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Monarchy is Understood in the Holy Scriptures. You Come Across It First in Judges. Then They Become Kings.

David D. Butler
“Monarchy Is Understood in the Holy Scriptures.
You Come Across It First in Judges.
Then They Become Kings.”¹

Reviewed by David D. Butler, Esq.

The Tyrannicide Brief by Geoffrey Robertson

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Introduction

Geoffrey Robertson [hereinafter ‘Robertson’, the subject book is hereinafter ‘Brief’] is a British barrister, head of chambers, and took silk as Queen’s Counsel in 1988. He has published much, including the memorably titled Does Dracula Have AIDS? (1987). Robertson was born 30 September 1946 in Sydney, New South Wales. Wikipedia to the contrary notwithstanding, Robertson is a subject, not a citizen, of both
the Commonwealth of Australia and of the United Kingdom of Great Britain and Northern Ireland. After eating the requisite number of suppers in the Middle Temple, Robertson was made a barrister.

In *Brief*, Robertson attempts to glorify John Cooke, an obscure XVII Century barrister of Grey’s Inn. (pp. 1, 8. The number without "p." will refer to the page in *Brief* henceforth.) John Cooke based his regicidal brief on the then novel notion that the King could in fact do wrong, namely make war against his own people. John Cooke’s brief brought under the Commonwealth (i) Charles I to decollation (beheading) at the Banqueting House, (ii) John Cooke to notoriety, and (iii) to an Irish judgeship. Upon the Restoration of Charles II in 1660, John Cooke’s brief brought him to (iv) death by drawing and quartering at Charing Cross.

Robertson attempts to argue in his tome that John Cooke’s brief against Charles I was "[i]n these circumstances . . . not necessarily unlawful." Robertson takes this stance because the laws regarding regicide, treason, and war were often in daily flux in the days before 30 January 1649. Robertson also attempts to argue that John Cooke was a legal reformer, the first English lawyer to dream schemes which became law in the XX Century or are likely to become law in the XXI Century. One fears he may be right. One prays that he is wrong.
I. Was the Rump’s Court which condemned the King a kangaroo court, or as an Australian barrister might say, a *curia macropus*?

Justice Felix Frankfurter once wrote of a meretricious argument, “This is a horse soon curried.” *Olberding versus Illinois C.R.R. Co., Inc.*, 346 U.S. 338, 340 (1953). Algernon Sydney claimed to have told Oliver Cromwell, “First, the King can be tried by no court; secondly, no man can be tried by this court.” (139)

Robertson is too good a lawyer not to admit that Cromwell’s supposed rejoinder, “I tell you, we will cut off his head with the crown on it,” sidesteps Sydney’s second objection to the court’s jurisdiction in silence. (139).

Nor does Robertson attempt to answer Charles’ argument that he had acted in self-defense. Robertson notes that self-defense was and is normally confined to defense of one’s person, family and one’s home. (168) The XVII Century answer is bone simple: As chief landholder, Charles was defending his person, family, and home.

Robertson sidesteps this argument, too, in silence. A Pilgrim, a Puritan, or a Presbyterian would have stigmatized Robertson’s silence as farcical since so many of their acres came directly from the throne after the dissolution of the lesser monasteries and nunneries in 1536, the greater in 1539. An Anglican, trained in the middle way, would have called Robertson’s silence merely risible. Again, Robertson is as silent on
this point; a point which will take the two men, Charles I and Robertson’s hero, John Cooke, down to their early, earthly graves.

Charles himself objected “I find I am before a power.” (172) But did he stand before a duly constituted authority? Did Charles I stand before a duly constituted Court of Law or was he merely in front of a slow moving drum head kangaroo ‘court’?

Even Robertson cannot bring himself to say that Charles stood before a Court of Law. Again, one believes that Robertson is simply too good a lawyer to try to make this argument.

Robertson believes that the interim administration set up by the allies in Iraq was simply a Rump Parliament. The Iraqi Rump administration appointed a special court which hanged Saddam Hussein. Robertson emphatically disapproves. (363) Herein ends the analysis of Iraqi crime and punishment in the XXI Century for Robertson. (363-4). But these are exactly the conditions in England in the XVII Century under which Robertson attempts to excuse, indeed, to glorify John Cooke. Robertson’s final sentence on the lawfulness of the regicidal “court” scheme gives Robertson’s logos littered game away: “The interesting point is that in these circumstances [the Rump’s] actions were not necessarily unlawful.” (363) This mealy mouthed whine sounds more like a plea in mitigation at sentencing than it sounds like a defense at trial on the issue of guilt or innocence.
We trial lawyers are careful. In our mouths, at least in court, words mean things. Compare, “‘Few ideas are correct ones, and which these are, few men can say. But with words, we govern men.” Benjamin Disraeli, Contarini Fleming: A Romance, p. 90 (Leipzig, 1846) (adapted). Watch carefully my use of italics and examination of text in the ultimate sentence of the paragraph at the core of Robertson’s case for the legality of John Cooke’s and the rump’s drum head regicide kangaroo court:

“The common law rule that Acts of Parliament could not be questioned justified this answer [the lawfulness of the murder of King Charles I by the special ‘court’], as a matter of law. As a matter of reality, this court had not been created by the Parliament, (i) because the Lords had adjourned rather than pass the Ordinance [to try the King] and (ii) because the army had forcibly excluded from the Commons those MPs whose votes would have defeated it. It was not the creation of ‘the Commons assembled in Parliament’ but of the Commons dissembled in Parliament by Colonel Pride. But the Rump was nevertheless a de facto [Robertson’s italics] authority, governing effectively with the support of the army. The interesting point is that in these circumstances its actions were not necessarily unlawful.” (163)

That ultimate sentence is, as the XVII Century would have said, a fardel of qualifying statements.

First, ask yourself what the phrase “[t]he interesting point is that . . .” is doing? It neither advances nor harms Robertson’s argument. Read the sentence without it. The phrase is there simply to distract the reader. It is emphatically not mere lose talk: It is camouflage, a lexical duck blind: Only that and nothing more.
Second, ask yourself what the phrase “. . . in these circumstances . . .” is doing? Read in the context of the whole paragraph it merely says we are on a battlefield, a slow one to be sure. Thus spake Krishna to Arjuna in the field of battle: “[A] man leaves an old garment and puts on one that is new . . .”. The Bhagavad Gita, 2, verse 22, p. 11 (trans. Juan Mascaro, 1962). Robertson’s phrase tells you that Charles I is on a battlefield, not a Courtroom, and now before a drum head regicidal kangaroo court: As Charles I said, “I go now from a corruptible to an incorruptible crown where no disturbance can be.” (200): Only that and nothing more.

Third, ask yourself what the phrase “. . . not necessarily unlawful” is doing? (i) It is a double negative which in English states a positive. The text - though perhaps not Robertson - really means the drum head kangaroo court was necessarily unlawful. (ii) It is a disguised double negative with the “not” and the “unlawful” artfully, cunningly separated by the adverb “necessarily.” It is in an old American phrase the lexical walnut hiding the lexical but non-existent pea: Only that and nothing more.

Lord Chief Justice Gordon Hewart (1870-1943) put this reviewer’s response succinctly in summing up: “The counsel for appellant [in this case, John Cooke] has taken seventeen objections to his conviction. He has argued each one. We have listened to him and we find that each one comes to nothing. Nothing multiplied by seventeen is
still nothing. The appeal is dismissed.” Without doubt, the Rump court which murdered Charles I was a bastard kangaroo court: Only that and nothing more.

Three intriguing and perhaps intertwined subjects are also touched on in Robertson’s book.

II. Are Dynastic Chiefs of State Superior to Presidents?

Are Dynastic Chiefs of State Superior to Lifetime Judges?

Whether viewed through the eye of the health of the subject or even through the eye of the health of the governor, some facts suggest that kings are kinder to themselves, kinder to those whom they rule than are presidents, lifetime or not, or than lifetime judges.

The classic example of lifetime tenure in the modern world is Adolf Hitler. Childless, a vegetarian, a non-smoker, a non-drinker, and the architect of the Volkswagen, Hitler’s commitment to others probably ended when he shot Blondi, his Alsatian bitch, as the Soviet armies were within kilometers of Berlin on 30 April 1945. Juan and Eva Peron, Joseph Stalin, and, among the living – and partly living – Idi Amin, Fidel Castro, and Robert Mugabe inevitably leap into one’s mind and throat, as well. These men and women held and still hold limitless power. They hold power unlimited
even by the well being of their own dynasties. In the case of the judges, their routine
disguise in robes, often wigs, and in the United States, lifetime tenure, protects them
from accountability.

Even short term service as President whilst simultaneously serving as Chief of
State seems vampire-like to suck physical and mental health from the President and
those he both governs and reigns over. Woodrow Wilson came home from Versailles
perhaps 85 per cent mad. Franklin Roosevelt was born in 1880 and died in 1945 at least
25 per cent mad. Lyndon Johnson died at 64, young for a man entitled to free treatment
at Walter Reed hospital. Winston Churchill was born in 1874. Churchill outlived
Roosevelt by a quarter of a century to die in 1965, eccentric, to be sure, but emphatically
not mad.

America’s Supreme Court Justices, all United States Circuit Court Judges, all
United States District Court Judges, and the Justices of the state of Rhode Island and
Providence Plantations, each – like the Holy Roman Emperors and the Pope – reign for
life. Modern medicine gives each man or woman who ascends to the giddy eminence
of this handful of American judicial appointments a good chance of surviving to
become a superannuated wretch, crazed with age and crippled with infirmities, yet still
with the power to hand down decisions. “[V]irtually every other democratic nation

It is better to have (i) a dynastic king responsible for and to his genetic tribe, (ii) a premier serving at the pleasure of the voters, (iii) overseen by judges limited by term or age limits, preferably by both. This is so for the health (salus) of both (i) the ruled and (ii) the rulers. As Churchill said late in life, “A battle is won, and crowds cheer for the King. A battle is lost: The Government falls.” Peter Stansky (Ed.), Churchill: A Profile (1973).

Consider the continuity and wisdom overall of the royal House of Orange, at the time of Charlemagne rulers of the city of Orange on the Empire bank of the Rhone, now the Dutch royal family. Consider the House of Windsor. Consider even the descendants of Jean Baptiste Bernadotte and Desiree Bernadotte, now reigning in Belgium, Denmark, Norway, and Sweden. Ask yourself, are these men and women wiser and more accountable than lifetime American Judges or World Court anonymities? Consider and envy, as this reviewer does, Spain, where reign again, after five interegna, the Bourbons. Thou art weighed in the balances, Presidents and Judges, and thou art found wanting.

[Finally], time horizons have shrunk. If you were an old blue blood, you traced your lineage back centuries, and there was a decent chance that you’d hand your company down to members of your clan. That subtly encouraged long-term thinking.

Now people respond to ever-faster performance criteria – daily stock prices or tracking polls. This perversely encourages reckless behavior. To leave a mark in a fast, competitive world, leaders seek to hit grandiose home runs. . . .

There’s less emphasis on steady, gradual change and more emphasis on the big swing. This produces more spectacular failures and more uncertainty. Many Americans, not caught up in the romance of this sort of heroism, are terrified.

III. Watchman, What of the Night?

Watchman, What of the Night?

Crime and punishment in the XVII Century were both brutal. John Cooke was hung, cut down living, emasculated, then the executioner ripped out his lower bowels and burnt them before his still living eyes. (337-8) Charles I was merely beheaded.

Both men, however, were allowed contact with their children. Charles met with two of his children, Elizabeth, thirteen, and Henry, eight, the night before his decolation. (197) John Cooke wrote a short, and therefore, affecting letter to his toddler daughter who oddly, to our XXI Century ears, was named Freelove. (333-4)
Sometimes, however, the living cry out for living blood. There was in one’s own memory in America little media criticism of Timothy McVeigh’s execution. To this reviewer, there are three positions on the death penalty for high crimes which are in a people’s hands. They are ranked, worst to best. The best comes from Charles I’s royal cousin, Franz Joseph, Emperor of Austria, King of Hungary, and, inter alia, King of both Jerusalem and Ilyaria:

First, one may have a bright-line rule against all executions, as in the European and Commonwealth courts before which Robertson practices. This, of course, made freeing the Lockerbie mass murderer inevitable. Libya has too much oil, the United Kingdom of Great Britain and Northern Ireland has too many Islamic subjects and residents for it to be otherwise.

Second, one may sometimes execute, sometimes not. This, of course, makes possible both (i) executing Timothy McVeigh and (ii) freeing John W. Hinkley, Sara Jane Moore, and, on 14 August 2009, Lynette ‘Squeeky’ Frome. This if it pleases, “nuanced,” execution, also makes inevitable the eventual freeing of the twentieth hijacker, Zacarias Moussaoui, who announced to the jury who sentenced him to life imprisonment on the basis of his ludicrous self-serving tale of child abuse, “America, you lose.” Mark Steyn, America Alone: The End of the World as We Know It, pp. 160-1 (2006). Naturally, this failure to execute makes freeing Moussaoui inevitable. The
Nation of Islam will protect him on the inside. Then America will have too little oil and far too many Islamic citizens and residents for us to keep him locked up. Moussaoui will go home to a royal welcome. The result will be similar with the Christmas, 2009, Detroit would-be-Fruit-of-the-Loom-airline-bomber. Then the so-called American Century will be seen to be ended. Some people both at home and abroad will be happy and dance, like the crowd preparing to welcome the aliens on the Los Angeles skyscraper roof in the film Independence Day. Some people will be sad and some manically overjoyed, knowing that this is both (1) the decline and fall of the American empire and (2) the inception of a new Dark Ages. Compare

It is not Europe alone that is falling
Into blood and fire.
Decline and fall have been dancing in all men's souls
For a long while.

Robinson Jeffers, Selected Poems, “For Una,” 68 (1965). Then (3) there will arise generations which knew not Joseph. Compare the last words the ingenious gentleman, Don Quixote de la Mancha, spake before completing his will, “Do not seek this year’s nestlings in last year’s nests.”

Third, one may sometimes execute, but with a surgical precision. In February of 1853, the Austro-Hungarian Emperor Francis Joseph was walking in Vienna with his
aide-de-camp, Count Maximilian O'Donnell. A young, male anarchist ran up behind the Emperor-King and thrust a long knife into Francis Joseph's gold collar which did not entirely deflect the blow. “[W]hen the young Hungarian was condemned to death, there was no reprieve and he was hanged on Simmering Heath. Characteristically, the Emperor granted a small pension to his would-be assassin’s mother.” Alan Palmer, *Twilight of the Habsburgs: The Life and Times of Emperor Francis Joseph*, pp. 66 - 67 (1994) (italics supplied).

In an old case – for America – Justice Stephen Field wrote that “[W]e cannot shut our eyes to matters of public notoriety and general cognizance. When we take our seats on the bench, we are not struck with blindness, and forbidden to know as judges what we see as men . . .”. *Ho Ah Kow versus Nunan*, 12 Fed.Cas. 252, at 253 (C.C.D. Cal., 1879). Here, the intertwined lives and deaths of John Cooke and Charles I teach us (i) “When you strike at a king, you must kill him”5 and (ii) even the manifestly guilty—like John Cooke—must die cleanly, but some manifestly guilty must die.

IV. Was Charles I the First Saint of the Western Hemisphere?

“[T]he dead King was acclaimed widely as a martyr. From 1662 to 1859 a special service for 30 Jan., the day of his death was annexed to the B[ook of] C[ommon]
P[ray]er by royal mandate, and the anniversary was required to be kept as a day of national fasting and humiliation.” *The Oxford Dictionary of the Christian Church*, “Charles I,” p. 269 (2nd ed., 1974).

The murdered King “soon became in the popular veneration a martyr and a saint. His fate was compared with the Crucifixion . . . . Handkerchiefs dipped in his blood wrought ‘miracles’ . . . . At the Restoration [in May, 1660] the anniversary of his death was ordered to be kept as a day of fasting and humiliation, and the service appointed for use on the occasion was only removed from the prayer-book in 1859.” *Encyclopaedia Britannica*, “Charles I” (11th ed., 1910 -1911).^5

On October 11, 1660, the General Assembly of Commonwealth of Virginia promptly adopted Act XVII: “Whereas our late surrender and submission to that execrable power that soe bloodily massacred the late Charles the first of ever blessed and glorious memory, . . . [b]ee it enacted that the 30th day of January the day the said King was beheaded be annually solemnized with fasting and prayers that our sorrowes may expiate our crime and our teares wash away our guilt.” K. R. Sanders, *Westover Church and its Environs*, (1937).

The Church of England, though as inexorable as Virginia as to the sanctity of Charles I, was slower to act. By Royal Warrant, the following collect along with a complete service was added to the 1662 Book of Common Prayer: “Blessed Lord, in
whose sight the death of thy saints is precious; We magnifie thy name for the abundant
grace bestowed upon our late Martyred Soveraign; by which he was enable so
cheerfully to follow the steps of his blessed Master and Saviour, in a constant meek
suffering of all barbarous indignities, and at the last resisting unto bloud; and even
then, according to the same pattern, praying for his murderers. Let his memory, O
Lord, be ever blessed among us, that we may follow the example of his patience and,
and charity. And grant, that this our Land may be freed from the vengeance of his
bloud, and thy mercy glorified in the forgiveness of our sins: and all for Jesus Christ his
sake.” www.eskimo.com/-lhowell/bcp1662state.

New World saints were born before Charles I and died before Charles I. Nevertheless, by the XVII Century, the Roman Catholic practice of canonization had become bureaucratic and, inevitably, slow moving. Saint Rose of Lima, the first Roman Catholic saint of North and South America, died in 1617. She was canonized in 1671, almost a decade after the service for Charles I was annexed to the Anglican prayer book in England, Scotland, Wales, and Ireland and ten years after the Commonwealth of Virginia appointed January 30 as Saint. Charles Day. D. Farmer, Oxford Dictionary of Saints, “Rose of Lima,” p. 433 (4th ed., 1997). Saint Elizabeth Seton, the first Roman Catholic saint born in the United States of America, “was beatified by John XXIII and canonized by Paul VI in 1975.” Id., “Seton, Elizabeth,” p. 463.
In North America, the colony of Virginia did not remove the Royal Arms from the colonial capitol during the duration of the Commonwealth. English contemporaries, counting England, Scotland, Ireland, and France as the first four kingdoms, called Virginia “the Fifth Kingdom.” Encyclopaedia Britannica, “Virginia,” (11th ed., 1910 – 1911). In Latin, the phrase was a motto of the Virginia Company: En Dat Virginia Quintum. Americans call Virginia “the Mother of American presidents”:

[Once upon a time] the British monarchy existed in Virginia only. When Charles the Second was a fugitive, decrees were issued in his name in this most loyal of all the colonies, and Colonel Richard Lee was dispatched to Holland to invite him to set up his throne there. Later, the king wore at his coronation a robe that was woven of pure Virginia silk.


All this is so because the Fifth Kingdom of Virginia is the Daughter of English Kings, Queens, and, at least, one English Saint, King Charles I, Martyr. This reviewer reveres Charles I, in part, for his grace under pressure, elegant personal courage, and because he is the proto-martyr of the innumerable men and women in the XX Century and beyond murdered by kangaroo courts (in the decent obscurity of a learned tongue, curia macropus) engineered by both the Right and, at least numerically more so, the Left. See, e.g. Wikipedia, “Society of King Charles the Martyr;” www.skcm.usa.org. The Fifth
Kingdom of Virginia recognized Charles as a Saint, given the difficulty of the Atlantic crossing and the speed of oxen and horse, almost instantly after the Restoration.

Conclusion

Robertson’s Brief is a 429-page book. It has a serious core until page 163 when the author, though dissembling, admits that Charles I died at the hands of a slow acting drum head court disguised as a legal trial. From that collapse on, Brief meanders through the coils of the author’s own projection back to the XVII Century of things he desires to see take place in the latter part of the XXI Century.

Robertson’s book contains one odd error of fact to an American lawyer. Robertson identifies the source of the quote that the constitution is not a suicide pact as Oliver Wendell Holmes. Brief, page 139. In fact, the idea was expressed by Robert H. Jackson, chief Nuremberg prosecutor, in Terminello versus Chicago, 337 U.S. 1, at 37 (1949) (“There is danger that, if the Court does not temper its doctrinaire logic with a little practical wisdom, it will convert the constitutional Bill of Rights into a suicide pact.”).

Robertson’s tome also contains one error of tone to anyone interested in the progress, evolution, or merely change in earthly human rights. Buried deep within the...
final pages of notes is the information that Freelove Cooke “made a happy and fruitful life” in the 1680s on Antigua in the Caribbean. (413, note 23)

Given that Freelove Cooke was now married to John Gunthorpe, the island’s provost-marshal, later a major and member of Antigua’s parliament (id.), she presumptively owned slaves. This sudden silence on Robertson’s part makes an odd contrast with notions Robertson presupposes in the rest of his book to be universal. One would think it intuitive that Antigua, then a British possession and now a member of the Commonwealth, would have records of wills similar to those in Doctors’ Commons in London.

Certainly, Robertson has the Commonwealth connections to find out if a will to, from, or both regarding Freelove Gunthorpe (née Cooke) exists today and, if so, what property it passed. Nevertheless, Robertson lets this issue, too, pass in silence. One would bet, however, 100 guineas to £100 that Robertson knows the answer to the questions of whether such a will exists and, if so, what property passed by virtue of it.

One recommends this book to any lawyer or a layman with an overriding interest in the King’s drum head trial and murder. One recommends, however, borrowing it through a library directly or through interlibrary loan. One also recommends reading Robertson’s arguments cum grano salis.
Finally, one hears, too frequently, all too frequently, a saying about marriage, divorce, and legislation: "The devil is in the details." The Devils, whether they be Heimito von Doderer's *Die Damonen*, Fyodor Dostoyevky's *Raskolniki*, or some as-yet unknown native Lee Harvey Oswald, Timothy McVeigh, or Detroit’s-Christmas-would-be-Fruit-of-the-Loom-Bomber which are in this Article lurk in footnotes three and four.

Footnotes


2 See J. Harvey, *Volkswagen Beetle*, 13 – 17 (Haynes Enthusiast Guide, 2008); C. Fenyvesi, *Splendor in Exile: The Ex-Majesties of Europe*, 76, (Adolph Hitler during a forty-five minute audience explained to Louis Ferdinand, second son of Kaiser Wilhelm II, then working for Ford, that while he, Hitler, as a poor art student in Vienna, hated everyone who drove a luxurious automobile, he latter arrived at the conclusion that
“‘instead of being a class-dividing element,’” the motor car “‘can be an instrument for uniting class differences just as it has done in America, thanks to Mr. Ford’s genius.’”

This reviewer’s initial automobile was a nicely broken in 1963 Volkswagen beetle bought at 92,000 miles for $400.00, a hundred dollars a wheel. Compare the Gypsy’s initial offer to Mr. Toad for the barge woman’s horse which Mr. Toad had borrowed: “‘Shilling a leg.’” Kenneth Grahame, 232 Wind in the Willows (1917).

3 Hinkley’s crime took “more than minimal planning;” He had stalked both Presidents Carter and Reagan. His shooting was accurate. Hinkley’s bullets were primed to explode upon impact. He had carried his pistol across multiple state lines into the District of Columbia. In a species of reverse O. J. Simpson failure, the prosecutor simply failed to move for a change of venue. Hinkley was tried by and acquitted by a rogue District of Columbia jury of eleven Blacks and one White on the ludicrous basis of insanity. Hinkley has since been freed from St. Elizabeth’s Hospital, where, inter alia, Ezra Pound was confined (which read, held court), on the basis of medical evidence suggesting that he was no longer at risk to re-offend.

The prosecutors in the O. J. Simpson double murder case agreed to move the trial to Brentwood from Santa Monica where the murders took place. Again, a rogue jury, this time of nine Blacks, two Whites, and one Latino, acquitted Simpson on the basis of general denial.
Moore and Frome, by contrast, were convicted of attempted assassination by evidence beyond a reasonable doubt. Who can read the bird entrails of what the United States Sentencing Commission was thinking when it freed this pair?

Nevertheless, one thing is certain: The Sentencing Commission took its collective eyes off the ball of general deterrence. Moore and Frome, in separate incidents, attempted to shoot the uncharismatic Gerald Ford. Hinkley, in sharp contrast, shot the charismatic Ronald Reagan and, not incidentally, three other men. Let us, as they say in academia, deconstruct the collective notions of the Sentencing Commission:

A. Jobs for the Boys

Perhaps the Sentencing Commission, at some subconscious level, simply wanted to make future crimes work for the system and, hence, make work for itself. This reviewer once asked an Irish friend what the policy of Ireland’s Conservatives was. The Irishman replied, “Jobs for the boys.” Then this reviewer asked the Irishman, “What about Labour?” The Irishman laughed and said, “Oh, aye, jobs for their boys.” Compare, “Primitive people have always been strongly drawn toward the worship of their principal sources of food supply . . . .” G. F. Will & Hyde, Corn Among the Indians of the Upper Missouri, 198 (1964).
B. Once Victim, Always Victim. That’s the Law.

But, of course, the prosecutors each selected their *forii*. Perhaps the prospect of guilty verdicts created no little ambivalence in the several prosecutor’s hearts. This ambivalence grew out of, perhaps, the identity of the victims. The writer Elizabeth Kostova begins her fine novel, *The Historian*, p. ix (2005) with this note to the reader: “As a historian, I have learned that, in fact, not everyone who reaches back into history can survive it. And it is not only reaching back that endangers us; sometimes history itself reaches inexorably forward with its shadowy claw.”

Perhaps the identity of the victims shrouds the answer. Obviously, this reviewer was not inside any prosecutor’s, juror’s, or judge’s, mind at the time the crimes went down in the street, and then in the jury room, and on the bench. And even had this reviewer had been inside any participant’s head perpetrating these acts of rank injustice, the passage of time and the desire cut in the public, *bien pensant*, and history’s eyes, *la bella figura*, would make rationalization axiomatic and automatic.

Nevertheless, this reviewer does remember that no love was lost between Black women and Nichole Brown Simpson, O. J. Simpson’s White wife, and one of two of O. J. Simpson’s twin White murder victims. Certainly, too, America’s clerisy, from the perches of their giddy eminence at the editorial offices of the *New York Times* and the *Washington Post*, poured vitriolic contempt on Ronald Reagan as did District of
Columbia residents both before and after Ronald Reagan drove Jimmy Carter from the White House, bent double beneath the whip of an enraged general electorate.

As to the players’ motivation, long ago and far away, it is best to let the noted English polymath, humorist, and prolific author simply state the facts surrounding one such twisted legal result: “The trial O. J. Simpson began in January 1995. It was originally to have been held in affluent Santa Monica [the scene, after all, of the double murders] but the prosecution agreed to switch it to downtown Los Angeles. This was a grave mistake which immediately handed the initiative to the defense since the area was still scarred by the 1992 [Rodney King] riots and its residents held a deep-seated resentment against the police. Thus downtown jurors were always more likely to view police testimony with suspicion, as the prosecution would find to their cost.” Geoff Tibballs, *Legal Blunders*, 14 – 15 (2000) (emphasis supplied).

C. Only That and Nothing More

To echo, once more Edgar Allen Poe, with feeling, “Only that and nothing more.”
Bernard Berenson recalls meeting in post-war Europe an elderly American couple, “He hale and hearty at sixty-four with the face of an angel; and she a few years younger, keeping a beautiful figure.” “Most striking about them their goodness, their innocence . . . . [M]any millions of such Americans exist, meaning harm to nobody, believing or more than believing, taking it as a matter of course, that everybody means well be everybody else, therefore bamboozleable, and hard to debamboozle.” *Sunset and Twilight: From the Diaries of 1947 – 1958*, 271 (1963) (emphasis supplied).

This phrase comes at least through Justice Oliver W. Holmes. Ralph W. Emerson, quoted in Max Lerner, *The Mind and Faith of Justice Holmes* (1943).

Both the service commemorating the Restoration in 1660 and the service commemorating the Martyrdom of Charles I were torn out of the 1662 prayer book by Queen Victoria’s Royal Warrant dated 17 January 1859. [www.eskimo.com/-lhowell/bcp1662/state](http://www.eskimo.com/-lhowell/bcp1662/state). The motive for this desecration is not clear to this reviewer. Possibly it was an attempt to outflank the Oxford Movement in the Church of England, which was beginning its ultimately successful long march through the law courts. At the time the two services were ripped from the prayer book, the current English Royal Family had reigned through George I, George II, George III, George IV, William IV, and twenty-two years of Victoria. Thus, the current Royal Family were safe from any but a theoretical threat by a Stuart claimant or, if it pleases, pretender. The 29th day of May,
2010, marked the 350th Anniversary of the Restoration of Charles II. Celebrations on both sides of the Atlantic occurred. Readers desiring additional information should consult www.skcm.usa.org.

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Mr. Butler earned a B.A. degree at San Francisco State (history & humanities, 1973) and a J.D. from Stanford and Willamette Universities (1978). For two years between undergraduate and law school, Mr. Butler operated the 30 Stockton trolley or curb liner coach for the San Francisco Municipal Railroad through the Financial, Chinatown, Pacific Heights, Cow Hollow, and the Marina districts.

Mr. Butler is proud of the following significant cases: Iowa Bankers’ Association versus Iowa Credit Union Dept., 355 N.W.2d 549 (Iowa, 1983) (Iowa Code Chapter 17A administrative briefing and oral argument before Iowa Joint Administrative Rules Committee and nisi prius briefing and oral argument of 17A challenge to administrative rules before Judge Louis A. Lavorato (credit unions unable to issue share drafts, the functional
equivalent of bank checks absent specific legislative permission, decision affirmed on appeal to the Iowa State Supreme Court; United States of America versus Katherine Lynn Dugan, Southern District of Iowa Criminal Number 88-56 (1988) (battered woman syndrome) (bank robbery case dismissed against wheelwoman on eve of jury trial when medical evidence shows earlier gunshot abuse against wheelwoman on part of triggerman); and State of Iowa versus Iowa District Court for Polk County, 464 N.W.2d 244 (en banc) ((Iowa, 1990) (post conviction relief) (unanimous state supreme court grants new trial to public school bus driver convicted of sexual abuse of Down’s Syndrome passenger child because of denial of face-to-face right of in-court confrontation; county attorney elects not to re-try client; client freed for Iowa State Penitentiary at Fort Madison).

Mr. Butler notes that this Article was written September, 2009, at Archangeli’s Grocery and at Coastano, both in Pescadero, San Mateo County, California.