

Constitution: A Replacement of Sacred Scriptures

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Abstract

The concept of sacred scriptures like the Quran and the Bible in civil religion is found in the shape of "Constitution." Constitution has replaced The Bible and the Quran. After the defeat of Christianity in thirty years war in Europe, political vacuumed was filled by Constitution and Nationalism. Hence constitution and nationalism play a pivot role in Civil Religion. Civil Religion was projected to protect nationalism and constitutionalism but state of Israel came into existence on the base of religion, she has not introduced constitution and constitutionalism because The Bible is her constitution.

Keywords: Civil Religion, Constitution, Sacred Scriptures.

Concept of Sacred Scriptures:

In all religions sacred scriptures hold special importance. Basis of social and political system of the state are derived from them. Man devises his individual and collective life in the light of these sacred scriptures be it the Bible or the Quran. These scriptures have sanctity among the people and they follow it in their life.

Hākim is One from whom the communication (*Khitāb*) issues. He is God, the Almighty. He originates the law and gives the command. The function of the Prophet (peace be upon him) is to convey the command to the people and to explain it. The function of jurists, (*mujtahidūn*) after him is to derive this command from the sources set up by God for knowing it. The legal theorists in the works of *usūl* have devoted a special chapter to *hākim* in the sense of the originator of law and giver of command. They have proved on the basis of the Quranic verses and *ijmā'* that *hākim* in this sense is God alone. This is substantiated by the following Quranic verses:

“The command rests with none but Allah.”¹

“Surely: Is not His the command? And He is the swiftest in taking account.”²

“It is not fitting for a Believer, man or woman, when a matter has been decided by God and His Apostle to have any option about their decision: if any one disobeys God and His Apostle, he is indeed on a clearly wrong Path.”³

“If any fail to judge by (the light of) what God hath revealed, they are (no better than) wrong-doers.”⁴

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There is no dispute among the followers of revealed religions that God alone is *hākīm* (lawgiver), as we have shown above on the basis of the Quran and the Bible. Human intellect has no role to play in respect of giving command and dictating the law in the shape of constitution to mankind. According to the Bible:

“And the Lord said unto Moses, Come up to me into the mount, and be there: and I will give thee tables of stone, and a law, and commandments which I have written; that thou mayest teach them.”⁵

In another place the Holy Bible says:

“And the Lord commanded me at that time to teach you statutes and judgements, that ye might do them in the land whither ye go over to possess it.”⁶

In the same way, the concept of sacred scriptures like the Quran and the Bible in civil religion is also found in the shape of “Constitution.” According to Islamic doctrines, denial of teachings of the Quran turns a Muslim into apostasy. Similarly a citizen of a modern state if goes ag⁷ainst the constitution of that state he is charged with high treason.

Liberal Constitutionalism: An Introduction

Giovanni Sartori says that yet the very term “constitution” has acquired its modern meaning in English, in the course of evolution of the English legal terminology. The Latin term *constitutio* meant the very opposite of what is now understood by “constitution.” A *constitutio* was an enactment; later, after the 2d century, the plural form *constitutiones* came to mean a collection of laws enacted by the Sovereign; and subsequently the Church, too, adopted the term for canonical law. The terms *constitutio* and constitutions were not frequently used, however, by the English medieval glossators (while frequently used, as a synonym for *lex* and *edictum*, by the Italian ones). This explains why, in the course of time, the word constitution became a “vacant term”—i.e., a term available for a new employment—in English (this does not necessarily mean in England), and not in those languages which had retained the Roman legal terminology.⁸

Charles Howard McIlwain writes that “constitution” may mean the act of establishing or of ordaining; or the ordinance or regulation so established. It may mean the “make” or composition which determines the nature of anything, and may thus be applied to the body or the mind of as well as to external objects. In the Roman Empire the word in its Latin form became the technical term for acts of legislation by the emperor, and from Roman law the Church borrowed it and applied it to ecclesiastical regulations for the whole Church or for some particular ecclesiastical province. From the Church, or possibly from the Roman law books themselves, the term came back into use in the later middle ages as applicable to secular enactments of the time. In England the famous *Constitutions of Clarendon* of 1164 were referred to by Henry II and others as “constitutions,” *aviate constitutiones* or *leges*, a “*recordatio vel recognitio*” of the relations purporting to have existed

between church and state in the time of Henry's grandfather, Henry I. But in substance these were ecclesiastical provisions even though they were promulgated by secular authority, and this may account for the application to them of the word "constitutions." The word, however, is often found in a purely secular use at this time; though scarcely in any technical sense, for we find other words such as *lex* or *edictum* used interchangeably with *constitutio* for a secular administrative enactment. As just noted, the Constitutions of Clarendon are referred to in the document itself as a "record" (*recordatio*) or a "finding" (*recognitio*). The author of the *Leges Henrici Primi*, who wrote early in the twelfth century, soon after the appearance of Henry I's well-known writ for the holding of the hundred and county courts, also refers to that writ as a "record." Glanvill frequently uses the word "constitution" for a royal edict. He refers to Henry II's writ creating the remedy by grand assize as *legalis ista constitutio* and calls the assize of novel disseisin both a "recognitio" and a "*constitutio*." Bracton, writing a few years after the statute of Merton of 1236, calls one of its provisions a "new constitution," and refers to a section of Magna Carta reissued in 1225 as *constitutio libertatis*. In France about the same time Beaumanoir speaks of the remedy in novel disseisin as *une nouvele constitucion* made by the kings.⁹

It is apparently never used in our modern sense, to denote the whole legal framework of the state.

Sartori tells us that the history of the word on its modern meaning only begins in the 18th century. We might say the Latin word *constitutio* with "constitution" a homonymy with a homology. In its present-day conceptualization, "constitution" only emerges, perhaps, with Bolingbroke, and the term really gained ground and acquired a definite connotation only in America during the years 1776-1787.¹⁰

It is not unsafe to conclude, therefore, that, with the decline of the age of Absolutism, people began to cast about for a word which would denote the techniques to be used for controlling the exercise of State power. This term turned out to be (Americans decided this issue) "constitution."¹¹ And "constitution" was in no way born as a Janus-faced concept. The term was re-conceived, adopted and cherished not because it merely meant "political order," but because it meant much more, because it meant "political freedom." We may put it thus: because it denoted the distinctive political order which would protect their liberties; or—to paraphrase Friedrich's felicitous wording—because it not only "gave form" but also because it "limited" governmental action.¹²

Sartori says that "As is well known, Aristotle's term was *politeia*, and, surely, *politeia* is difficult to translate. So occasionally, the authors having Plato's and especially Aristotle's writings in mind, found it expedient to render it by the term constitution. This, however, happened only occasionally (the relevant example is Montesquieu)¹³ until the time when "constitution" acquired a specific meaning. It was only at this stage that "constitution" came to be used consistently as the proper equivalent of *politeia*. wrongly to be sure. For *politeia* only conveys the idea of the

way in which a polity is patterned. And if Aristotle meant by *politeia* the ethico-political system as a whole, we cannot infer from this that “constitution” has in Aristotle a loose meaning. The only correct conclusion is that Aristotle has been mistranslated. For to us “constitution” means—a frame of political society, organized through and by the law, for the purpose of restraining arbitrary power. And surely nothing resembling this concept was in the mind of Aristotle.”¹⁴

Common Elements of Constitutions:

With a few exceptions, all constitutions contain some common elements. From *Magna Carta* of 1215 to today, constitutional documents and traditions take the general form of a contradiction or an agreement between the ruled and the rulers. Limitations on the rulers are exacted between the ruled in exchange for allowing the rulers to preserve some elements of their right to govern and for preserving the stability of the governing system itself. Whether a constitution develops from the initial state of a strong central authority into a more decentralized one with checks and balances wrested by the subjects or citizens from their rulers, or whether it develops from a loosely knit decentralized confederation into a grant of sovereignty to more centralized authority, it has the general elements of an agreement between those who govern and those who are governed.

Other key conceptual features commonly found in constitutions include a purposeful division or separation of the three basic powers or functions of government—the executive, legislative, and judicial—identified by French lawyer and philosopher Montesquieu; an emphasis on the “rule of law, meaning that all citizens, including those chosen to govern, are equally subject to the law of the land; and the supremacy of the constitution or constitutional documents over ordinary law.

Common structural features can also be found. Almost all constitutions contain preamble or introductory clauses or articles; recite a set of fundamental rights and guarantees, and sometimes duties, for those under a nation’s jurisdiction; describe executive, legislative, and judicial officials and bodies and their powers and duties; and provide a procedure for amending the constitution. Some revised or new constitutions contain transitional provisions. Many written documents contain extensive additional material, especially the *dirigiste* types of constitutions, like those of Brazil and Portugal, that describe details of social and political goals in addition to rules for governing the country and a list of individual rights. The formats of the constitutions of the major countries of the world nonetheless seem remarkably alike.

Sanctification of the Constitution in CR:

Writing in 1816, Thomas Jefferson commented acerbically that:

“Some men look at constitutions with sanctimonious reverence and deem them like the ark of the covenant, too sacred to be touched.”¹⁵

Washington’s Farewell Address, given to coincide with the ninth anniversary of the adoption by the Philadelphia Convention of the constitutional

draft, included the plea that “the constitution be sacredly maintained.”¹⁶ And a later president-to-be, Abraham Lincoln, in his own way as much a Founder as Washington, Madison, or Jefferson, would summon the populace to adopt the principle of “reverence for the laws” as the “political religion of the nation.” “Every American, every lover of liberty, every well wisher to his posterity,” Lincoln asserted, must “swear by the blood of the Revolution, never to violate in the least particular, the laws of the country; and never to tolerate their violation by others.” All laws should be “religiously observed.”¹⁷

What is important is not only the substantive disagreement between these seminal founders of the American republic, but the rhetoric within which their debate was conducted. Jefferson recognized, albeit with some apparent disdain, the key role that the Constitution played within the structure of the American “civil religion,” that web of understandings, myths, symbols, and documents out of which would be woven interpretive narratives both placing within history and normatively justifying the new American community coming into being following the travail of the Revolution.¹⁸ Jefferson feared an ossification of the polity similar to the ossification he could readily detect in most traditional religion. To prevent such ossification would require, presumably, an ultimate “irreverence” toward the constitution that would keep it in its place as a *creation* of the polity (rather than its creator and judge) to be supplemented—if not supplanted—whenever the polity thought it useful to do so.

Though it is Jefferson, whom we have honored by building a memorial in Washington, it cannot truly be said that he has prevailed, at least in regard to the issue of constitutional veneration. “Veneration” of the Constitution has become a central, even if sometimes challenged, aspect of the American political tradition. Irving Kristol typifies this strand of our tradition, and its accompanying rhetoric, in his lead article in a special issue of *The Public Interest* devoted to the Constitution. “The Flag, the Declaration, the Constitution—these,” according to Kristol, “constitute the holy trinity of what Tocqueville called the American ‘civil religion’.”¹⁹

Max Lerner pointed to the role United States Constitution in what later analysts would term America’s civil religion. “Every tribe,” said Lerner, “clings to something which it believes to possess supernatural powers, as an instrument for controlling unknown forces in a hostile universe.” The American tribe is no different. “In fact the very habits of mind begotten by an authoritarian Bible and a religion of submission to a higher power have been carried over to an authoritarian Constitution and a philosophy of submission to a ‘higher law’; and a country like America, in which its earlier tradition had prohibited a state church, ends by getting a state church after all, although in a secular form.”²⁰

It is this framework of covenantal civil religion that provides a ready basis of understanding for the following advice delivered by John Quincy Adams on the occasion of the fiftieth anniversary of the Constitution and repeated in Williamsburg, Virginia in February 1987 by former Chief Justice Warren Burger:

“Teach the [Constitution’s] principles, teach them to your children, speak of them when sitting in your home, speak of them when walking by the way, when lying down and when rising up, write them upon the doorplate of your home and upon your gates.”²¹

Anyone familiar with the liturgy of Judaism instantly recognizes this as taken from Deuteronomy 6:7-9, which many congregations read aloud immediately after the central confession of faith, the *She’ma*, with its affirmation of belief in the one God who gave the Torah to the people of Israel. It is, of course, the commands of Torah that are to be taught to the young and constantly evoked within one’s life. To this day observant Jews place *mezzuzahs* on the doorposts, containing within them the *She’ma*. The analogue, presumably, would be to place on our “doorplates” copies of the Preamble to the Constitution as a constant reminder of our national faith.

Sanford Levinson says that it is illuminating to read Dr. Benjamin Rush’s comment about the Constitution: Though rejecting the belief that the Constitution was “the offspring of inspiration,” Rush nonetheless pronounced himself “perfectly satisfied that the union of the states, in its form and adoption, is as much the work of a Divine Providence as any of the miracles recorded in the Old New Testament were the effects of a divine power.” One did not have to be conventionally religious to adopt such imagery. Even James Madison, one of the most secular of the framers, in the 37th Federalist Paper was moved to suggest, whether out of conviction or for rhetorical effects, that the ability of the Constitution’s authors to surmount the many difficulties placed in their way was so astonishing that “it is impossible for a man of pious reflection not to perceive in it, a finger of the Almighty hand which has been so frequently and signally extended to our relief in the critical stages of the revolution.” And the equally secular Thomas Jefferson perhaps contributed to the veneration of which he was otherwise suspicious when he referred, in a letter to John Adams, to the Philadelphia Convention as “an assembly of demigods.”²²

Indeed, the belief in some kind of transcendent origin of the Constitution obviously contributes to according it utmost devotion. Edward Corwin once noted that “the legality of the Constitution, its supremacy, and its claim to be worshipped, alike find common standing ground on the belief in a law superior to the will of human governors.”²³ The negative pregnant, of course, is that disbelief in such origins will serve in some sense to delegitimize the Constitution as we view it as simply an all-too-human artifact with attendant imperfections.

In any event, what Corwin termed “worship of the Constitution” is a thread running through much American political rhetoric.²⁴

A nationwide radio audience in 1928, for example, heard Louis Marshall refer to the Constitution as “our holy of holies, an instrument of sacred import.”²⁵ Not all of this rhetoric was approving: Thus James Beck in 1930 criticized the “sacerdotal conception of law” that placed the Constitution with the Bible as “infallible and omnipotent,”²⁶ but such critics have almost always been swimming

against the tide.

Some of most eloquent American political rhetoric specifically evokes an imagery of constitutional faith. Perhaps the most powerful example in recent history was provided during the deliberations regarding the potential impeachment of Richard Nixon. What viewer of the Nixon impeachment hearings can ever forget Barbara Jordan's affirmation, just before she cast her vote to impeach the president? "My faith in the constitution," said the representative from Texas, "is whole. It is complete. It is total. I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction of the constitution."²⁷

Sanford writes that those historians and sociologists who have revived interest in the study of civil religion usually follow Rousseau's lead by emphasizing its integrative function. Thus Robin Williams refers to the fact that certain "symbols can supply an overarching sense of unity even in a society otherwise riddled with conflict."²⁸ It therefore becomes tempting to see the Constitution as a means of providing either a "sense" or even the reality of "unity" for an otherwise fractious United States. For some the news that constitutional faith is alive and well is "good," manifesting the continuing "veneration" called for by Madison that will help us maintain a free and wise republic.²⁹

C.W. Kenneth says:

"The Declaration of Independence and the Constitution are the religion's sacred scripture."³⁰

American president Franklin Roosevelt advised his nation on March 1937 A.D. that constitution should be recited like The Bible.

"Like The Bible, the Constitution ought to be read again and again."³¹

Constitutions are unchangeable like sacred scriptures. Neither president nor Supreme Court can add or delete even a single word.

Sanford says:

"The American Constitution is a written instrument full and complete in itself. No court in America, no Congress, no President can add a single word thereto or take a single word there from."³²

The American Bar Association in its Code of Professional Responsibility describes as a basic ethical duty of lawyers the promotion of "respect for the law."³³ Such respect should, of course, extend to the Constitution, the very fountainhead of the American legal system. This might appear to be a thoroughly uncontroversial premise, at least until one asks an important question: Is there anything built into the definition of law (or, more crucially, of the Constitution) that guarantees that it will necessarily be worthy of respect? For only if the answer is "yes" will one unhesitatingly agree to become "attached" to it and promote "respect" for it.

Thomas Grey has pointed out a very important structural feature of the Constitution's mention of oaths of office in Article VI of the document. Clause Three of Article VI requires that all political officials of the new country, both state and federal, "be bound by Oath or Affirmation, to support this Constitution; but no

religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.” Yet, as Grey notes, the constitutional oath “is a ritual of allegiance, requiring officers to affirm their primary loyalty” to the values and commands presumably contained within the document. And, he goes on, “[t]he ‘but’ suggests that the framers considered the constitutional oath a substitute for the religious tests the colonists were familiar with under the English established church. To push the point a bit: American would have no national church yet the worship of the Constitution would serve the unifying function of a national civil religion.”³⁴

Fittingly enough, some of the ratifiers considered the oath to be a genuine religious oath. Thus Oliver Wolcott, at the Connecticut Rattifying Convention, argued against the requirement of a specific religious oath on the grounds that the oath enjoined in the Constitution “upon all the officers of the United States” constitutes “a direct appeal to that God who is the avenger of perjury. Such an appeal to him is a full acknowledgement of his being and providence.”³⁵ Similarly, the South Carolina Ratifying Convention suggested amending the Constitution by “inserting the word ‘other’ between the word ‘no’ and religious.”³⁶

The constitutional oath may not be a “Religious Test” for those who define religion³⁷ as necessarily including affirmations of supernatural beings and theological propositions, but it is surely a test establishing one’s devotion to the civil religion as a predicate condition for the ability to hold office.

Causes of the replacement of Sacred Scripture:

In other words constitution has replaced The Bible and constitution has sanctified in Civil Religion. After the defeat of Christianity in thirty years war in Europe, political vacuum was filled by constitution and nationalism.

Sanford says:

“The religious wars of the sixteenth and seventeenth centuries came to an end only when religion became sufficiently privatized so as not remain an essential element of public order. New conceptions of the nation-state, and of constitutionalism, were called upon to provide order. Part of the apparatus of these new states was a ‘Civil Religion’ to replace as an anchoring structure the divisive sectarian religions.”

Liberal Constitutionalism and Israel:

Hence constitution and nationalism play a pivot role in Civil Religion. Civil Religion was projected to protect nationalism and constitution but state of Israel came into existence on the base of religion, she has not introduced constitution because The Bible is her constitution.

One might consider the decision by the chairman of the Israeli *Knesset* to Bar Meir *Kahane* from taking any part in the activities of that parliamentary body after *Kahane* had refused to take the oath of allegiance required to the members of the *Knesset*:

“I promise to pledge allegiance to the state of Israel and to

Constitution: A Replacement of Sacred Scriptures

faithfull my mission in Parliament.”

Instead, Kahane committed himself (only):

“To the keeping of Your [God’s] Torah always and forever.”

As a spokesman for Kahane explained:

“He refused to pledge the oath because we are not willing to say we will support every law of the state, only the laws of Bible.”³⁸

Presumably, Kahane means to suggest that in any conflict between the law of the state and the law of God (as he interprets it), the later will always prevail in regard to his own obligations. Even if we do not share the theological presuppositions of Professor Simmons or Rabbi Kahane, we might still acknowledge that deification (or idolatry) of the nation-state (including its Constitution) is not necessarily an advance over deification of a deity. In any case, it is no small matter what one announces as one’s “faith” and repository of primary loyalty.

On May 14, 1948, the Declaration of Independence, proclaiming the establishment of the State of Israel, was issued by a body of 37 representatives of the *Yishuv* (Jewish population of Palestine) and the Zionist movement. This body, known as *Mo’etzet Ha’Am* (People’s Council), declared that it would act as a Provisional Council of State on the termination of the Mandate for Palestine and until such time as elected and permanent authorities of the State were set up in accordance with a constitution to be adopted by an elected Constituent Assembly not later than Oct. 1, 1948.

First *Knesset* there were long and recurrent debates, both within the *Knesset* and among the general public, on the question of whether or not there should be a written constitution. Those debates were ended by the following compromise resolution known as ‘*Harari decision*’ (on the name of a *Knesset* member Izhar Harari) passed by the First *Knesset* on June 13, 1950:

“The First *Knesset* charges the Committee on Constitution, Law and Justice with the task of preparing a draft Constitution for the state. The Constitution shall be built up, chapter by chapter, in such manner that each chapter [as it is passed] will constitute a Basic Law. Each chapter shall be submitted to the *Knesset* [for ratification]. After the Committee has finished its work, all the chapters together shall be incorporated into the Constitution of the State.”³⁹

Although its Declaration of Independence promised that the Constitution would be completed before the end of 1948, it seemed that the gap between the religious and secular demands of Israeli Jews proved too unbridgeable for a unifying document that is tantamount to a constitution. Many religious Jews opposed the idea of a codified constitution that would nominally enjoy any higher authority over their religious sources and texts, namely the *Torah*, *Tanakh*, *Talmud*, *Halakha* and *Shulkhan Arukh* (Code of Jewish Law). Indeed, a previous leader of the orthodox *Shas party*, Aryeh Deri, stated once that he would refuse to lend his name to any

such constitution even if it were no less than the Ten Commandments themselves.

To date, however Israel has not overstepped this interim phase and still has an uncodified constitution in the form of different pieces of legislation (Basic Laws: the *Knesset* deals only with institutional matters) that outline the legal and political structures of the country. Until 1988, nine Basic Laws were passed that pertained to the institutions of the state.

Emmanuel Guttman writes:

“Israel had no need of a ‘new’ constitution since it already had an old and venerated one, the *Torah*, i.e. the body of traditional Jewish learning, and more specifically the *Halacha*, i.e. the body of Jewish (religious) law. Nothing but the *Halacha* will do as the law and the constitution of a Jewish state, and especially a man-made and Godless one was unthinkable in Judaism.”⁴⁰

Summary:

In all religions sacred scriptures hold special importance. In the same way, the concept of sacred scriptures like the Quran and the Bible in civil religion is also found in the shape of “Constitution.” Similarly a citizen of a modern state if goes against the constitution of that state he is charged with high treason.

American president Franklin Roosevelt advised his nation on March 1937 A.D. that constitution should be recited like The Bible. “Like The Bible, the Constitution ought to be read again and again.”

Constitutions are unchangeable like sacred scriptures. In other words constitution has replaced the sacred scripture.

The state of Israel came into existence on the base of religion, she has not introduced constitution because the Bible is her constitution.

References:

¹ Al-Quran, 06: 57.

² Al-Quran, 06: 62.

³ Al-Quran, 33: 36.

⁴ Al-Quran, 05: 44.

⁵ The Bible, Exodus, chap. 24: 12.

⁶ Bible Deuteronomy, chap. 4: 14.

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⁸ Giovanni, Sartori, “Constitutionalism: A Preliminary Discussion,” in Sadurski, Wojciech, (ed.), *Constitutional Theory*, (England: Dartmouth Publishing Co. 2005), p. 3.

⁹ McIlwain, Charles Howard, *Constitutionalism Ancient and Modern*, (New York: Cornell University Press, 1940), p. 25-26.

¹⁰ The French did not receive it directly from England, but from the Philadelphia Convention. This is not surprising for it was Paine, not Burke and the English writers in general, who gave the first explicit, complete account of the modern concept. See for detail discussion: Giovanni, Sartori, “Constitutionalism: A Preliminary Discussion,” in Sadurski, Wojciech, (ed.), *Constitutional Theory*, pp. 7-10, and McIlwain, Charles, Howard, *Constitutionalism Ancient and Modern*, pp. 8-10.

¹¹ In this connection, recall that in the years of the Commonwealth and the Protectorate (1649-1660) the English made several attempts to establish a written constitution. However, they never called these documents “constitution”: they made recourse to terms such as covenant, instrument, agreement, model, paramount or fundamental law.

¹² Carl J. Friedrich, *The Philosophy of Law in Historical Perspective*, (Chicago: University of Chicago Press, 1958), p. 220, quoted Giovanni, Sartori, “Constitutionalism: A Preliminary Discussion,” in Sadurski, Wojciech, (ed.), *Constitutional Theory*, p. 10.

¹³ In the famous chap. 6, Book XI of the *Esprit des Lois* the term *constitution* appears only in the title, see Giovanni, Sartori, "Constitutionalism: A Preliminary Discussion," in Sadurski, Wojciech, (ed.), *Constitutional Theory*, p. 10.

¹⁴ Giovanni, Sartori, "Constitutionalism: A Preliminary Discussion," in Sadurski, Wojciech, (ed.), *Constitutional Theory*, p.10.

¹⁵ Paul Leicester Ford, (ed.), *Writings of Thomas Jefferson*, (New York: G. P. Putnam's Sons, 1899), vol. X, p. 42, (letter to Kercheval, July, 12, 1816).

¹⁶ Michael Kammen, *A Machine That Would Go of Itself: The Constitution in American Culture*, (New York: Alfred Knopf, 1986), pp.70-71.

¹⁷ Abraham Lincoln, "The Perpetuation of Our Political Institutions," in Richard Current, (ed.), *The Political Thought of Abraham Lincoln*, (Indianapolis:Bobbs-Merrill Co.,1961), pp.16-17.

¹⁸ See the influential essay by Robert N. Bellah, "Civil Religion in America," *Daedalus* (Winter 1967), reprinted in Robert Bellah, *Beyond Belief: Essays on Religion in a Post-Traditional World*, (New York: Harper & Row, 1970), pp168-89. See generally Russell E. Richey and Donald G. Jones, eds., *American Civil Religion* (New York: Harper & Row,1974), See also two helpful essays by Bennett, W. Lance: "Political sanctification: The Civil Religion and American Politics," in *Social Science Information* (Journal), 14 (1975):79, and Bennett, "Imitation, Ambiguity, and Drama in Political Life: Civil Religion and the Dilemmas of Public Morality," *Journal of Politics* 41 (1979): 106 Bennett describes civil religion "as the collection of myths and rituals order, and destiny of a political culture," (Imitation, p.109).

¹⁹ Kristol, Irving, "The Spirit of 87," *The Public Interest*, no. 86 (1987): 5. See also E. D. Hirsch, Jr., *Cultural Literacy: What Every American Needs to Know*, (Boston: Houghton Mifflin Co., 1987), pp. 98-101.

²⁰ Max Lerner, "Constitution and Court as Symbols," *Yale Law Journal* 42 (1937): 1294-95.

²¹ Quoted in Franklin, Ben A. "Burger Made Chancellor at William and Mary," in *The New York Times*, February 8, 1987, p. 26, col. 4.

²² Sanford Levinson, *Constitutional Faith*, (New Jersey: Princeton University Press, 1988), p. 13-14.

²³ Corwin, Edward, "The 'higher Law' Background of American Constitutional Law," in *Harvard Law Review* 42 (1928):153.

²⁴ Edward Corwin, "The worship of the Constitution," in *Constitutional Review* 4 (January 1920): 3, Quoted in Sanford, "*Constitutional Faith*," p. 14.

²⁵ *Ibid.*, p. 14.

²⁶ *Ibid.*, p. 14.

²⁷ Barbara Jordan and Shelby Hearon, Barbara Jordan, A Self-Portrait (Garden City, N.Y.: Doubleday & Co., 1979), p.187, quoted in "*Constitutional Faith*" p15.

²⁸ Robin Williams, "American Society: A Sociological Interpretation (1951)," quoted in *Constitutional Faith*, p.15.

²⁹ *Constitutional Faith*, p.15.

³⁰ Kenneth C.W.Kammeyer, *Sociology*, (London: Allyn & Becon,1992), p.516.

³¹ Samuel I. Rosenman, ed., *The Public Papers and Addresses of Franklin D. Roosevelt*, vol.6 (New York: Dodd, Mead Co., 1941), p.124.

³² *Constitutional Faith*, p.31.

³³ American Bar Association, Model Code of Professional Responsibility, Ethical Consideration, pp. 9-6. "Ethical considerations" are goals toward which all lawyers should aspire, though only the violation of "disciplinary rules" found elsewhere in the Model Code can serve as the basis of professional discipline.

³⁴ Grey Thomas, "The Constitution as Scripture," in *Stanford Law Review* 37 (1984):18.

³⁵ Elliot, J., (ed.), *The debates in the Several State Conventions on the Adoption of the Federal Constitution*, vol. 2, 2nd ed. (Washington, D.C.: 1836), p. 202.

³⁶ Philip Kurland and Ralph Lerner, (eds.), *The Founders' Constitution*, vol. IV, (Chicago: University of Chicago Press, 1987), p. 645. I discovered both of these last quotations in Kurland, Philip, "The Origins of the Religion Clauses of the Constitution," *William and Mary Law Review* 27 (1986):849.

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³⁸ Kahane, "Is Deprived of Right to Sit in Israel's Parliament," in *The New York Times*, June 9, 1987, p. 10, col. 5.

³⁹ Baker,H.E, *Encyclopedia of Zionism and Israel*, Raphael Patai, ed., (New York: Herzl Press, 1971), p.710.

⁴⁰ Gutmann, Emmanuel, "Israel: Democracy Without a Constitution," in *Constitutions in Democratic Politics*, Vernon Bogdanor, ed., (England: Gower Publishing Co., 1988), p. 294.