

lamb, involves remaking human nature. But in this account of our tradition this presents no problem: God made human nature to begin with, and we, as God's chosen people, will re-make it.

The false myths produce the fanatics amongst us. They are misrepresentations and distortions of the American political tradition and its basic symbols which are, let us remind you, the representative assembly *deliberating* under God; the virtuous people, virtuous because deeply religious and thus committed to the *process* of searching for the transcendent Truth. And these are, we believe, symbols we can be proud of without going before a fall.

## Appendix I

We are far from believing that the equality clause of the Declaration is meaningless. What does it mean? Our best guess is that the clause simply asserts the proposition that all peoples who identify themselves as one—that is, those who identify themselves as a society, nation, or state for action in history—are equal to others who have likewise identified themselves. This interpretation seems quite plausible in light of the first paragraph of the Declaration and the passages which immediately follow the equality clause.

We can put our point still another way. The Declaration asserts that Americans are equal to, say, the British and French. If the British and French can claim equality among the sovereign states of the world, so, too, can Americans. This interpretation takes on added force in light of the major purpose of the Declaration. Specifically, the drafters of the Declaration are maintaining that the Americans are equal to the British and are, therefore, as free as the British to establish a form of government which "shall seem most likely to effect their [American] safety and happiness." We think it important to note that equality is not listed among those ends to be secured by government. Equality, in the sense we have just described, is a value employed to justify the separation.

That Lincoln held a markedly different conception of the equality clause is beyond dispute. Although Lincoln did have

some very curious notions concerning the meaning of equality (and this even his worshippers cannot deny), he did "internalize" the notion of equality. This is to say that he considered equality a value or goal to be promoted by those who have identified themselves as one. So much seems clear from the Gettysburg Address. Lincoln, in effect, is telling us that we have a commitment as a fully sovereign state to promote equality. If there be any doubts on this score, the Lincoln-Douglas debates, Lincoln's speech at Springfield, Illinois (June 26, 1857), and, among other items, his Message to Congress in Special Session (July 4, 1861) ought to dispel them.

Now, Lincoln's "internalization" of the concept of equality has had, in our judgment, an enormous impact on American scholarship and thinking. Few would deny that many professional students of American government and theory are preoccupied with the question of what equality means within our society given the Lincolnian view of the Declaration. While we believe this to be an intriguing enterprise, we also believe it to be a futile one, given the ground rules provided by Lincoln. From our vantage point, what seems more important is that Lincoln's interpretation has gained such wide and uncritical acceptance among contemporary scholars.

## Appendix II

Reproduced here are certain documents or portions thereof that have been cited in the book. The Declaration of Independence, the Constitution, and Lincoln's Gettysburg Address have been omitted because these documents are readily accessible to students.

(A) *The Mayflower Compact*. Original spelling. Source: Benjamin Perley Poore (ed.), *The Federal and State Constitutions, Colonial Charters and other Organic Laws of the United States* (Washington, D.C., Government Printing Office, 1877). Complete text.

### AGREEMENT BETWEEN THE SETTLERS AT NEW PLYMOUTH.

IN THE NAME OF GOD, AMEN: We, whose names are underwritten, the Loyal Subjects of our dread Sovereign Lord King James, by the Grace of God, of Great Britain, France, and Ireland, King, Defender vancement of the Christian Faith, and the Honour of our King and Country, a Voyage to plant the first Colony in the northern Parts of Virginia; Do by these Presents solemnly and mutually, in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid: And by Virtue hereof do enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Officers, from time to time, as shall be thought most meet and convenient for the general Good of the

Colony; unto which we promise all due Submission and Obedience. IN WITNESS whereof we have hereunto subscribed our names at *Cape-Cod* the eleventh of *November*, in the Reign of our Sovereign Lord King *James*, of *England*, *France*, and *Ireland*, the eighteenth, and of *Scotland*, the fifty-fourth, *Anno Domini*, 1620.

[Signed by 41 individuals]

(B) *The Fundamental Orders of Connecticut*. Original spelling. Source: Benjamin Perley Poore, *op. cit.* Only the first paragraph of this document is reproduced here. The remainder of the document deals almost exclusively with the organization and procedures of government as set forth in the text.

#### FUNDAMENTAL ORDERS OF CONNECTICUT—1638-'39.

FORASMUCH as it hath pleased the Almighty God by the wise disposition of his divine providence so to Order and dispose of things that we the Inhabitants and Residents of Windsor, Hartford and Wethersfield are now inhabiting and dwelling in and vpon the River of Connecticut and the Lands thereunto adjoyning; And well knowing where a people are gathered together the word of God requires that to maintayne the peace and vnion of such a people there should be an orderly and decent Government established according to God, to order and dispose of the affaires of the people at all seasons as occasion shall require; doe therefore associate and conioyne our selves to be as one Publike State or Commonwealth; and doe, for our selues and our Successors and such as shall be adjoynd to vs att any tyme hereafter, enter into Combination and Confederation together, to maintayne and p'seare the liberty and purity of the gospel of our Lord Jesus w<sup>th</sup> we now p'fesse, as also the discipline of the Churches, w<sup>th</sup> according to the truth of the said gospel is now practised amongst vs; As also in o' Ciuell Affaires to be guided and governed according to such Lawes, Rules, Orders and decrees as shall be made, ordered & decreed, as followeth:—

(C) *The Massachusetts Body of Liberties*. Original spelling. Source: *Colonial Laws of Massachusetts*, compiled by Order of the City Council of Boston under the direction of Mr. S. Whitmore, 1889. Text partial.

#### A COPPIE OF THE LIBERTIES OF THE MASSACHUSETTS COLONIE IN NEW ENGLAND.

The free fruition of such liberties Immunities and priueledges as humane, Civillite, and Christianite call for as due to every man in his place and proportion without impeachment and Infringement hath ever bene and ever will be the tranquillitie and Stabilitie of the Churches and Commonwealths. And the demall or deprivall thereof, the disturbance if not the ruine of both.

We hould it therefore our dutie and safetie whilst we are about the further establishing of this Government to collect and expresse all such freedoms as for present we foresee may concerne us, and our posteritie after us, And to ratify them with our sollemne consent, We doe therefore this day religiously and unanimously decree and confirme these following Rites, liberties and priueledges concerning our Churches, and Civil State to be respectively impartiate and inviolably enjoyed and observed throughout our Jurisdiction for ever.

No mans life shall be taken away, no mans honour or good name shall be stayned, no mans person shall be arrested, restrained, banished, dismembred, nor any wayes punished, nor man shall be deprived of his wife or children, no mans goods or estate shall be taken away from him, nor any way indammaged under colour of law or Countenance of Authority, unlessse it be by vertue or equitie of some expresse law of the Country warranting the same, established by a generall Court and sufficiently published, or in case of the defect of a law in any particular case by the word of god. And in Capitall cases, or in cases concerning dismembring or banishment, according to that word to be judged by the Generall Court.

#### *Liberties of Forreiners and Strangers.*

If any people of other Nations professing the true Christian Religion shall flee to us from the Tyranny or oppression of their persecutors, or from fanyne, warres, or the like necessary and compulsarie cause, They shall be entertrayned and succoured amongst us, according to that power and prudence god shall give us.

#### 94. CAPTALL LAWS.

1. If any man after legall conviction shall have or worship any other god, but the lord god, he shall be put to death.

2. If any man or woman be a witch, (that is hath or consulteth with a familiar spirit,) They shall be put to death.

3. If any man shall Blaspheme the name of god, the father, Sonne or Holie ghost, with direct, expresse, presumptuous or high handed blasphemie; or shall curse god in the like manner, he shall be put to death.
4. If any person committ any wilfull murther, which is manslaughter, committed upon premeditated mallice, hatred or Crueltye, not in a mans necessarie and just defence, nor by meere casualtie against his will, he shall be put to death.
5. If any person slayeth an other suddaently in his anger or Crueltye of passion, he shall be put to death.
6. If any person shall slay an other through guile, either by poysoning or other such diuvelish practice, he shall be put to death.
7. If any man or woeman shall lye with any beaste or brute creature by Carnall Copulation, They shall surely be put to death. And the beast shall be staine and buried and not eaten.
8. If any man lyeeth with mankinde as he lyeeth with a woeman, both of them have committed abhominacion, they both shall surely be put to death.
9. If any person committeth Adultery with a married or espoused wife, the Adulterer and Adulteresse shall surely be put to death.
10. If any man stealeth a man or mankinde, he shall surely be put to death.
11. If any man rise up by false witness, wittingly and of purpose to take away any mans life, he shall be put to death.
12. If any man shall conspire and attempt any invasion, insurrection, or publique rebellion against our commonwealth, or shall indevour to surprize any Towne or Townes, fort or forts therein, or shall treacherously and perfidiouslie attempt the alteration and subversion of our frame of polittic or Government fundamentallie, he shall be put to death.

Lastly because our dutie and desire is to do nothing suddainlie which fundamentally concerne us, we decree that these rites and liberties, shall be Audably read and deliberately weighed at every Generall

Court that shall be held, within three yeares next insueing. And such of them as shall not be altered or repealed they shall stand so ratified, That no man shall infringe them without due punishment.

And if any Generall Court within these next three yeares shall faile or forget to reade and consider them as abovesaid. The Governor and Deputy Governor for the time being, and every Assistant present at such Courts shall forfeite 20sh. a man, and every Deputie 10sh. a man for each neglect, which shall be paid out of their proper estate, and not by the Country or the Townes which choose them, and whensever there shall arise any question in any Court amonge the Assistants and Associates thereof about the explanation of these Rites and liberties, The Generall Court onely shall have power to interprett them.

(D) *The Virginia Bill of Rights*. Original spelling. Source: Poore, *op. cit.* Complete text.

#### VIRGINIA BILL OF RIGHTS—1776.

*A declaration of rights made by the representatives of the good people of Virginia, assembled in full and free convention; which rights do pertain to them and their posterity, as the basis and foundation of government.*

SECTION I. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Sec. 2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Sec. 3. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to

reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

Sec. 4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

Sec. 5. That the legislative and executive powers of the State should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

Sec. 6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

Sec. 7. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Sec. 8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

Sec. 9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Sec. 10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or

whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

Sec. 11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

Sec. 12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

Sec. 13. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

Sec. 14. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of the government of Virginia, ought to be erected or established within the limits thereof.

Sec. 15. That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

Sec. 16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other.