REPAIRING OUR FOUNDATION THROUGH CHRISTIAN SCHOLARSHIP

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INTRODUCTION

In the minutes allotted to me today, I wish to develop three brief points: (1) Christian scholarship has generally been credited as the foundation for today's western civilization, (2) during my lifetime I have witnessed rampant deterioration of that foundation, and (3) you and I are called to repair that foundation, employing Christian scholarship to lead our nation back to its founding fundamentals.

I. CHRISTIAN SCHOLARSHIP HAS GENERALLY BEEN CREDITED AS THE FOUNDATION OF WESTERN CIVILIZATION

To us who are students of the law, this fact is self-evident. Black-letter principles of law were handed down from God to Moses at the Mount Sinai School of Law many centuries ago.1 Those principles made their way into Anglo-American common law and into statutes by which we govern society today.2 Commentators often focus on the Middle Ages or the Reformation period when discussing the effect of Christian scholarship on Western culture,3 but I'd like to deal with examples that are a little closer to here and now.

But first, in 1606, King James I (the same king credited with authorizing the King James translation of the Bible), granted a charter to the Virginia Company of London for the purposes of exploration and establishing colonial settlements in the new world.4 These early

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2 See John W. Welch, Biblical Law in America: Historical Perspectives and Potentials for Reform, 2002 BYU L. REV. 611, 630 (2002) (“It is impossible to list all these indirect influences which Scripture has had on the minds of judges, lawmakers, and the electorate,’ for many aspects of American law were ‘strongly shaped by the popular understanding of biblical morality.’”).
3 E.g., HAROLD J. BERMAN, LAW AND REVOLUTION 40 (1983) (explaining that the Western legal system developed during the latter part of the Middle Ages due to papal supremacy and the church’s independence from secular control).
adventurers included learned, God-fearing men. Nearly 409 years ago, on April 26, 1607, these adventurers from the Virginia Company made landfall here in Virginia Beach—at Cape Henry on the mouth of the Chesapeake Bay.

After spending considerable time in prayer, they claimed this territory, including where we sit today. Although they had been commissioned by the King of England, when they stepped on the beach they did not post the Union Jack or the flag of England. Rather, they planted a cross. They claimed this very land as Christian territory—a place for believers. Today, a granite cross stands on the beach in remembrance of that claim made in the spring of 1607. From there, the adventurers made their way up the James River, planting crosses along the way.

One hundred and eighty years later, on September 17, 1787, our forefathers drafted the Constitution of the United States. James Madison has been credited as the principal author of the Constitution. Madison had studied philosophy, law, Latin, Greek, and Hebrew at Princeton, and he later served as the rector at the University of Virginia. He was a Christian scholar.
Madison was particularly interested in theology and extended his studies at Princeton for a year of post graduate study in theology. Doubtless, Madison’s commitment to Christian theology influenced his thinking. Perhaps that accounts for our form of government in which the president is not above the law, a principle that dates back to Deuteronomy 17:20: The king must “not consider himself better than his fellow Israelites and turn from the law.” Like the ancient Hebrew model of government, the law (the U.S. Constitution) ranks above mortals, even above heads of state.

The influence of Christianity in our country is found in many places. Over the years that influence has been reflected in public actions (in 1782, Congress formally recommended an edition of the Bible developed “for the use of schools”), in public monuments (including the inscription “Laus Deo,” which means “praise be to God,” at the top of the Washington monument), in the stone relief carvings in the chambers of the House of Representatives, in the Supreme Court depiction of Moses, and even in the motto inscribed on all U.S. currency: “IN GOD WE TRUST.”

But for me, Christian influence is best exemplified by George Washington’s actions when he took the oath of office. Washington was so popular that he could have taken the oath in whatever fashion he desired. History tells us that Washington decided to take the oath by placing his left hand on the Bible, raising his right hand, and swearing to

Madison’s religious beliefs, and quoting Madison: “the belief in a God All Powerful, wise and good, is so essential to the moral order of the World and to the happiness of man, that arguments which enforce it cannot be drawn from too many sources . . . .”).

17 KETCHAM, supra note 15, at 56.
18 U.S. CONST. art. II, § 1, cl. 8; id. art. II, § 4.
20 See U.S. CONST. art. II, § 1, cl. 8 (indicating that the constitution is preeminent over even the President, as he or she must take an oath of office to defend and uphold the Constitution); id. art. II, § 4 (stating that the President, Vice President, and all civil officers are subject to impeachment for violating the law).
23 Id. at 81, 87.
24 Louis Fisher & Nada Mourtada-Sabbah, Adopting “In God We Trust” As the U.S. National Motto, 44 J. CHURCH & ST. 671, 681 (2002).
uphold the Constitution—a tradition followed by most presidents after Washington.26

Washington, however, insisted that the Bible be open when he placed his hand upon it, and not opened randomly, but specifically to Deuteronomy 28.27 That chapter outlines the blessings given to a godly nation and the curses of a nation that disobeys God.28 I believe that Washington, by using the Bible opened to Deuteronomy 28, was claiming this to be a godly nation, and he was invoking God’s blessings for this country.

For nearly the first two centuries after Washington’s inauguration, this young country followed God’s principles.29 During this time, the United States was blessed. The passage in Deuteronomy says of the nation obedient to God: “Blessed shall you be in the city, and blessed shall you be in the field.”30 This is a promise that an obedient nation will be blessed in its crops and herds, blessed in its food baskets, and safe in its boundaries.

Sure enough, this country experienced those very blessings. In short order, America became the breadbasket of the world.31 We were secure in our boundaries; we were strong and protected the world, as evidenced by

26 Gleaves Whitney, Bible Passages at Inaugurations, GRAND VALLEY ST. U. (Jan. 25, 2005), http://scholarworks.gvsu.edu/cgi/viewcontent.cgi?article=1032&context=ask_gleaves. The vast majority of presidents have followed George Washington’s example of taking the oath of office with his hand on the Bible. Id. Theodore Roosevelt in 1901 was the only president who did not take the oath of office with his hand on the Bible. Id. Hayes in 1877 and Arthur in 1881 did not use a Bible when they were sworn in privately, but used a Bible for the public ceremony. Id.

27 GINGRICH, supra note 22, at 35.

28 Deuteronomy 28:1-68.

29 See, for example, the Supreme Court’s opinion in Late Corp. of the Church of Jesus Christ of Latter-Day Saints v. United States, 136 U.S. 1, 49 (1890), stating that polygamy “is contrary to the spirit of Christianity and of the civilization which Christianity has produced in the Western World,” which was later quoted with approval in Cleveland v. United States, 329 U.S. 14, 19 (1946).

30 Deuteronomy 28:3 (New International Version).

31 See, e.g., James Moreland, America is No Longer the World’s Breadbasket (Aug. 11, 2013), http://economyincrisis.org/content/americais-no-longer-the-worlds-breadbasket (“For generations, the United States was a global agricultural power, sometimes referred to as the breadbasket of the world. Today, however, the U.S. is simply an afterthought.”).
heroic actions in World War I and World War II. Industry was strong and prosperity followed, just as Scripture said it would.

II. THE DETERIORATION OF OUR FOUNDATION

But then in the 1950s and 60s we began squeezing God out of our nation's everyday life. Prayer was no longer allowed in public schools, Biblical moral standards were disregarded. Mere mention of God in public was no longer “politically correct.” And what happened? We lost the war in Vietnam. Our borders were penetrated by enemies on September 11, 2001. Our food supplies have been contaminated and our blessings are on the wane.

32 See Treaty of Peace Between the United States and Germany, Ger.-U.S., Aug. 25, 1921, 42 Stat. 1939 (declaring the end of the war, and thus exemplifying that the United States played an important role in defeating Germany and preserving democracy worldwide); Pat Robertson, America's Dates with Destiny 174 (1986) (stating that President Wilson remarked when asking Congress for a declaration of war to enter World War I: “The world must be made safe for democracy! . . . It is a fearful thing to lead this great peaceful people into war, into the most terrible and disastrous of all wars, civilization itself seeming to be in the balance. But the right is more precious than peace, and we shall fight for the things which we have always carried nearest our hearts.”).  

33 See Surrender by Germany, May 8, 1945, 59 Stat. 1857 (delineating Germany's terms of surrender to the United States and other Allied powers following World War II); R.J. Rummel, Death By Government 4, 8 (7th prtg. 2009) (indicating the level of horror and genocide committed by the Nazi regime).  


36 See, e.g., Jeremy Greenwood & Nezih Guner, Social Change: The Sexual Revolution, 51 INT'L ECON. REV. 893–94 (2010) (providing statistics regarding the sexual revolution during the twentieth century—e.g., in 1900 only six percent of teenage girls engaged in premarital sex, but by 2002 only twenty-five percent of teenage girls abstained from premarital sex).

37 See Engel, 370 U.S. at 422, 433 (holding that a school prayer to God was unconstitutional).

38 James Cannon, Gerald R. Ford: An Honorable Life 374 (2013) (quoting President Ford: “I can still recall sitting in the Oval Office at my desk, watching those helicopters come and go, live on TV. I saw the war right in front of me. I saw the fear, the hell of war. I saw our country defeated.”).


41 See DEPT’ OF ST. & JOINT LHRC, COMM. CONGRESS, THE PAPERS OF JAMES MADISON 1391 (1840) (reporting on a debate at the Constitutional Convention and quoting Colonel Mason: “As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects Providence punishes national sins by national calamities.”).
The passage claimed for this country by Washington at his inauguration had come home to roost. Shortly after I learned about the way in which Washington took his oath, I had occasion to be sworn in as a judge of the Court of Appeals of Virginia. My wife held the Bible, opened to Deuteronomy 28. I placed my left hand on those words of Scripture and repeated the oath of office.

You see, I want to believe that we are a godly nation, or at least that we can return to that status. I want to count on God’s blessings for the United States. But as I reflect on the cultural shifts that have taken place during my lifetime, I am concerned that we are rapidly becoming the disobedient land referenced in the second half of Deuteronomy 28.

I recall the days when opening exercises in my public school classes included recitation of the Lord’s Prayer. I recall that the norm for public dinners and public programs was to begin with prayer invoking God’s presence and blessings. I recall a time when even our U.S. Supreme Court openly defended Biblical standards for marriage and sexual behaviors, before Lawrence v. Texas and Obergefell.42

The trends I have seen may have had innocent beginnings. In the 1960s our national standard of living took a dramatic upswing. Advances in communication (especially telephone and television) filled our idle time.43 Construction of the interstate road system enhanced our mobility—and as a result accelerated commerce and the exchange of ideas.44 The “God is Dead” movement,45 the sexual revolution,46 and

42 See, e.g., Obergefell v. Hodges, 135 S. Ct. 2584, 2614 (2015) (Roberts, C.J., dissenting) (citing precedent that highlighted the importance of marriage between a man and woman as the foundation for society and civilization); The Late Corp. of the Church of Jesus Christ of Latter-Day Saints v. United States, 136 U.S. 1, 49 (1890) (criticizing polygamy as a return to barbarism against the spirit of Christian principles). But see United States v. Windsor, 133 S. Ct. 2675, 2689 (2013) (“For marriage between a man and a woman no doubt had been thought of by most people as essential to the very definition of that term and to its role and function throughout the history of civilization. . . . The limitation of lawful marriage to heterosexual couples, which for centuries had been deemed both necessary and fundamental, came to be seen in New York and certain other States as an unjust exclusion.”).


46 Greenwood & Guner, supra note 36, at 893–94.
epidemic drug abuse resulted from an inquisitive generation consumed by desires to explore new frontiers. Unfortunately, those explorations became the avenues for deterioration of social standards. Over time the new social order gave way to constitutional “discoveries”—discoveries like the constitutional right to abortion and the constitutional right to aberrant sexual relations. We stand now on the brink of a titanic clash between the new social order and the First Amendment right to freely exercise religion.

Polarization and self-centeredness deadlock our legislatures. Crassness and foul language infect our national debates—even in the context of electing a new president. We live in a sea of depravity, a morass of busyness and complacency, and an ever downward spiral of morality—trying to reach the lowest common denominator. We are swiftly departing from being the godly nation referenced in the first half of Deuteronomy 28.


51 See, e.g., Associated Press, Oregon Bakery Pays $144,000 Fine for Refusing to Bake Gay Wedding Cake, CHRISTIAN SCI. MONITOR (Dec. 29, 2015), http://www.csmonitor.com/USA/Society/2015/1229/Oregon-bakery-pays-144-000-fine-for-refusing-to-bake-gay-wedding-cake (reporting the story of Christian bakery owners who were fined $144,000 for refusing to bake a wedding cake for a same-sex wedding due to their religious beliefs).

52 See Carroll Doherty, 7 Things to Know About Polarization in America, PEW RES. CTR. (June 12, 2014), http://www.pewresearch.org/fact-tank/2014/06/12/7-things-to-know-about-polarization-in-america/ (finding that there is greater polarization between the two major parties now than at any previous point in American history).


III. THIS IS NOT IRREVERSIBLE—WE ARE CALLED TO REPAIR OUR FOUNDATION

Are we destined for ignominy? Some days I fear the answer is a resounding “yes.” But then I read the scholarly Christian works that have been submitted in this competition and I have the good fortune to work with Regent Law students. You bring clean minds and well calibrated moral compasses to bear on the social issues of the day. A glimmer of hope shines through.

You are that glimmer of hope. You have been elected by the Creator of the universe to use Christian scholarship to turn the tides of rampant secularism and social depravity. You are nothing less than instruments of God. That’s why you are here.55

When I think of the Christian scholarship that comes from Regent Law School, I think of the example of Daniel in scripture. The Bible describes Daniel as “without any physical defect, handsome, showing aptitude for every kind of learning, well informed, quick to understand.”56 When the Babylonians invaded Jerusalem and took Daniel captive to be pressed into service of the enemy kingdom,57 people surely lamented this tragic turn of events. What a waste of talent; this person of great potential was now forced to survive in the enemy’s land.

Daniel, as we know, did much more than survive. He applied his God-given scholarship—his aptitude for learning and understanding58—with discipline and integrity and made a lasting difference in this world.59 Each of you is like Daniel. You are young, you have shown an aptitude for learning, you are well-informed and quick to understand—and you are even handsome! Like Daniel, you have been delivered into a foreign kingdom.60 You are citizens of a Heavenly Kingdom,61 but have been transported by our Master’s plan to survive in an increasingly hostile

55 1 Peter 2:9 (English Standard Version) (“But you are a chosen race, a royal priesthood, a holy nation, a people for his own possession, that you may proclaim the excellencies of him who called you out of darkness into his marvelous light.”).
57 Daniel 1:1–7.
58 Daniel 1:20 (English Standard Version) (“[I]n every matter of wisdom and understanding about which the king inquired of them, he found [Daniel, Hananiah, Mishael, and Azariah] ten times better than all the magicians and enchanters that were in all his kingdom.”).
59 Daniel 2:48 (English Standard Version) (“Then the king gave Daniel high honors and many great gifts, and made him ruler over the whole province of Babylon and chief prefect over all the wise men of Babylon.”).
60 Hebrews 13:14.
61 Philippians 3:20 (English Standard Version) (“But our citizenship is in heaven, and from it we await a Savior, the Lord Jesus Christ.”).
secular kingdom. You have been dropped behind enemy lines where you will be pressured to give up on scholarship, abandon God’s ways, and conform to the base instincts that seem to now govern this land.

But scholarly Christian writing matters. In the fall of 1993, President Bill Clinton signed the Religious Freedom Restoration Act into law. He remarked then that certain Christian writings had greatly influenced his support of the legislation.

Christian scholarship in the form of law review articles published at Regent University have found their way into appellate court decisions in the Second, Eighth, and Ninth Circuits, and a Regent Law review article was cited by Justice Kennedy in a 2011 decision of the United States Supreme Court.

The writing competition that brings us together today is not a meaningless exercise or an empty drill. This is an opportunity to hone skills that are desperately needed in the world where you and I have been planted. Your Christian scholarship is a gift. It is also a responsibility. Like Daniel, you have the opportunity to be obedient to God’s calling, even in the face of a hostile world environment. Like Daniel, you have the opportunity to make a difference.

You have been made for a time such as this. You have been called to salt today’s culture and bring light to darkened recesses. Be bold. Be all that you have been called to be. Correct actions are not a matter of

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63 1 John 5:19 (English Standard Version) (“We know that we are from God, and the whole world lies in the power of the evil one.”).
64 Romans 12:2 (English Standard Version) (“Do not be conformed to this world, but be transformed by the renewal of your mind . . . .”).
66 Dawes v. Walker, 239 F.3d 489, 497 (2d Cir. 2001).
67 Edwards v. Beck, 786 F.3d 1113, 1118 (8th Cir. 2015) (discussing viability of preterm infants as it relates to abortion).
68 Los Coyotes Band of Cahuilla & Cupeño Indians v. Jewell, 729 F.3d 1025, 1032 (9th Cir. 2013).
70 Romans 12:6.
71 Esther 4:14.
72 Matthew 5:13–16.
majority vote.74 Godly obedience does not make you popular.75 Nevertheless, “work heartily, as for the Lord and not for men, knowing that from the Lord you will receive the inheritance as your reward.”76

This country was built on godly principles and scriptural moral standards.77 We’ve drifted seriously off course. But you have been drawn into pursuits of Christian scholarship for a purpose. You have been gifted with talent and opportunity. With the gift comes responsibility.

You are the “people who are called by [His] name”78—Christians—and you are therefore called to prayerfully and boldly work to return our people to the founding Christian principles. Then, but only then, can we once again expect to be aligned for the blessings of Heaven.

74 Cf. Exodus 23:2 (New International Version) (indicating that it is wrong to follow the crowd and that what is right is unconnected from popularity or majority vote).

75 James 4:4 (New International Version) (“You adulterous people! Do you not know that friendship with the world is enmity with God? Therefore whoever wishes to be a friend of the world makes himself an enemy of God.”); See Steve McSwain, Why Nobody Wants to Be Around Christians Anymore, HUFFINGTON POST (Sept. 4, 2014), http://www.huffingtonpost.com/steve-mcswain/why-nobody-wants-to-be-ar_b_5759918.html (stating that no one wants to be around Christians because they are considered judgmental and believe that the Bible is the inerrant Word of God, among other things).

76 Colossians 3:23–24 (English Standard Version).

77 See, e.g., The First Charter of Virginia, 1606, supra note 4, at 39–40 (declaring the propagation of Christianity as one purpose of the Virginia colony); see also Whitney, supra note 26 (showing that nearly every United States president has placed his hand on the Bible during his inauguration).

78 2 Chronicles 7:14 (English Standard Version).