

2004

## M. Stanton Evans: The Theme is Freedom Study Guide (1995-2004)

Steven Alan Samson  
*Liberty University*, [ssamson@liberty.edu](mailto:ssamson@liberty.edu)

Follow this and additional works at: [https://digitalcommons.liberty.edu/gov\\_fac\\_pubs](https://digitalcommons.liberty.edu/gov_fac_pubs)



Part of the [Other Social and Behavioral Sciences Commons](#), [Political Science Commons](#), and the [Public Affairs, Public Policy and Public Administration Commons](#)

---

### Recommended Citation

Samson, Steven Alan, "M. Stanton Evans: The Theme is Freedom Study Guide (1995-2004)" (2004).  
*Faculty Publications and Presentations*. 97.  
[https://digitalcommons.liberty.edu/gov\\_fac\\_pubs/97](https://digitalcommons.liberty.edu/gov_fac_pubs/97)

This Article is brought to you for free and open access by the Helms School of Government at Scholars Crossing. It has been accepted for inclusion in Faculty Publications and Presentations by an authorized administrator of Scholars Crossing. For more information, please contact [scholarlycommunications@liberty.edu](mailto:scholarlycommunications@liberty.edu).

# M. STANTON EVANS: THE THEME IS FREEDOM STUDY GUIDE (1995-2004) Steven Alan Samson

## Introduction

1. Why should Americans' ignorance about the past and intellectuals' misrepresentation of the nature of our system be matters of special concern today rather than mere antiquarian curiosity? (xi-xii)
2. Identify several connections between the accuracy (or inaccuracy) of our historical information and current political issues. What does the author mean by "cultural warfare" and "counterculture teachings"? What is the problem with the so-called "canon" of western culture and with its critics? (xii-xiv)
3. Why does the author call his book an archeological dig? What is his purpose in writing it? What approach does he take in writing this survey of the historical record?

## CHAPTER ONE: THE LIBERAL HISTORY LESSON

### Key Concepts

Our uncertain response to the fall of communist power in Europe shows that, first, we had no plan to cope with its consequences and, second, that we did not understand it.

But in the largest sense the moral is clear enough: Soviet communism was a huge experiment in total collectivist planning to build a godless Eden. It failed utterly.

Totalitarian movements offer a hard-nosed bargain: Exchange liberty for security and economic progress. People gave up their freedom for a mess of pottage that was never delivered.

#### What are Some of the Lessons?

- 1) Zealots with plans to make over the world by fiat are a deadly menace: *e.g.*, Robespierre, Pol Pot, Saddam Hussein
- 2) Concentrated power that is devoid of checks or limits is dangerous because it leaves nothing to impede the grinding power of the ruling faction other than its own discretion or internal struggles
- 3) The end of the Soviet Union shows that running a complex society by command just doesn't work. Economies set up in this fashion provide no incentives to encourage work and output.

#### These Lessons Have Been Ignored

The total collapse of the most elaborate scheme of collectivism ever known has been treated almost as an incidental matter.

Consequently, we ignore the implications of the vast authority wielded by our own central government. "No day elapses without some new demand for bigger subsidies and steeper taxes, expanded schemes of regulation, investment directed by official foresight, and the like." For example: the national health care proposal and price controls.

Henry Hazlitt's Economics in One Lesson (1946), which was influenced by Bastiat, teaches that all economic fallacies sprang from one of two central fallacies, or both: "that of looking only at the immediate consequences of an act or proposal, and that of looking at the consequences only for a particular group to the neglect of other groups."

### Explanations for Our Collectivist Drift

- 1) Economic Ignorance: We pay little attention to fundamental issues concerning the origin, nature, and workings of a free society.
- 2) Taking Liberty for Granted: We are accustomed to doing as we please. Together, these first two encouraged our collectivist drift.
- 3) But the real obstacle to maintaining a regime of freedom is opposition to limited government and free markets.

Expanding government power, especially in economic areas, is the standard liberal cure-all.

Some conservatives are also confused on the subject and suggest that American conservatism should not be the party of individual freedom but, instead, a creed of virtue, order, hierarchy, and tradition, stressing the need for moral authority in the state.

Common attributes of conservative thought: belief in moral absolutes, adherence to Biblical traditions, and a pessimistic view of human nature

Liberals attack these attributes as being authoritarian in practice: they favor skepticism about moral absolutes, a rationalist approach to social problems, and an optimistic view of human nature.

The views of philosophical libertarians and "big government" conservatives confuse the issue.

The prevalent liberal view *precludes the very idea of resistance to big government*,

The key political insight of the forgotten conservative tradition is the idea of *imposing limits on governmental power*, in the interests of protecting freedom.

Theses: 1) the limited government, free-market emphasis of conservatism is an expression of conservative values; 2) the traditionalist and libertarian strands in conservative thought are congruent, 3) at issue is the very nature of American society, institutions, and freedom.

The Liberal History Lesson (a variation on the Whig Interpretation of History) alleges that religion and liberty have always been in conflict.

On the contrary: Conservative doctrine on the relationship between religious value, tradition, and ideas of Freedom is essential to free institutions

Conversely, secular liberal notions must in the end be lethal to our freedoms.

It is impossible to understand the American revolution or our constitutional founding without knowledge of the original settlers and their faith, the English common law experience, or their medieval background.

### Outline

How important is the astounding collapse of Communism and the events that have followed? What lessons have we learned from it? What accounts for our lack of preparedness? Look for clues in the pages that follow.

- A. LESSONS ON THE EXCHANGE OF FREEDOM FOR A MESS OF COLLECTIVIST POTTAGE [or, **The Dream of Reason** -- the Idyllic Imagination -- **Produces Nightmares**] (4-6)
  1. Deadly Menace of Zealots with Plans
  2. Dangers of Unchecked, Concentrated Power
  3. Failure of Command Economies
- B. THE LESSONS IGNORED (6-8)
  1. Business as Usual
  2. Specific Illustrations of Collectivist Practices
  3. Costs of Intervention
- C. EXPLANATIONS FOR OUR IGNORANCE (8-14)
  1. Ignorance of Economics and Inattention to Fundamentals
  2. Taking Liberty for Granted
    - a. Rarity of the Achievement
  3. Liberalism as an Obstacle
    - a. **Standard Liberal Cure** for Anything that Ails Us: Use of Top-Down Power
    - b. Liberal-Left Astigmatism on Controls and Planning (Learned Ignorance)
    - a. Confusion in the Conservative Camp: Disguised Liberalism? Philosophical

- Libertarianism? Big Government Paternalism?
- d. Idea of Resistance to Big Government Precluded
- D. FORGOTTEN LIMITED GOVERNMENT TRADITION (14-15)
  - 1. Imposing Limits on Governmental Power
    - a. Dependence of This Libertarian Tradition on **Religious Values**
  - 2. Theses
    - a. Compatibility of Limited Government and a Free Market Emphasis with Conservative Values
    - b. Congruence of Traditionalist and Libertarian Strands
    - c. At Issue: Nature of American Society
- E. MISTAKEN THESIS ABOUT THE INTELLECTUAL PROGRESS OF THE WEST (15-18)
  - 1. **Liberal History Lesson**: Supposed Conflict between Religion and Liberty
  - 2. Founding Fathers Seen as Devotees of the Enlightenment
  - 3. Ibelief in the Illegitimacy of the Religious Right
  - 4. Contradiction Seen between Religious Belief and Individual Freedom
- F. THESIS: CONSERVATIVE DOCTRINE IS ESSENTIAL TO FREE INSTITUTIONS; SECULAR LIBERAL NOTIONS ARE LETHAL (18-19)
- G. AUTHORITY FOR MAKING THESE ASSERTIONS (19-21)
  - 1. Evidence of the Historical Record
  - 2. Preconceived Ideas: Source of the Problem
  - 3. Specialization
  - 4. Verbal Fallacy

### Review

hard-nosed bargain of totalitarianism (despotism)                                  forgotten limited government tradition  
 liberal history lesson                                  why so many people get the story wrong  
 what is essential and what is lethal to free institutions

## CHAPTER TWO: IN SEARCH OF FREEDOM

### Outline

- A. MEANING OF THE WORD "FREEDOM" (22-25)
  - 1. Communist Inversion of Words and Phrases
  - 2. Other Instances in Which *Freedom Is Defined out of Existence*
    - a. Sir **Robert Filmer**: Freedom as a "Privilege"
    - b. **J.-J. Rousseau**: Freedom as Subjection to the "**General Will**"
    - c. Franklin Roosevelt's *Four Freedoms*
  - 3. Definition: **Freedom Is the Absence of Coercion**
    - a. Ability to Act in a Voluntary Fashion
      - 1) Proviso: Recognition of the Equal Liberty of Others
    - b. Role of Government
      - 2) Limited Function: Order-Keeping
  - 4. Classical Liberal View: John Stuart Mill and Herbert Spencer
  - 5. Balance between Liberty and Order
    - a. Edmund Burke: Dilemma in Forming a Free Government
    - b. Core Ideas of American Statecraft
- B. ORIGINS AND PRECONDITIONS OF THE IDEA OF FREEDOM (25-29)
  - 1. Features Common to Free Societies vs. the Historical Norm
    - a. Absence of Ancient Precedent for Individual Liberty
    - b. Athens and Rome Fell Short: subservience to state ["Man a Political Animal"]

- c. Absence of Examples in the Modern Era: Authoritarianism
- d. Narrow Range of Times and Venues: "the West" (see Lieber)
- 2. Concepts and Institutions of Freedom Are of European Origin
- 3. Christianity Supplied the Elements of Unity in Europe
  - a. Accepted Matrix of Belief and Value, Art and Symbol, in a Society Divided by Language, Custom, Ethnicity, and Territorial Ambition
  - b. Christopher Dawson on Christendom
  - c. **Edmund Burke**: "Virtually One Great State Having the Same Basis of General Law" [The Germanic common law system of the Holy Roman Empire]
- C. RELIGION PROVIDED THE CONCEPTUAL BUILDING BLOCKS FOR THE FREE SOCIETIES OF THE WEST (29-36)
  - 1. Notion of Voluntary Behavior as the Core Idea of Freedom
    - a. St. Thomas Aquinas
  - 2. Limits on State Compulsion
    - a. Law Has Jurisdiction over Exterior, Not Interior, Actions
    - b. **Representative Institutions** at the High Noon of the Middle Ages: *Cortes* (Aragon), *Estates General* (France), *Reichstag* (Germany), Parliament (Britain)
  - 3. Middle Ages: A Time of Waxing Freedom
    - a. Elective Principle
      - 1) Gratian: Princes Are Bound by Law
    - b. **Lord Acton**: *Universality of Representative Government* and the Right of Insurrection
  - 4. England vs. the Continent
    - a. Renaissance Neo-Pagan Concepts of Kingship [*lex regia*] (see pp. 82-83)
    - b. England Retained Earlier Free Institutions
      - 1) **Frederick Maitland**: "Resuscitation of the Medieval Law"
      - 1) Statesmen/Clerics: Thomas a Becket, John of Salisbury, Stephen Langton, Robert Grosseteste, Henry de Bracton [cf. Rushdoony's three types of law: man under law, man over law, man apart from law]
    - c. Conflict Between the Stuarts and Parliament: proving ground of this doctrine
    - d. Emigration of the Puritans to America: **John Cotton**
    - e. Revolutionary/Constitutional Era: Virtue and Self-government
    - f. Recurring Pattern: Liberty Arising Out of Religious Values
- D. OTHER INTRIGUING QUESTIONS (36-38)
  - 1. Linkage of Religion and Freedom
  - 2. Why Would Founders Have Barred Religion from Public Life?
  - 3. Coherence of the Conservative History Lesson
  - 4. Thesis: Freedom Is Coterminous with Faith
    - a. Their Necessary Unity

### Review

Robert Filmer	Jean-Jacques Rousseau	freedom
conceptual building blocks	Edmund Burke: unity of Europe	Aquinas: voluntary behavior
Lord Acton on medieval representative institutions		effects of moral relativism
how England differed from the Continent (Maitland)		John Cotton
planting of medieval liberties in America		moral conditions for freedom to exist

## CHAPTER THREE: THE AGE OF THE DESPOTS

### Outline

- A. SOURCES OF THE HOSTILITY TO RELIGIOUS BELIEF IN MODERN THOUGHT (39-40)
1. Idea that Religious Absolutes Are Congenial to Oppression
  2. View that Strong Belief Translates into a Desire to Impose It
  3. Notion that Religious Belief Is Merely Superstition
  4. Historical Thesis That Freedom and Limited Government Developed from a Denial of the Biblical Faith
  5. Consequence: Aversion to Religious Influence in Public Life
- B. COROLLARY TO THE SECULARIST THESIS (40-42)
1. Moral Relativism
    - a. Denial of Universals [Nominalism]
    - b. Scientific-Rationalist Bias
  2. Historical and Cultural Relativism
  3. Notions of This Type Supposedly Lead to Freedom and Toleration
- C. ON THE CONTRARY: MORAL RELATIVISM  
UNDERMINES LIBERTY AND FAVORS DESPOTISM (42-56)
1. Moral Conditions That Are Required for Freedom to Exist
    - a. Libertarian Precepts Are Axiomatic, Moral Statements: Otherwise Freedom Would Be a Matter of Indifference
  2. **Totalitarian States** Are Founded upon a Denial of Revealed Religion
  3. War against the Idea of Freedom: **Communism**
    - a. **Karl Marx's** and Friedrich Engel's Hostility to Religion
      - 1) Major Premise: Standards of Right Are Subordinated to the Tide of History and the Flux of Power
    - b. Implication: In the Absence of Objective Standards, Anything Goes
    - c. **Vladimir Lenin:** Morality a Fraud
    - d. Appeals to Violence
    - e. Revolutionary Dictatorship of the Proletariat
    - f. Killing Fields: Gulags, Stalin's Show Trials, Genocide of Mao and Pol Pot
    - g. The Connection: Denial of Religious Value and Rise of Despotism
  4. War Against the Idea of Freedom: **Fascism and Nazism**
    - a. **Friedrich Nietzsche:** Worldview Premised on a Hatred of Christianity and the Will to Power
      - 1) Great Man Is a Ruthless Skeptic
      - 2) Christianity Is the Religion of the Weak
    - b. **Alfred Rosenberg:** Glorification of Pagans and Occultic Aryanism
    - c. **Adolf Hitler:** Hitler's Comtean View of the Catholic Church
    - d. Economic Collectivism: Assertion of State Power over Individual
  5. War Against the Idea of Freedom: **Fascism**
    - a. **Benito Mussolini:** Relativism and Indifference toward Theories
    - b. Glorification of War and Violence
    - c. Anti-Individualism and Statism
  6. Common Thread of Modern Isms: **Devaluation of the Individual**
    - a. **Friedrich Nietzsche:** Sacrificing the Weak to the Will and Pleasure of the Strong [cf. Utilitarianism]
      - 1) Christianity Is the Reverse of the Principle of Selective Breeding
      - 2) No Standards Other Than the Rule of Force
    - b. **Nihilist** and Rationalist Strains in Modern Naturalism
    - c. John Stuart Mill on Auguste Comte's System of Despotism
    - d. Nietzsche's "**Superman**" Idea [cf. Margaret Sanger's breeding a race of thoroughbreds]
    - e. **Definition of Totalitarian Rule:** Conjunction of All-powerful Leaders Unchecked by Law and a Herd of Devalued Subjects
  7. Extent to Which This Way of Thinking Has Mingled with Our Own

- a. The Nietzsche Cult
- b. Existentialism
- c. The New Left
- d. **Herbert Marcuse**: Repressive Tolerance
- b. Political Correctness [such as campus speech codes]

### Review

Marxism, Fascism, Nazism	origins of totalitarianism	war against idea of freedom
Marx and Engels	Vladimir Lenin	Friedrich Nietzsche
Alfred Rosenberg	Adolf Hitler	devaluation of the individual
Benito Mussolini	nihilism	superman idea
Herbert Marcuse		

## CHAPTER FOUR: FROM CHAMPAGNE TO DITCH WATER

### Outline

- A. MODERN INTELLECT'S DENIAL THAT RELATIVIST ASSUMPTIONS LEAD TO AUTHORITARIAN OUTCOMES (57-59)
  - 1. Theories of Freedom Based on Reason
    - a. Distinctive Feature of Liberalism
  - 2. Varieties of Liberalism
    - a. Each Is an Effort to Preserve Some Aspect of Liberty from Relativism
  - 3. **Idea of Natural Right**
    - a. **John Locke's** Second Treatise on Civil Government
    - b. Declaration of the Rights of Man (France)
  - 4. **Jeremy Bentham's** Denunciation of Natural Right Theory
    - a. View that Liberty Is Better Sustained by a **Utilitarian** [Felicific] **Calculus**
  - 5. **Herbert Spencer's** on Bentham's Subjectivity
    - a. Scientific, Evolutionary Doctrine of Freedom
  - 6. Decay of the Liberal Position

7. The Bottom Line: Theorists Rely on the **Inherited Capital of Western Culture** but Imagine That It Is Not Dependent on Religious Belief [cf. Francis Schaeffer]
  - a. A Common Religious-Cultural Base Was Assumed Initially
- B. LIBERAL THEORISTS' ATTEMPT TO SET UP THESE IDEAS AS SELF-VALIDATING PROPOSITIONS (59-64)
  1. Etienne Gilson's Critique of Rene Descartes' Deduction of a Creator
  2. Inalienable Rights Were **Not Self-Evident** to Ancient Pagans (147 note)
  3. **Utilitarianism** Illustrates the Slippage in the Rationalist Approach
    - a. Critique by A. V. Dicey: that it assumed the existing benevolent goals of British society
    - b. Result: Rule of Pure Majoritarianism
    - c. Rationale for Social Engineering
  4. **John Stuart Mill**: Further Slippage
    - a. Influence of Harriet Taylor
    - b. Textbook Display of Historical Relativism: Government always ends up in the hands of the strongest power in society. [*dernier mot* = last word]
    - c. Mill's *Utility of Religion* (treated as a permanent cultural inheritance)
  5. The Impermanence of These Values and Customs (Despite Mill)
    - a. Liberal Complacency
  6. **Oliver Wendell Holmes, Jr.**
    - a. Materialist Relativism Taken in the Opposite Direction from Herbert Spencer's Evolutionary Market Doctrine
    - b. Opposition to Fixed Constraints
    - c. Bottom Line: Will of the De Facto Supreme Power
    - d. Consolation: An "Educated Sympathy"
  7. Mill and Holmes: Liberal Thought at Its "Finest"
    - a. Note: A Utilitarian Rather than an Axiomatic Basis for Civil Rights
    - b. Liberals Follow This Mental Path Away from Freedom
    - c. Secular, Utilitarian Rationale for These Concepts: Dignity, Free Speech, etc.
    - d. These Concepts Are Secular By-Products of Christian Faith
- C. LIBERAL EMBRACE OF TOTALITARIAN STATECRAFT (64) [cf. Minogue: political moralism]
  1. Buildup of Power in the State
  2. Correlative Devaluation of the Individual
- D. BUILDUP OF POWER IN THE STATE (64-70)
  1. **John Dewey** [on socialization vs. intellectual training in education, see p. 112]
    - a. Appeal for a Coordinating Council of Government, Industry, Labor
  2. Commitment to Government Planning and Regulation
    - a. Joseph Clark: Full Force of the Government for Liberal Agenda
  3. More Recent Soft-Sell of Planning
    - a. Robert Reich: "Positive Economic Nationalism" through subsidies to encourage value-added production
  4. Idea of Constitutional Safeguards Is Defunct
    - a. Assumption: Anything Goes (*i.e.*, Do we have the votes?)
    - b. A Regime of Dominant Power
  5. Sophistry of Liberal Legalists (corruption of thought and language, see p. 109 ff)
    - a. "Blank Check Clauses": general welfare, commerce, implied powers
    - b. "Living Constitution"
    - c. Deconstructionist Approach
  6. William Brennan's Rubber Constitution (rescuing it from "anachronism")
    - a. Liberal Relativism and Deconstruction of the Rule of Law
    - b. Maxim of Complete Discretion
  7. **Rexford Tugwell** Acknowledged Constitution as a Negative Document
- E. RESULT: **DEVALUATION OF THE PERSON** (70-74)
  1. Incredulity of Those in Whom an Educated Sympathy Still Persists
  2. Carl Becker: Man Is a Foundling in the Cosmos
  3. **Oliver Wendell Holmes, Jr.**: Ultimate Insignificance of Man



4. Alfred Kroeber: Anthropological View
5. **B. F. Skinner**: Behaviorist Psychological View (see Beyond Freedom and Dignity)
6. Drift of Liberal Policy toward Social Engineering
7. Soft Behaviorism in Social Policy
  - a. **Behavior Modification**
  - b. Purpose of Busing Schoolchildren
  - c. **James Coleman**: Replacing the Family Environment (e.g., extension of school year in favor of year-round school)
  - c. Sex Education and Affective Education: schools are change agents on behalf of a value-laden program
  - d. Abortion: Defining Issue of the Liberal Agenda
  - e. Other Categories of Inconvenient People
    - 1) Quality of Life Argument Cuts Two Ways

### Review

idea of natural right	John Locke	Jeremy Bentham
Herbert Spencer	Utilitarianism	John Stuart Mill
Oliver Wendell Holmes, Jr.	devaluation of the person	John Dewey
Rexford Tugwell	B. F. Skinner	behavior modification
James Coleman		

## CHAPTER FIVE: THE USES OF TRADITION

### Outline

- A. CONFUSION ABOUT CONSERVATISM (75-80)
  1. August 1991 Coup
    - a. Communist Hard-liners Are Described as "Conservatives"
  2. The Term "Conservative" Has Been Emptied of All Value Content
    - a. Political Terminology Rendered Meaningless
    - b. Orwellian Nature of Current Discourse [George Orwell wrote on the political corruption of the English language].
  3. Another Misunderstanding: Conservatives Hold Blindly to the Past
  4. Tradition Is Always about Something
  5. Unity between Religious Belief and Political Freedom
    - a. Alleged Libertarian/Traditionalist Opposition Is an Illusion
  6. Historical Roots: Limits, Rule of Law, Consent
  7. Reliance on **Tradition**, Instead of Abstract Reason, in English Law
    - a. **Edmund Burke**: Collected Wisdom of the Ages vs. Abstract Theory
  8. **Common Law Tradition**
    - a. Enormous Skein of Precedents from Time Immemorial
    - a. Views of **Edward Coke** and Matthew Hale
    - b. Reasonableness of Reliance on Tradition
    - c. Hales' Response to Hobbes' Theory
- B. LIBERTARIAN CHARACTER OF THE COMMON LAW TRADITION (80-82)
  1. Common Law Obstructed Unchecked Power and Protected Liberty Behind the Ramparts Created by Custom and Tradition
    - a. Law Is Superior to the Powers of the Day
    - b. Foes of Arbitrary Power Were Tenacious in Defense of Their Constitution
    - c. It Has Been a Target of Such Critics as Hobbes and Bentham
  2. Its Intractability Has Made It Effective as a Rule of Law
  3. Its Predictability: Stability, Dependability, Need for Certitude
- C. DISDAIN FOR LEGAL LIMITS BY AMBITIOUS MONARCHS (82)

1. Inclination toward Expansive Notions
2. Revival of the **Roman/Byzantine View of Kingship: *Lex Regia***
3. Law Seen as the Edict of the Political Sovereign of the Moment
- D. TRADITIONAL ENGLISH VIEW OF THE LAW (83-87)
  1. Sir John Fortescue: Consent
  2. Sir **Edward Coke** vs. the Stuarts
  3. Medieval Notion of a Law above the State
  4. Early Settlers Were Products of the Common Law Experience
  5. **American Leaders Were Common Lawyers**, Not *Philosophes*
  6. English Inns of Court and Coke's *Institutes*
    - a. Influence of Coke on Jefferson, Henry, John Adams
  7. **Common Law Defense Against Arbitrary Rule**
    - a. **John Dickinson**: Farmer's Letters
    - b. **James Otis** on the Writs of Assistance
    - c. **John Adams** on the Stamp Act and Admiralty Courts
  8. Higher Law Component
  9. Americans as Traditionalists
    - a. Dickinson: Dependence on Crown and Parliament Is a Novelty
  10. Survivals of Medieval Attitudes
- E. NATURE OF TRADITION (87-91)
  1. **Common Law Is a Species of Consent**
    - a. Its Voluntary Character (John Davies)
  2. Spontaneous Development
  3. James Wilson vs. William Blackstone
  4. Custom as Consent of the People in Contrast to Top-Down Command
    - a. **Friedrich Hayek on Spontaneous Order**
  5. Elective, Popular Self-government
  6. Roman Doctrine Reflects the Opposite Mindset
    - a. Hostility to the Market for Sake of Imposing Order by Command
  7. The Market Economy Developed under Common Law Protections
- F. THE PROBLEM WITH RELYING ON TRADITION (91-94)
  1. The Type of Tradition Is Crucial
    - a. Importance of Tradition's Substantive Content and Source
  2. A Strictly Customary Approach Affords **No Principles of Fixity**
    - a. Precedents Are Absorbed into the Flow of Custom
    - b. English Language Slowly Evolved until Standardized
    - c. Rise of Parliamentary Supremacy
    - d. Colonial Reaction against Innovations
  3. Americans' Tenacity Is Noteworthy
    - a. Flaw in a Purely Traditional Approach
    - b. Error of the Rationalist Critics of Tradition
    - c. An Element of Fixity Is Needed to Prevent Slippage
  4. Answer: Anterior Reference Points that Are Religious and Axiomatic

### Review

Edmund Burke	common law tradition	Sir Edward Coke
Roman/Byzantine view of kingship ( <i>lex regia</i> )		legal training of American patriots
common law defense against arbitrary rule		John Dickinson
James Otis	John Adams	Friedrich Hayek: spontaneous order

## CHAPTER SIX: IF MEN WERE ANGELS

### Outline

- A. "PESSIMISTIC" VIEW OF HUMAN NATURE (95-97)
1. **Doctrine of Original Sin**
    - a. False Supposition that Conservatives and Christians Must Hold an Authoritarian View of the State
  2. Enlightenment's "Optimistic" View
  3. **Tory Paternalists** and Big Government Conservatives
    - a. Thomas Hobbes and Joseph Maistre
  4. Need to Focus on the Frailties of Rulers, Not Just Those Who Are Ruled
  5. Skeptical View of Men with Power
    - a. **Edmund Burke:** Slavery Is "Living Under Will, Not Under Law"
    - b. Lord Acton: Power Tends to Corrupt
    - c. Alexis de Tocqueville
- B. EARLY AMERICAN SKEPTICISM ABOUT HUMAN NATURE THAT IS ARMED WITH POWER (97-104)
1. Puritans
    - a. **Thomas Hooker:** Law Must Overrule the Lusts of Men
  2. The Revolutionary Generation on Ambition and the Lust for Power
    - a. Samuel Adams and Jonathan Mayhew
  3. Era of the Constitution
    - a. Universal Belief in Original Sin
    - b. **Alexander Hamilton:** Mistrust of Power
    - c. **Anti-Federalists:** Richard Henry Lee and Patrick Henry
  4. Common Ground of All Factions
    - a. **Mistrust of Power**
    - b. Little Hint of the Selective Skepticism of the French *Philosophes*
    - c. *Opposition to Pure Majoritarianism:* Edmund Randolph, Pierce Butler, George Mason, Elbridge Gerry
  5. Thomas Jefferson as a Special Case
    - a. Concern about Mobs of the Cities and Legislative Majorities
    - a. Kentucky Resolutions: *Government Is Founded in Jealousy*, Not in Confidence in Man. "Bind him down from mischief with the chains of the Constitution."
  6. Conclusion: Government Is Necessary but Dangerous
  7. James Madison: Safeguards Are Needed (Federalist No. 51)
  8. Summary: Insistence on Rule of Law vs. Arbitrary Will, Mistrust of Human Nature vs. Confidence
- C. A CONTRASTING VIEW: JEAN-JACQUES ROUSSEAU (104-07)
1. *The Social Contract:* Doctrine of Unchecked Popular Sovereignty
  2. **Rousseau's** Belief in the "Natural Goodness" of Man
    - a. **General Will**
    - b. Alienation of Individual Rights to the Whole Community
  3. The Sovereign Power Need Not Give Any Guarantees to Its Subjects
  4. Romantic Naturalism [Irving Babbitt Called It the Idyllic Imagination]
  5. Submerging the Individual in the State: **G. W. F. Hegel, Karl Marx**
  6. "Optimistic" and "Pessimistic" Conceptions Are Contrasted
    - a. The First Leads to an Apocalyptic Struggle for Political Control
    - b. Conversely, Peaceful Transitions in the American System Were Routine from the Outset
- D. LIBERALISM AS AN IDEOLOGY OF DOMINANT POWER (107-10)
1. Elastic Reading of the Constitution [the Living Constitution idea]
  2. Operational Distinction Between Liberal and Conservative Views: Liberals Imagine the Good, Conservatives Envision the Calamities
  3. **Tory Paternalists**
    - a. Government as an Instrument for Imparting Virtue
    - b. Critique of This View
    - c. Consequence: Government of Men, Not of Laws

4. No Redemption through Politics
  - a. Secondary (Supportive) Role of the Federal Government
- E. WHAT HAPPENS TO VIRTUE? (110-12)
  1. Collectivist Charge of Selfishness Is Refuted
    - a. Regime of Liberty under Law May Prevent Unethical Men from Exercising Boundless Power over Others (Negative Function)
    - b. Reliance on the Virtue of the People Originating in Religion [cf. Robert Winthrop: religion must support the government rather than the reverse]
  2. A Free Society Needs Interior Guidelines
    - a. It Is a *Product Rather than a Source of Virtue* [cf. Budziszewski]
  3. Mistrust of Human Nature Leads to Idea of Limits upon Political Power

### Review

doctrine of original sin	Edmund Burke on slavery	Thomas Hooker
mistrust of power	Alexander Hamilton	Anti-Federalists
Kentucky Resolutions	Rousseau's <u>Social Contract</u> : natural goodness and the general will	
G. W. F. Hegel and Karl Marx	Tory paternalism	

## CHAPTER SEVEN: THE RISE OF NEOPAGANISM

### Outline

- A. LAUNDERED MARXISM REMAINS EMBEDDED IN WESTERN THOUGHT (113-114)
  1. Academic Agenda  
Difficulty Gauging Its Effects on Public School and College Curricula [See notes below]
  3. Political Axioms Shared by Marxists and Liberals
- B. **ECONOMIC DETERMINISM IS AT THE BASE OF MARXIST THEORIES** (114-16)
  1. Material Forces and Economic Struggles Determine All the Rest
  2. Denial of the Existence of Spiritual Power
    - a. Assimilation or Integration of Man into Nature
  3. Liberal Parallels
    - a. Practical Reductionism
    - b. Blaming Material Conditions
    - c. Behaviorist Views
    - d. Relieving Individuals of Responsibility
  4. Common Sense Analysis
    - a. Role of Non-economic Forces
    - b. Determinists Get It Backward
- B. CENTRALITY OF THE TYPE OF THOUGHT ADOPTED AT THE LEVEL OF RELIGION (117-21)
  1. The Type of Thought Adopted at the Level of Religion Eventually Determines Everything Else
    - a. Nihilist Theories: Religious Attitude Preceded the Economic [cf. Budziszewski]
  2. Iconoclasts of the Modern Era Have Emerged from Comfortable Backgrounds
    - a. Root Problem: The Ideas They Have Imbided
  3. **Our Religious Beliefs Determine Our Fundamental Attitudes**
    - a. Oriental vs. Western [Occidental] Culture
    - b. Greco-Roman vs. Judeo-Christian Culture
  3. Axiom: Governing System Reflects Underlying Religious Presuppositions  
**(Theological Determinism)**
  5. Secular Delusion of Banishing Religion from the Civil Order
  6. Non-theistic Religions

7. All Systems of Human Thought, or Axioms, Are Religions
8. Political Movements Often Present Themselves as Religions
9. Rousseau's Civil Religion and Its Imitators
  - a. Jacobin Festivals of Reason
  - b. Religion of Humanity: Henri de Saint-Simon, Auguste Comte, John Stuart Mill, Karl Marx
10. The **Shift Away from Transcendental Religion** Stifles Spiritual Freedom: Everything Is Now Assumed to Come within the Purview of the State
11. Pagan Cultures Foreclosed Any Higher Loyalty
- D. SECULAR RELIGION: A SPECIES OF NEOPAGANISM (121-25)
  1. Central Thinkers: Rousseau, Hegel, Engels, Nietzsche, Hitler, Rosenberg
  2. Common Assumption: **Immersion of Human Existence in the Cycles and Patterns of Physical Nature**
  3. New Age Cults: Types of **Pantheism**
  4. Common Feature: **Nature Seen as God**
    - a. Darwinian Evolution
    - b. Pierre Teilhard de Chardin: Mystical Paleontologist
    - c. Julian Huxley: Religion without Revelation
    - d. Argument from Absurdity (Tertullian and Sir Thomas Browne)
  5. **Environmentalism**
    - a. Vice President Albert Gore
    - b. Gary Snyder of Sierra Club
    - c. Alston Chase on the Buddhist Strain in Environmental Thought
- E. CONSEQUENCES OF NEOPAGAN ENVIRONMENTALISM (125-30)
  1. Equality of Species
  2. Federal Legislation and Regulatory Action
  3. Theological Combat: Lynn White, Jr. (Alston Chase notes how this is often cloaked)
  4. Denial of Western Religion, Industrial Progress, and Economic Development
  5. Abortion
    - a. Issue Cannot Be Decided on Other Than Religious Grounds
    - b. Justice Harry Blackmun in **Roe v. Wade** on the Hippocratic Oath
  6. Campaign to Change Societal Views on Homosexuality
  7. Other Issues: Earth Goddess Religion [*Gaia*], Prayer in the Schools, Teaching of Pagan Concepts
  8. **Hostility toward Biblical Axioms**
  8. Theological Counterrevolution: Establishment of Religion Is Unavoidable {James Hitchcock notes that a displaced orthodoxy is never tolerated by its successor}

**Note: A Practical Illustration**

If the political object is to reduce the populace to an inert mass in order to “remould it to the heart’s desire” (Fabian Society motto), then the appropriate tactics are to gum up the worked (create inertia, discourage participation, and demoralize the opposition. For example: Sen. Alan Cranston’s campaign strategy against Ed Schau was to muddy the political waters through negative campaigning and thus reduce voter turnout. Such tactics are apt to arouse anger but also submission and servility.

A strategy of **demoralization** produces a chilling effect. Noah Webster defined demoralization thus: The act of subverting or corrupting morals; destruction of moral principles. Walsh, Letters on France: The native vigor of the soul must wholly disappear, under the steady influence and demoralizing example of profligate power and prosperous crime.

**Review**

economic vs. theological determinism  
 secularism as a substitute form of religious faith  
 consequences of the shift away from transcendentalism

religion as the basis of thought and society  
 pantheism and environmentalism  
 immersion in nature as a god

## CHAPTER EIGHT: THE BIRTH OF LIBERTY

### Outline

- A. THE MODERN INTELLECT (131-32)
  - 1. Lengthy Love Affair with Pagan Culture
  - 2. Enduring Conflict between Biblical and Pagan Religion and Metaphysics
    - a. The Religion and Metaphysics of the **Bible Overthrew the Pagan State**  
[Defeat of Julian the Apostate Is a Case in Point]
  - 3. Neo-paganism Is Different from the Original Because of Christian Culture
  - 4. The **Major Political Issue**: The Question of **Human Freedom**
- C. THE ANCIENTS KNEW NOTHING OF OUR IDEAS OF LIMITED GOVERNMENT AND PERSONAL LIBERTY (132-41)
  - 1. **Aristotle**: Justification of **Slavery**, All Citizens Belong to the State
  - 2. Samuel the Prophet
    - a. The Children of Israel's Demand for a King [cf. also Judges 9]
    - b. Biblical Skepticism of Political Power
  - 3. Theological Contrast: **Biblical vs. Pagan View of Kings**
  - 4. Pagan View of Nature
    - a. Pagan Pantheism
    - b. Individual Is Subject to Compulsions: *Capricious Deities*
    - c. Psychological Subjection
  - 5. **Pagan Integration of Society and Nature**
  - 6. *Magical, Sacred Character of Rulers*
    - a. Ancient Priest-King
    - b. Roman Consul as **Mediator** [cf. Pharaohs]
  - 7. Authoritarian Brand of Politics
    - a. State as Arbiter of the Law
  - 8. **All-Encompassing Polis or State**
  - 9. Indifference to the Well-being of the Individual
    - a. Justice Blackmun
    - b. Greek and Roman Infanticide
  - 10. Slavery
    - a. Estimates of the Number of Slaves in Athens and Rome
    - b. **Dehumanization of Slaves**: Torture
    - c. Amelioration of These Conditions in Christian Times
  - 11. Resemblance of Pagan Systems to Modern Totalitarianism
  - 12. Plato and Aristotle on Great-Souled or Golden Men
  - 13. Consequences: **Lex Regia** and Superman Concepts
- C. BIBLICAL WORLDVIEW (142-48)
  - 1. Biblical Revelation
    - a. Challenge by Clement of Alexandria
  - 2. Metaphysical Reversal of the Ancients' Paradigm
    - a. **Creation ex Nihilo**
    - b. No Integration of Capricious Gods and Society [no Pontifex Maximus]
    - c. **Hebrew Kingship**
      - 1) Separation of Sacred and Profane Spheres
  - 3. **Distinction between Creator and Creation**
    - a. No Divinization of Nature or the Human
    - b. War Against Idolatry
      - 1) Martyrs and Emperor Worship
      - 2) St. Augustine: The City of God

4. Early Councils
  - a. Doctrine of the Trinity
5. New Source of Spiritual Awareness and Instruction
  - a. **Prophets** and the Christian Churches
  - b. Samuel's Skeptical Approach to Kingship
6. Religious Virtue as a Matter of Will and Conscience, Constricting the Role of the State
  - a. Spiritual Realm: Inward Disposition Is Required
7. Separation of Church and State
8. **Elevation of the Individual**
  - a. Personal Link to the Creator
  - b. View of **Slavery**
9. Opposition to **Biblical Individualism**: Nietzsche, Comte, Russell
10. Two Radically Different Notions of the Political Order
  - a. Pagan View
    - 1) **Lex Regia**: The King as the Law Speaking [cf. Hegel: State as the Divine Idea on Earth]
  - b. Biblical View

### Review

overthrow of the pagan state	human freedom: major political issue
limited government and personal liberty in ancient times	Aristotle: rationale for slavery
biblical vs. pagan view of kings, the state, and nature	integration of society and nature
mediation of man and divinity	relation of the state and individual
role of the prophets and the Church	<i>lex regia</i>
	importance of the individual vs. the horror of slavery

## CHAPTER NINE: THE MAKING OF MAGNA CARTA

### Outline

- A. LIBERAL CONDESCENSION (149-50)
  1. "Medieval" as an Epithet
  2. Middle Ages as an Intermission
  3. Faith vs. Liberty
  4. Liberal Version
  5. Results of Rejection of Medieval Doctrine
    - a. **Autocracy** and Modern Despotism
- B. MAGNA CARTA (150-54)
  1. Safeguards Against Abuse of Power
  2. Medieval Conception of the State
  3. Edifice of Freedom
  4. **Constitutionalism: Otto von Gierke**
  5. Role of the Church: St. Ambrose, St. Augustine, St. Isidore, Pope Gelasius
  6. Church and State as Separate Sphere
  7. **Higher Law Tradition**: Robert Grosseteste, Thomas à Becket, John of Salisbury
  8. Political Battles of Religious Leaders: Stephen Langton, Edmund of Abingdon
  9. Prestige of the Church
- C. CHURCH AS A RESTRAINING INFLUENCE ON MONARCHY (154-58)
  1. Wide Diffusion of Powers Led to **Rise of Representative Institutions**
  2. Patchwork of Warring Tribes and Races
    - a. Feudal System
  3. **Decentralization of Military Force**
  4. **Pledges and Concessions** by Plantagenet Kings to the Barons
    - a. Henry III and Simon de Montfort

- b. Edward I
- c. Edward II: Deposed and Murdered
- d. Richard II: Deposed
- e. Trials of the Kings' Confidants
- 5. **Diffusion of Wealth**
  - a. Feudal Tenure
  - b. **Bartering for Revenue:** Origin of Representative Government  
[Parliament = Talking, Parleying]
    - 1) Grievance for Supply
- 6. Connection between Finance and Freedom
  - a. Reaffirmations of the Charter
- 7. Broadening of Franchise
  - a. **Burgesses under Edward I**
  - b. Battle against Arbitrary Taxes
- D. TRANSLATION OF HIGHER LAW THEORY INTO PRACTICE (158-62)
  - 1. King Must Govern by **Consent**
    - a. Ranolf Glanville
    - b. Henri de Bracton
    - c. Sir John Fortescue: Regal vs. Political Power, Consent
  - 2. Summary of Common Law Position
- E. TESTING OF THE MEDIEVAL SYSTEM (160-62)
  - 1. Revival of *Lex Regia*
  - 2. **Defection of Henry VIII from the Roman See**
  - 3. Tudor Era: Survival of the Medieval Constitution
    - a. Rejection of Absolutism
    - b. Stephen Gardiner
    - c. **John Aylmer**
  - 4. Reign of Elizabeth
    - a. Richard Onslow
    - b. Case of Peter Wentworth
    - c. Cavendish Ruling
- F. AGE OF THE STUARTS (162-66)
  - 1. **James I**
    - a. Absolutist Views
    - b. Response of Parliament
    - c. Response of Courts
  - 2. **Charles I**
    - a. Charles's **Tyrannies**
    - b. **1628 Parliament**
  - 3. **Petition of Right, 1628**
    - a. Sir **Edward Coke** Rejects "Sovereign Power" of King
  - 4. Collision of Medieval and Renaissance Views
  - 5. English Emigrants
    - a. Heritage of Liberty under Law

### Review

rise of the institutions of free government      extension of the franchise under Edward I  
 concept of higher law      deposition of kings      constitutionalism  
 effects of decentralizing military force and diffusion of wealth      burgesses  
 "consent of the governed"      effects of the defection of Henry VIII from the Roman See  
 John Aylmer on Elizabeth      ideas of James I      Sir Edward Coke  
 tyrannical actions of Charles II      1628 Parliament and the Petition of Right

## CHAPTER TEN: THE SOCIAL CONTRACT



## Outline

- A. CONTRACTUAL VIEWS OF THE STATE (167-68)
  - 1. Theories of Consent
  - 2. Breach of Contract
    - a. **Resistance** against Violations
  - 3. Typical Explanation Based on Locke's Second Treatise
  - 4. Evidence against the Rationalist View
- B. MEDIEVAL BACKGROUND (168-70)
  - 1. Limited Government
  - 2. **Feudal Order as a Network of Contracts**
    - a. Protection in Exchange for Service
    - b. Fulbert, Bishop of Chartres
    - c. Marc Bloch's Explanation
- C. CONSEQUENCES OF THE OUTLOOK (170-72)
  - 1. Limited Obligations
    - a. **Mirror of Saxon Law**
    - b. Alphonse of Leon
    - c. Peter III, Aragon
    - d. Kingdom of Jerusalem
    - e. Andrew II of Hungary
    - f. Alphonse III of Aragon
  - 2. Reinforcement through Church Doctrine
    - a. Double Interest of the Church
    - b. Clerical Statements of Contractual Doctrines
    - c. Dispute over **Lay Investiture**
  - 3. Two Related Concepts: **Contract and Idea of Higher Law**
- D. CRYSTALLIZATION OF THESE ELEMENTS IN THE REFORMATION (172-77)
  - 1. Whig Thesis
    - a. Ancestor of the Liberal History Lesson
    - b. Political Meaning of the Crisis
  - 2. Change in the Confessional Landscape
    - a. Persecution of Nonconformists
    - b. **Medieval Precedents for Rebellion:** Catholic and Protestant Sources
  - 3. Experience of the Puritans
  - 4. International Upheaval: Personalities, Exiles
  - 5. Protestant Posture of Disobedience: Calvinists, Geneva "Republic"
  - 6. Huguenots in France
    - a. **St. Bartholomew's Day Massacre, 1572**
    - b. Francois Hotman and Theodore de Beza
  - 7. **Vindiciae Contra Tyrannos**
    - a. Mutual, Reciprocal Obligation between People and Prince
  - 8. Dutch Republic: St. Aldegonde, **Act of Abjuration, 1581**
- E. INFLUENCE OF FRENCH AND DUTCH EXAMPLES ON EVENTS IN ENGLAND (177-78)
  - 1. English Translations of **French Tracts**
  - 2. **Holland as a Haven** for English Dissenters
    - a. Earl of Shaftesbury and John Locke
  - 3. English Precedents
    - a. Council of Barons: Conservators of the Compact
      - 1) Hungarian and Spanish Parallels
    - b. Rebellions against Edward II, Richard II
    - c. Edward III Elected to Be Guardian of the Kingdom
    - d. Deposition of Edward II and Vacancy
- F. REFORMATION AS A CRUCIBLE (179-84)

1. **Fusion of Higher Law with Feudal Principles of Contract**
2. John Major: Will of the Community as a Whole
3. George Buchanan: King as a Delegate
4. John Knox
5. Christopher Goodman
6. Stuart Era
  - a. Sir Edwin Sandys
- G. TWO LATER EXAMPLES OF THE GENRE (181-84)
  1. **John Milton: Tenure of Kings**
  2. Social Contract Theory and the Glorious Revolution
    - a. Flight of James II and the Vacancy of the Throne
  3. Unbroken Chain of Belief and Practice
  4. John Locke
  5. **Pagan vs. Biblical Views of Statecraft**
    - a. **Robert Filmer**
    - b. **John Locke**
  6. Contract Theory Far Predated Locke

### Review

right of resistance to lawless decisions by kings	feudal order as a network of contracts
Mirror of Saxon Law	dispute over lay investiture of bishops political
meaning of the Reformation	medieval precedents for rebellion <i>Vindiciae Contra Tyrannos</i>
French and Dutch Protestant influences on England	Act of Abjuration, 1581
Reformation as a crucible	John Milton
John Locke vs. Robert Filmer	pagan vs. biblical views of statecraft

## CHAPTER ELEVEN: THE DISSIDENCE OF DISSENT

### Outline

- A. BRITISH MISUNDERSTANDING OF AMERICA (185-87)
  1. An Exception: Edmund Burke
    - a. **The Dissidence of Dissent:** "The religion most prevalent in our northern colonies is a refinement on the principle of resistance."
  2. Support of the Puritan and Parliamentary Cause
    - a. Spirit of Independence
  3. Where Puritans Differed from Their Contemporaries
  4. America's Christian Founding: Embarrassment for Conventional History
  5. How the Puritan Contribution Is Expunged from the Record
    - a. By Ignoring It or by Attacking It
  6. Critique
    - a. Lack of Belief in Religious Toleration Was General
    - b. Puritans Did Not Impose Their Views
- B. COVENANT DOCTRINE (187-91)
  1. Self-government
    - a. **Covenantal Doctrine:** Scriptural View of Church Polity
  2. Authority of the Congregation in Choice of Ministers
    - a. **Robert Browne: Congregationalism**
    - b. Henry Jacob
  3. Denial of Royal Power
    - a. James I: **No Bishop, No King**
  4. Persecution of the Brownists
  5. Scrooby Congregation

- a. John Robinson
- b. William Brewster: Bailiff to the Archbishop Sandys of York
- c. **Flight to Holland**
- d. Virginia Company and Edwin Sandys
- 6. Pilgrim Colony of Plymouth
- 7. Non-separating Congregationalists
- 8. **Dissolution of Parliament** and Sole Rule by **Charles I**
- 9. **Puritan Hegira** [*hegira* refers originally to the flight of Mohammed to Medina in 622]
- C. CHARACTER AND OPINIONS OF THE PEOPLE WHO MADE THE TRIP (191-93)
  - 1. Exodus Led by Ministers Who Brought Entire Congregations
  - 2. **John Winthrop** and the **Massachusetts Bay Company**
  - 3. Non-separating Puritans Held Similar Views to Pilgrims
  - 4. John Cotton: Voluntary Consociation
  - 5. **Thomas Hooker**
  - 6. John Winthrop's *Arbella* Address: Covenantal Membership
  - 7. **Congregational Pattern of Churches**
- D. PATTERNS OF POLITICAL ARRANGEMENTS (193-95)
  - 1. **Mayflower Compact**, 1620
    - a. Precursor of the Plymouth Polity
  - 2. **Fundamental Orders of Connecticut**, 1639
  - 3. Rhode Island Charter, 1661
- E. CONTROVERSY OVER MASSACHUSETTS (195-203)
  - 1. Elected, **Representative Government**
  - 2. Massachusetts as a Commercial Corporation
    - a. Original Freeman-Shareholders
    - b. Expansion of Franchise
  - 3. Problems with the Conventional Account of a Ruling Oligarchy
    - a. Winthrop's Repeated Reelection
    - b. Failure to Consider the Covenantal Background
  - 4. Other Evidence to the Contrary
    - a. 1632 Election
    - b. 1635 Act: Institution of the **Town Meeting**
  - 5. Opinions of the Founders of Bay Colony
    - a. Republican Views
    - b. Checks and Balances
    - c. John Winthrop on Concurrent Powers (as opposed to a simple majority)
    - d. **Bicameralism**: Magistrates and Deputies Must Concur
  - 6. Committee Appointed to Devise a Magna Carta
    - a. Massachusetts **Body of Liberties**, 1641: Sent to Each Town
  - 7. Criticism of the Restricted Franchise
    - a. Purpose: Sustaining a **Covenanted Community of Believers**
  - 8. Nonbelievers Advised to Leave: Nathaniel Ward (emigration principle)
  - 9. High Level and Extension of Suffrage
    - a. Most Open Electoral System in the World
  - 10. Massachusetts Remained Congregational into the Mid-1700s
  - 11. **New England Accomplishments**
    - a. Constitutionalism, consent, annual elections, bicameralism, local autonomy, Bill of Rights
  - 12. Bottom Line: All Were Inheritors of the Medieval Doctrine
  - 13. Puritan Achievement: Planting Every Institution of Free Government

## Review

covenantal doctrine  
 Robert Browne  
 Role of John Winthrop

congregationalism and the denial of royal power  
 Pilgrim and Puritan migrations (*hegira*)  
 Charles I and the proroguing (dissolution) of Parliament

Massachusetts Bay Company	congregational pattern of settlement
Mayflower Compact	Fundamental Orders of Connecticut
Thomas Hooker	representative government in Massachusetts Bay
Bicameralism	institution of the New England town meeting
Body of Liberties	Massachusetts: covenanted community of believers
New England accomplishments	

## CHAPTER TWELVE: THE AMERICAN REVOLUTION

### Outline

- A. BOSTON MASSACRE (204-06)
  - 1. Captain Thomas Preston
  - 2. **James Otis** and **John Adams**: Leaders of Opposition to the **Stamp Act**
  - 3. Trial and Acquittal: John Adams and Josiah Quincy for the Defense
  - 4. Prevailing Notions of Law and Justice
  - 5. Contrast with the French Revolution
  - 6. John Adams: Opposition to Mob Rule
  - 7. **Self-restraint** of the Revolutionaries
- B. RADICAL VERSION REFUTED (206-10)
  - 1. Radicalism of the French Revolution
  - 2. Traditionalism of the Americans
    - a. Hostility to the Idea of Unfettered Power
    - b. Pride in British Constitution and Freedoms
    - c. Emphasis on **Concrete Rights of Free-Born Englishmen**
  - 3. Anglophilia Focused on the **Common Law Heritage**
    - a. Illustration: Revisal Committee of 1777
    - b. **Thomas Jefferson's** Conservatism
  - 4. Maintenance of Existing Legal Safeguards
    - a. Charter Guarantees
    - b. Rights and Privileges Embodied in Common Law
    - c. Taxation with Consent
- C. HISTORICAL PERSPECTIVE (210-12)
  - 1. Substantial Independence of the Colonies
  - 2. **Allegiance to the Crown**, Not Parliament
    - a. **Self-government** through Provincial Assemblies
    - b. Basis of Colonial View: Long-established Usage
- D. REPRESENTATIVE INSTITUTIONS IN VIRGINIA (212-14)
  - 1. **House of Burgesses**
  - 2. Royal Colony, 1624
  - 3. Boroughs
  - 4. General Assembly
  - 5. Right of Self-Taxation
    - a. **William Berkeley's** Opposition to Roundheads in Parliament
    - b. 1651 Agreement
  - 6. Richard Bland
- E. PURITANS'S AVERSION TO RULE FROM LONDON (214-16)
  - 1. Transfer of the Charter to America
  - 2. Neutral Stance during the War; Independent Stance Always
  - 3. Resistance to Gov. **Edmund Andros**
  - 4. Rhode Island and Connecticut
- F. EVENTS LEADING TO THE REVOLUTION (217-21)
  - 1. Pivotal Decade: 1760s
  - 2. British War Debt

3. **New Imperial Program**
  4. Historical Debate Obscures the Major Issue: Radicalism of British Policy
  5. Issue of **Trade Regulation** vs. **Revenue Raising: John Dickinson**
    - a. External vs. Internal Taxes
    - b. **New System of Taxation** Imposed as an **Object Lesson**
    - c. British Opposition to the Measures: Duke of Newcastle, Burke
  6. Colonial Reaction: Massachusetts, Virginia, Stamp Act Congress, Declaration of 1775
  7. Literature of Colonial Protest
    - a. Colonists Wanted the Status Quo Ante
  8. Traditionalist Posture of the Americans
    - a. Appeal to British Heritage
    - b. American Experience
    - c. No Rage for Innovation
  9. Immense Chasm Revealed by the Debate
- G. CENTRAL QUESTION: WHETHER THE POWER OF THE RULER MAY BE UNCHECKED AND ARBITRARY (221-25)
1. **British View:** No Limits on Parliament
  2. **Patriot View:** Opposition to Unchecked Power
  3. Sea Change in British Constitutional Thinking
    - a. Cromwellian Revolution
    - b. 1650 as the Turning Point
    - c. **Parliamentary Omnipotence**
    - d. William Blackstone and Lord Mansfield
    - e. **Declaratory Act, 1767**
  4. Innovations Rejected by the Colonists
    - a. Otis Cites Coke against the **Writs of Assistance**
    - b. **John Adams on the Stamp Act**
    - c. Legislature Is Subject to Constitutional Limits: Thomas Tucker
    - d. Richard Henry Lee
  5. Debates
  6. Irreconcilable Claims
  7. Two Oddities
    - a. Rousseauism of the British
    - b. Resemblance of British Policy to Conduct of the Stuarts

### Review

James Otis	John Adams	purposes of the Stamp Act
colonists and the maintenance of their rights as Englishmen	Thomas Jefferson on the common law	
allegiance to Crown rather than Parliament	self-governing representative institutions	
House of Burgesses in Virginia	William Berkeley	resistance to Edmund Andros
new imperial program	John Dickinson's critique	parliamentary supremacy
Declaratory Act	Writs of Assistance	British vs. Patriot views

## CHAPTER THIRTEEN: THE DECLARATION OF INDEPENDENCE

### Outline

- A. DECLARATION AS THE AMERICAN CREDO (226-28)
  1. Myth-Making
  2. The Liberal History Lesson
    - a. Analogue to French Effusions over Abstract Concepts

- b. Emphasis on **John Locke's Theory**
  - c. Facts Are Screened from View
  - d. Focus Is on Key Documents and People
- 3. **Treatment of the Declaration as an Abstract, Philosophical Statement**
- 4. Results: Radical Rather Than Conservative Institutional Interpretation
- B. HISTORY OF THE DECLARATION: THE RELUCTANT REVOLUTION (228-33)
  - 1. British Effort to Tighten the Noose
  - 2. Military Conflict
  - 3. Olive Branch Petition
  - 4. Continued Reluctance to Break Ties
    - a. Opposition by John Dickinson and Edward Rutledge
  - 5. Misunderstanding of Jefferson
  - 6. Main Congressional Struggle, Spring 1776
  - 7. Jefferson's Absence during This Period
    - a. John Adams: The "Atlas of Independence"
  - 8. **Drafting the Declaration: Vetted by Committee, Revised by Congress**
    - a. Jefferson's Unhappiness with the Revisions
  - 9. Influential Senior Members of Congress
  - 10. Declaration as a Corporate Statement
    - a. All of Its Ideas Were Hackneyed (Adams)
- C. FEATURES OF THE DECLARATION (233-37)
  - 1. Resemblance to Other Resolutions in Form and Content
    - a. Recital of Abuses by George III
    - b. Previous Complaints: Congressional Resolves, October 14, 1774
    - c. Parallels and Precedents in British Constitutional History
  - 2. The Only Novelty Was the Indictment of the King
    - a. **Allegiance Had Been to the King Alone**
  - 3. Legalism of the Long String of Protests Replaced by an Appeal for Support from a "Candid World"
  - 4. Appeal Was Now Couched in General Maxims
    - a. Previous Arguments Were Also Based on Principle
  - 5. Origin of the Axioms in Religious Sources
  - 6. **Theistic Character of the Declaration:** Invocation of the God of the Bible
  - 7. Equality and Freedom: Authoritarian Doctrines Repudiated
- D. ABSURDITY OF THE SECULARIST VIEW (237-40)
  - 1. Speculation about Radical Intellectual Sources
  - 2. Scriptural Origin of the Ideas Is Ignored
  - 3. Christian Theism Is behind Supposedly Secular Sources
  - 4. Patriot View That Individual Liberty Originated with God
    - a. Samuel Adams, James Otis, John Adams
  - 5. Similar Expressions Outside New England
    - a. John Dickinson, Alexander Hamilton, John Jay
    - b. **Thomas Jefferson's** Unitarian View
- E. CONCEPTS OF SOCIAL CONTRACT AND RIGHT OF REVOLUTION (240-46)
  - 1. Origins in the Middle Ages
  - 2. Statement by Clergy: John Tucker, Samuel West, Phillips Payson
  - 3. Massachusetts General Court, 1776
  - 4. **Feudal Component of the Social Contract**
  - 5. Feudal Notions of Allegiance Accepted: Protection in Exchange for Loyalty
    - a. John Adams, James Wilson, House of Burgesses
  - 6. **William Henry Drayton's** Charge to a Grand Jury, April 1776
    - a. List of the **King's Misdeeds**
    - b. Vacancy of George III's Throne Asserted
    - c. Historical Precedent
  - 7. Similar Discussion in Continental Congress
    - a. The **Case for Independence** [Reference Made to **Prohibitory Act**]

8. Official Renunciation of Allegiance
  9. Reliance on the Glorious Revolution as a Precedent
  10. Denial of Parliamentary Supremacy
    - a. **Patriot Rejection of Locke's Position**
      - 1) Locke Provided No Method for Ensuring Popular Control
  11. Primacy of Axioms in American Thinking Rather Than British Precedent
  12. Selectivity of the Americans
- F. DIFFERENCES BETWEEN THE **FRENCH AND AMERICAN DECLARATIONS** (246-47)
1. Secular, Rationalistic Basis of French Rights
    - a. God Seen as a Notary Public Rather Than the Creator of Rights
  2. Legislative Sovereignty
  3. Essence of the American Creed: *Every* Form of Human Authority Must Be Subject to the Most Definite Limits

### Review

John Locke's social contract theory	historians' view of the revolution
drafting of the Declaration of Independence	allegiance to the king
theistic character of the Declaration and its ideas	Thomas Jefferson
medieval roots of social contract and right to revolution	feudal system
case for independence	American vs. French Declarations
William Henry Drayton	critique of Locke

## CHAPTER FOURTEEN: THE LAW OF THE CONSTITUTION

### Outline

- A. THE CONSTITUTION AS A SUMMATION (248-53)
  1. Convergence at Philadelphia of Lessons Gleaned through the Centuries
  2. The Framers: A Company of Heroes
    - a. Signs of Providential Care
  3. Their Collected Experience
  4. Allusions to History in the Debates at the Convention
  5. Continuity and Stability of Leadership Provided by the Founding Generation: The First Five Presidents
    - a. Liberal Attempts to Show Discontinuity
  6. Areas of Agreement
  7. Need to Get Past the Liberal (and "Conservative") History Lesson
    - a. Alleged Consolidation of Authority: Nationalist View
    - b. Reading of Modern Big-Government Doctrines Back into History
    - c. Attempt to Sanctify Unfettered Power
  8. Its Object Was to Devise a System of Controlled and Limited Authority
    - a. Weakness of the Confederation
    - b. Encroaching Nature of Power
    - c. Human Sin and Frailty
- B. KEY ISSUE: WHAT IS DONE WITH POWER (253-58)
  1. Ascendancy of Early **State Assemblies**: Critique by **John Adams**
  2. Founders' Distance from Later Jacobin Opinion
    - a. **Thomas Jefferson's** Critique of Elective Despotism
    - b. **James Madison's** View of Majority Self-interestedness
  3. Desire for Limits That Were Fixed and Certain
  4. **James Otis on Arbitrary Government**
  5. Definite Constitutional Boundaries: Samuel Adams

- a. Idea of the Social Contract: Jonas Clark, John Tucker
- 6. English Constitution Operated on Pure Common Law Assumptions
- 7. Corollary to the American View: Legislature Could Neither Make Nor Alter the Constitution
- 8. Thomas Jefferson: The Constitution as Higher Law
- 9. John Tucker: Constitution Superior to the Legislative Power
  - a. Question: How to Achieve This
- C. FIRST CONTRIBUTION: THE **CONSTITUTIONAL CONVENTION** (258-62)
  - 1. Convention Must Not Be a Continuing Body [cf. Grand Jury]
    - a. John Adams and the 1780 Massachusetts Convention
  - 2. Ratification Process
    - a. George Mason: Inappropriateness of Using Legislatures
    - b. Goal: A System Superior to and Separate from All Forms of Political Power (Opposite to the "Living Constitution" Idea)
  - 3. Authority of the People to Set Up the System
  - 4. Idea of a Written Constitution to Authorize and Limit Power
    - a. Heritage of Written Documents: "Men of the Book"
    - b. No Faith in Mere Parchment Barriers
    - c. James Madison's Auxiliary Precautions
  - 6. **System of Multiple Checks and Balances**: Defenses of Its Complexity
  - 7. Overriding Need to Persuade Thirteen Headstrong States
- D. SECOND CONTRIBUTION: **FEDERALISM** (263-65)
  - 1. Equal Representation in the Senate
  - 2. Anti-Federalist Complaints and the Resulting Solutions
    - a. The **Bill of Rights**
    - b. Expositions of Constitutional Doctrine: Federalist Papers
  - 3. **System of Dual Sovereignities**
  - 4. Rules of Construction
    - a. **Reserved vs. Enumerated Powers**: Wilson, Hamilton, Madison
  - 5. **Tenth Amendment**
  - 6. Hedging Power with Every Possible Safeguard: Examples
- E. HOW LIBERALS HAVE DEDUCED A SYSTEM OF UNLIMITED NATIONAL POWER (266-69)
  - 1. Federal Preemption, Subsidy, and Regulation
    - a. Broad Construction of Constitutional Powers
  - 2. Ratification Debates Addressed This Danger
    - a. **Alexander Hamilton**: The Phrase "Necessary and Proper" Is a Tautology
    - b. **James Madison** on the Protest over "General Welfare"
  - 3. Judicial Usurpation of State Jurisdiction
  - 4. The Sophistry of What Has Been Done
  - 5. The Resulting Transformation Has Involved a Double Denial
    - a. Nature of the System Has Been Inverted
    - b. We No Longer Have a Rule of Law [cf. John W. Burgess]
  - 6. Result: A System of Prerogative Power
  - 7. Jefferson's Warning against a "Blank Paper by Construction"

### Review

reserved vs. enumerated powers		system of dual sovereignities
Tenth Amendment	Bill of Rights	John Adams on state assemblies
system of multiple checks and balances		James Otis on arbitrary government
James Madison	Thomas Jefferson	constitutional convention
Federalism	Hamilton's and Madison's answers to Antifederalist objections	

## CHAPTER FIFTEEN: AN ESTABLISHMENT OF RELIGION



## Outline

- A. OVERT SECULARIST ONSLAUGHT (270-72)
  - 1. **Wall of Separation**
    - a. **New York Regents Prayer Case, 1962**
      - b. Justice Hugo Black
  - 2. Reaffirmation of This Doctrine
  - 3. Philosophical Conflict
  - 4. Need to Consult the Record
    - a. Misstatements of Material Facts
  - 5. Assumptions of the Secularists
    - a. Founders Seen as Skeptics
  - 6. Majority of the Founders Were Church-Going Christians
- B. RELIGION AND THE FRAMERS (272-75)
  - 1. Devout Christians: Sherman, Ellsworth, and Others
  - 2. Virginia Delegation: Washington, Mason, Randolph
    - a. James Madison
  - 3. Benjamin Franklin
  - 4. Alexander Hamilton
- C. PUBLIC CUSTOMS (275 -78)
  - 1. **Establishment of Religion**
    - a. **New England**
    - b. Christian Profession Required for Office-Holding
    - c. Oaths of Office
  - 2. James Madison
- D. CONTINENTAL CONGRESS (278-81)
  - 1. Religious Custom
  - 2. Fast Days
  - 3. **American Bible**
  - 4. **Northwest Ordinance**
    - a. Christian Education of Indians
  - 5. Religious Observance in the Army
  - 6. Reenactment of Supportive Measures by the New Congress
- E. FABRICATION OF SEPARATIONIST DOCTRINE BY THE SUPREME COURT (281-84)
  - 1. **First Amendment**
    - a. Patrick Henry: New Government Might "Swallow Up" States
    - b. James Madison Gives Support in Face of a Political Campaign
    - c. Madison's Motion Introducing the Amendments, June 8, 1789
  - 2. Object: To Prevent Congress from Establishing a National Religion
  - 3. Specific Language Adopted Was That of **Fisher Ames**
  - 4. Revision in Conference Committee
    - a. Roger Sherman and Oliver Ellsworth
  - 5. **Meaning of the Establishment Clause:** No National Church, No Interference with State Churches
  - 6. Fourteenth Amendment
    - a. Applying the Bill of Rights against the States (Incorporation Doctrine)
- F. IMPLICATIONS OF THE INCORPORATION DOCTRINE (284-88)
  - 1. Officially Sponsored Prayer
  - 2. **Day of National Prayer and Fasting**
    - a. Washington's Proclamation
  - 3. Liberals' Misreading of Madison
    - a. Madison's Early Disclaimers
    - b. A Curious Inversion
    - c. Madison Not Cited on the Residual Powers of the States

4. The Court's Reliance on Jefferson, Who Played No Role
  - a. Letter to the Danbury Baptist Association, 1802
  - b. Jefferson's Second Inaugural Address
5. Conclusion: Wall of Separation Is between the Federal Government and the States Rather Than between Religion and Civil Government

### Review

wall of separation	New York Regents Prayer case	New England religious establishments
Prayer and Fasts days	American Bible	Northwest Ordinance
Fisher Ames	First Amendment	meaning of establishment clause

## CHAPTER SIXTEEN: THE ECONOMICS OF FREEDOM

### Outline

- A. ECONOMIC IGNORANCE (289-92)
  1. View of Christian Socialists
  2. Preferred Position Given to Non-economic Liberties
  3. Economic Liberty Is Integral to a Free Society
  4. Threshold Difficulty: Indifference to or Ignorance of Economic Principles
  5. Miserable Effects of Economic Ignorance
  6. Failures of Economic Policy
    - a. e.g., Energy Crisis of the 1970s
  7. Centrality of Economics in Public Policy
  8. Collectivist Malaise in Our Society
    - a. **Perverse Incentives** in Our Health Care System
    - b. Monopoly Schools
  9. People Respond to Incentives in Terms of Costs and Benefits
- B. **PARTNERSHIP OF POLITICAL AND ECONOMIC FREEDOM** (292-98)
  1. Prevalence of Economic Issues
    - a. **Magna Carta**: Focus on Property Rights
  2. **Rise of Parliament**
    - a. **Taxation by Consent** Provided Leverage against the King
  3. Economic Intervention: **Fortescue's Critique of the French System**
  4. The Stuarts
    - a. **High Prerogative of the Crown** vs. "Eating Canker of Want"
    - b. Extensive Business Regulation
    - c. Monopolies: A Target of Medieval Clerics
    - d. English Revolution Swept Away Many Economic Regulations
  5. **Economic Distress in Early America**
    - a. Communal Set Up
    - b. John Smith
    - c. William Bradford
    - d. Wage and Price Controls
  6. American Revolution
    - a. **No Taxation Without Representation**
    - b. Leverage over Royal Governors
    - c. Stamp Act
  7. Framers
  8. **Right of the People to Their Property**
- C. CONSEQUENCES OF ECONOMIC CONTROL (298-300)
  1. **Power over a Man's Subsistence**
  2. Control over Communications

3. Material Factors Undergird Liberty
4. Need for Private Space
- D. LINKAGES BETWEEN RELIGION AND ECONOMICS (300-07)
  1. Biblical World View
    - a. Imposing Effective Boundaries on the State
    - b. Free Markets
    - c. Medieval Concept of the **Just Price**
  2. Positive Correlation
    - a. Biblical Outlook
    - b. Goodness of the Created Order
    - c. Rejection of Manicheanism
    - d. Augustine: Goodness and Orderliness of Creation
  3. Intelligibility of the Cosmos
    - a. Active Engagement of the Mind with the Created Order
  4. Rationality of Man
    - a. Natural Law
    - b. Top-Down View: Order Opposed to Freedom
  5. Natural Harmony
    - a. **Spontaneous Order**
    - b. Republic of Virtue
  6. Application of These Concepts to Economics as Well as Politics
    - a. Idea of the Market
    - b. **Physiocrats**: Economic Harmonies
    - c. David Hume and Elie Halévy on Nicholas de Malebranche
    - d. Adam Smith
    - e. Frederick Bastiat
  7. Impact of Biblical Doctrine on Science
    - a. Father Stanley Jaki and A. C. Crombie
  8. Pagan View of Nature
    - a. Animism and Teleology
    - b. Jean Buridan
  9. The Case of Galileo
    - a. Geocentrism vs. Heliocentrism
  10. Pagan Animism in Environmentalism

### Review

social effects of "perverse incentives"    illustrations of partnership of political and economic freedom  
 Magna Carta    factors in the rise of Parliament    question of taxation  
 Fortescue: comparison of France and England    high prerogatives of the Crown under the Stuarts  
 economic distress in colonies    no taxation without representation  
 importance of property to freedom    power over the purse strings  
 just price theory    idea of spontaneous order    Physiocrats and *laissez faire*

## CHAPTER SEVENTEEN: THE NEED FOR LIMITS

### Outline

- A. IMPOSING LIMITS ON THE STATE (308-11)
  1. The Need for Balance
    - a. **Oscillation between Despotism and Anarchy**
  2. **Western Christendom Conceptualized Freedom**
  3. Pagan "Holistic" View
  4. Biblical View

- a. **State Is Not Church, Does Not Absorb the Whole of Our Existence**
- 5. **Church as a Counterpoise against Kings**
- 6. Other Limits on the Power of Kings
- 7. Survival of Medieval Ideas and Customs in England
- 8. Parliamentary Sovereignty
- 9. American View: Higher Law and Fixed Constitution
- B. **WHY AMERICANS ARRIVED AT THESE VIEWS (311-13)**
  - 1. "Freezing" Effect of Colonial Living
  - 2. Reliance on Written Documents
  - 3. Habit of Consulting Scripture: Rule of Law
  - 4. Summary of the Evolution of American Constitutional Doctrine
    - a. Ever-Narrowing and More Definite Limits
  - 5. Extension of the Medieval Outlook
    - a. Founders: Last Survivors of a Feudal-Medieval Order
  - 6. Conclusions
    - a. Tradition of Limited Government
    - b. Tradition Rooted in Religious Faith, Not Secular Abstraction
- C. **HOW DIFFERENT OUR SYSTEM HAS BECOME (313-17)**
  - 1. Essence of Modern Statecraft: Removing Limits
  - 2. Federal-State Reversal
    - a. Federalist 45: Powers Are Few and Defined
  - 3. Implications for Personal Liberty: Limited Government vs. Arbitrary Power
  - 4. Relativism Leads to Authoritarian Practice by Destroying Standards
    - a. Constitution Seen as "Verbal Protoplasm"
    - b. Humpty-Dumpty on Word Definitions: "Who Shall Be Master?"
  - 5. **Central Fallacy of Liberal Thought: A Libertarian System Constructed on Relativist Assumptions**
  - 6. Liberalism Affirms the Secular By-Products of the Christian Faith
  - 7. Colossal Failure of This Project
    - a. The Branches Wither if the Roots Are Severed
    - b. Displacement by Antithetical Ideas and Values
  - 8. Reversion to Paganism
    - a. **The Old Gods Return** [Return of the Repressed]
    - b. Weakened Concept of Volitional Harmony
    - c. Pagan View of Freedom
- D. **WHAT MIGHT BE DONE (317-20)**
  - 1. **Axioms of Western Faith Gave Birth to Freedom**
  - 2. **The Need for Interior Standards** [Civil Society Requires Internal Self-government]: Edmund Burke, Hannah Arendt, Carl Friedrich
  - 3. Paternalistic State: Tocqueville on Tutelary Power
    - a. Symbiosis between Powerful State and Normless People; **Reciprocal Nature of Inner Conviction and Outer Freedom**
  - 4. Need for a Reinfusion of Religious Precept
  - 5. Need to Know the History of Our Institutions
  - 6. Need for Deep-Going Changes in the System
- E. **GUIDEPOSTS (320-23)**
  - 1. Resisting Extensions of Federal Power
    - a. Conservatives' Centralizing Impulse on Law and Order Issues
  - 2. Devolution of Federal Power: Privatization
  - 3. The Courts: Need for Judicial Review, Not Social Engineering

## Review

fusion vs. separation of Church and State  
 central fallacy of liberal thought

Church as counterpoise against kings  
 return of the old pagan gods

relationship of religion and free institutions

guideposts for reestablishing limits