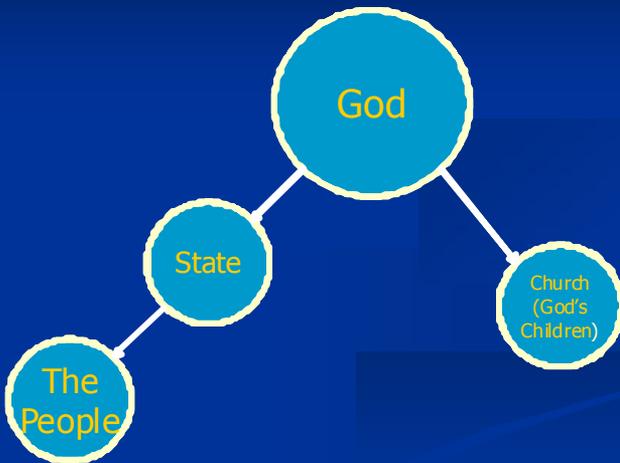


Quick Reference Guide for Churches Seeking To Organize According To New Testament Guidelines

God's Relationship to Church and State—Separation of Church and State as laid out in the Bible



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For His Glory

**Church and State Law Ministry
of
Old Paths Baptist Church
Pastor Jason Cooley
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Published by Kerygma Publishing Company
P.O. Box 1346; Austin TX 78767-1346
Printed in the United States of America

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The eleven “Marks of a First Amendment Church”:

“1. Its Head and Founder—CHRIST. He is the lawgiver; the Church is only the executive. (Matt. 16:18; Col. 1:18.)

“2. Its only rule of faith and practice—THE BIBLE. (II Tim. 3:15-17.)

“3. Its name—‘CHURCH,’ ‘CHURCHES.’ (Matt. 16:18; Rev. 22:16.)

“4. Its polity—CONGREGATIONAL—all members equal. (Matt. 20:24-28; Matt. 23:5-12.)

“5. Its members—only saved people. (Eph 2:21-22; I Peter 2:5.)

“6. Its ordinances—BELIEVER’S BAPTISM, FOLLOWED BY THE LORD’S SUPPER. (Matt. 28:19-20.)

“7. Its officers—PASTORS AND DEACONS. (I Tim. 3:1-16.)

“8. Its work—getting folks saved, baptizing them (with a baptism that meets all the requirements of God’s Word), teaching them (‘to observe all things whatsoever I have commanded you’). (Matt. 28:16-20.)

“9. Its financial plan—‘Even so (TITHES and OFFERINGS) hath the Lord ordained that they which preach the gospel should live of the gospel.’ (I Cor. 9:14.)

“10. Its weapons of warfare—spiritual, not carnal. (II Cor. 10:4; Eph. 6:10-20.)

“11. Its independence—separation of Church and State. (Matt. 22:21.)”

J. M. Carroll, *The Trail of Blood*, (Distributed by Ashland Avenue Baptist Church, 163 N. Ashland Avenue, Lexington KY 40502, 606-266-4341), pp. 4-5.

Quick Reference Guide for Churches Seeking To Organize According To New Testament Guidelines

This pamphlet is meant to help members of churches who already have a working knowledge of the relevant biblical, legal, and historical principles, facts, and information concerning the issue of separation of church and state. The pamphlet is designed for the reader who understands (1) the basic facts about incorporation, Internal Revenue Code § 501(c)(3) (“501(c)(3)”) status for churches, and other devices which make a church a legal entity with an additional head other than the Lord Jesus Christ; (2) the biblical principles concerning the church; and (3) the basics of a pure trust (a trust through which a pastor/trustee holds and administers property for the benefit of the true owner, in this case the Lord Jesus Christ) and the distinctions between this type trust and other trusts such as business trusts, charitable trusts, etc. For complete and detailed information on the matters above, one can begin his study by referring to the resources of Old Paths Baptist Church at the church website (<http://oldpathsbaptistchurch.org/church-and-state/>) and at “Separation of Church and State Law” blog (jeraldfinney.wordpress.com).

Zachary S. Gray of Gibbs & Craze correctly stated: “To free the Lord’s church completely from government entanglement, the church needs to divest itself of all of its property, both real and personal. It should buy or hold nothing in the name of the church. It should not have a bank account of any type.” (Letter from Gibbs, Craze Co., L.P.A. to Dr. Greg Dixon, dated May 8, 1998). This pamphlet, in a nutshell, explains

how a church can operate completely free from government entanglement.

All Americans, including believers, are citizens of both their state and their nation. As such, they are legal entities. They can function legally, sue, be sued and charged with crime.

A lost person is born of the flesh only, and a believer is born of flesh and of spirit (Jn. 3:3-8). Every believer individually is a temple of God (1 Co. 3:16, 6:19). A lost person is born of the flesh only and a temporal citizen of the civil government in which he resides; a believer, unlike a lost person, is not only a citizen in the flesh of his civil government, but also, as a born again spiritual entity, an eternal citizen of heaven.

A believer is subject to God first and then to civil government (See, e.g., Ac. 5:29, Ro. 12, 13). The highest law for the believer is the Bible. Although tyrannical civil government can persecute or kill the body of a believer, it cannot destroy the spirit and soul of a believer. Therefore, believers are instructed to “fear him which can destroy both body and soul in hell,” not them that kill the body (Mt. 10:28, Lu. 12:4).

Some believers are, and all believers should be, members of a local, autonomous church which is organized and modeled according to the principles of the New Testament. Believers within such a church are spiritual stones and “are built up a spiritual house, an holy priesthood, to offer up spiritual sacrifices, acceptable to God by Jesus Christ” who is the “chief corner stone” of that church (1 Pe. 2:4-6). Together, the members of such a church are a spiritual body (Ro. 12:4-5, 1 Co. 12:12-27, Ep. 4:4, 15-16).

Christ is the only Head of a church organized according to New Testament Church doctrine. Such a church remains a spiritual body only (Ep. 1:22-23, 4:15-16, Col. 2:19). Such a church is not subject to civil government in any way since she is not a legal entity. Although a tyrannical civil government can take or destroy property and money, it cannot destroy a church who is a spiritual entity only.

A church who operates according to New Testament guidelines is autonomous and Christ is her only Head. Amongst other things, she is a spiritual, not a legal, entity. She owns no property, real or personal. In America since the ratification of the First Amendment in 1791, her members can, with civil government protection, meet at a fixed location, carry children and/or others to church meetings and events in buses and/or other vehicles, support missionaries, provide for her pastor, have regular services, do street preaching and door to door evangelism, etc. Such a church can do everything that a church which is also a legal entity can do plus much more. A church which has become a legal entity by placing herself partially under the state through incorporation, unincorporated association status, charitable trust status, 28 United States Code § 501(c)(3) status, etc. will be referred to as a “Fourteenth Amendment Church” in this pamphlet.

A church organized according to the principles of the New Testament under the Declaration of Trust keeps her First Amendment protections since she is not a legal entity. A church organized as a corporation or other type of legal entity loses many of her First Amendment protections, and for many purposes now falls under the Fourteenth Amendment

as to legal matters. From henceforth in this pamphlet, a church organized under the Declaration of Trust will be referred to as a “First Amendment Church.”

As long as she adheres to other New Testament principles, a church which remains a purely spiritual entity, a First Amendment Church, unlike a Fourteenth Amendment Church, can be godly without denying the power of God. Unlike a Fourteenth Amendment Church, who loses many of her First Amendment protections, she also keeps all her First Amendment protections. Numerous churches who have chosen to remain or to become purely spiritual entities by holding no property or money prove the conclusions stated above. They have done this through a non-legal entity called a trust which is created by a “Declaration of Trust.” This method comports with biblical church doctrine, and is also legal. The author of this pamphlet, Jerald Finney, explains all this and much more in great detail in his materials mentioned above. Many churches, including Old Paths Baptist Church of Northfield, Minnesota, under the leadership of Pastor Jason Cooley, are now utilizing the Declaration of Trust in order to operate according to the principles of the New Testament.

Under a Declaration of Trust, which is in accordance with civil law and also biblical principles, the pastor/trustee of a First Amendment Church holds the property for the benefit of the true owner of the property, the Lord Jesus Christ (the beneficiary). The pastor/trustee lays down his life for the sheep. This is in line with biblical principle which declares the pastor to be the undershepherd, ruler, trustee, overseer, and steward of the church body. At the same time, the Declaration

of Trust honors the biblical principle of equality of church members by requiring the pastor to consult with the church body in making important decisions such as purchasing or conveying property. The pastor of such a church, according to New Testament principle, is granted his authority as pastor by the church body and is subject to discipline by the church body just as is every other member of the body. After the Declaration of Trust is enacted and if the church continues to abide by all relevant principles, the church holds nothing, owns nothing, and remains a spiritual entity only. A church which holds or owns any kind of property becomes a legal entity.

A building, according to the New Testament, is not a church. The pastor designated by the Declaration of Trust is not a church. The Declaration of Trust is not a church. The trust created by the Declaration of Trust is neither a legal entity nor a church.

The Declaration of Trust merely declares that the pastor/trustee will hold property for the benefit of the Lord Jesus Christ, the true owner and beneficiary. By legal definition and in accordance with biblical principle, the true owner of the property held thereby is the Lord Jesus Christ (the beneficiary).

This type of Declaration of Trust is a legal way for a trustee to hold property for the benefit of the named beneficiary who is the owner of the property held in trust. No legal entity is thereby created. The pastor/trustee may be held accountable should he violate his fiduciary duty. The pastor/trustee under the Declaration of Trust is not the church, but he lays down

his life for the church. Should the pastor/trustee under a Declaration of Trust violate his duties under God, God will hold him accountable. The civil government may not hold accountable the church nor any member of the church other than the pastor/trustee for any violation of fiduciary duty by the pastor since the church is not a legal entity, nor is she or anyone other than the pastor the trustee.

All things belong to God. Everything held by every person on earth belongs to God. Church members return a portion of what God has entrusted them with to God through tithing and the giving of offerings. Tithes and offerings are given by church members to God, not to the church. The pastor/trustee has a fiduciary duty under God to make sure he uses the tithes and offerings only for the benefit of God, the Lord Jesus Christ who is the beneficiary and true owner of the tithes and offerings; that is, for designated purposes which glorify God: for missions, providing for the pastor and his family, paying for a place to meet if necessary, utility bills for that meeting place, supporting missionaries, helping the poor, etc.

A church who opens a bank account is acting legally and can therefore be said to be a legal entity. If a church opens a bank account through trustees or through any other means, that church is a legal, not a spiritual, entity; by opening a bank account, that church is functioning legally; that church is not acting according to the principles of the New Testament.

The pastor/trustee can open a bank account. If the pastor/trustee opens a bank account, the church did not open the account. The pastor/trustee opened the account and the

church does not hold the account. The pastor/trustee holds the account for the benefit of the Lord Jesus Christ.

The church does not use the funds given in tithes and offerings and administered by the pastor/trustee. The pastor/trustee has a fiduciary duty to use the funds in that account for the benefit of the Lord Jesus Christ, for biblically acceptable purposes. The pastor/trustee has a duty under God to use the funds for the benefit of the Lord Jesus Christ.

A church cannot get insurance. If a church gets insurance, she is no longer operating according to the principles of the New Testament because she has acted legally and, therefore, is a legal entity who can sue and be sued.

A pastor/trustee of a First Amendment Church can get liability and other types of insurance on property and vehicles. If the pastor/trustee gets insurance, the church has not gotten insurance, the pastor/trustee has gotten the insurance, and the church remains a spiritual, not a legal, entity.

A pastor/trustee of a church cannot get insurance to cover the church who is not a legal entity. He can get insurance on a meeting house, a vehicle, or other property, but he cannot get insurance to cover the church. If he gets insurance to cover the church, the church becomes a legal entity who is functioning legally and can sue and be sued.

An individual in a First Amendment Church, as a temporal citizen of the civil government in which he resides, can be sued or charged with a crime for a temporal matter, but a First Amendment Church, unlike a Fourteenth Amendment Church, cannot be sued or charged with a crime since she is a

spiritual entity only, not a legal entity. Anyone in a Fourteenth Amendment Church or First Amendment Church who agrees with, encourages, or takes part in the commission of a tort or crime can be sued or charged with a crime. For example, should a pastor announce a policy that is criminal or tortious and a crime or tort results, everyone who acquiesced (even if by silence) to the pastor's pronouncement may possibly be implicated in any resulting suit or criminal charge.

A First Amendment Church cannot be a business or operate a business. A church who is a business is not a First Amendment Church. She should not use business terms as to her affairs, offices, or organization. She should, under God, use only biblical terms. If a business is operated by the church, the church is not a First Amendment Church.

A church who chooses to operate as a corporation, an unincorporated association, or any other type of legal entity, a Fourteenth Amendment Church, is no longer operated as instructed by the Lord Jesus Christ in the Bible. A church who has employees, a constitution, bylaws, a business plan, job descriptions, corporate officers, trustees, or any other device or office associated with business or legal organizations and which are not specified in the New Testament is a legal, not a spiritual entity, a Fourteenth Amendment Church. Should she have any of those, she is not organized according to the principles of the New Testament; and, if she is not explicitly a corporation or some other type legal entity, the state may possibly, depending upon state law, classify her as a legal entity known in civil law as an unincorporated association.

A First Amendment Church can have a statement of faith or a church covenant which explains her biblical beliefs.

The pastor/trustee must assure that all funds are used honestly and in line with biblical principles for the benefit of the Lord Jesus Christ. The pastor of a biblically organized and functioning church should honor all biblical guidelines for himself, for his family, and for his position as pastor, under-shepherd, ruler, trustee, overseer, and steward of the church body. A pastor should be “blameless, the husband of one wife, vigilant, sober, of good behavior, given to hospitality, apt to teach; Not given to wine, no striker, not greedy of filthy lucre; but patient, not a brawler, not covetous; One that ruleth well his own house, having his children in subjection with all gravity; not a novice, ...; he must have a good report of them which are without...” (See 1 Ti. 3:1-7).

The pastor/trustee should sign checks written on a bank account which holds funds for the benefit of the Lord Jesus Christ, all deeds, all titles, and all other documents pertaining to his duties as pastor/trustee as follows: [*Name of pastor*], pastor/trustee of [*Name of church*]. No one else should sign anything.

The owner named on all titles and deeds should be [*Name of pastor*], pastor/trustee of [*Name of church*].

A First Amendment Church owns nothing. She cannot own anything and be a First Amendment Church. Only a worldly organization (an artificial person) or person can own anything. If a church becomes a worldly organization, she thereby acts legally, can sue and be sued; and, therefore, she

is a legal entity and not a First Amendment Church. A First Amendment Church is a spiritual body only.



Jason Cooley is pastor of Old Paths Baptist Church in Northfield, Minnesota. One of the ministries of Old Paths Baptist church is the church and state law ministry. Feel free to email, call or write Pastor Cooley for further information on salvation, church and state law ministry, etc.

Church Information for Old Paths Baptist Church: Meeting at: Northfield Senior Center, 1651 Jefferson Parkway Northfield, MN 55067. Pastor Jason Cooley's email: salvationpreacher@gmail.com



Jerald Finney, a member of Old Paths Baptist church, is a believer first and a licensed attorney second. His legal statements and conclusions in this publication are based upon American law. His research and legal analysis is published and anyone can access and analyze his legal declarations. He can be disciplined or even disbarred by his state bar for misstating or misrepresenting civil law.

Any lawyer or other Christian who deals with church organization should understand the biblical principles of government, church, and separation of church and state. The author believes that for anyone to organize a church outside correct biblical doctrine dishonors and grieves our Lord. This publication assumes that the reader understands the biblical principles concerning church, state, and separation of church and state. If one does not understand those principles or wishes to know what the author teaches on those subjects, one can go to the following resources for explanation:

(1) *God Betrayed/Separation of Church and State: The biblical Principles and the American Application*. Part One gives a thorough analysis of the biblical doctrines of government (Section I), church (Section II), separation of church and state (Section III). Part Two is a detailed analysis of the application of those doctrines in the United States of America and covers the history of religious freedom in America (Section IV), Supreme Court "separation of church and state" jurisprudence (how the Supreme Court has misinterpreted the First Amendment to remove God from practically all civil government matters) (Section V), and the union of church and state through incorporation and 501(c)(3) status (Section VI). *God Betrayed* is issues oriented and covers biblical principles as well as historical and legal issues and facts.

(2) *Separation of Church and State/God's Churches: Spiritual or Legal Entities?* This book will give the pastor who is grounded in the biblical principles a good basic understanding of the legal methods one can use to organize a church according to New Testament principles, thereby honoring the church relationship with the Lord Jesus Christ and recognizing Him as the sole Head of the local church. The book also teaches how church incorporation and 501(c)(3) status violate biblical principles and grieves the Lord Jesus Christ.

(3) *Render Unto God the Things that Are His: A Systematic Study of Romans 13 and Related Verses*. This book, more thoroughly than does *God Betrayed*, analyzes and interprets verses which are taken out of context and incorrectly used by some "Christians" and secularists to justify certain heretical actions such as the union of church and state through, for example, incorporation and 501(c)(3) status.

(4) *An Abridged History of the First Amendment*.

(5) *The Most Important Thing: Loving God and/or Winning Souls*. Some pastors and other believers will say, "The issue is important, but if a church is incorporated and if getting that church out from under the civil government is going to cause problems, leave the church organization as it is because winning souls is the important thing." This booklet addresses that argument from a biblical perspective.

Go to the books page of the "[Church and State Law](http://www.churchandstatelaw.com/)" (<http://www.churchandstatelaw.com/>) website and/the "[Separation of Church and State Law](http://jeraldfinney.wordpress.com/contents/)" (<http://jeraldfinney.wordpress.com/contents/>) blog for more information. Posted on the "[Separation of Church and State Law](http://jeraldfinney.wordpress.com/contents/)" blog posts all the books by Jerald Finney in both PDF form and also in links to all chapters; plus articles, sermons, and more.