

501(C)3 RELIGION:

REEMERGENCE OF THE DIVINE RIGHT OF KINGS

© 1997 by: Peter Kershaw, All Rights Reserved

(YOU MAY REPRODUCE THIS ARTICLE IN ITS ENTIRETY, WITH NO MODIFICATIONS. PLEASE GIVE IT TO YOUR PASTOR)

In the book, *Religious Origins of the American Revolution*, the author makes the following observations:

Arnold Toynbee has written that the American Revolution was made possible by American Protestantism...

The American Revolution might thus be said to have started, in a sense, when Martin Luther nailed his 95 theses to the church door at Wittenburg. It received a substantial part of its theological and philosophical underpinnings from John Calvin's *Institutes of the Christian Religion* and much of its social theory from the Puritan Revolution of 1640-1660, and, perhaps less obviously, from the Glorious Revolution of 1689.

Put another way, the American Revolution is inconceivable in the absence of the context of ideas which have constituted radical Christianity. The leaders of the Revolution in every colony were imbued with the precepts of the Reformed faith...

If the American Revolution is indeed inconceivable without the imperatives of radical Christianity, what does this fact suggest about the Church (or churches) today? How is the complacent and conservative body of Christians to be roused from its lethargy...?¹

Few questions in our day could be of as much significance as this one, nor is the author

exaggerating, or being mean-spirited, when he describes the church as complacent and lethargic. If we wish to understand how to rouse the church from her slumber, it is imperative that we first begin to comprehend what the church in America once represented, and how it later devolved into the predicament that it is in today.

This is what the Lord says: "Stand at the crossroads and look; ask for the ancient paths, ask where the good way is, and walk in it, and you will find rest for your souls."²

Many millions of Americans have begun to recognize that we have been diverted far from the path that the Founding Fathers mapped out for us. It is presumed that the readership of this periodical are already well-informed as to the problems we face, both on a national and an international level. We, therefore, have little need of itemizing them here.

If we truly seek to reestablish America as the Founders intended it, we must do as the prophet Jeremiah admonished. We must "ask for the ancient paths." This is in stark contrast to William J. Clinton's scheme of "building a bridge to the 21st century." Clinton's bridge building is, in reality, a blueprint for annihilation. The solution lies in rediscovering those truths from the past, from which our forefathers relied in establishing a free and independent America. Discerning

1. Page Smith, *Religious Origins of the American Revolution*, pp. 1, 2, 8

2. Jeremiah 6:16

where “the good way is” is impossible without an understanding of our heritage.

America’s early settlers came here primarily for the purpose of establishing a Christian Republic, a place in which they could be free to worship God “according to the dictates of their conscience.” Even many modern humanist historians readily acknowledge this to be the case. Nothing else could account for their eagerness to leave the relative ease and predictability of European comfort, for the hardships and uncertainties of a hostile and rugged new world. It was the State-Church which drove many thousands of Europeans, particularly English and Scottish, to the primitive American Colonies.

The British crown represented the establishment church system—the Church of England. Moreover, the king, by royal edict, was “lord sovereign head” of the Church. Even many years subsequent to the official separation of the Church of England from the Church of Rome, Anglicanism remained thoroughly steeped in the tyrannical and despotic traditions of popery. In Rome, the pope was sovereign head of the Church; but in England, it was the monarchy. The “divine right of popes” was exchanged for the “divine right of kings.”

All preaching and publishing was sanctioned by royal license. No religious license could be obtained without the public proclamation that the king was “lord sovereign head” of the Church. For those of Romish persuasion, there was no personal conflict in such an affirmation; but no Christian of Reformational faith could swear such an oath of assent. Many thousands of Presbyterian, Congregational, Baptist and Independent ministers were excommunicated, their churches locked, and they were ordered to preach and publish no more. Most defied the ban on unlicensed preaching, taking to their horses and preaching wherever they could

find an audience. The era of the circuit-riding preacher was born!

Anglican Bishops routinely engaged in a campaign of terror against “Nonconformist” ministers. The most brutal and barbaric of men often received their Bishoprics as a direct result of their notorious and gruesome reputations. Such is the case of Bishop Paterson, inventor of the thumbscrews.³ Many a bishop actively engaged in inventing “machines of torture.” If excruciating pain proved unsuccessful in compelling the “Dissenter” to recant of his “heresy,” he would be shackled to a stake and burned alive. Few bishops showed any mercy, and this became their final, and most tormenting, of all punishments. Rather than setting light to combustibles which would engulf the victim in a roaring inferno and promptly dispatch them, the bishops would quite often select green wood. Many a bishop delighted in “slow-roasting” their victims.

It is, therefore, easy to understand why thousands of Nonconformist preachers fled to America’s shores, and for a time at least, the Stuart monarchy was glad to be rid of them. Few colonists shared the religious convictions of the British crown. For the most part, they were of the “Protesting faith.” Many of the emigrant clergy had been convicted criminals, guilty of “preaching without a license” and “publishing without a license.” Some had been “banished to the plantations.” Others were fugitives of the law, having received subpoenas to appear before the king’s Star Chamber, but fleeing rather than facing a heretic’s trial. Some had even escaped from the king’s prisons.

Felon preachers were commonplace in early America, among them, William Penn. In 1668, Penn published a religious tract, entitled

3. Jock Purves, *Fair Sunshine*, p. 56

The Sandy Foundation Shaken. It was published without a license, and Penn was arrested, tried and jailed in the Tower of London. The only reason Penn received a *lenient* punishment is because his father was Admiral of the British Navy. Almost immediately after his release, Penn was arrested on Grace-Church Street in London, for preaching without a license. As a direct result of the Rev. Penn's trial, two of the greatest "charters of liberty" were forever established—jury nullification and the writ of habeas corpus.⁴ Penn later became the founder and first governor of Pennsylvania.

But the arrival of thousands of unlicensed preachers in America did not spontaneously result in freedom of religion. While Protestants firmly adhered to a policy of the independence of the church from the State, Anglicans exerted their influence in an attempt to bring all American churches under the sway of the monarchy, and later, also under the parliament. In an effort to control religion, the British crown established hundreds of Anglican churches throughout the American Colonies. Through imposition of various "religious acts," the king sought a church monopoly. Unlicensed preaching and publishing was forbidden, and just as in England, the king declared himself "sovereign head" of America's churches. To America's Dissenting clergy, this was nothing short of blasphemy. It was in the unlicensed pulpits of America's Nonconformist churches that the phrase was coined, "No king but King Jesus!" It was also there that such patriotic phrases originated as "Live free or die!"

America's unlicensed clergy were typically among the most highly educated and bril-

liant men of their time. The Puritan world view held to the political philosophies of Locke, Milton, Sydney and Montesquieu. They abominated "pluralism," the view that one set of laws governs the church, while an entirely different law code governed the civil affairs of man. Only God is truly Sovereign, and the ruler that does not govern according to His Law's is not a ruler, but a usurper. As the Puritan's would say, "By his own tyranny, the king unthrones himself." They also abominated "Erastianism," the political philosophy that the civil ruler is supreme in authority over not only the the sphere of civil government, but also in the affairs of the church.

All clergy in America exercised an immense influence over public opinion, either for good, or for evil. The Anglican clergy were sent to our shores to convince the Colonists of the king's agenda.

The young candidates for the Anglican clergy were taught at Oxford that submission and obedience, clear, absolute, and without exception, was the badge and character of the Church of England. The Anglican clergy were compelled to read on the anniversary of the death of Charles I the Oxford homily "against disobedience and wilful rebellion," or to preach a sermon against that sin.⁵

Protestant preachers in America (and in England, for that matter) shared no such affections for the despot Charles, nor did they mourn his execution at the hand of Oliver Cromwell. Charles II, the "Supreme Governor of the Church," declared his father canonized among the "army of martyrs"⁶ and

4. Godfrey D. Lehman, *The Ordeal of Edward Bushell*.

5. C.H. Van Tyne, *American Historical Review*, vol. XIX, p. 51 (1914)

6. John W. Thornton, *The Pulpit of the American Revolution*, p. 41

“saints,” with the anniversary of his death solemnized, in the Anglican prayer book, a national holy-day of fasting. Not only was the reading of the Oxford homily compulsory for all ministers, but they were required to say a prayer for Charles I, and pronounce a benediction, “Let his memory, O Lord, be ever blessed among us.” Many an unlicensed colonial preacher obeyed the letter of the law, but they did so with an air of solemn mockery, much to the delight of their congregations.

Furthermore, many followed the directives of prelacy and preached on the subject of unlimited submission and non-resistance to rulers, but their discourses were in stark contrast to the loyalist Anglican clergy. On January 30, 1752, the 100th anniversary of the death (execution) of Charles I, the Rev. Jonathan Mayhew, pastor of the Congregational West Church in Boston, preached a sermon entitled, “Concerning Unlimited Submission and Non-Resistance to the Higher Powers.” Of the sermon, John Adams said that it:

“was read by everybody; celebrated by friends, and abused by enemies... Mayhew seemed to be raised up to revive all their animosity against tyranny, in church and state, and at the same time to destroy their bigotry, fanaticism, and inconsistency.”⁷

Of the sermon, John Wingate Thornton wrote:

By its bold inquisition into the slavish teachings veiled in “the mysterious doctrine of the saintship and martyrdom” of Charles I., and its eloquent exposition of the principles of good government and of Christian manhood in the state,

maddening the corrupt, frightening the timid, rousing the apathetic, and bracing the patriot heart, this celebrated sermon may be considered as the MORNING GUN OF THE REVOLUTION, the *punctum temporis* when that period of history began.⁸

No institution in American culture influenced a community like the local church. Whether or not one was a Christian, almost everyone faithfully attended church. The church was the focal point of the community’s activities. The Puritan stewardship ethic meant that no church building would ever be constructed and used only once or twice a week. Church buildings were invariably used for multiple purposes, including town meeting hall, court house, library, school house, militia headquarters, armory, etc. The pastor, generally being the best educated man in the community, was often called upon to serve in multiple capacities, such as schoolmaster. Moreover, the majority of militia commanders, before and during the War for Independence, were pastors and elders.

So significant was the societal influence of the clergy that many a Tory and Anglican loyalist loudly complained that pastors must have no part in politics. Just as we so often hear today, “Preachers shouldn’t preach politics. They should stick with the Bible.” Never mind that the loyalists were preaching their own brand of politics—unlimited submission and non-resistance. But to this, the Nonconformists preached all the more vigilantly, noting that they were, indeed, preaching directly from the Bible. In 1773, the Rev. Charles Turner, in expounding Romans 13, noted that it was the duty of the clergy,

7. The Annals of America, vol. 1, p. 481

8. *Op. Cit.* Thornton, p. 43

“to interfere where the liberties of the land are assailed, not only for the sake of their own posterity as well as that of others, but because “when the civil rights of a country receive a shock, it may justly render the ministers of God deeply thoughtful for the safety of sacred privileges—for religious liberty is so blended with civil, that if one falls it is not to be expected that the other will continue.”⁹

All those who championed American independence recognized the immense influence of the clergy, and called upon them to support the cause. In 1754, John Adams wrote:

It is the duty of the clergy to accommodate their discourses to the times, to preach against such sins as are most prevalent, and recommend such virtues as are most wanted. For example, if exorbitant ambition and venality are predominant, ought they not to warn their hearers against those vices? If public spirit is much wanted, should they not inculcate this great virtue? If the rights and duties of Christian magistrates and subjects are disputed, should they not explain them, show their nature, ends, limitations, and restrictions...?¹⁰

This was a duty that Colonial America’s clergy did not shirk. Modern historical revisionists, with their humanistic agenda, have worked furtively to eradicate from the annals of history any mention of the immense role played by the clergy, in securing our independence. But even a cursory review of the Founding Fathers’ own writings reveals that the clergy’s societal influence, in the establishment of a free and independent America,

was monumental, if not indispensable. In writing Thomas Jefferson, in 1818, John Adams stated:

I think, with you, that it is difficult to say at what moment the Revolution began. In my opinion, it began as early as the first plantation of the country. Independence of Church and Parliament was a fixed principle of our predecessors in 1620, as it was of Samuel Adams and Christopher Gadsden, in 1776.¹¹

In England, and throughout much of Europe, there was no separation of Church and State. The two had, for all intents and purposes, become one institution, originating with Constantine in the fourth century. As long as Church and State were merged, there could be no hope of freedom of religion. Far more than merely economic reasons, America’s early settlers came to establish a separation between church and state, or as they most commonly referred to it, “independence of church and state.” Religion cannot be free so long as the church and state are entangled in the bonds of an unholy matrimony.

The British crown and parliament lost the battle to control the church. Independency was established, and in 1791 the Bill of Rights ratified. In order to permanently seal the legal right of the church to be independent of the state, the First Amendment became part of the “supreme Law of the Land.” The First Amendment is, arguably, the most world-renowned man-made law, perhaps in world history. More people in other lands are knowledgeable of it than are most Americans. More foreigners venerate and cherish the First Amendment, than do those Americans whose freedoms it guarantees.

9. J. T. Headly, *The Chaplains and Clergy of the Revolution*, p. 5

10. W. J. Federer, *America’s God and Country*, p. 8

11. John Adams, *Works*, vol. X, p. 313

Attacking Christianity has never served to undermine faith, rather, it only strengthens it. Every time in history, and in every culture, when Christianity has been assailed, the faith of its victims is bolstered, and the gospel only spreads that much more rapidly. Modern enemies of the church are not altogether ignorant of this phenomena.

Therefore, one does not succeed in detaching the soul from religion by filling it with this great object, by bringing it closer to the moment when it should find religion of greater importance. A more certain way to attack religion is by favor, by the comforts of life, by the hope of wealth; not by what reminds one of it, but by what makes one forget it; not by what makes one indignant, but by what makes men lukewarm, when other passions act on our souls, and those which religion inspires are silent. In the matter of changing religion, State favors are stronger than penalties.¹²

This is precisely the formula that has been followed by our government, in recent years. Rather than attack Christianity through various “penalties”, the modern method is to render the church impotent and “lukewarm” by impartation of “State favors.” The most prominent of “favors” today is the tax-exempt license. But in reality, the granting of a tax exemption to the church is a fraud. “Christ is the head of the church.”¹³ He rules the church and has never delegated any powers to *Caesar* to regulate, control, ratify statutes, or impose “public policy” on the church. In September of 1775, the Rev. Isaac Backus, having been invited to address the Massachusetts Assembly, stated:

12. Montesquieu, *The Spirit of the Laws*, Book XXV, Chapter 12

13. Ephesians 5:23

“Yet, as we are persuaded that an entire freedom from being taxed by civil rulers to religious worship is not a mere favor from any man or men in the world but a right and property granted us by God, who commands us to *stand fast in it*, we have not only the same reason to refuse an acknowledgment of such a taxing power here, as America has the above-said power, but also, according to our present light, we should wrong our consciences in allowing that power to men, which we believe belongs only to God.”¹⁴

This matter of taxing religion was forever settled with the ratification of the First Amendment:

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

While other Articles of the Bill of Rights may be regularly assailed by the enemies of freedom (particularly the Second), no one wishes to condemn the First. For in so doing, they would undermine their own most indispensable of rights. In their genius, the Framers specifically intended it that way. Jefferson noted:

One of the amendments to the Constitution... expressly declares, that ‘Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press’; thereby guarding in the same sentence, and under the same words, the

14. *Annals of America*, vol. 2, p. 366

freedom of religion, of speech and of the press; insomuch, that whatever violates either, throws down the sanctuary which covers the others.¹⁵

Even if the enemies of Christianity were foolish enough to be willing to undermine their own rights of speech, press and redress, the U.S. Supreme Court has consistently held that the First Amendment is the most infeasible of all the Amendments. Little wonder that the enemies of Christianity would seek to bring the church out from under its protections. How can this be done? By converting the legal status of a church into something else that the Constitution does not protect.

Tragically, most church leaders in our day have not only “allowed that power to men,”¹⁶ but their consciences have not, by all appearances, been wronged by it. They’ve “rendered unto Caesar” that which is Christ’s, alone. Many thousands of churches, particularly in the past fifty years, have converted their legal status into “religious organizations,” by incorporating with the State. Acceptance of the State’s “privilege of doing business as a corporation,” has placed them squarely under the oppressive jurisdiction of *Caesar*. At law, the power that creates the corporation (the State) is the “sovereign”¹⁷. The sovereign has legitimate authority to regulate and tax its creations. It also has authority to grant “exemptions” from various taxes. Hence, Internal Revenue Code section 501(c)3, granting an “exemption” of taxation on “income.”

But does a church have income to begin with? No! But once it converts its legal status into a regulated business franchise of the State (which is what all corporations are), then it most certainly does have “income.” After all, “income” is a corporate term. Thus, the need for the government’s “benefit” of an exemption. But that which the government gives, it may also take away. The threat of losing the cherished tax exemption, or even the mere threat of an IRS audit, is more than enough to put a muzzle on most any preacher. It is for this very reason that some have equated the 501(c)3 with “government hush-money.”

Arguments raised by some who support church tax exemptions, although well-meaning, are often fatally flawed. They lack an understanding of the lessons of history, not to mention constitutional law. Such arguments include, “Tax exemption is the legal mechanism that serves as the wall of separation between church and state.” Nothing could be further from the truth! Tax exemption is not a God-given unalienable right; it is a privilege and a benefit granted by the “sovereign.” The fact is that tax exemption is a powerful legal mechanism used by the civil government to break down the wall of separation and seize control of the church and silence it.

Unlicensed churches and ministries cannot be directly taxed because that would first require the creation of tax law, and the First Amendment prevents any lawmaking, specific to religion. When a church or ministry incorporates, all such rights barring government taxation are waived. Furthermore, corporations have no constitutionally-protected rights¹⁸. By incorporating, the church has

15. “Kentucky Resolutions,” (1798) *The Writings of Thomas Jefferson*, Paul L. Ford, vol. vii, p. 295

16. see Backus quote, above

17. 18 Am Jur 2d, Corporations; § 1, § 9, § 67

18. *Hale v. Henkel*, 201 US 43 at 74 (1906)

exchanged the Crown Rights of King Jesus for a mess of State-licensed pottage.

The forces of Antichrist have conned Christ's ministers into believing that the church can't function without *Caesar's* "privileges and benefits." But churches only started incorporating about fifty years ago. Prior to that, church incorporation was almost unheard of, and in many states, it was not permitted. The obvious question then is, aren't there other ways of legally organizing a church? The attorney will say, "Yes, you can organize as an unincorporated association." But this is also a legal mischaracterization. ABA accredited law schools only teach these two ways of organizing a church, and both are wrong. Both bring a church out from under the protections of the First Amendment. The incorporated church, in particular, is placed directly under government jurisdiction and control.

It is primarily attorneys (and certain CPAs) who are responsible for the deception, aiding and abetting the government's fraud. They have a vested interest in doing so, as the need by licensed churches for "licensed professionals" has grown into a multi-billion dollar industry. Many of them apply a phrase to 501(c)3 churches, familiar to much of this readership, "voluntary compliance." Rather than calling a church what it is, they invent new terms. They well understand that a church is not a "religious organization" or "charity." Nevertheless, they cast these terms like the fly fisherman casts colorful artificial bugs on the stream. The naive and hungry fish can't resist; they instinctively rise and take the bait, never comprehending that it may be their last meal. Not only can the church operate separate and independent of the State's privileges and benefits, it must. Otherwise, we'll wind up on *Caesar's* plate for lunch!

America was founded by religious "Nonconformists." The imposition of licenses to

preach and publish the gospel were the most significant factors in why the patriot preachers led the public opinion in the question of independency. Without their leadership, it is extremely doubtful that we would today be an independent America.

**To the Pulpit, the PURITAN PULPIT,
we owe the moral force which won our
Independence.¹⁹**

Is it realistic, therefore, to anticipate that liberty will ever be restored to America, so long as her churches and ministers are licensed to the government? We must, therefore, begin a grass roots campaign to educate and inform our religious leaders. The problem of church incorporation and the 501(c)3 is a modern one, having only come about within the past fifty years, and it has only happened due to ignorance. There's a solution to this apparent dilemma. We must assail ignorance with knowledge and wisdom.

Editor's Note: Mr. Kershaw is a best-selling author, legal researcher, historian and founder of Heal Our Land Ministries.

To receive a copy of *In Caesar's Grip*, a clear and intelligible book on the legal and theological ramifications of church incorporation and 501c3, send \$20.00 to:

Heal Our Land Ministries
PO Box 220
Bristol, Virginia 24203

You may send a self-addressed stamped envelope, for more information on our publications and videos, and an order form.

Check out the web site: <http://hushmoney.org>

Mr. Kershaw's video tape series from the *Unlicensed Church Conference* is especially helpful to those pastors and ministers seeking to unlicense incorporated 501c3's and establish free-churches and free-ministries.

19. *Op. Cit.*, Thornton, p. XXXVIII