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# The Supreme Court's Atheistic Interpretation of the Constitution and Its Consequence for the Destruction of America

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**—Part IV—**

In the *Everson* decision Justice Black cited two cases that instead of aiding support, actually challenge the Court's majority conclusion regarding the religion clauses in the First Amendment: *Reynolds v. United States* (Decided October 1, 1878)[1] and *Davis v. Beason* (Decided February 3, 1890).[2] Both of these cases dealt with the Mormon religion's practice of polygamy. However, the importance of these cases is much greater than the subject they addressed. This has to do with the Common Law.

In *Davis v. Beason*, concerning the First Amendment, Justice Field, delivering the opinion of the Court, declared, "The term 'religion' has reference to one's views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will." "It was never intended or supposed that the amendment could be invoked as a protection against legislation for the punishment of acts inimical to the peace, good order, and morals of society." In addition, "With man's relations to his Maker and the obligations he may think they impose, and the manner in which an expression shall be made by him of his belief on those subjects, no interference can be permitted, provided always the laws of society, designed to secure its peace and prosperity, and the morals of its people, are not interfered with." In the decision of the Court, Field associated "this country" [America] with "Christian countries" and "the Christian world," and the "morals of society" and "the morals of its people" with "man's relation to his Maker" and in "obedience" to the "will" of "his Creator." The obvious conclusion of the Court was "Creator" is to be understood distinctly from the perspective of a Christian world-view, (in the same vein as Mason and Madison), and that "the morals" of "this country" are understood in the context of Christian morality.

In *Reynolds*, the Court declared the advocates of polygamy could not use the Amendment as a defense for such behavior, because polygamy is "an offense against society." Chief Justice Waite, who rendered the decision of the Court, considered the same writings of Madison and Jefferson that Justice Black referred to in the *Everson* case. The difference was that Waite did not draw the extreme, erroneous conclusions conjectured by Black. Waite presented the necessary inquiry: "The word 'religion' is not defined in the Constitution. We must go elsewhere, therefore, to ascertain its meaning, and nowhere more appropriately, we think, than to the history of the times in the midst of which the provision was adopted." First, Waite was firm in his opinion that

Madison in his *Remonstrance* demonstrated "that religion" was "the duty we owe the Creator," and that this, "was not within the cognizance of civil government." He then quoted from Jefferson's *Bill*, "that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy which at once destroys all religious liberty," and "that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order." Referring to these conclusions of Jefferson, Waite declared "In these two sentences is found the true distinction between what properly belongs to the church and what to the State." (As seen in Part III, the word "church" can only be attributable to Christianity.)

Concerning Jefferson's metaphor, Waite stated, "Coming as this does from an acknowledged leader of the advocates of the measure, it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured." He, then, explained the exact meaning of Jefferson's metaphor: "Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order." This and this alone is the intent and reach, or "the scope and effect," of the "wall." And "Congress" being "deprived of all legislative power over mere opinion" was, as Justice Story stated, "to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment, which should give to an hierarchy the exclusive patronage of the national government."

This is the context of the First Amendment's declaration that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" with "religion" being "the duty which we owe to our Creator [Jesus Christ], and the manner of discharging it." The Supreme Court is out of order and in violation of the Constitution when it artificially and deceitfully extends this "wall" to restrict the influence of Christianity and Christian morality in the public square, including the education complex. Every nation has a religion at its base, whether it is Christianity, Judaism, Islam, Hinduism, Secularism, Atheism, Evolutionism, etc, (yes, Atheism and Evolutionism are religions; these beliefs contain metaphysical, faith-based presuppositions). (This statement is fully explained in ***IRREFUTABLE***). In America, the place of Christianity is to be recognized by the State, but not legislated by the State. This is essential; true, Biblical Christianity, with its inherent morality, is the only objective, absolute bellwether for exposing any action that would be considered, "an offense against society," which fundamentally is a moral concern.[3]

The *Reynolds* decision was unanimous (9-0). (Justice Field wrote a concurring opinion with one minor exception having to do with the testimony of a particular witness.) The fact that the Waite Court was unanimous reflects a great deal more than initially meets the eye. Over the next few years four of the Justices would be replaced by new arrivals. Waite, along with the remaining four Justices who concurred with the Reynolds decision and the four new Justices, heard the case, *Baltimore & Potomac Railway Co. v. Fifth Baptist Church* (1883)[4] This case, which dealt with the issue of public nuisance, presented the moral influence that—of necessity—undergirds the Common Law.

Justice Field wrote the opinion for the unanimous Court decision. Opposing the defense used

by the defendant's attorneys that "by an act of Congress" it had granted the *Railway* certain authorized rights, Field retorted:

> Whatever the extent of the authority conferred, it was accompanied with this implied qualification that the works should not be so placed as by their use to unreasonably interfere with and disturb the peaceful and comfortable enjoyment of others in their property. Grants of privileges or powers to corporate bodies like those in question confer no license to use them in disregard of the private rights of others and with immunity for their invasion. The great principle of the common law, *which is equally the teaching of Christian morality*, so to use one's property as not to injure others, forbids any other application or use of the rights and powers conferred. (Emphasis added.)

The words emphasized were not stated as a dictum, but as a controlling legal truth. Notice that the decision of the Court was based on an unwritten implication. The law was not valid solely on its face. It must be qualified by an implicit moral precept. And, this moral qualifier itself could not be arbitrary, otherwise it would be unjust. What would keep the inference from being nothing more than a questionable perception? Without the phrase, "which is equally the teaching of Christian morality," "The great principle of the common law" would forever be the proverbial "elephant in the room," as in, "who says" and "by what moral authority?" The Court, and thus the State, would be the originator and sole arbiter of absolute moral truth. It would position itself as God. In other words, the Court would expose themselves to be usurpers rather than judges. In truth, Common Law morality is identical to, and understood as, Christian morality.

The same five men who concurred with the *Reynolds* decision, including its proper understanding of the First Amendment, found no variance in affirming Christianity as being an essential part of the Common Law. They recognized that the conclusion of the Court required the moral qualifier. Seven of the Justices who concurred in *Baltimore & Potomac Railway Co*. also concurred in the *Davis v. Beason* decision. The continuity of judicial thought in these cases, specifically with regard to the Court's acknowledgment of the necessity of Christian morality in secular society, speaks volumes. Most importantly, theses court decisions prove that government support for the influence of Christian morality in secular society does not violate either the First Amendment or the due process and equal protection clauses of the Fourteenth Amendment (ratified on July 9, 1868). For over 129 years, *Baltimore & Potomac Railway Co. v. Fifth Baptist Church* has been cited in a multitude of court decisions, both state and federal, across America, including some with special emphasis placed on the quote in question.[5]

For those who still declare "*which is equally the teaching of Christian morality*" to be a dictum, Henry Campbell Black in his *Handbook of the Law of Judicial Precedents or the Science of Case Law*, affirmed the following: "[A] dictum, though not originally entitled to rank as a precedent, may eventually come to occupy a position hardly distinguishable from that of a direct adjudication. This happens when the dictum is regarded as embodying a particularly correct or forcible statement of legal doctrine, and is frequently referred to with approval."[6] One would have to concur that cases spanning 129 years is more than frequent. Black also attested, in his *Handbook of American Constitutional Law*, under the heading, "Christianity as Part of the Law of the Land," to the following:

> [T]he saying is true in this sense, that many of our best civil and social institutions, and the most important to be preserved in a free and civilized state, are founded upon the Christian religion, or upheld and strengthened by its observance; . . .and that the prevalence of a sound morality among the people is essential to the preservation of their liberties and the permanence of their institutions, and to the success and prosperity of government, and the morality which is to be fostered and encouraged by the state is Christian morality, and not such as might exist in the supposititious [fraudulent] "state of nature" or in a pagan country. The law does not cover the whole field of morality. Much that lies within the moral sphere does not lie within the jural sphere. But that which does lie within the jural sphere, and which is enforced by positive law, is Christian morality.[7]

Understanding the importance of Christianity in relation to the Common Law is absolutely essential to any discussion regarding the overwhelming influence of the government on the downfall of American culture. If the Common Law were void of a moral component it would be adversarial to both Higher Law and the Constitution itself. It would place all moral considerations in the unconstrained, arbitrary discretion of an oligarchy of five to nine Supreme Court Justices. No rational thinker would concur with such an agreement. It certainly was not the plan of the Framers. The relationship of the Common Law to the Constitution stated by a number of esteemed legal minds, in the first few decades following the ratification of the Constitution, is informative:

> We live in the midst of the common law, we inhale it at every breath, imbibe it at every pore; we meet it when we wake and when we lay down to sleep, when we travel and when we stay at home; it is interwoven with the very idiom that we speak, and we cannot learn another system of laws without learning at the same time another language. We cannot think of right or of wrong but through the medium of the ideas that we have derived from the common law. . . .We need but open the Constitution of the United States and the laws which have been made in pursuance of it, and we shall find the common law almost in every line.[8]

> They [judges] have held generally, that the Constitution of the United States was predicated upon an existing common law. Of the soundness of that opinion, I never had a doubt. I should scarcely go too far, were I to say, that stripped of the common law, there would be neither Constitution nor Government. The Constitution is unintelligible without reference to the common law. And were we to go into our courts of justice with the mere statutes of the United States, not a step could be taken, not even a contempt could be punished. Those statutes prescribe no forms of pleadings; they contain no principles of evidence; they furnish no rule of property. If the common law does not exist in most cases, there is no law but the will of the judge.[9]

> It was not to be doubted that the Constitution and laws of the United States were made in reference to the existence of the common law . . . In many cases, the language of the Constitution and laws would be inexplicable, without reference to the common law; and the existence of the common law is not only supposed by the Constitution, but it is appealed to for the construction and interpretation of its powers.[10]

From these and many other affirmations on the importance of the Common Law, we understand that the Declaration of Independence, the Constitution of the United States, and the Bill of Rights are all Common Law documents. In addition, the Supreme Court itself is a Common Law Court. With this in mind, it is easy to see why understanding the truth that Common Law morality and Christian morality are identical, is so compulsory.

When the Supreme Court in *Baltimore & Potomac Railway Co. v. Fifth Baptist Church*, declared dependence on "Christian morality" in confirming the moral soundness of its Common Law decision, it obviously required the Court to acknowledge the Christian religion itself. Yet, as seen, this in no way infringes on the principle of separation of Church and State. In fact, it reveals the accurate relationship between Church and State. The State can never be separated from God and His moral law. That would be the most foolish idea ever conceived by an ostensibly politically savvy society. At least, for a society that honestly desires liberty and is opposed to any form of tyranny.

Story's assertion that, "One of the beautiful boasts of our municipal jurisprudence is, that Christianity is a part of the common law, from which it seeks the sanction of its rights, and by which it endeavors to regulate its doctrines," is an irrefutable truth. Jefferson's attempted rebuttal of this truth was fanciful not factual. The Honorable P. Emory Aldrich, commenting on Jefferson's position, stated: "With all due respect to the distinguished author of that criticism, it may be said that a more perfect travesty of the doctrine, as held by any intelligent student of law, that religion is a part of the common law, could not be devised."[11] Aldrich's critique of Jefferson could well be applied to all of those naysayers who have followed in Jefferson's philosophical wake over the past 190 years. It is good to remember what law is all about, as Sidney declared: "It does not enjoin that, which pleases a weak, frail man; but, without any regard to persons, commands that, which is good, and punishes evil in all, whether rich or poor, high or low. It is deaf, inexorable, inflexible."[12]

In 1947, the Supreme Court, in *Everson*, by artificially erecting a spurious "wall between church and state," rather than what the real "wall" represents, in effect, removed Natural Law, with its Christian moral law imperative, from any legal consideration and supplanted it with a concept of law that is destructive to constitutional jurisprudence. To the Court, the influence of Christianity had to be suppressed. Still, to this day the fallacious reasoning in *Everson* concerning religion is considered to be sacrosanct, even though it represents the height of deceit, if not self-deception, and disdain for the truth. The consequence of the Court's misrepresentation is the corrupt government and collapsing, degenerate society we are experiencing today.

The Court, by nothing but its own will, moved America from being a Christian nation to, philosophically, being a polytheistic, neopagan nation. In the process, it unconstitutionally established atheism as the de facto State religion, and turned "the Supreme Law of the Land" into a support system for a debased, atheistic legal scheme that has only one outcome: the advancement of tyranny. This judicial philosophy is exemplified by Charles Evans Hughes, in 1907 then Governor of New York, when he asserted, "We are under a Constitution, but the Constitution is what the judges say it is."[13] This declarative carries import because Hughes was appointed to the Supreme Court twice. First as an Associate Justice prior to his Governorship, and

second as Chief Justice, which ended his tenure as Governor.

In order to accomplish the goal of driving our nation to destruction, there are three things the government must do. (1) Remove Christianity from the public square. (2) Remove Biblical morality from the law. (3) Remove God from the government. When these three goals are achieved the government will completely fill the voids it deliberately and diabolically created, (even though at times unwittingly). It will supplant Christianity with atheism, Biblical morality with immorality, and God with existential humanism, i.e., man as the center of a nonmoral universe. Welcome to the precursor to Nazi Germany! It could equally apply to Communist Russia and China, or any other totalitarian regime.

This may sound unduly threatening, but consider the legal philosophy that led to the *Everson* decision. To do so, it is not necessary to look further than the influence of a single voice; that being Roscoe Pound. He served as the Dean of Harvard Law School from 1916 until he resigned in 1936, and was appointed the first University Professor at Harvard, until he retired in 1947. Pound's writings were voluminous, however, only his core belief and its surrounding principles are of relevant interest. His main contention concerning the Common Law: "Let us think of the problem of the end of law in terms of a great task or great series of tasks of social engineering."[14]

For this to take place, the understanding of the Constitution established by the Framers must be rejected: "No one will assert at present that the separation of powers is part of the legal order of nature or that it is essential to liberty."[15] This altered thinking was necessary to establish the judiciary as the source and force for social change. In what he termed, "The good side of spurious [deceitful] interpretation," Pound laid out his plan for "social engineering." It was based on, "the general popular demand for judicial amendment of constitutions, state and federal, under the guise [appearance] of interpretation."[16] When the Supreme Court considers a judicial opinion and acts like it is interpreting the Constitution, it is actually "good" for the Court to betray the people and give the appearance of interpretation, when in fact it is unconstitutionally usurping the legislative branch of government and amending the Constitution to accomplish a predetermined, oligarchic sociological desire.

Pound's justification for a sweeping change in constitutional law was astounding. He encouraged: "From time to time more or less reversion to justice without law becomes necessary in order to bring the public administration of justice into touch with the changed moral, social or political conditions."[17] Like others of his ilk, Pound asserted that law must be, "in the hands of a progressive and enlightened caste whose conceptions are in advance of the public and whose leadership is bringing popular thought to a higher level."[18] All of this was to be accomplished by one profound modification in the idea of jurisprudence: "The state takes the place of Jehovah handing the tables of the law to Moses."[19] Thus, through deceitful jurisprudence, the State becomes the omnipotent God, promulgating and installing its own debased, "changed moral" philosophy. Pound's influence cannot be overstated as Thomas A. Cowan, Professor of Law, University of Nebraska declared: "he gradually reworked the whole structure of American legal thought."[20] And, Paul Sayre, Professor of Law, New York University and Pound's biographer, expressed: "I hate to think what would have happened to juristic thought in this country if he had not been, since all the rest of us have been living off him on this score for some forty years."[21]

The path of this reworking of "the whole structure of American legal thought" has led directly to America's current degenerate sociopolitical environment. For those who have lived long enough the see the difference, the ever escalating speed with which this government sanctioned and supported cultural decline has been accomplished is startling. The contrast between the Waite Court's decisions and what the Supreme Court has pressed upon America ever since the *Everson* decision is extremely disturbing. The difference is to be found not in an evolving Constitution, but in the hearts and minds of morally deficient justices. The consequence of this moral debasement is the Supreme Court has failed in its obligation to uphold the Constitution, has perverted the First Amendment, and in the process has deliberately pitted the State against the Church and has created an untenable, unconstitutional tension between the two.

***Continued in Part V***

**Home | Introduction | Articles**

## Notes

1. *Reynolds v. United States*, 98 U.S. 145 (1878)
2. *Davis v. Beason*, 133 U.S. 333 (1890)
3. Anyone who wants to argue this position only needs to look at what has replaced the Ten Commandments in our public schools—police, metal detectors, condoms, abortions for under age teenagers without parental consent, depraved sex education, racism, etc.
4. *Baltimore & Potomac Railway Co. v. Fifth Baptist Church*, 108 U.S. 317 (1883).
5. The most current case, *Lawrence ("Bud") Moon, Jr., et al,, vs, North Idaho Farmers Association, et al.*, in the District Court of the First Judicial District of the State of Idaho in and for the County of Kootena., June 4, 2003. In writing the decision for the court, District Judge John T. Mitchell emphasized the entire quote, from Justice Field's Supreme Court decision as stated above.
6. Henry Campbell Black, *Handbook of the Law of Judicial Precedents or the Science of Case Law* (St. Paul, MN: West Publishing Company, 1912), 179-180.
7. Henry Campbell Black, *Handbook of American Constitutional Law*, 3rd, ed. (St. Paul, MN: West Publishing Company, 1919), 528.
8. Peter S. Du Ponceau, *A Dissertation on the Nature and Extent of the Jurisdiction of the Courts of the United States* (Philadelphia: Abraham Small, 1824), 91.
9. *The Speeches of Mr. Giles and Mr. Bayard in the House of Representatives, February, 1802* (Boston: Munroe & Francis, 1802), 30-31.
10. James Kent, *Commentaries on American Law*, 2nd ed. (New York: O. Halsted, 1832), 1.336.
11. P. Emory Aldrich, "The Christian Religion and the Common Law," *Proceedings of the American Antiquarian Society*, New Series, Vol. 6 (Worcester: Published by the Society, 1890), 24.
12. Sidney, *Discourses on Government*, 3.69.
13. "Speech before the Elmira Chamber of Commerce, May 3, 1907," *Addresses and Papers of Charles Evans Hughes* (New York: G. P. Putnam's Sons,1908), 139.
14. Roscoe Pound, *The Spirit of the Common Law* (Boston: Marshall Jones Company, 1921), 195.
15. Roscoe Pound, "Spurious Interpretation," *Columbia Law Review*, Vol. 7, No. 6 (June, 1907): 384.
16. Ibid.
17. Roscoe Pound, "The Causes of Popular Dissatisfaction with the Administration of Justice," *Report of the Twenty-ninth Annual Meeting of the American Bar Association held at St. Paul Minnesota* (Philadelphia:

Dando Printing and Publishing Company, 1906), 398.
18. Roscoe Pound, "The Need of a Sociological Jurisprudence," *The Green Bag*, Vol. 19, No. 10 (October, 1907): 612.
19. Roscoe Pound, *Law and Morals* (Chapel Hill, NC: The University of North Carolina Press, 1924), 14.
20. Thomas A. Cowan, "A Report on the status of Philosophy of Law in the United States," *Columbia Law Review*, Vol. 50, No. 8 (December, 1950): 1092.
21. Paul Sayre, Book Review, "Outlines of Lectures on Jurisprudence," 5th ed., By Roscoe Pound, *Harvard Law Review*, Vol. 57, No. 4 (April, 1944): 585.