

another famous document of self-government, the *Mayflower Compact*, begins as follows:

IN The Name of God, Amen. We, whose names are underwritten, . . . 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, . . .

The compact sets forth some general principles that are to constitute a government in the colony, which those of that colony are to be under and follow. As to the authority by which this is established, it states, "we whose names are underwritten."

In 1692, the Massachusetts Bay province enacted a law for the punishing of various capital laws, which included idolatry, witchcraft, blasphemy, high treason, murder, poisoning, sodomy, bestiality, rape, arson, and piracy. The act, as found in the original statute book, reads as follows:

CHAPTER 19.

AN ACT FOR THE PUNISHING OF CAPITAL OFFENDERS.

Be it ordained and enacted by the Governor, Council and Representatives in General Court assembled, and by the authority of the same,

That all and every of the crimes and offenses in this present act hereafter mentioned be and hereby are declared to be felony; and every person or persons committing any of the said crimes or offenses, being thereof legally convicted, shall be adjudged to suffer the pains of death.¹⁹

The enacting clause appeared right after the title, but before the body of the law. All laws from the Assembly were prefaced with such an enacting clause. Thus every person reading them knew from what source the laws came and by what authority they existed. Likewise, an

act regulating marriages in the colony of Carolina in 1715, had this enacting style:

Be it Enacted by the Plantation & Lords Proprietors of Carolina, by & with the consent of this present Grand Assembly and the authority thereof, that any two persons desirous to be joined together in the Holy Estate of Matrimony, . . .²⁰

In the *Pennsylvania Charter of Privileges* (1701), the document starts out by declaring the source and authority for the provisions of the charter: "William Penn, Proprietary and Governor of the Province of Pennsylvania and Territories."²¹ Nearly all the various colonial assemblies, proprietors, governors, and councils which established laws, charters and governments declared their authority in their decrees.

At the time of the American Revolution the colonists, regarding themselves as free and independent, formed governments for themselves. So, just like the *Mayflower Compact*, we also find some statement of authority for the people to ordain a government in a type of enacting clause, as used in the U.S. Constitution: "We the people of the United States." The same concept is found in every state constitution: "We, therefore, the representatives of the people, . . . do ordain and declare," (Const. of Georgia, 1777); or, "We, the people of the State of Alabama, in order to establish justice. . ." (Const. of Alabama, 1901).

All state constitutions now start with an enacting statement that identifies the authority for their existence. Consequently, the framers of these constitutions required that the laws of the legislature also be prefaced with an enacting clause, to show the authority for its laws, as has been done throughout history:

18 *Documents of American History*, edited by Henry S. Commager, Appleton, New York, 1949, p. 13.

19 *The Acts and Resolves of the Province of the Massachusetts Bay*, Wright & Potter, Boston, 1869, vol. I, p. 555.

20 *The State Records of North Carolina*, edited by Walter Clark, Nash Brothers, Goldsboro, 1904, vol. XXIII, p. 1.

21 Commager, op. cit., p. 40.