

American Legal History – Russell

JESSE ROOT, REPORTS OF CASES ADJUDGED IN THE SUPERIOR COURT AND SUPREME COURT OF ERRORS FROM JULY, A. D. 1789, TO JUNE, A. D. 1793 VOL. I (NEW YORK: THE BANKS LAW PUBLISHING CO., 1899)

INTRODUCTION

On the Principles and End of Government.

The great end of government and laws is human happiness; the rules ought, therefore, to understand and know in what it consists; and the means of producing it.

Happiness consists primarily, in the approbation of a well-informed and enlightened understanding, and the pleasing anticipation of a final euge of well done good and faithful servant. And secondarily, in a conscious enjoyment of freedom, health, peace, and competence. The means of producing it, are those which the author of our nature hath ordained and appointed.

Man, is introduced into being in a state of infancy, both as to his body and his mind; endowed with every power and faculty, in miniature, necessary for the purposes of enjoyment and usefulness, agreeable to his nature, his station and circumstances through all the varying scenes of his existence. Milk from the breast is the proper food for the body in this feeble state; to nourish, increase and strengthen, its various organs; and as its strength and vigor increases, more solid nutriment is to be administered, and the child put to proper exercise; thereby to acquire firmness, activity, and experience, by the application and use of its powers and faculties; and to learn the subordination of its appetites and passions to the restraints and guidance of reason. So the simple ideas, let in by the medium of the senses, is the natural and proper aliment of the infant mind; these are the materials of its growth in knowledge, on which it feeds and operates, as its reasoning faculties grow and expand, by recollecting, comparing, abstracting, compounding, reasoning and judging about them -- this shows that great caution ought to be used, by those, who

have the care of educating children and youth; to prevent improper ideas from being excited, and evil impressions from being made; by impure communications or vicious examples; and to train them up in the ways of knowledge and virtue in childhood; and then the voice of infallibility is; that they will not depart therefrom when they are old.

Wisdom and knowledge, or knowledge and virtue, are by the constitution of our nature, and by the appointment of the author of our being the *sine qua non*, of individual and social happiness. These are necessary qualities to constitute the good citizen, as well, as the good man. Whatever his rank, character, occupation, or business, may be in the community; without these, although possessed of every other advantage, he will be wretched as an individual; and as a member of society will be wanting in cordiality to its true interest.

The means of communicating knowledge and virtue are instruction and example; and the means of acquiring them, are attention, study and diligence. The first of these are in the power of every government to provide; by forming proper establishments, for the diffusion of useful knowledge; for the encouragement of the industrious and enterprising; for the correction of the refractory and dissolute; for the employment of the idle, and for the support of the poor: And those who refuse instruction, or disregard the precepts of wisdom and justice, must be restrained by force of laws, armed with proper sanctions, to prevent and restrain them from injuring others, by their fraud or violence. Diligence and industry in some honest, profession or calling, is the way to health, peace, and competence, and to usefulness in society; these government should encourage and protect, as the principal source of the wealth, strength and respectability of our country.

The Origin of Government and Laws in Connecticut.

Our ancestors, who emigrated from England to America, were possessed of the knowledge of the laws and jurisprudence of that country; but were free from any obligations of subjection to them: The laws of England had no authority over them, to bind their persons; nor were they in any measure applicable to their condition and circumstances here: Nor was it possible they should be; for the principles of their government, as it respected the prerogatives of the crown, the estates, rights and power of the lords, and the tenure of their lands, were derived from the feudal system: The privilege of sending members to parliament, from the towns, cities, and boroughs, to

compose one branch of the legislature, called the house of commons, and an exemption from taxation, only by their consent, was extorted from the kings by the barons, and is confirmed by the great charter of liberties as of his gift and grant. Their other laws were calculated for a great commercial nation. As to their criminal code, it was adapted to a people grown old in the habits of vice, where the grossest enormities and crimes were practised. In every respect therefore their laws were inapplicable to an infant country or state; where the government was in the people; and which had virtue for its principle, and the public good for its object and end; where the tenure of their lands was free and absolute, the objects of trade few, and the commission of crimes rare.

Our ancestors therefore as a free, sovereign, and independent people, very early established a constitution of government by their own authority; which was adapted to their situation and circumstances; and enacted laws for the due and regular administration of justice; for the propagation of knowledge and virtue; for the preservation of the public peace, and for the security and defense of the state against their savage enemies. New Haven did the same with little variation in point of form.

Their common law was derived from the law of nature and of revelation; those rules and maxims of immutable truth and justice, which arise from the eternal fitness of things, which need only to be understood, to be submitted to; as they are themselves the highest authority; together with certain customs and usages, which had been universally assented to and adopted in practice, as reasonable and beneficial.

Connecticut, with the other three New England states, viz. Massachusetts, New Haven and Plymouth, early confederated together for mutual safety and defense; each still retaining its sovereignty, and the government of its own internal police.

In the 14th year of Charles the II. A. D. 1662, Connecticut being desirous of some more potent friend and ally; and proposing to herself, many other advantages, by a connection with the crown of England; as a free trade with an old manufacturing country--also an extinguishment of the claim, which the crown had upon their lands in right of discovery; and her sister state, the Massachusetts having led the way, by forming a similar connection: They caused a constitution of government to be drawn up in form of a charter; and so as to include the colony of New Haven, which Mr. Winthrop their agent did,

agreeable to the spirit and principles of their former government; and presented it to the king in council; of which he approved and granted, ratified and confirmed it. Whereby they obtained from the crown a confirmation and guarantee of all those rights, prerogatives and powers, which they enjoyed and exercised before as a sovereign independent government -- also a grant and confirmation of the title to the lands described in the charter; to hold in free and common socage; with all the islands, waters, rivers, havens, fisheries, quarried, mines, minerals and precious stones, etc. reserving only a fifth part of the gold and silver ore which from time to time might be gotten there; in lieu of all services, duties and demands whatsoever; also the rights and immunities of natural-born subjects of the crown of England; with the privilege of a free trade to all parts of the king's dominions; and protection from his fleets and armies.

By this the general assembly, consisting of the governor and council, composed of twelve assistants, seven of whom made a quorum; and the representatives of the people, not exceeding two from each town; were invested with supreme power of legislation; also of constituting courts, with final jurisdiction, in all civil and criminal causes; of appointing judges and all other officers of government, necessary for the well ordering and governing the affairs of the colony. With this only reservation, that they should make no laws repugnant to the laws of England; this could hardly be called a restraint upon the legislating power. The people swore allegiance to the king and his government -- all commissions and legal processes issued in his majesty's name -- all criminal prosecution were styled pleas of the crown.

The style of enacting statutes was as follows: Be it enacted by the governor and council and representatives in general court assembled, and by the authority of the same -- Thus, although, they became connected with and subordinated to the crown of England, with the rights of subjectship, yet they were no obligation of obedience to the government and laws of the kingdom. For first, they were the laws of the realm of England which could not extend to them who were out of it. Second, they were inapplicable to their situation and circumstances in this country. Third, neither the parliament nor the people of England had any authority over them to control their persons or bind their property, derived either from conquest, compact, or from their being represented, actually or virtually in the legislature of that country; or from any other considerations whatever.

By the late revolution in America all connection with the crown of England was broken off and dissolved; but the constitution of the state remained in all other respects, the same unaltered basis of government, in its principles, regulations and efficient powers which it ever had been from its first formation and establishment. Wherefore, the legislature of this state, upon the declaration of independence being made in congress on the 4th of July, A.D. 1776, made the following abstract and declaration of the rights and privileges of the people of this state; and passed a law for securing the same, which is as follows:--

"The people of this state being by the providence of God free and independent, have the sole and exclusive right of governing themselves, as a free, sovereign and independent state; and having from their ancestor derived, a free and excellent constitution of government, whereby they legislature depends on the free and annual election of the people; they have the best security for the preservation of their civil and religious rights and liberties.

"And forasmuch as the free fruition of such liberties and privileges as humanity, civility and christianity call for, as is due to every man in his place and proportion, without impeachment and infringement, hath ever been and will be the tranquillity and stability of church and commonwealth; and the denial thereof, the disturbance, if not the ruin of both:

"Be it enacted and declared by, etc. That the ancient form of civil government contained in the charter from Charles the II. king of England, and adopted by the people of this state, shall be and remain the civil constitution of this state, under the sole authority of the people thereof, independent of any king or prince whatever. And that this republic is and shall forever be and remain, a free, sovereign, and independent state, by the name of the state of Connecticut."

Nothing more was necessary than to declare that we owed and would bear no further allegiance to the king of Great Britain, nor would exercise government in his name nor under his authority -- that the ancient form of civil government adopted by the people, shall be and remain the civil constitution of this state, under the sole authority of the people, independent of any king or prince.

This constitution of our government, framed by the wisdom of our ancestors about 160 years ago, adapted to their condition and circumstances, was so

constructed as to enable the legislature to accommodate laws to the exigencies of the state, through all the changes it hath undergone; and is nearly coeval with our existence as a community; and analogous to the spirit of which all our laws have been made, from time to time, as cases occurred and the good of the public required.--And can it be said with the least color of truth, that the laws of the state are not adequate to all the purposes of government and of justice.

We need only compare the laws of England with the laws of Connecticut, to be at once convinced of the difference which pervades their whole system. This is manifest in the spirit and principles of the laws, the objects, and in the rules themselves; with respect to the tenure of lands, descents, and who are heirs, and the settlement of insolvent estates, and of other estates testate and intestate, the probate of wills, registering of deeds; the arrangement and jurisdiction of our courts, the forms of civil processes and the mode of trial, the appointing and returning jurors; and with respect to the settlement and support of the poor, the appointment and regulation of sheriffs, gaols and gaolers, the orderly celebration of marriages and granting of divorces; the means of propagating knowledge, and with respect to the punishments annexed to crimes; and in innumerable other instances too tedious to mention; which every lawyer is acquainted with. May the citizens of Connecticut, glory in this system of government and jurisprudence; which, at first, was the product of wisdom, is perfected and matured by long experience; which has carried us safe through many a storm, withstood every attack, for more than a century and a half, is grown venerable by age and the wisdom of its regulations, and the rich profusion of blessings which it confers, and the noblest birthright of themselves and their children; and the highest interest and honor of the state as an independent member of a great nation; the rising empire of America.

These rights and liberties are our own; not holden by the gift of a despot; our government and our rulers are from amongst ourselves; chosen by the free uninfluenced suffrages of enlightened freemen; not to oppress and devour, but to protect, feed, and bless the people, with the benign and energetic influence of their power, (as ministers of God for good to them.) This shows the ignorance of those who are clamorous for a new constitution, and the mistake of those who suppose that the rules of the common law of England are the common law of Connecticut, until altered by a statute.

On the Common Law of Connecticut.

These questions are frequently asked, What is the common law of America? Have we any common law in Connecticut? I know not how I can better resolve these questions than by answering another, (viz.) What is common law? And first,

Common law is the perfection of reason, arising from the nature of God, of man, and of things, and from their relations, dependencies, and connections: It is universal and extends to all men, and to all combinations of men, in every possible situation; and embraces all cases and questions that can possibly arise; it is in itself perfect, clear and certain; it is immutable, and cannot be changed or altered, without altering the nature and relation of things; it is superior to all other laws and regulations, by it they are corrected and controlled; all positive laws are to be construed by it, and wherein they are opposed to it, they are void. It is immemorial, no memory runneth to the contrary of it; it is co-existent with the nature of man, and commensurate with his being; it is most energetic and coercive; for every one who violates its maxims and precepts are sure of feeling the weight of its sanctions.

Nor may we say, who will ascend into heaven to bring it down, or descend into the depths to bring it up, or traverse the Atlantic to import it; it is near us, it is within us, written upon the table of our hearts, in lively and indelible characters; by it we are constantly admonished and reprov'd, and by it we shall finally be judg'd. It is visible in the volume of nature, in all the works and ways of God; its sound is gone forth into all the earth, and there is no people or nation so barbarous, where its language is not understood.

The dignity of its original, the sublimity of its principles, the purity, excellency and perpetuity of its precepts, are most clearly made known and delineated in the book of divine revelation; heaven and earth may pass away and all the systems and works of man sink into oblivion; but not a jot or tittle of this law shall ever fail.

By this we are taught the dignity, the character, the rights and duties of man, his rank and station here and his relation to futurity; that he hath a property in himself, his powers and faculties; in whatever is produced by the application of them; that he is a free agent subject to the control of none, in his opinions and actions but to his God and the laws, to which he is amenable. This teaches us, so to use our own as not to injure the rights of others: This

enables us, to explain the laws, construe contracts and agreements, to distinguish injuries, to determine their degree and the reparation in damages which justice requires. This designates crimes, discovers their aggravations and ill-tendency; and measures out the punishments proper and necessary for restraint and example: This defines the obligations and duties between husbands and wives, parents and children, brothers and sisters, between the rulers and the people, and the people or citizens towards each other: This is the Magna Charta of all our natural and religious rights and liberties, and the only solid basis of our civil constitution and privileges--in short, it supports, pervades and enlightens all the ways of man, to the noblest ends by the happiest means, when and wherever its precepts and instructions are observed and followed -- the usages and customs of men and the decisions of the courts of justice serve to declare and illustrate the principles of this law; but the law exists the same -- nor is this a matter of speculative reasoning merely; but of knowledge and feeling; we know that we have a property in our persons, in our powers and faculties, and in the fruits and effects of our industry, we know that we have a right to think and believe as we choose, to plan and pursue our own affairs and concerns; whatever we judge to be for our advantage, our interest or happiness, provided we do not interfere with any principle of truth or of reason and justice. We know the value of a good name, and the interest we have in it, we know that every man's peace and happiness is his own; nay more, when our persons are assaulted, our lives attacked, our liberties infringed, our reputation scandalized, or our property ravaged from us or spoiled; we feel the injury that is done to us, and by an irrepressible impulse of nature, resent the violation of our rights, and call upon the powerful arm of justice to administer redress. We also know that other men have the same rights, the same sensibility of injuries, when their rights are violated -- this law is therefore evidenced both by the knowledge and the feelings of men. These ought to be the governing principles with all legislators in making of laws, with all judges in construing and executing the laws, and with all citizens in observing and obeying them.

Secondly, another branch of common law is derived from certain usages and customs, universally assented to and adopted in practice by the citizens at large, or by particular classes of men, as the farmers, the merchants, etc. as applicable to their particular business, and to all others of the same description, which are reasonable and beneficial.

These customs or regulations, when thus assented to and adopted in practice, have an influence upon the course of trade and business, and are necessary to be understood and applied in the construction of transactions had and contracts entered into with reference to them: To this end the courts of justice take notice of them a rules of right, and as having the force of laws formed and adopted under the authority of the people.

That these customs and usages must have existed immemorially, and have been compulsory, in order to their being recognized to be law; seems to involve some degree of absurdity -- that is, they must have the compulsory force of laws, before they can be recognized to be laws, when they can have no compulsory force till the powers of government have communicated it to them by declaring them to be laws: That so long as any one living can remember when they began to exist they can be of no force or validity whatever, however universally they may be assented to and adopted in practice; but as soon as this is forgotten and no one remembers their beginning, then and not till then they become a law; this may be necessary in arbitrary governments, but in a free government like ours, I should suppose, the better reason to be this:

That as statutes are positive laws enacted by the authority of the legislature, which consists of the representatives of the people, being duly promulgated, are binding upon all, as all are considered as consenting to them by their representatives: So these unwritten customs and regulations which are reasonable and beneficial, and which have the sanction of universal consent and adoption in practice, amongst the citizens at large or particular classes of them, have the force of laws under the authority of the people, and the courts of justice will recognize and declare them to be such, and to be obligatory upon the citizens as necessary rules of construction and of justice. The reasonableness and utility of their operation, and the universality of their adoption, are the better evidence of their existence and of their having the general consent and approbation, than the circumstance of its being forgotten when they began to exist.

Thirdly, another important source of common law is, the adjudications of the courts of justice and the rules of practice adopted in them. These have been learned by practice only, as we have no treatises upon the subject, and but one small volume of reports containing a period of about two years only, and a treatise lately wrote by Mr. Swift, containing a commentary on the

government and laws of this state. We learn from history, the constitutions of government and the laws of foreign countries, the adjudications and rules of practice adopted in their courts of justice; but this will not give us the knowledge of our own, and although we may seem to have borrowed from them, yet ours is essentially different from all; in that, it is highly improved and ameliorated in its principles and regulations, and simplified in its forms, is adapted to the state of our country, and to the genius of the people, and calculated in an eminent manner to improve the mind by the diffusion of knowledge, and to give effectual security and protection to the persons, rights, liberties and properties of the citizens; and is clothed with an energy, derived from a source, and rendered efficacious by a power, unknown in foreign governments, (viz.) the attachment of the citizens who rejoice in being ruled and governed by its laws, for the blessings it confers. Let us, Americans then, duly appreciate our own government, laws and manners, and be what we profess, an independent nation; and not plume ourselves upon being humble imitators of foreigners, at home and in our own country; but let our manners in all respects be characteristic of the spirit and principles of our independence.

I trust by this time the reader has anticipated in his own mind the answer to the questions, what is the common law of America? and have we any common law in the state of Connecticut? These principles, as applied to the situation and genius of the people, the spirit of our government and laws, the tenure of our lands, and the vast variety of objects, civil and military, ecclesiastical and commercial, in our own state have been exemplified in practice, defined, explained and established by the decisions of the courts, in innumerable instances, although reports of but few of them have been published. To these I think we ought to resort, and not to foreign systems, to lay a foundation, to establish a character upon, and to rear a system of jurisprudence purely American, without any marks of servility to foreign powers or states; at the same time leave ourselves open to derive instruction, and improvement from the observations, discoveries, and experience of the literati, in all countries and nations, respecting jurisprudence and other useful arts and sciences. And indeed, a great part of our legal ideas were originally derived from the laws of England and the civil law, which being duly arranged, have been incorporated into our own system, and adapted to our own situation, and circumstances.

It is of great importance to a country or state that the laws which regulate the intercourse among the citizens, determine property, construe and enforce

contracts, define crimes and their punishments, and provide remedies for the recovery of rights, and for the redress of wrongs, should be just in principle; clear, concise, and unequivocal in expression; uniform, permanent, and consistent in their meaning and application; and energetic and coercive in their operation; extending to and embracing every possible case. This would enable the courts of law to do justice in all cases, and would supersede the necessity of the courts of chancery; and indeed are not the courts of chancery in this state borrowed from a foreign jurisdiction, which grew out of the ignorance and barbarism of the law judges at a certain period in that country, from whence borrowed:-- And would it not be as safe for the people, to invest the courts of law with the power of deciding all questions and of giving relief in all cases according to the rules established in chancery, as it is to trust those same judges as chancellors to do it; those rules might be considered as a part of the law, and the remedy be made much more concise and effectual.

Further, would not this remedy great inconveniences and save much expense to suitors, who are frequently turned round at law, to seek a remedy in chancery; and as often turned round in chancery, because they have an adequate remedy at law; these are serious evils and ought not to be permitted to exist in the jurisprudence of a country, famed for liberty and justice; and which can be remedied, only by the interposition of the legislature.

Statutes are positive laws framed by the wisdom, and enacted by the authority of the legislature, and like the most perfect system of human composition, however well intended and wisely devised, would often, if literally pursued, fail of the good ends proposed, through some ambiguity in the expressions, or some defect in the remedy provided, unless construed and corrected by reason and equity, agreeably to the intent of the legislature, according to the following rules: 1st. By considering what the mischief was which the statute designed to remedy. 2d. The remedy the statute hath or meant to have provided. 3d. The true reason of the remedy. And it is the province of the courts of law to explain and declare what both the written and unwritten laws are, and from their decisions we are to learn the law and its determinate meaning.

On Marriage.

It is necessary and important to the public that the intercourse between the sexes should be regulated by law. Marriage was instituted by God between our first parents in the state of innocency; it results from the nature of man, and

from the end and purposes of his creation: For male and female created he them, and out of the body of the male was the female formed -- and when the Lord God presented to Adam this perfecting stroke of creation, this beautiful image of himself, in ecstasy! he says, this production, bone of my bone, and flesh of my flesh, shall be called female or woman. And by the attracting influence of her graceful mien, her celestial beauty, and the charms of innocency that beamed from her countenance and awakened every social passion, and set in motion all the tender sensibilities of his soul, toward his second self, and their future progeny, which he surveyed in prospect; he felt the irresistible impulse of nature, attaching and uniting him to her in the indissoluble bands of perpetual friendship; therefore, he says, by the inspiration of his Maker, shall a man leave his father and his mother and cleave unto his wife and they shall be one flesh.

That one man should be joined to one woman in a constant society of cohabiting together, is agreeable to the order of nature -- is necessary for the propagation of the species, and for the preservation and education of their offspring; and to render clear and certain the right of succession.

The laws of the state forbid persons to marry each other, who are within certain degrees of kindred, under severe pains and penalties. It forbids all persons to be joined in marriage until their purpose of marrying has been regularly published.

And it ordains that no person, except a magistrate or justice of the peace, within his own county or jurisdiction, or an ordained minister, within the county wherein he dwells, and only during the time he continues settled in the work of the ministry; shall join any persons together in marriage -- nor shall they, unless published as aforesaid, and consent of parents or guardians had, if such there are, on pain of forfeiting £20.

And every person who shall marry a second time, his or her former husband or wife being alive and not divorced, shall be punished as in case of adultery. And the certificate of the magistrate, justice or minister who married them, is evidence of the marriage, although other evidence may be received; and marriages are to be recorded in the records of the town where the parties dwell, and severe punishments are to be inflicted for the crime of adultery.

Divorces are granted in four cases, (viz.) for adultery, fraudulent contract, willful desertion for three years with total neglect of duty, and seven years

absence without being heard of. And the Superior Court are authorized to allow and assign to the wife, if the innocent party, so much of the husband's estate as they shall judge to be right and just, not exceeding one-third part.

On Supporting the Poor.

The poor and indigent in all countries, call not only for private charity, but for support and assistance from the government, and to give scope to the exercise of benevolence, the most noble and godlike virtue; for God taketh the poor under his care, he heareth them when they cry; and the highest character given of any ruler on earth is, that he judgeth the people in righteousness, and the poor with judgment; that he delivereth the needy when they cry, and the poor that hath no helper; that he dealeth bread to the hungry, and delivereth him that is ready to perish.

It is the duty of every government to protect and to provide for the poor; the laws of the state therefore humanely enact and ordain, "that every person who shall become poor and impotent, unable to provide for him or herself, and hath no estate, shall be taken care of and provided for, by such of his or her relations as stand in the line and degree of father or mother, grandfather or grandmother, children or grandchildren, if they are of sufficient ability to do it."

It further ordains that every town shall take care of, provide for and maintain, its own poor. And the law points out particularly, how a right of settlement is acquired in a town, and the poor of each town are to be provided for by the selectmen, at the charge of the town; except where some person is by law bound to support them. Citizens of other states falling into want in any town in this state, may be sent by a constable to where they belong, or be provided for by the selectmen, at the expense of the town in the first instance, to be reimbursed by the person or by the relations, within certain degrees of kindred, if of ability, otherways, by the town, except where warning to depart was given, to the person within three months, in that case the charge is paid by the state. Foreigners who have no settlement in any town in the United States, falling into want, are provided for by the selectmen of the town, and the expense is to be allowed by the governor and council, and paid out of the treasury of the state.

A settlement in a town is gained in various ways. Children born in any place are settled where their parents are -- and a bastard is settled with the mother.

A foreigner who comes and resides in any town gains a settlement by being admitted an inhabitant by a vote of the town, or by consent of the civil authority and selectmen, or by executing some public office. Citizens of other states in the Union, gain a settlement in the same ways as foreigners do, and also by owning a real estate in fee, in their own right, of the value of \$334. Inhabitants of one town in this state gain a settlement in another by the same ways that foreigners do, and also by owning a real estate in their own right in fee, of the value of \$100; or by residing for the term of six years in a town without being chargeable. All rogues, vagabonds, sturdy beggars, and all lewd, idle, dissolute and disorderly persons, are to be taken up by the justices, and sent to the workhouse, and there to be kept to labor.

On Liberty.

Liberty is the crowning excellency of man; freely to choose and practice that which is just, wise and good, and to hate and avoid that which is unjust, unreasonable and evil, is the foundation of virtue, and raises the human character to a near resemblance to the author of all perfection; on the contrary, freely to choose and practice evil, and to refuse and counteract that which is just, right and good, constitutes the deformity, malignity, and ill desert of vice; for on freedom of choosing, depends the merit or demerit of every action.

To deprive a person of liberty, at once depresses his spirits, enervates the springs of industry and noble exertions, and ought never to be permitted in a state, but for crimes. It is taking away a natural right by civil usurpation, and depriving the state of a citizen, every one of whom ought to be at liberty to serve the public; it is a violation of those equal rights which all men are entitled to. By equal rights cannot be understood that all men are to be of equal age, equally wise and learned, and equally rich and honorable; but that every man is equally entitled to enjoy what is his own, whether natural or acquired, and however small, as any other hath to enjoy what is his; and that the same protection and security be given to one as another. This is the equality which reason and the law claims to have extended to all.

The introduction of slavery into this state from the coast of Africa, was at first, from pecuniary motives, without adverting to the principle or policy of the measure. But the legislature has long since seen the mischief, and have been providing laws to counteract and remedy it, as fast as is consistent with safety to the state. And for that purpose in A. D. 1774, they passed a law that no

person thereafter, should bring or import into this state, any Indian, negro or mulatto slave from any place whatever, by land or water, to be left, disposed of, or sold; nor should any person purchase any such slave knowing him to be imported as aforesaid, on pain of forfeiting and paying £100 for each slave, so imported or purchased.

And not long after it was further ordained, that all children born of Indian, negro or mulatto parents, after the 1st day of March, A. D. 1784, should be free at the age of twenty-five years.[Footnote omitted]

And in A. D. 1788, it was further provided by law, that no citizen of this State, should in any way or manner, directly or indirectly, buy or sell, or receive on board his or her vessel, with intent to be transported or imported into this state, any of the inhabitants of any country in Africa, as slaves or servants for term of years, on pain of forfeiting \$167 for every person so received on board; and \$1,667 for every vessel employed as aforesaid: And every insurance upon any vessel fitted out for the intent and employed in the business aforesaid, or upon any slaves or servants shipped on board as aforesaid, should be void.

And that if any person shall kidnap, decoy, or forcibly carry out of this state, any free negro, Indian or mulatto, or any that are entitled to freedom and the age of twenty-five years, being inhabitants and resident within this state, and be thereof convicted, shall forfeit and pay \$334 for each of said persons so kidnapped, etc. one-half to the treasury of this state and the other half to the prosecutor: And the court before whom the conviction is had, shall give such a sum in damages as they shall judge to be reasonable to be recovered by the prosecutor, who is to give bond with surety to pay it over for the benefit of the party injured, or his family.

And that every owner or master of a vessel clearing out for the coast of Africa, or that shall be suspected of being for the slave trade, such suspicion being declared to the naval officer, by some of the citizens on oath, shall give a bond with surety to the treasurer of the state in the sum of £1,000; that none of the natives of Africa, or of any other foreign country, shall be taken on board said ship or vessel during her voyage, with intent to be transported as slaves to any part of the world.

And every owner of any Indian, negro or mulatto child born after the 1st of March, A. D. 1784, shall deliver to the town clerk, within six months after the

birth, his own name, the name, sex and time of the birth of the child, on oath, or forfeit for his neglect \$7 for every month, half to the prosecutor and half to the poor.

In this introduction, I have given a short sketch of the principles and spirit of the civil constitution of government in the state of Connecticut, and of some of the laws enacted under it; without taking into consideration the relation they bear to the federal government, and the laws of the United States, or of the sister states. And indeed, to draw a just picture of our national government, which contains within it, the Constitution and laws of the Union; and the Constitutions and laws of each individual state, which all together, form but one great system, that spreads over the whole, and extends its influence to the minutest parts, so that nothing in its essential principles, can be added, or taken away, without creating a superfluity or a defect; for the federal government without the state governments, and the state governments, without the federal, would be altogether deficient; both are essential to the perfection of the system.

And to illustrate the spirit of freedom, of justice and equality which inspires the whole; the harmony and consistency of all the parts of so complicated a machine; the universality of its influence; the energy of its operation; the mutual dependence each state hath upon the others, and every state upon the Union, and the United States upon the particular states, for support, security and peace, would be a work of vast labor and of high importance to the United States; and would give to the world lessons of wisdom, of justice, and of true liberty and equality, in government, never before known, enjoyed or conceived of among men; much less ever before reduced to system and to practice.

It is most devoutly to be wished that some able hand, possessed of wealth, talents and leisure sufficient for the purpose, would undertake and execute a business so arduous and important for the good of mankind.

It would be an everlasting reproach to a government, to employ all its inventive powers in devising modes of punishment, and its authority in executing them, thereby to cause, through fear, a reluctant obedience from its subjects, and to neglect the proper use of the means it possesses, to instruct, qualify and induce its citizens to obey from choice, from principle, and a cordial good will. One is the government of tyrants, savages and brutes -- the other is the reign of God, of enlightened reason and of love.

Such are the Constitutions and laws of the particular states; and the Constitution and laws of the United States; mutually supporting and supported by each other; adapted to the situation and circumstances of the people and of the country, and calculated to give the greatest possible security, liberty and happiness to the citizens; that if we are wise and faithful to ourselves, and to the government and constituted authorities therein, and firmly resist and repel all foreign influence, which is aiming to divide and disorganize our system, and reduce us to a servile submission of their usurped control -- we shall long continue to be happy and great as a nation, and become the joy of our friends, the envy of our enemies, and the admiration and wonder of the world.

EOD