did not have an organized clergy, and were pacifists who generally did not support taking up arms to fight the British during the American Revolutionary War, the Quakers divested themselves of much-deserved political influence in the new United States of America.<sup>197</sup> Thus, the primary beneficiaries of Puritan-Quaker political theology—e.g., the principles set forth in the charters of Pennsylvania and West Jersey—were the Presbyterians, the Baptists, and the Methodists—who comprised 72.8 % of all Protestants in the United States by the year 1850. Other Protestant groups, including the Anglicans, thus inherited, and continued to carry the mantle of, the political ideology of Puritan-Quakerism.<sup>198</sup> On the whole, the entire foundation of the American constitutional system owes a great debt to the Quakers.

Nevertheless, as Quakerism has always considered itself to be a “way of life rather than an established creed,” we may arguably conceptualize the current state of nondenominational American Christianity as the *de facto* Quakerism of George Fox and William Penn.<sup>199</sup> The spirit

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as many as 8,000 Quakers had come to Pennsylvania. Although the Quakers may have resembled the Puritans in some religious beliefs and practices, they differed with them over the necessity of compelling religious uniformity in society.

197 David Yount, *How the Quakers Built America* (Lanham, MD: Rowan & Littlefield Pub., 2007), pp. 77-85 (describing how the Quaker’s struggled to reconcile their religious faith with the exigencies of taking up arms to defend the colony of Pennsylvania. Thomas Jefferson and Benjamin Franklin both criticized the Quakers. “Ironically, when the College of Philadelphia (now the University of Pennsylvania) was founded, it was not by Quakers but by a coalition of Anglicans and Presbyterians.” Ibid, p. 83. During the American Revolution, or shortly thereafter, there was a “Quaker abdication from government.” Ibid., p. 84. Nevertheless, Yount concludes that “[i]f the Holy Experiment did not succeed in establishing Penn’s vision of heaven on earth in the New World, it nevertheless demonstrated the civilizing tendencies that would combine to form the American character. The Declaration of Independence was conceived and published in Philadelphia, and the City of Brotherly Love became the first capital of a new nation conceived in liberty and dedicated to the proposition that all men are created equal with inalienable rights—surely articles of the Quaker faith. The original Quaker-drafted constitution of Rhodes Island became the model for the nation’s Bill of Rights.” Ibid., pp. 84-85).

198 Ibid.

199 See, e.g., Ryan P. Burge, “Nondenominational Churches Are Adding Millions of Members. Where are they coming from?” *News & Reporting* (August 5, 2022):

Over the last decade Baptists, Methodists, Lutherans, Presbyterians, and every other Protestant family has declined except for those who say they are nondenominational.

of independent, nondenominational Christianity in America reflects the same spirit of Puritan-Quaker independence and Quaker-like direct appeal to the Almighty God—believing that, within themselves is an “inner light” that is the voice of God speaking directly to them. American Evangelicalism is thus akin to “anonymous Quakerism”—sometimes called American “evangelicalism” or nondenominational Christianity— as is reflected in the original social movement of George Fox and in William Penn’s *The Frame of the Government of Pennsylvania* (1682).<sup>200</sup>

The Puritan-Quakers simply upheld the theological doctrine of the “priesthood of all believers,” which was an Augustinian doctrine. The Puritan-Quakers were more radical than their other Protestant brethren in imposing this doctrine, because the Puritan-Quakers disdained the summoning of an organized clergy. Nevertheless, like their Lutheran and Reformed brethren, the Puritan-Quakers held Augustine of Hippo’s theology on the priesthood of all believers in very high regards, to wit:

**“THE PRIESTHOOD OF ALL BELIEVERS”**

According to St. Augustine of Hippo<sup>201</sup>

I.

“I desire to be a member, no matter what, or how small, of Thy priesthood. By the PRIESTHOOD he here means the PEOPLE ITSELF, of which He is the Priest who is the Mediator between God and men, the man Christ Jesus. This people the Apostle Peter calls 'a holy people, a royal priesthood.'”<sup>202</sup>

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The 2020 US Religion Census, due out later this year, tallied 4,000 more nondenominational churches than in 2010, and nondenominational church attendance rose by 6.5 million during that time.

At the same time, mainline Protestant Christianity is collapsing following five decades of declines. In the mid-1970s, nearly a third of Americans were affiliated with denominations like the United Methodist Church, the United Church of Christ, and the Episcopal Church. But now, just one in ten Americans are part of the mainline tradition.

<sup>200</sup> See, also, **Appendix F**, “The Quaker Influence Upon the U. S. Constitution: William Penn, Pennsylvania, and the English Common Law.”

<sup>201</sup> See, generally, St. Augustine, *The City of God* (New York, N.Y.: The Library of America, 1950).

<sup>202</sup> Ibid., p. 582.

-- St. Augustine of Hippo, "City of God"  
(Book XVII)

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II.

"Put me in a part of Thy priesthood, to eat bread,' is ... the Word of God who dwells in the HEART of ONE WHO BELEIVES."<sup>203</sup>

-- St. Augustine of Hippo, "City of God" (Book XVII)

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III.

"For we see that priests and Levites are now chosen, not from a certain family and blood, as was originally the rule in the priesthood according to the order of Aaron, but as befits the new testament, under which Christ is the High Priest after the order of Melchizedek, in consideration of the merit which is bestowed upon each man by divine grace. And these priests are not to be judged by their mere title, which is often borne by unworthy men, but by that HOLINESS which is not common to good men and bad."

-- St. Augustine of Hippo, "City of God" (Book XX)

**\*\* All- Capital Letter Added to add emphasis**

Simply put, the Puritan-Quakers asked, "Who are the true 'priests' or true 'presbyters' or the true 'deacons' or the true 'bishops' of the New Testament?" According to the Puritan-Quakers, all true believers were priests, with no distinction between laity and clergy, since the "light of God" is dispensed equally to all men— hence the "Father of God and the Brotherhood of Man."

Politically speaking, the Puritan-Quaker ideal appealed to many average and common Americans, especially those who were marginalized and not affiliated with any formal religion. But what set the Puritan-Quakers apart from sects such as the Presbyterians, Baptists, and Methodists, is the fact that King Charles II had vested significant political power into the hands of a few prominent men who happened to be Quakers, and those same men founded the city of Philadelphia, and the colonies of Pennsylvania and New Jersey. Thus, the Puritan-Quakers were able to codify their ideals into constitutional and statutory law, whereas the other aforementioned sects could not. Hence, many of the Puritan-Quaker's constitutional and

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203 Ibid.

statutory ideals were later adopted copied almost verbatim in the American Declaration of Independence (1776) and in the American Bill of Rights (1789).<sup>204</sup>

Significantly, William Penn's and the Puritan-Quakers' relationship to King Charles II was a positive one. Charles II bestowed favor upon the Puritan-Quakers through the proprietary grants of East Jersey and Pennsylvania. The Puritan-Quakers were, and conceptualized themselves as, loyal subjects of the King of England. And the Society of Friends (i.e., the Quakers) was construed to be a form of Puritanism that operated within a framework of the Church of England, but which espoused religious freedom for all. To that end, the Puritan-Quakers understood that their colonies were both subjects of the English crown as well as "Christian colonies," as the case of *Updegraph v. Commonwealth*, 11 Serg. & Rawl, 394 P. 1824,<sup>205</sup> clearly explains.

Just as John Calvin's Geneva experiment had a profound and lasting influence upon the Puritans of colonial New England a century later, the political experiments of the Puritan-Quaker William Penn had a profound and lasting influence<sup>206</sup> upon the American Revolution

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204 See, e.g., David Yount, *How the Quakers Invented America*, supra, pp. 14-17 ("How Quaker Values Infused the Constitution), and p. 2, stating:

It is no coincidence that the American Declaration of Independence was proclaimed in Quaker Pennsylvania or that our young nation's Bill of Rights was modeled after the Quaker-drafted constitution of Rhodes Island. The Liberty Bell itself, which rang to celebrate the Declaration of Independence, was originally the Great Quaker Bell, purchased by the Pennsylvania assembly long before the American Revolution.

'Proclaim Liberty throughout all the land unto all the inhabitants thereof' was inscribed on the bell by Quakers before freedom was proclaimed to be the right of all Americans. As early as 1682, William Penn, in the preface to his Frame of Government of Pennsylvania, had announced that 'any government is free to the people under it (whatever be the frame) where the laws rule, and the people are a party to those laws, and more than this is tyranny, oligarchy, or confusion.'

Former Librarian of Congress Daniel J. Boorstin affirms that 'the Quakers possessed a set of attitudes which fit later textbook definitions of American democracy.' Despite their relative obscurity in twenty-first-century America, Quakers, by dint of their role in forming the American character, can be said to have invented America. To this day, all Americans subscribe to the following fundamental beliefs of the people who call themselves 'Friends.'

205 For the full text of this court opinion, see **Appendix F**, "The Quaker Influence Upon the United States Constitution: William Penn, Pennsylvania, and the English Common Law."

206 Rev. Roger Williams was familiar with the Quakers and he opposed their theological views on the "inner light" being present within all human beings. When Quaker founder and theologian George Fox visited New England, Rev. Williams challenged him to a debate. Fox was unable to attend, but several other Quakers agreed to

(1775 – 1783). The local Puritan-Quakers who lived in Princeton had assisted with the founding the College of New Jersey. The theoretical elements in the brand of neo-orthodox Calvinism which Dr. Witherspoon taught at Princeton, had already been planted in Pennsylvania by William Penn and the Quakers, as the *Frame of Government of Pennsylvania* (1682) clearly demonstrate:

## THE FRAME OF THE GOVERNMENT OF PENNSYLVANIA

MAY 5, 1682

The frame of the government of the province of Pensilvania [sic], in America: together with certain laws agreed upon in England, by the Governor arid divers freemen of the aforesaid province.

### The Preface

When the great and wise God had made the world, of all his creatures, it pleased him to chuse man his Deputy to rule it: and to fit him for so great a charge and trust, he did not only qualify him with skill and power, but with integrity to use them justly....

This the Apostle teaches in divers of his epistles: " The law (says he) was added because of transgression: " In another place, " Knowing that the law was not made for the righteous man; but for the disobedient and ungodly, for sinners, for unholy and prophane, for murderers, for whoremongers, for them that defile themselves with mankind, and for man-stealers, for lyers, for perjured persons," &c., but this is not all, he opens and carries the matter of government a little further: " Let every soul be subject to the higher powers; for there is no power but of God. The powers that be are ordained of God: whosoever therefore resisteth the power, resisteth the ordinance of God. For rulers are not a terror to good works, but to evil: wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same." " He is the minister of God to thee for good." " Wherefore ye must needs be subject, not only for wrath, but for conscience sake."

This settles the divine right of government beyond exception, and that for two ends: first, to terrify evil doers: secondly, to cherish those that do well; which gives government a life beyond corruption, and makes it as durable in the world, as good men shall be. So that government seems to me a part of religion itself, a filing sacred in its institution and end. For, if it does not directly remove the cause, it crushes the effects of evil, and is as such, (though a lower, yet) an emanation of the same Divine Power, that is both author and object of pure religion; the difference lying here, that the one is more free and mental, the other more corporal and compulsive in its operations: but that is only to evil doers; government itself being otherwise as capable of kindness, goodness and charity, as a more private society. They weakly err, that think there is no other use of government, than correction, which is the coarsest part of it: daily experience tells us, that the care and regulation of many other affairs, more soft, and daily necessary, make up much of the greatest part of government; and which must have followed the peopling of the world, had Adam never fell, and will continue among men, on earth, under the highest attainments they may arrive at, by the coming of the blessed Second Adam, the Lord

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debate Rev. Williams. The subject matter and substance of that debate was later published in a Boston paper.

from heaven. Thus much of government in general, as to its rise and end....

I know what is said by the several admirers of monarchy, aristocracy and democracy, which are the rule of one, a few, and many, and are the three common ideas of government, when men discourse on the subject. But I chuse to solve the controversy with this small distinction, and it belongs to all three: Any government is free to the people under it (whatever be the frame) where the laws rule, and the people are a party to those laws, and more than this is tyranny, oligarchy, or confusion....

Governments, like clocks, go from the motion men give them; and as governments are made and moved by men, so by them they are ruined too. Wherefore governments rather depend upon men, than men upon governments. Let men be good, and the government cannot be bad; if it be ill, they will cure it. But, if men be bad, let the government be never so good, they will endeavor to warp and spoil it to their turn....

But, next to the power of necessity, (which is a solicitor, that will take no denial) this induced me to a compliance, that we have (with reverence to God, and good conscience to men) to the best of our skill, contrived and composed the frame and laws of this government, to the great end of all government, viz: To support power in reverence with the people, and to secure the people from the almost of power; that they may be free by their just obedience, and the magistrates honourable, for their just administration: for liberty without obedience is confusion, and obedience without liberty is slavery. To carry this evenness is partly owing to the constitution, and partly to the magistracy: where either of these fail, government will be subject to convulsions; but where both are wanting, it must be totally subverted; then where both meet, the government is like to endure. Which I humbly pray and hope God will please to make the lot of this of Pensilvania [sic]. Amen.

WILLIAM PENN.

### **The Frame**

To all Persons, to whom these presents may come. WHEREAS, king Charles the Second, by his letters patents, under the great seal of England, bearing date the fourth day of March in the Thirty and Third Year of the King, for divers considerations therein mentioned, hath been graciously pleased to give and grant unto me William Penn, by the name of William Penn, Esquire, son and heir of Sir William Penn, deceased, and to my heirs and assigns forever, all that tract of land, or Province, called Pennsylvania [sic], in America, with divers great powers, pre-eminences, royalties, jurisdictions, and authorities, necessary for the well-being and government thereof....

XXXV. That all persons living in this province, who confess and acknowledge the one Almighty and eternal God, to be the Creator, Upholder and Ruler of the world; and that hold themselves obliged in conscience to live peaceably and justly in civil society, shall, in no ways, be molested or prejudiced for their religious persuasion, or practice, in matters of faith and worship, nor shall they be compelled, at any time, to frequent or maintain any religious worship, place or ministry whatever.

XXXVI. That, according to the good example of the primitive Christians, and the case of the creation, every first day of the week, called the Lord's day, people shall abstain from their common daily labour, that they may the better dispose themselves to worship God according to their understandings.

XXXVII. That as a careless and corrupt administration of justice draws the wrath of God upon magistrates, so the wildness and looseness of the people provoke the indignation of God against a country: therefore, that all such offences against God, as swearing, cursing, lying, profane talking, drunkenness, drinking of healths, obscene words, incest, sodomy, rapes,

whoredom, fornication, and other uncleanness (not to be repeated) all treasons, misprisions, murders, duels, felony, seditions, maims, forcible entries, and other violences, to the persons and estates of the inhabitants within this province; all prizes, stage-plays, cards, dice, May-games, gamesters, masques, revels, bull-battings, cock-fightings, bear-battings, and the like, which excite the people to rudeness, cruelty, looseness, and irreligion, shall be respectively discouraged, and severely punished, according to the appointment of the Governor and freemen in provincial Council and General Assembly; as also all proceedings contrary to these laws, that are not here made expressly penal.

XXXVIII. That a copy of these laws shall be hung up in the provincial Council, and in public courts of justice: and that they shall be read yearly at the opening of every provincial Council and General Assembly, and court of justice; and their assent shall be testified, by their standing up after the reading thereof.

XXXIX. That there shall be, at no time, any alteration of any of these laws, without the consent of the Governor, his heirs, or assigns, and six parts of seven of the freemen, met in provincial Council and General Assembly....

What is striking about this charter is its “Augustinian” character. Indeed, the words, “[w]hen the great and wise God had made the world, of all his creatures, it pleased him to chuse man his Deputy to rule it: and to fit him for so great a charge and trust” reflects the “Covenant of Nature,” which holds that through patriarchs Adam and Noah a divine covenant of dominion was bequeathed to all mankind.

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The Puritan-Quaker’s theological conception of one “Almighty and eternal God” who could be adored and worshipped in a myriad of ways through free religious expression was later reframed as “Nature’s God” printed in the American Declaration of Independence. Indeed, the Quaker-founded city of Philadelphia became the first national capital of the United States of America from which came founding constitutional documents that incorporated many of the Quaker’s most fundamental neo-orthodox Puritan viewpoints on civil government.<sup>207</sup> Here, it must be acknowledged that the Puritan-Quaker doctrine that all men have a certain “light,” that

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<sup>207</sup> Since the Baptist denominational sect became more numerous than the Quakers, constitutional and church historians tend to give more credit to Rev. Roger Williams, Rhode Island, the founding of the First Baptist Church in Providence, and Williams’ stern principles regarding the doctrine of the separation of church and state than to political legacy and influence of William Penn and the Quakers.

this certain “light,” which is the law of Christ (i.e., God), makes for the brotherhood of mankind and is at the very foundation of secular Anglo-American jurisprudence— and especially as the Puritan-Quakers interpreted and applied that jurisprudence in the colonies of Pennsylvania and New Jersey.

This Puritan-Quaker system of Christian jurisprudence was adopted for the whole United States in 1776 when the several delegates in Philadelphia ratified the Declaration of Independence. Within Anglo-American and western jurisprudence in general, this system of Christian jurisprudence is called natural law, the law of Nature, and (or) general equity,<sup>208</sup> and it was the brainchild of the Presbyterian Enlightenment which stood upon the shoulders of latitudinarian Anglicans, Quakers, Baptists, and the Scottish Common-Sense Realists. To be clear, the American Declaration of Independence (1776) represents a brand of “blended” Puritan theology on the Covenant of Nature.<sup>209</sup> Hence, we might say that the only official religion in the United States is the religion of nature; and that this religion of nature is officially enunciated in the American Declaration of Independence. As an expression of the primitive Christian faith, the religion of nature is reflected in the Declaration of Independence. This religion of nature is an exemplification of 17<sup>th</sup>-century Puritan-Quakerism (see, e.g., William Penn’s “The Frame of

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208 See, e.g., Goldwin Smith, *A Constitutional and Legal History of England* (New York, N.Y.: Dorset Press, 1990), pp. 208-209:

What is equity? In its beginnings in England it was the extraordinary justice administered by the king’s Chancellor to enlarge, supplant, or override the common law system where that system had become too narrow and rigid in its scope.... The basic idea of equity was, and remains, the application of a moral governing principle to a body of circumstances in order to reach a judgment that was in accord with Christian conscience and Roman natural law, a settlement that showed the common denominations of humanity, justice, and mercy.... [Just as Christ had come not to destroy the law, but to fulfill it, so too] ‘Equity had come not to destroy the law but to fulfill it.’

209 Indeed, there are elements of covenant theology from orthodox Calvinism (i.e., “New Light”). But there is also “half-way” covenant theology of the “Old Light” New England Congregationalist (i.e., Arminianism), latitudinarian Anglicanism, Presbyterian Common-Sense Realism, and Quakerism (i.e., radical Puritanism).



the Government of Pennsylvania” (1682)); 18<sup>th</sup>-century latitudinarian Anglicanism<sup>210</sup>; and 18<sup>th</sup>-century neo-orthodox Calvinism.<sup>211</sup>

### Puritan-Quakerism in New Jersey and Other Influences

William Penn’s and the Quaker’s influence in Pennsylvania was extended into the nearby colony of West Jersey (the western half of what would later become the colony of New Jersey).<sup>212</sup>

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210 “Latitudinarian Anglicanism.” In this post-doctoral study, Anglicans such as George Washington, Thomas Jefferson, James Madison, and scores of others who were willing to overthrow King George III and the Church of England, and to establish a system of government on the basis of the principles set forth in the American Declaration of Independence are referenced as “latitudinarian Anglicans” or as Jeffersonians. In both England, the latitudinarian Anglicans tended to be Whigs and High-Church Anglican bishops. In colonial British Northern America, the latitudinarian Anglicans tended to be both Whigs and American patriots who opted for the separation of church and state and religious pluralism. In order to get at religious diversity, natural law and natural religion was relied upon and incorporated into the American Declaration of Independence. The basic ideology within latitudinarian Anglicanism is that “Christianity is a republication of natural religion.” See, also, the writings of the Latitudinarian Anglican and Bishop Joseph Butler (1692 -1752). See, e.g., Joseph Butler, *The Analogy of Religion, Natural and Revealed to the Constitution and Course of Nature*, supra, pp. 152, 155, 158 (“the Author of Nature”); p. 159 (“...the Author of Nature, which is the foundation of Religion”); p. 162 (“... there is one God, the Creator and moral Governor of the world”); p. 187 (“Christianity is a republication of natural Religion”); p. 188 (“The Law of Moses then, and the Gospel of Christ, are authoritative publications of the religion of nature....”); p. 192 (“Christianity being a promulgation of the law of nature....”); p. 243 (“These passages of Scriptures ... comprehend and express the chief parts of Christ’s office, as Mediator between God and men.... First, He was, by way of eminence, the Prophet: that Prophet that should come into the world, to declare the divine will. He published anew the law of nature.... He confirmed the truth of this moral system of nature....”). See generally the writings of the Latitudinarian Anglican and Chancery Lawyer Matthew Tindal (1657 - 1733). See, e.g., Matthew Tindal, *Christianity as Old as the Creation, or the Gospel a Republication of the Religion of Nature* (Newburgh, England: David Deniston Pub., 1730) [Republished by Forgotten Books in 2012], pp. 52, 56, 61, 64, 72-74 (stating that Christianity is a republication of natural religion). See, also, **Appendix D**, “Of Thomas Jefferson and the Jeffersonians.”

211 “Neo-Orthodox Calvinism.”: I rejected the popular notion that “neo-orthodox Calvinism” began with Twentieth-Century theologians such as Karl Barth and Reinhold Niebuhr. Instead, this post-doctoral study advances the historical fact that a grave crisis occurred in 16<sup>th</sup>-century Geneva when the Libertines challenged the orthodox worldview of John Calvin himself. The same crisis occurred in 17<sup>th</sup>-century colonial New England when the orthodox worldview of the Puritans was challenged by the “Half-Way” covenant, Arminianism, Deism, and even Unitarianism. The First Great Awakening was a manifestation of a growing crisis within the Puritan church-state. The rise of the Presbyterians at the College of New Jersey during the 18<sup>th</sup> Century reflected a new school of orthodox Calvinism. Led by Rev. Dr. John Witherspoon of the College of New Jersey (Princeton) and others, these neo-orthodox Calvinists were joined by the school of thought called Scottish Common-Sense Realism, as well as a group of latitudinarian Anglicans, who were represented by Thomas Jefferson. The immortal document, which reflected natural theology espoused by all of these groups, was the American Declaration of Independence (1776). Therefore, throughout this postdoctoral study, I shall use the term “neo-orthodox Calvinism” in reference to the theology and philosophy of Rev. Dr. John Witherspoon and the 18<sup>th</sup>-century political philosophy taught at the College of New Jersey (Princeton) during the 18<sup>th</sup> Century. The influential latitudinarian Anglican Bishop Joseph Butler had a profound influence upon Dr. Witherspoon. And so the connection between the latitudinarian Anglicans and the Scottish Presbyterians is well documented. Founding Father James Madison (Anglican) and scores of other influential American public servants attended Princeton and were tutored by Dr. Witherspoon. The influence of the local Quakers upon Princeton University is a subject that deserves its own in depth study. Finally, the Puritan “covenant of nature” and the “state of nature” referenced in the writings of political philosophers Thomas Hobbes and John Locke mean the same fundamental ideals.

212 See, e.g., “The Founding of the Quaker colony of West Jersey,” <https://www.ushistory.org/penn/pennnj.htm>

During the 1670s, the Quakers were invited to form a government there, and William Penn was then one of the trustees for West Jersey.<sup>213</sup> Here the Quakers also planted the seeds of what would become the basic structure of the American Declaration of Independence into the 1681 Charter for West Jersey, to wit:

### **RIGHT OF GOVERNMENT**

November 25, 1681

Forasmuch as it hath pleased God, to bring us into this Province of West New Jersey and settle us here in safety, that we may be a people to the praise and honour of his name, who hath so dealt with us and for the good and welfare of our posterity to come, we the Governor and Proprietors, freeholders and inhabitants of West New Jersey, by mutual consent and agreement, for the prevention of innovation and oppression, either upon us or our posterity, and for the preservation of the peace and tranquility of the same; and that all may be encouraged to go on cheerfully in their several places: We do make and constitute these our agreements to be as fundamentals to us and our posterity to be held inviolable, and that no person or persons whatsoever, shall or may make void or disanul the same upon any pretence whatsoever....

X. That liberty of conscience in matters of faith and worship towards God, shall be granted to all people within the Province aforesaid; who shall live peaceably and quietly therein; and that none of the free people of the said Province shall be rendered incapable of office in respect of their faith and worship.

In East Jersey, there were Anglicans, Congregationalists, and, later, Presbyterians. “Since the state's inception, New Jersey has been characterized by ethnic and religious diversity. New England Congregationalists settled alongside Scots Presbyterians and Dutch Reformed migrants.... English Quakers and Anglicans owned large landholdings. Unlike Plymouth Colony,

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Laurie, of London, and Nicholas Lucas, of Hertford, to carry out his intentions and render the property available. Penn thus became one of the chief instruments in the settlement of New Jersey, and establishment of a colonial government, which prepared him for the still greater work of founding a colony of his own.

<sup>213</sup> See, e.g., “The Founding of the Quaker colony of West Jersey,” <https://www.ushistory.org/penn/pennnj.htm>

In the years 1677 and 1678 five vessels sailed for the province of West New Jersey with 800 emigrants, most of them members of the Society of Friends. Among the first purchasers were two companies of Friends — the one from Yorkshire, the other from London, who each contracted for a large tract of land. In 1677 commissioners, some of whom were chosen from the London, and others from the Yorkshire company, were sent out by the proprietors, with power to buy land of the natives, to inspect the rights of such as claimed property, to order the lands out, and to administer the government.

Jamestown and other colonies, New Jersey was populated by a secondary wave of immigrants who came from other colonies instead of those who migrated directly from Europe.”<sup>214</sup>

Hence, both East and West Jersey early and largely developed a “blended Puritanism” that included both Quakers and Congregationalists. “Between 1664 and 1674, most settlement was from other parts of the Americas, especially New England, Long Island, and the West Indies. Elizabethtown and Newark in particular had a strong Puritan character. South of the Raritan River the Monmouth Tract was developed primarily by Quakers from Long Island.”<sup>215</sup> The College of New Jersey, which was founded in 1746 and would later become known as Princeton University, espoused the ideals of the Presbyterian Enlightenment—a brand of neo-orthodox Calvinism that reflected both Quaker ideals of religious liberty and natural rights and Reformed ideals of covenant theology.<sup>216</sup> Both the colony of New Jersey and Princeton University became leading exponents of cause of the American revolt from Great Britain.<sup>217</sup>

Significantly, it is critically important to acknowledge the important fact of William Penn’s and the Quakers’ relationship to King Charles II, who bestowed favor upon the Quakers

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214 “New Jersey,” Wikipedia (online encyclopedia): [https://en.wikipedia.org/wiki/New\\_Jersey](https://en.wikipedia.org/wiki/New_Jersey).

215 “East Jersey,” Wikipedia (online encyclopedia): [https://en.wikipedia.org/wiki/East\\_Jersey](https://en.wikipedia.org/wiki/East_Jersey).

216 See, e.g., “A Brief History of the Quakers in Princeton,” <https://www.princetonfriendsschool.org/about-us/a-brief-history-of-quakers-in-princeton.cfm>.

In 1681, Carteret’s East Jersey holdings were auctioned off to William Penn and eleven other prominent Quakers. These twelve were joined by an additional twelve, eight of whom were also Quakers. The original plan was to unite all of East Jersey and West Jersey as a Quaker colony. But Penn eventually decided to focus his energies and attention on what is now Pennsylvania, and over the next twenty years (through purchases and deeds too complex to describe here) most of what is now most of Princeton Township came into the possession of six Quaker families: Richard Stockton (the grandfather of the signer of the Declaration of Independence), Benjamin Clarke, William Olden, Joseph Worth, John Horner, and Benjamin Fitz Randolph. These Quakers created the settlement of Stony Brook in the hollow of the bend in the brook that runs along what is now Quaker Road.... In 1754-6, the Presbyterian College of New Jersey moved from Newark to Princeton. A number of original Quaker settlers donated land to the College of New Jersey, today known as Princeton University. In 1777, during the American Revolution, the meetinghouse was used as a hospital by both American and British forces.

217 The president of Princeton University, the Rev. Dr. John Witherspoon (1723 - 1794), was both a Presbyterian and leading proponent of the revolutionary ideals that were incorporated into the American Declaration of Independence (1776). And “[a]mong the 56 Founding Fathers who signed the Declaration of Independence, five were New Jersey representatives: Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, and Abraham Clark.” “New Jersey,” Wikipedia (online encyclopedia): [https://en.wikipedia.org/wiki/New\\_Jersey](https://en.wikipedia.org/wiki/New_Jersey).

through the proprietary grants of East Jersey and Pennsylvania. The Quakers were, and conceptualized themselves as, loyal subjects of the King of England. And the Society of Friends (i.e., the Quakers) was construed to be a form of Puritanism that operated within a framework of the Church of England, but which espoused religious freedom for all. To that end, the Quakers understood that their colonies were both subjects of the English crown as well as “Christian colonies,” as the case of *Updegraph v. Commonwealth*, 11 Serg. & Rawl, 394 P. 1824,<sup>218</sup> clearly explains.

***Updegraph v. Commonwealth***

*11 Serg. & Rawle 394 Pa. 1824*

“Duncan, J.

“This was an indictment for blasphemy, founded on an act of assembly, passed in 1700, which enacts, that whosoever shall wilfully, premeditatedly, and despitefully blaspheme, and speak loosely and *profanely* of Almighty God, Christ Jesus, the Holy Spirit, or the Scriptures of Truth, and is legally convicted thereof, shall forfeit and pay the sum of *ten pounds*....

“Christianity, general Christianity, is, and always has been, a part of the common law of *Pennsylvania*; Christianity, without the spiritual artillery of *European* countries; for this Christianity was one of the considerations of the royal charter, and the very basis of its great founder, *William Penn*; not Christianity founded on any particular religious tenets; not Christianity with an established church, and tithes, and spiritual courts; but Christianity with liberty of conscience to all men....

“From the time of *Bracton*, Christianity has been received as part of the common law of *England*. I will not go back to remote periods, but state a series of prominent decisions, in which the doctrine is to be found. *The King v. Taylor, Ventr.* 93. 3 *Keb.* 507.... the case of *The King v. Woolaston*, 2 *Stra.* 884. *Fitzg.* 64. *Raymond*, 162... *Evens v. Chamberlain of London*. *Furneaux's Letters to Sir W. Blackstone. Appx. to Black. Com.* and 2 *Burns' Eccles. Law*, p. 95.... *The People v. Ruggles*, 8 *Johnston*, 290....

“In the case of the *Guardians of the Poor v. Green*, 5 *Binn.* 55. Judge Brackenbridge observed, the church establishment of *England* has become a part of the common law, but was the common law in this particular, or any part of it, carried with us in our emigration and planting a colony in *Pennsylvania*? Not a particle of it. On the contrary, the getting quit of the ecclesiastical establishment and tyranny, was a great cause of the emigration. All things were reduced to a primitive Christianity, and we went into a new state....

“And Chief Justice Tilghman observes, that every country has its own common law; ours is composed partly of our own usages. When our ancestors emigrated from *England*, they took with them such of the English principles as were convenient for the situation in which they were about to be placed. It required time and experience to ascertain how much of the *English* law would be suitable to this country. The minds of *William Penn* and his followers, would have

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<sup>218</sup> For the full text of this court opinion, see **Appendix F**, “The Quaker Influence Upon the United States Constitution: William Penn, Pennsylvania, and the English Common Law.”

revolted at the idea of an established church. Liberty to all, preference to none; equal privilege is extended to the mitred Bishop and the unadorned Friend.

“This is the Christianity which is the law of our land, and I do not think it will be an invasion of any man's right of private judgment, or of the most extended privilege of propagating his sentiments with regard to religion, in the manner which he thinks most conclusive. If from a regard to decency and the good order of society, profane swearing, breach of the Sabbath, and blasphemy, are punishable by civil magistrates, these are not punished as sins or offences against God, but crimes injurious to, and having a malignant influence on society; for it is certain, that by these practices, no one pretends to prove any supposed truths, detect any supposed error, or advance any sentiment whatever....

Judgement reversed.”

This *Updegraph* opinion is the clearest, most well-documented legal authority explaining the nature of American Christianity, namely, that the Christian religion was sewn into the English common law, which was transported into the colonies. And that English common law, although modified throughout the American colonies, remained fundamentally Christian without the “Spiritual artillery” of England’s ecclesiastical courts. The United States Supreme Court has adopted the same reasoning and reached the same conclusion as the decision in *Updegraph v. Commonwealth*, supra.<sup>219</sup> See, e.g., *Terrett v. Taylor*, 13 U.S. 43 (1815);<sup>220</sup> *Holy Trinity v. United States*, 143 U.S. 457 (1892);<sup>221</sup> and *United States v. Macintosh*, 283 U.S. 605 (1931).<sup>222</sup> Indeed, the fundamental tenet of the English common law is “reason” or the “reasonable person” standard; and this “reasonable person” standard has to do with the basic morals of

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<sup>219</sup> *Updegraph v. Commonwealth*, 11 Serg. & Rawle 394 Pa. 1824 (“not Christianity founded on any particular religious tenets; not Christianity with an established church, and tithes, and spiritual courts; but **Christianity with liberty of conscience to all men....**”) See, **Appendix F**, “The Quaker Influence upon the U. S. Constitution.”

<sup>220</sup> *Terrett v. Taylor*, 13 U.S. 43, 52, 9 Cranch 43 (1815)( referencing “the principles of **natural justice**, upon **the fundamental laws of every free government**”).

<sup>221</sup> *Holy Trinity v. United States*, 143 U.S. 457 (1892)(providing an extensive history of the influence of Christianity upon state and federal constitutional documents and traditions, and concluding that the United States is “**a Christian nation.**”)

<sup>222</sup> *United States v. Macintosh*, 283 U.S. 605, 625 (1931) (stating that [w]e are a **Christian people** (*Holy Trinity Church v. United States*, 143 U. S. 457, 143 U. S. 470- 471), according to one another the equal right of religious freedom and acknowledging with reverence the duty of obedience to the will of God.”)

American traditions and customs known as “general Christianity,” which comprise both the common laws and the constitutional foundations of the United States.<sup>223</sup> These political, legal, and constitutional innovations were fundamentally Puritan, Calvinistic, and Augustinian.

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<sup>223</sup> For this reason, if the American legal profession fails to conceptualize itself to be the priesthood of the English Common Law, it will aid and abet in the steady corrosion of both the United States Constitution and the primitive Christian faith. The key is for the American legal profession to acknowledge all “reason” as the manifestation of Christ himself. Jesus of Nazareth, as the Son of God, was believed to be the essence of “Reason” or “the Word,” which is the divine “Logos.” See, e.g., John 1:1-3. See, also, “Aquinas on Law,” <https://people.wku.edu/jan.garrett/302/aquinlaw.htm> (where Saint Thomas Aquinas describes law as “a certain rule and measure of acts whereby man is induced to act or is restrained from acting.” (q90, a1) Because the rule and measure of human actions is **reason**, law has an essential relation to reason; in the first place to divine reason; in the second place to human reason, when it acts correctly, i.e., in accordance with the purpose or final cause implanted in it by God.”) See, also, Sir Edward Coke (1552-1634), former Chief Justice of England and Wales, who says *In Dr. Bonham’s Case* (1610) 8 Co. Rep. 107; 77 Eng. Rep. 638, that “[r]eason is the life of the law; nay, the common law itself is nothing else but reason... The law, which is perfection of reason.” See, also, **Appendix C**, “Jesus Christ, the Logos of God, and the Foundation of Anglo-American Civil Law and Secular Jurisprudence.”