

# The Biblical Basis of the United States Constitution<sup>1</sup>

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## Introduction

Surprisingly perhaps, the United States Constitution never uses the word *God*. Such a state of affairs is totally different than the Declaration of Independence which appeals to God as a major part of its argument on three occasions. First, the Declaration opens with an appeal to “the separate and equal Station to which the Laws of Nature and of Nature’s God entitle them.” Second, one can note the most famous line of the document: “We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.” These first two references to God appeal to God’s design of nature and of men to justify the existence of an equality that does not come from those who govern. Instead it comes from the Creator God and is revealed in the work of his design. By using such language the Framers are raising the bar so to speak. To violate these divine designs is a serious charge indeed. Third, the Declaration closes with a statement of faith in God: “And for the support of this Declaration, with a firm Reliance on the Protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor.” Here it is clear that the Framers believed in the immanence of God. God is a God of history who governs the affairs of men. There can never be any harmony between these words and a full-blown deistic outlook. God is active in the world now. He is not on the sidelines watching what men do. In such ways, the human authors of the Declaration made major foundational appeals to God and His creation.<sup>2</sup>

In light of this truth in 1776, the obvious question is why the Constitution does not use similar language just eleven years later in 1787. One could point at the outset to the different purposes of the two documents as a place to start one’s explanation. The Constitution is a pragmatic text which answers the “how” question. It is intended simply to give the structure of how the government is to operate. On the other hand, the Declaration answers a “why” question. Consequently, it is more philosophical. Furthermore, the young nation is defending its decision for independence in the eyes of a Western world steeped in Judeo-Christian ethics during the Enlightenment with its own twists and turns. Legally and morally, the need to appeal to God should not be a surprise.

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<sup>1</sup> The only book level treatments of this topic that this author has seen to date is the older work Dan Gilbert, *The Biblical Basis of the Constitution* (Grand Rapids: Zondervan, 1936) and the recent work, Douglas Anderson and Mark A. Beliles, *Contending for the Constitution: Recalling the Christian Influence on the Writing of the Constitution and the Biblical Basis of American Law and Liberty* (Charlottesville, VA: Providence Foundation, 2005). Gilbert’s work argues primarily from the moral quality of the content of the Constitution to a basis in similar biblical teaching especially in the Ten Commandments. The latter work of Anderson & Beliles is more comprehensive of various issues and more targeted in its critique of modern abuses of the Constitution. Yet it still argues somewhat from analogy. My presentation here, while not dismissing these two approaches, is in a different direction but with similar conclusions.

<sup>2</sup> Later on a brief look will be given to influences upon the Founders that came from outside the Bible or beyond strictly Judeo-Christian thought. Interesting debates emerge about whether the Founders were more influenced by Locke, Leibniz, or Montesquieu along with a host of other writers and thinkers contemporary and ancient. Even if influence is found, such dependence would not negate the Founders use of the Bible and the Judeo-Christian worldview of which they were a part.

Yet the oddity remains. Why is God not referenced in the United States Constitution?<sup>3</sup> One might expect such a reference in the Preamble—the union established with the help of God would fit nicely. However, no direct appeal to God is made there, although one might see the purpose of securing the “Blessings of Liberty” as hearkening back to the Declaration and its pronouncements. There are some indirect references to God perhaps as seen in the need for Senators to be “on Oath or Affirmation” when trying a president for impeachment.<sup>4</sup> The overwhelming majority of oaths in those days, as in this day in our land, were done with an oath to God. Thus, George Washington at the first inauguration added the words “So help me, God” to the constitutionally established words in Article II, Section 1.<sup>5</sup> The word *Lord* is used in the final statement giving the date of the document: “in the Year of our Lord.” However, the Constitution is clear that no religious test can be applied as a “Qualification to any Office or public Trust under the United States.”<sup>6</sup> This last point is often misused by those who reject Christian influence in the country and wish to see the founding as secular in orientation.<sup>7</sup>

So what is to be made of the diminished God-language in the U. S. Constitution? Does it reflect a world view of the Founders that downplays biblical heritage and Christian teaching? What follows is a presentation that answers this question in the negative and shows a measured amount of affinity between biblical teaching and the content of the Constitution. However, before continuing some cautions need to be voiced.

#### Caution: The Need for Balance

Cultures and subcultures almost always rewrite some of their historical traditions in their own image. From the young secular man that once told this author with apparent glee that Benjamin Franklin had over twenty illegitimate children to the staunch evangelical Christian

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<sup>3</sup> One interesting exercise would be to compare the appeals to God in the Articles of Confederation, the document used to govern the new nation starting in 1781 (although the document was approved by the Continental Congress in 1777) until the U. S. Constitution was established. The Preamble to that document refers to the Lord in the standard expression for dates: “on the fifteenth day of November in the Year of our Lord One Thousand Seven Hundred and Seventy seven.” Like the Constitution there are indirect appeals to God by mentioning oaths (Article IX). However, the Articles of Confederation have one appeal to God in the closing section of the document that is similar to the Declaration and not the Constitution: “And Whereas it hath pleased the *Great Governor of the World* to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union” (emphasis supplied). In spite of this reference, the Articles seem to fall short of the Declaration in statements about God.

<sup>4</sup> U.S. Constitution, Article I, Section 3.

<sup>5</sup> Peter A., Lillback and Jerry Newcombe, *George Washington’s Sacred Fire* (Bryn Mawr, PA: Providence Forum Press, 2006), 224. The actual wording of the Presidential Oath in Article II, Section 1 is “I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.” In 2009 at the inauguration of Barack Obama, the words were not said quite right. Later Chief Justice Roberts visited the White House and administered the Oath again. Technically, President Obama was not President until that later moment. The adding of the words “So help me God” is a tradition started by Washington and carried on by each following President.

<sup>6</sup> U.S. Constitution, Article VI.

<sup>7</sup> For example, see Austin Cline, “Godless Constitution: Constitutional Law without Gods or Religion,” Internet; <http://atheism.about.com/od/godlessliberals/p/Constitution.htm>; Accessed 21 October 2011.

who sees a copy of a Bible verse tucked in the pocket of every Founding Father, the predictable portrait emerges to justify the current position.<sup>8</sup> They – the Founding Fathers – were like “us.” Typically in such cases the truth is somewhere between the extremes.

The Christian must admit that the Founding Fathers were not perfect, evangelical believers. For example, much is rightly made of the refusal of the Founders to eliminate slavery in the young nation.<sup>9</sup> This was their great sin which they left the nation and which was only solved by the bloodletting of a Civil War. One might be hard pressed to praise men who had the power to end slavery but chose not to do so (many actually owned slaves). Evangelical Christians who like the religious, even evangelical, tone of the statements of the Founders must be honest about these indisputable historical details.

On the other hand, there has been in our nation a growing trend, especially since the 1960s, to accuse the Founding Fathers of being deists rather than more traditional Christians. While it is true that men like Thomas Jefferson and Benjamin Franklin toyed with mild forms of deistic thought, neither was a full-blown deist since they both believed in prayer and the involvement of the deity in the affairs of nations. One example to discuss is *the* Founding Father, George Washington, the first president of the United States. Due largely to Paul Boller’s influential *George Washington and Religion* (1963) it has become fashionable during a time of intensified secularization to insist that Washington was at best a nominal Christian and most likely a deist.<sup>10</sup> This false historical image has been so strong that even fairly conservative and accurate historians on the contemporary scene have been taken in by the ruse.<sup>11</sup> However, the stellar and thoroughly documented work *George Washington’s Sacred Fire* by Peter Lillback has proven with more than a thousand pages of argumentation that the Father of our country was deeply evangelical in his convictions.<sup>12</sup> Secularists must honestly face such an avalanche of evidence.

### Depravity and the Constitution

Perhaps the most remarkable evidence of a biblical worldview in the Constitution is the underlying belief in the depravity of men and women. This is in stark contrast with the French Revolution of 1789. Americans emphasized a freedom with responsibility while many French

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<sup>8</sup> This author cannot remember the person’s name who said this or the occasion. The discussion of Benjamin Franklin’s moral life has been a major point of examination by scholars. There is no question that he did not practice the sexual morality taught in the Bible although he called it weakness rather than strength in a person’s character. At least one illegitimate son is clearly known. There is no hard evidence for any others although there is abundant recorded evidence of the flirtatious nature of this particular Founding Father. For more information, see H. W. Brands, *The First American: The Life and Times of Benjamin Franklin* (New York: Doubleday, 2000).

<sup>9</sup> A study of the biblical view of slavery cannot be made here. However, the assumption is made that New Testament principles lead in the direction that forcing other human beings into unwilling servitude is a serious and heinous sin.

<sup>10</sup> See Paul F. Boller, Jr., *George Washington and Religion* (Dallas: Southern Methodist University, 1963).

<sup>11</sup> Michael Allen and Larry Schweikart, *A Patriot’s History of the United States* (New York: Sentinel, 2004), 130. The authors state that “Like Franklin, Washington tended toward Deism...”

<sup>12</sup> Peter A. Lillback and Jerry Newcombe, *George Washington’s Sacred Fire* (Bryn Mawr, PA: Providence Forum Press, 2006).

emphasized a liberty with limited responsibility. Americans started from the premise that men were basically evil and that absolute power corrupts absolutely. The French started from the premise that men were basically good. What resulted immediately from each revolution may be instructive. In America, a dynamic nation emerges with a limited government including checks and balances on the evil tendencies of men. France immediately goes through a reign of terror followed by the despotism of Napoleon.

Most American Founders were horrified at what was happening in France during the French revolutionary period. John Adams found the French somewhat immoral and irreligious in everyday living.<sup>13</sup> This was contrasted to the moral uprightness, in his view, of Americans in general (although not all as Franklin's example showed) for whom the system of government was appropriate. George Washington at a human level was hostile to the radical revolutionaries for many reasons including their harsh treatment of Marquis de Lafayette, a beloved figure in the American Revolution.<sup>14</sup> However, the major concern was that the French Revolution was demonstrating what the depravity of man could accomplish if left unchecked. Washington noted that "the blessed religion revealed in the Word of God will remain an eternal and awful monument to prove that the best Institutions may be abused by human depravity."<sup>15</sup> Lillback captures the intent of Washington and by extension that of many other Founders:

Washington's religion manifested itself precisely at this point in the constitutional debate. The ideas he expressed by terms such as "limited power," "the separation of powers," "the rule of the people," "checks and balances," and the "need for amendment," all existed for one simple reason—people abuse power. The idea of abuse of power and political depravity were openly admitted at the Constitutional Convention, and also seriously pondered by Washington. Political depravity is a theological concept that flows from the doctrine of human sinfulness—a basic postulate of Christian teaching. In fact, Washington asserted that human depravity could ultimately destroy the Constitution, even with the checks and balances it possessed. In his proposed Address to Congress in April 1789, he described how the Constitution, with all of its wisdom, could ultimately come to naught by the depravity of the people and those who govern them, since the Constitution in the hands of a corrupt people was a mere "wall of words" or a "mound of parchment."<sup>16</sup>

In Lillback's analysis, the connection between the design of the Constitution and a belief in human depravity is obvious, especially in Washington. Thus, it is not surprising to see Alexis de Tocqueville some years later note that Americans viewed their Christian religion, even when they did not take it seriously at the personal level, as "indispensable to the maintenance of

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<sup>13</sup> Cited in Brands, *The First American*, 552ff.

<sup>14</sup> Lafayette became a tragic figure due to the French Revolution. He seemed to cause animosity on both sides, the rebels and the loyalists. He escaped the guillotine and eventually went to the Southern Netherlands in an attempt to gather his family and go to the United States. Instead, he ended up in prison for a few years at the hands of a counter-revolutionary force. Washington demonstrates great relief in a letter to Lafayette when he was finally released. See Lillback, *Sacred Fire*, 783.

<sup>15</sup> Cited in Lillback, *Sacred Fire*, 58.

<sup>16</sup> *Ibid.*, 220.

republican institutions.”<sup>17</sup> However, perhaps the clearest statement of the Founders on the issue of depravity is found in the *Federalist* No. 51:

But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself.<sup>18</sup>

The writer goes on to mention that such an understanding is obvious by looking at experience. The observation of nature thus goes hand in hand with biblical teaching on depravity.

That depravity is a concern in the biblical text appears in passages like Ephesians 2:1-7 and Romans 3:9-18. While evangelicals debate the extent of depravity in each man and what specific work of God erases or ameliorates such depravity, the tendency of evangelicals generally is to believe a doctrine of man’s depravity. Man is a sinner. He must be saved. The sinful nature of a man, among negative implications, leads to problems in political governance. One should not be astonished to view the Founders as interested in the Bible in such a way. Eidsmoe claims that “Washington, Hamilton, Jay, Madison, and Witherspoon are more typical of the Founding Fathers as a whole than are Jefferson and Franklin. Their religious convictions earnestly sought to establish a government that would reflect and promote the ideals they revered.”<sup>19</sup> If Madison is the author of *Federalist* No. 51 mentioned above, it can be said of his words that he “learned this concept at the feet of the man he respectfully called ‘the old Doctor,’ the Rev. Witherspoon.”<sup>20</sup> The Founders for the most part did not fear Christianity. Instead, they allowed it to keep them grounded solidly in a biblical understanding of depravity.

### “Separation of Powers” and “Checks and Balances”

Consequently, the Framers developed a system of Constitutional checks and balances within the Federal Government. First of all, there are three separate branches of government: legislative (Article I), executive (Article II), and judicial (Article III). This prevents the consolidation of power in the hands of one man (potentially tyrannical monarchy) or in the hands of a group of men (an oligarchy or aristocracy running over the other factions in the nation). Furthermore, the duties of each intrude upon the duties of those in other branches of government

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<sup>17</sup> Alexis de Tocqueville, *Democracy in America* (reprint ed., New York: Vintage Books, 1945). This work was originally published in 1835 translated by Henry Reeve into English. A retranslation by Francis Bowen occurred in 1862. There have been numerous printings of this popular document.

<sup>18</sup> Alexander Hamilton, John Jay, and James Madison, *The Federalist: A Commentary on the Constitution of the United States Being a Collection of Essays written in Support of the Constitution agreed upon September 17, 1787, by the Federal Convention*, Introduction by Edward Meade Earle (reprint ed., New York: Random House, n.d.), 337. The so-called Federalist Papers were circulated initially as individually published essays but eventually collected in one volume. The Federalist Paper here is generally thought to be written by Hamilton or Madison.

<sup>19</sup> John Eidsmoe, “The Judeo-Christian Roots of the Constitution” in *Restoring the Constitution* (Dallas, TX: Probe Books, 1987), 94.

<sup>20</sup> *Ibid.*, 98.

to deepen the checks and balances. For example, the President appoints ambassadors and Supreme Court justices, but the Congress must approve such appointments.<sup>21</sup> The President and his executive branch handle foreign affairs including the execution of war.<sup>22</sup> He is the commander in chief of the military. However, only Congress can declare war.<sup>23</sup> The President can make treaties with foreign powers but they do not get implemented without ratification by the Senate.<sup>24</sup>

Similarly, the legislative branch makes laws.<sup>25</sup> However, the President can veto the laws made by the legislature.<sup>26</sup> The Congress can override the veto.<sup>27</sup> Moreover, the legislature is bicameral. That is, there are two houses, a lower house of Representatives and an upper house of Senators. Bills must be passed by both houses not just one.<sup>28</sup> The give and take involved in all of this makes it more difficult for any one person or group of legislators to consolidate power. For the legislature (and for the President), terms are specified that are not lifetime terms. Each person must face the people for re-election.

Finally, for the judicial branch, the President appoints its members, not the judges themselves. That is, the Court is not a self-perpetuating body. However, appointments are approved by the Senate (as stated earlier). The justices decide disputes about the law between parties. Countermanding that to some extent is the fact that the Congress can decide the limits of the jurisdiction of the Supreme Court and all Federal Courts it creates. In these ways and others, the appropriate balance of power is maintained between three branches of government with additional checks and balances to prevent the consolidation of power. Depravity in the form of abuse of power thus has a chance to be checked and prevented. The result of this approach to government has been successful enough that many other nations have copied the same general framework for how they operate in their government. The major goal is to maintain individual liberty in balance with personal responsibility.

One must also note that the biblical doctrine of depravity does not stand alone in the Framers' minds when they developed this approach to government. The Founders knew about the Greek City-States and the Roman Republic. They also knew the history of the British Empire with its Common Law and the checks and balances and liberties involved in that developing governance. In a general sense, all of these elements factor into the development of the American founding.

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<sup>21</sup> U. S. Constitution, Article II, Section 2.

<sup>22</sup> Ibid.

<sup>23</sup> U. S. Constitution, Article I, Section 8.

<sup>24</sup> U. S. Constitution, Article II, Section 2.

<sup>25</sup> See especially U. S. Constitution, Article I, Sections 7 & 8.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

However, one person stands out for special mention. He is quoted more often by the Framers than anyone else other than the biblical authors although he is little known.<sup>29</sup> His name is Charles de Montesquieu (1689-1755), a Frenchman who studied and wrote political philosophy that attracted many of the American Founding Fathers. His major work is *The Spirit of the Laws* published in 1748. He was an expert in Roman history and Greek philosophy, although he saw their systems overall as insufficient for implementation in the modern context. Nonetheless, many of the features of the ancient political systems can easily inform modern developments. Furthermore, one cannot evaluate Montesquieu as a child of Continental Europe in general or France in particular. He lived for several months in England and seems to have the greatest praise for English political traditions. Thus, there are many things to say in analyzing Montesquieu and the influences upon him which cannot be covered completely in this forum.

However, there are two major points whose absence would cause an inadequate view to be obtained relative to the topic at hand. First, Montesquieu argues from human nature or experience that some form of republicanism might be preferred to help maintain the balance or tension between an individual's security and freedom.<sup>30</sup> Such concerns stem from the difficulties that seem to be inherent in the social structure of humanity. While not espousing a view of depravity, one might come to the same place as Scripture by noting that such social structure needs protection if any lasting good is going to come from the governmental forms that it takes.

Second, Montesquieu proposes a separation of powers, partly through study of the English system. However, it is also true that separation of power ideas harken back to the Greek and Roman days. However, Pangle's commentary on Montesquieu attempts to put things in the proper place:

This understanding of the true nature of the English system emerges clearly enough in Montesquieu's description of the principles of the English constitution. The idea of preventing oppression in a republic by balancing selfish competitive factions was of course not invented in Montesquieu's England. Nor is the scheme of institutionalizing this balance through a division of governmental power an innovation. But in the English system as described by Montesquieu these ideas take on a radically new form. In addition Montesquieu's new principle of "separation of powers" goes beyond the classical aim of stabilizing the balance of competing factions and tries to create out of the competition of selfish interests a new guarantee for personal security and the rule of law.<sup>31</sup>

Hence, Montesquieu's use of balance of power ideas in government actually forges creatively to new heights. The Founders were able to think along the trajectory and extrapolate to their situation with the details filled in. Along the way, the American Fathers would have easily seen

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<sup>29</sup> Eidsmoe, "The Judeo-Christian Roots of the Constitution," 79-80.

<sup>30</sup> Charles de Montesquieu, *The Spirit of the Laws*, Great Books of the Western World, Vol. 38, Edited by Robert Hutchins (Chicago: Encyclopedia Britannica, 1952), 9-13. See also Thomas Pangle, *Montesquieu's Philosophy of Liberalism: A Commentary on The Spirit of the Letters* (Chicago: University of Chicago Press, 1973), 20-47.

<sup>31</sup> Pangle, *Montesquieu's Philosophy of Liberalism*, 117.

the affinity of Montesquieu's approach to the biblical worldview that they imbibed from the religiosity of Colonial America and its recent Great Awakening.

### Federal Government versus State Governments

A second major way in which the Framers helped to put chains on depravity and thereby preserve liberty was to limit the Federal Government in such a way so that the various states retained more responsibilities. This sets up a kind of tension between Federal and State governments which diffuses power and provides further checks on the Federal Government than the internal checks and balances. The principles for this overall understanding are grounded in the Ninth and Tenth Amendments to the Constitution:

*Ninth Amendment:* The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

*Tenth Amendment:* The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.<sup>32</sup>

The Ninth Amendment denies a regulative principle in the Constitution in determining the rights of individuals. The rights the people have are more than are listed in the actual document. The enumerated lists do not limit the people's rights. They limit the Federal Government. The Tenth Amendment may be even stronger. The Federal Government has only those powers listed in the Constitution. Any powers not specifically cited to belong to the Federal Government are automatically assumed to be powers belonging to the States or to individuals. This focus on "States' Rights" was designed to prevent the development of a centralized despotic government. Thus, de Tocqueville noted that the "government of the states is the rule, the Federal government the exception."<sup>33</sup>

One might be tempted to look at the Framers' design to attempt to hold off the depravity of man as producing an inefficient system of government. Such an assessment is accurate. In the balance between security and freedom, there must be enough security to allow people to live without fear. However, there must be enough obstacles in the way of the government to allow for the maximum amount of freedom. Thus, Americans prosper without the government bearing down on them but sacrifice services in an inefficient system.

### Bill of Rights and Scripture

In 1791 the first ten amendments to the U. S. Constitution were ratified and became law. It is a matter of the historical record that Bible-believing Christians had an influence on the creation of this Bill of Rights. The powerful Baptist pastor John Leland from Virginia had enough political clout to influence James Madison to pursue aggressively an amendment

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<sup>32</sup> These two amendments are among the most disobeyed statements of the Constitution in modern American governance.

<sup>33</sup> Alexis de Tocqueville, *Democracy in America*, Chapter 8, 118.

guaranteeing religious liberty.<sup>34</sup> In looking at the first ten amendments, it is instructive to see what content suggests any grounding in biblical teaching.

# 1 -- Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Here the focus is on freedom of religion, the press, and the right to petition. For now we will highlight the aspect of the freedom of religion. One must note that the amendment language goes both ways. There is to be no established church under the Federal government (State governments are another matter settled elsewhere). The government does not appoint church leaders. Churches do not appoint government leaders. The language does not suggest that Christians have no right to speak publicly about political, ethical, and moral issues that affect the nation. However, influence should never morph into control.

The general passage that is at the center of discussion for this amendment is Matthew 22:21 -- "Render to Caesar what is Caesar's, and to God what is God's." Grudem gives the generally received understanding of this biblical text when he notes that Jesus "established the principle that there is one realm of activity under the authority of civil government and another realm of activity under the direct authority of God."<sup>35</sup> Second, in the book of Acts the reader readily notices that the Church is in no way connected to Rome, the empire of the first century. The domains are different; the organizations are not related. Thus, the Bible seems to support the content of the First Amendment which speaks to the relationship of the Church and the State.

# 2 -- A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

The well-traveled debate over the right to bear arms centers on this particular amendment. If one chooses to emphasize an individual's right to bear arms, the Bible narrative shows that the disciples following Jesus carried a sword probably for protection (Luke 22:38). In this case the biblical narrative can serve as a precedent for the right to bear arms. If one chooses to emphasize a corporate right to bear arms in a corporate governmental way (some interpret the militia this way), then Romans 13:1-7 gives governmental authorities the right to bear the sword. Thus, in either reading of this text, one can see a biblical grounding of this amendment.

Amendments 3 through 7 below will be listed together since a similar principle governs the reading of each amendment.

# 3 -- No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

# 4 -- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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<sup>34</sup> See J. M. Dawson, *Baptists and the American Republic* (Nashville: Broadman, 1956), 108-109.

<sup>35</sup> Wayne Grudem, *Politics According to the Bible* (Grand Rapids: Zondervan, 2010), 99.

# 5 -- No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

# 6 -- In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

# 7 -- In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

These amendments cover quartering soldiers (# 3), searches by authorities (# 4), and rules for trials both civil and criminal (# 5, 6, 7). In a general sense all of these are rationally thought out applications of limiting governmental authority in light of possible abuses due to depravity. So, perhaps we can assert that here is some level of common sense. However, it is also possible to notice that some biblical texts speak of a kind of due process which is the point of these constitutional texts. The treatment of property with respect as is found in the Mosaic legislation would be important (e.g., Lev. 19:13; Ex. 22). Appropriate rules for trials such as witnesses would also be significant (e.g., Deut. 17:6, 19:15). The idea of due process found in such legal texts in the Bible informs such thinking for legislative priorities in Constitutional texts.

There are some cautions that need to be mentioned here. The United States is not a covenant nation like Israel. One has the right to ask what right we have to view Mosaic legislative texts as speaking to how nations should execute their laws today. We do not want to repeat the Christian Reconstructionist mistake.<sup>36</sup> As a dispensationalist, this present author would make sure to avoid the replacement theology of the Founding Fathers and an over-application of Old Testament texts to American life and experience. The best that one can do is to apply the text indirectly with dispensational sensitivity. There can be no direct application. A second caution comes from the presence in the Old Testament of examples where due process was not the case. One could ask the Canaanites or Amalekites if they experienced due process. Nonetheless, we learn from the examples of the Old Testament so that we can live better (e.g., 1 Cor. 10:6). In that sense perhaps, it is possible that the due process of these particular amendments find an analogy in Scripture and protections against the potential expression of the depravity of governmental authorities.

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<sup>36</sup> Greg Bahnsen, *Theonomy in Christian Ethics* (3<sup>rd</sup> edition; Covenant Media Press, 2002). In this work, Bahnsen argues for the application of the Old Testament text in exhaustive detail in today's culture. This cannot be harmonized with a dispensational understanding of Scripture.

# 8 -- Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

This amendment is probably the clearest example where Constitutional law finds clear precedent expressed in the biblical text. The statement concerns the fact that the judgment or punishment must fit the crime. A person who drives 56 mph in a 55 mph zone should not be executed for this crime! This teaching is expressed in Exodus 21:23-35 – “But if there is serious injury, you are to take life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise.” Jesus also addresses this text in his words in the Sermon on the Mount (Matt. 5:38-42). Generally, this verse has been abused greatly as permission to carry out vengeance. But this would contradict teaching elsewhere in the Bible (Rom. 12:19). The passage in its Old Testament context teaches that there are precise limits to punishment that is meted out. The Founding Fathers would have been aware of this biblical text and understood it appropriately.<sup>37</sup>

### Conclusion

Any attempt to ground all of the Constitution in biblical teaching would be tricky business. The Founders were extremely educated men and well read. Their familiarity with history, philosophy, and political theory is easily demonstrated. As a result many streams of influence combine to produce the document of the U. S. Constitution. However, most, if not all, Founders embraced the Judeo-Christian worldview. The Bible was respected, read, and used. Its application in such an important matter of life such as government would not have been dismissed easily. In light of the matters discussed above, especially the issue of depravity, the Constitution is a document designed to maximize protection against political abuse and to take full advantage of the blessings of liberty. In this light, it is safe to suggest that there is a biblical basis for the U. S. Constitution.

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<sup>37</sup> Amendments 9 & 10 have already been covered in an earlier section of this paper.