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“Christian Origins of Western Jurisprudence:

An Essay on the Role of Christian Lawyers and Judges Within the Secular State”©

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The ideas expressed in this Apostolate Paper are wholly those of the author, and subject to modification as a result of on-going research into this subject matter. This paper is currently being revised and edited, but this version is submitted for the purpose of sharing Christian scholarship with clergy, the legal profession, and the general public.

PREFACE

The organized Christian church of the Twenty-First Century is in crisis and at a crossroad. Christianity as a whole is in flux. And I believe that Christian lawyers and judges are on the frontlines of the conflict and changes which are today challenging both the Christian church and the Christian religion. Christian lawyers and judges have the power to influence and shape the social, economic, political, and legal landscape in a way that will allow Christianity and other faith-based institutions to evangelize the world for the betterment of all human beings. I write this essay, and a series of future essays, in an effort to persuade the American legal profession to rethink and reconsider one of its most critical and important jurisprudential foundations: the Christian religion. To this end, I hereby present the third essay in this series: "Christian Origins of Western Jurisprudence."

INTRODUCTION

Catholic Christianity has guided my understanding of, and approach to, civil and criminal litigation in such a profound way that, after twenty years of law practice, I feel compelled to share this experience with others who are interested in the relationship between Christianity and the American legal system.¹ Upon entering law school, I already had a preconceived idea of what sort of lawyer I wanted to be, but I deferred greatly to my secular-oriented law professors, who overwhelmed me with assignments which seemingly appeared to be far removed from the Christian faith. During my law school years, the Roman Catholic Church and its gracious priests stepped in to assist me with reconciling secular law with the Christian faith. And, to this day, after having reached the conclusion that all true believers in Christ are members of the Christian church that is “one, holy, catholic, and apostolic,” as per the *Catechism of the Catholic Church*, Catholic doctrine thus subsists in my mind alongside of various ethical rules regulating the practice of law.² In law school, I approached the Roman Catholic Church as a fellow “catholic” Christian. During the early 1990s, I completed the Rite of Christian Initiation of Adults (RCIA) for membership in the Roman Catholic Church,³ and since then I have always considered myself to be a life-long Catholic catechumen, a bona fide “catholic” Christian, and in spiritual communion with Roman Catholicism,-- while yet maintaining my Methodist denominational affiliation. Why did I do this?⁴ I have always half suspected, perhaps as a result of my legal training and reading of the New Testament, that our Lord and Savior Jesus Christ would not likely acknowledge such historical denominational

¹ Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL.: Xlibris Pub., 2015).

² More specifically, I would recommend the *Catechism of the Catholic Church* as an authoritative source for all Christians, both Catholic and Protestant or non-Catholic. For these reasons, as a member of the African Methodist Episcopal church, I readily embrace the *Catechism of the Catholic Church* and the guidance and teachings of the Roman Catholic Church, without disregarding the teachings of the A.M.E. church, United Methodists, the Coptic, Eastern Orthodox, Baptists, or other non-denominational Christian sources.

³ This RCIA program was sponsored by the Saint John’s Catholic Church (now called the Newman Center), Champaign, Illinois. The author completed the RCIA basic course, and he was never formally confirmed as a member into the Roman Catholic Church, but instead remains a life-long Catholic catechumen. According to the *Catechism of the Catholic Church*, Part Two, Section 1249 “Catechumens ‘are already joined to the Church, they are already of the household of Christ, and are quite frequently already living a life of faith, hope, and charity.’ ‘With love and solicitude mother Church already embraces them as her own.’” NOTE: prior to this RCIA program, the author was baptized in the name of the Father, Son, and Holy Ghost into, and confirmed by, the African Methodist Episcopal Church in 1981. The Saint John’s Catholic Church asked the author to present a Baptismal certificate from the A.M.E. church, and concluded that no new baptism was necessary.

⁴ The author’s close family members either expressed dismay, confusion, or were not pleased with the author’s choice to join the Roman Catholic Church.

differences between the Christian faithful! Nevertheless, I believe that Catholic history prior to the Sixteenth Century is really and truly the history of all Christian churches. Thus based upon this premise, I write this essay in the spirit of “catholic” Christian unity and for all Christian lawyers and judges, regardless of their denominational affiliation, and with the understanding that the history of the early Roman Catholic Church, prior to the Sixteenth Century, is essentially the history of the entire western church. This premise is important for the central point that I would like to make about the development and training of lawyers in the United States: *as I look back upon law school and more than twenty years of being in the legal profession, it is my firm belief that without the writings of Saint Augustine, Saint Thomas, and the tutelage from Roman Catholic priests, while I was still a law student, that I may have easily abandoned the Christian faith! I suspect that most American law schools systematically do this to Christian law students! And since I believe that there were (and still are) thousands of other Christian law students and lawyers (and, indeed, law students and lawyers from other faith traditions) who might have had similar experiences and who might have ultimately relinquished their commitment to their faith, I feel especially compelled to publish this essay as evidence of conflict between secular legal education and the Christian faith.*⁵

This essay is a survey and an outline for further research. And I invite others to provide further input in order to supplement my shortcomings, and to help me to further develop the ideas stated here, for the benefit of both the Christian faith and American jurisprudence. For this reason, I have organized the materials in this essay in outline format, so that other scholars and theologians can pinpoint the topical areas and engage in further research of their own. I have also designed this essay for busy practicing lawyers and judges so that they can have a quick reference to the subject matter, and later, if the need arises, to engage their own research. Most of the research found here has been published in my book, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity (2015)*. This essay traces the origins of western jurisprudence to ancient Egypt, Greece, and Rome, and it describes the Roman Catholic and Eastern Orthodox Churches’ roles in preserving classical Greco-Roman law and philosophy, as well as Emperor Justinian’s *Corpus Juris Civilis*, which is a major cornerstone of Christian and western jurisprudence. The Catholic Church’s canon laws, together with its ecclesiastical equity jurisprudence, have decisively shaped western law, including the Anglo-American common-law legal system. Hence, the chief Christian

⁵ In fact, the author believes that American law schools should require a course on “Equity Jurisprudence” as a mandatory first-year law school course, and promote courses on “Jurisprudence: Law and Religion” for Christian, Jewish, Muslim or other religious lawyers, many of whom may choose careers in human rights, civil rights, or pastoral ministry as vocations.

influence in modern secular law continues to be “equity jurisprudence” which has been infused within rules of civil and criminal procedure, statutory law, and the common law. Equity jurisprudence thus reflects Christian ideals within America’s secular jurisprudence—which *is to do justice and judgment* in all cases, controversies and disputes.⁶ What follows is a brief summary of twenty years of research for an understanding of the relationship between Christianity and American jurisprudence.

SUMMARY

The Christian foundation of western law and jurisprudence is two-fold: first, it is founded upon pagan law and legal systems; and, second, it is founded upon the Christian religion. In fact, the *spirit of the law* within secular legal system in the United States is Christian. Accredited American law schools and the various Bar Associations which down-play the impact of Christianity on the meaning of secular, statutory or constitutional law, and on the various rules of civil and criminal procedure, are misleading law students and lawyers. This is because, as it turns out, Catholic Christianity incorporated Christ’s fundamental doctrine of “love” into the best of ideas of “justice” and “law” from various pagan sources. This synthesis produced a higher idea of “justice” and purer definition of “law.” The Roman Catholic Church and the Eastern Orthodox Church played decisive roles in transmitting to Western Europe this rich religious and legal heritage. After the Edict of Milan in 313 A.D., Christianity has continuously influenced and guided, to a greater or lesser extent, the secular legal systems of western civilization. Christianity was more than the sacred text which we today call the Bible, but it was truly “catholic” in the broadest meaning of that term. I have used my own experience in attaining a western education in high school and college in order to exemplify secular and sacred ideas have been traditionally transmitted in western cultures: in the home, church, schools, and colleges. These institutions provided me with the various tools whereby I attained a secular education while reconciling its ideas to my Christian faith, thus creating a sort of primitive “Catholicism” which led me eventually to the Roman Catholic Church in law school and set me upon a twenty-year journey of studying the interplay between Christianity and law. This essay reveals that Christianity and Roman law have decisively influenced secular western and American legal systems in such a profound way that it would be impossible to extricate them from American jurisprudence.

⁶ See, generally, Genesis 18:19 and John 7:24. See, also, Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL.: Xlibris Pub., 2015).

Part One Catholicism and Pagan Philosophy

I. Introduction

I have over the years enjoyed learning about different faith traditions and different Christian denominations, but only Catholic Christianity provided me with the analytical tools to reconcile Christianity to secular law. In Catholic Christianity I found a rich tradition of weaving Christian ideals and concepts into secular law, and a tradition of grappling with secular world views and philosophies. I was baptized into an A.M.E. Church in Florida. However, the world history, humanities, and English courses that I took in high school and college laid the foundations for my gradual interest in the history of Christianity and the Roman Catholic, Eastern Orthodox, and Coptic Orthodox Churches. For example, without those courses in high school and college, I could not have intelligently or seriously approached the original texts from Saint Augustine's *The City of God* or Saint Thomas Aquinas's *Summa Theologica*. In college, I first encountered Saint Augustine and Saint Thomas. These two great Catholic saints had very important things to say not only about the Christian religion but also about secular matters as well, such as politics, law, and history. From the period 1986 through 1995, I evolved into being a "catholic" Christian in the etymological meaning of the term "catholic." In 1992, I became a catechumen in the Roman Catholic Church⁷, and an avid student of Roman Catholicism and the history of the Western church. I was interested in all forms of Christianity and I believed that the Roman Catholic Church was the mother and pillar of the Christian faith. And, quite honestly, considering that I grew up in the A.M.E. Church, I often asked myself: "How did I come to feel this way?"

II. Greek Gods, Heroes and Myths

I was drawn to the Roman Catholic Church through the writings of Saint Augustine and Saint Thomas, but I could not have been able to comprehend these two Catholic giants without the firm foundation in Greco-Roman pagan history, philosophy, and literature which I received in high school and college. As I recall, I took classical Humanities courses in both high school and college, both of which required me to read Professor Edith Hamilton's great book, *Mythology: Timeless Tales of Gods and Heroes*. But why was I assigned to read such a book, and why were we forced to study pagan Greek and Roman culture and civilization? I had no

⁷ Saint John's Catholic Church, Champaign, Illinois.

idea at the time. But I was only eager to study my lessons, so that I could make good grades, and hopefully, go off to college. In high school, I first became familiar with the ancient world before the time of Christ-- a Greco-Roman world in which Professor Edith Hamilton described as “natural” and in which men and women sought to make sense of “nature” and of the world around them. In other words, there was some method to this craziness, I concluded: the Greek classics were designed to teach a primitive universal law of human nature. As the introduction to Professor Hamilton’s book succinctly states:

[Edith] Hamilton argues, the myths of the Greeks reflect a view of the universe that acknowledges the mystery and beauty of humanity. Even the most magical of Greek myths contain real-world elements: the supernatural Hercules lives in the very real city of Thebes, and the goddess Aphrodite is born in a spot any ancient tourist could visit, off the island of Cythera. In general, Greek myths involve less strange and frightening magic than the myths of other ancient civilizations. In this more rational world, individuals become heroes by virtue of bravery and strength rather than supernatural powers. Hamilton contends that this revolutionary way of thinking about the world elevates humans and the worth of their abilities, making it a far less terrifying place in which to live.

Hamilton points out a downside to this rational view of the supernatural—like humans, the gods are often unpredictable. They do not always operate on the highest moral grounds, and they get angry and jealous, sometimes doing terrible things like exacting vengeance or calling for sacrifices. Even though Greek myth lacks wizards and demonic spellcasters, there are still plenty of horrible magic creatures—the snake-haired Gorgons, for instance—that appear to be relics of that older, primitive world. In the end, however, as Hamilton points out, the Greek hero always manages to defeat these –creatures.

At the same time, Hamilton reminds us that these myths do not really constitute the religion of the Greeks. These myths are more akin to proto-scientific stories that are meant to explain natural phenomena, such as thunderstorms or the setting of the sun. Some myths are pure entertainment and are not meant to explain anything. On the whole,

the later myths appear more religious, as Zeus, the primary god, begins to resemble the sort of omnipotent God-figure familiar to modern readers—in the *Iliad*, he is very human and moody, but by the *Odyssey* he is more wise and compassionate. Zeus changes so much from the old philanderer he once was that he begins to look very much like the Judeo-Christian concept of God.⁸

In high school, I mastered the Greek and Roman names of “the gods,” and I was able to recount almost verbatim their stories, so that I could pass my examinations. As I recall, a few of Greco-Roman gods were:

Greek	Roman	Description
Zeus	Jupiter	Lord of the sky and supreme ruler of the gods. Known for throwing lightning bolts.
Poseidon	Neptune	Ruler of the sea. Brother of Zeus. Carried a three-pronged spear known as a trident.
Hades	Pluto	Ruler of the underworld and the dead. Brother of Zeus. Had a helmet which rendered its wearer invisible.
Hestia	Vesta	A virgin goddess and sister of Zeus. No distinct personality or part in myths. Goddess of the Hearth, the symbol of the home.
Hera	Juno	Zeus's wife and sister. Protector of marriage, spent most of her time punishing the many women Zeus fell in love with. Likes cows and peacocks.
Ares	Mars	God of war and <u>son of Zeus</u> and Hera. Likes vultures and dogs.
Athena	Minerva	Daughter of Zeus alone. No mother.(?) She sprang from his head full-grown and in full armor. The protector of civilized life, handicrafts, and agriculture. Invented the bridle, and first to tame the horse. Likes Athens, olives, and owls.
Apollo	Apollo	Son of Zeus. <u>Master musician</u> , archer god, healer, god of light, god of truth, sun god. A busy god who likes the laurel tree, dolphins, and crows.
Aphrodite	Venus	Daughter of Zeus. <u>Goddess of Love</u> and Beauty. Likes the myrtle tree, doves, sparrows, and swans.

⁸ Edith Hamilton, *Mythology: Timeless Tales of God and Heroes* (New York, NY: Grand Central Publishing, 2011).

Hermes	Mercury	Son of Zeus. Wore wings on his sandals and his hat, thus was graceful and swift.
Artemis	Diana	Apollo's twin sister and daughter of Zeus. Lady of wild things and huntsman to the gods. As Apollo is the Sun, Artemis is the moon.
Hephaestus	Vulcan	Son of Hera, God of Fire. The only ugly and deformed god. Makes armor and weapons forged under volcanoes.
Gaea	Terra	Mother Earth.
Asclepius	Aesculapius	God of medicine.
Cronus	Saturn	God of the sky; Ruler of the Titans (<u>Roman mythology</u> : God of agriculture)
Demeter	Ceres	Goddess of grain.
Dionysus	Bacchus	God of wine and vegetation.
Eros	Cupid	God of love.
Hypnos	Somnus	God of sleep.
Rhea	Ops	Wife of Cronus/Saturn. <u>Mother Goddess</u> .
Uranus	Uranus	God of the sky. Father of the Titans.
Nike	Victoria	Goddess of Victory.

But there was also in Professor Hamilton’s classic book references to important historical events, such as the Trojan war, as well as stories of other important mythical personalities such as Oedipus, Hercules, Agamemnon, and Odysseus, as well as several important Greek figures whom we studied. Next came the great Greek classics from Aeschylus, Sophocles, and Euripides, from which we were assigned to read selected excerpts or full-length plays.

Aeschylus was known as the “Father of Tragedy.” Some of Aeschylus’ most famous plays include: *Agamemnon*, where he describes how the gods punish a family for a series of murders; *The Persians*, in which the Athenian victory at

Salamis is celebrated; and *Prometheus Bound*, where the myth of Prometheus, the world's first humanitarian, is discussed.

Euripides was somewhat misunderstood and unappreciated at the time when he lived and published his plays during the 5th Century B.C. Some of his plays include: *Hippolytus* and *The Bacchae*, where he explores the psyche of men attempting to deny a natural life-force such as sexuality or emotional release; *Medea*, where he takes a look at the frenzied jealousy of a woman who has lost her husband's interest; and *Hecuba*, in which he documents the cruelty of Greek warriors who enslave the Trojan queen and sacrifice her daughter at the tomb of Achilles.

Sophocles is considered one of the great playwrights of his era (5th Century, B.C.). He wrote more than 120 plays, including *Oedipus the King*, (which is generally considered his greatest work), which explores the depths of modern psycho-analysis as Oedipus unwittingly kills his father and marries his mother in an attempt to avoid a prophecy he fulfills anyway and *The Women of Trachis*, which offers a touching story of a jealous woman (Deianira) and her husband (Heracles).

These stories, together with my basic understanding of the Old and New Testaments, prepared me for collegiate learning of Saint Augustine and Saint Thomas. In other words, my Christian upbringing, together with the Greco-Roman classics taught in my high school, prepared me for the Catholic theology and law which were introduced to me through the writings to Augustine and Aquinas. With this firm Greek foundation, I was particularly prepared to relate both to Saint Augustine's *The City of God* and to his timeless classic, *Confessions*. As a result of this Greek foundation, I was prepared to glean from pagan and Greek culture all of the various nuggets of universal truths regarding human nature, and to incorporate these nuggets of truth into my basic understanding of Christian ethics and morals. Hence, I began to see that the primary value of pagan cultures—whether ancient or modern—was that it helped me to reaffirm, and not to disavow, my Christian values and beliefs. They helped to lay the foundation of what I would later come to know in law school as the *law of nations* and *natural law*.

III. *The Apology of Socrates*

In college, I read Plato's *Apology* of Socrates, and came away from it honestly believing that the wrongfully-accused Socrates was a pagan saint! I could not help, as I recall, thinking that throughout all of world history, the most bewildering public execution-- other than the crucifixion of Jesus of Nazareth-- was the public execution of poor Socrates! He was condemned to die for allegedly disrespecting the gods and for corrupting the youth with his teachings. An account of Socrates' self-defense was written by Plato; and, as I recall, this was published in my collegiate literature book. Although not assigned reading, I took the time to read the *Apology* anyway.⁹ For I was captivated by the pagan Socrates' love of wisdom and virtue, as well as his resolute willingness to die rather than recant truth in order to escape death. Socrates' wisdom and demeanor in the face of death reminded me a lot of Jesus of Nazareth's demeanor, when he was before the Jewish High Priests and the Roman prelate, Pontius Pilate; and it even reminded me of Malcolm X just before he died. Socrates thus stated:

After this, I desire to deliver oracles to you, O you who voted to condemn me. For in fact I am now where human beings particularly deliver oracles: when they are about to die. I affirm, you men who condemned me to death, that vengeance will come upon you right after my death, and much harsher, by Zeus, than the sort you give me by killing me. For you have now done this deed supposing that you will be released from giving an account of your life, but it will turn out much the opposite for you, as I affirm. There will be more who will refute you, whom I have now been holding back; you did not perceive them. And they will be harsher, inasmuch as they are younger, and you will be more indignant. For if you suppose that by killing human beings you will prevent someone from reproaching you for not living correctly, you do not think nobly. For that kind of release is not at all possible or noble; rather, the kind that is both noblest and easiest is not to restrain others, but to equip oneself to be the best possible. So, having divined these things for you who voted against me, I am released.

Let us also think in the following way how great a hope there is that it is good. Now being dead is either of two things. For either it is like being nothing and the dead man has no perception of anything, or else, in accordance with the things that are said, it happens to be a sort

⁹ One night, as I was flipping through the pages of my world literature book, I found Plato's *The Apology*, and I read it.

of change and migration of the soul from the place here to another place.

And if in fact there is no perception, but it is like a sleep in which the sleeper has no dream at all, death would be a wondrous gain. For I suppose that if someone had to select that night in which he slept so soundly that he did not even dream and had to compare the other nights and days of his own life with that night, and then had to say on consideration how many days and nights in his own life he has lived better and more pleasantly than that night, then I suppose that the Great King⁷⁹ himself, not to mention some private man, would discover that they are easy to count in comparison with the other days and nights. So if death is something like this, I at least say it is a gain. For all time appears in this way indeed to be nothing more than one night.

On the other hand, if death is like a journey from here to another place, and if the things that are said are true, that in fact all the dead are there, then what greater good could there be than this, judges? For if one who arrives in Hades, released from those here a who claim to be judges, will find those who are judges in truth — the very ones who are said to give judgment there, Minos and Rhadamanthys, and Aeacus, and Triptolemus, and those of the other demigods who turned out to be just in their own lives — would this journey be a paltry one? Or again, to associate with Orpheus and Musaeus and Hesiod and Homer, how much would any of you give? For I am willing to die many times if these things are true, since especially for myself spending time there would be wondrous: whenever I happened to meet Palamedes and Telemonian Ajax, or anyone else of the ancients who died because of an unjust judgment, I would compare my own experiences with theirs. As I suppose, it would not be unpleasant. And certainly the greatest thing is that I would pass my time examining and searching out among those there—just as I do to those here who among them is wise, and who supposes he is, but is not. How much would one give, judges, to examine him who led the great army against Troy, or Odysseus, or Sisyphus, or the thousand others whom one might mention, both men and women? To converse and to associate with them and to examine them there would be inconceivable⁸⁴ happiness. Certainly those there surely do not kill on this account. For those there are happier than those here not only in

other things but also in that they are immortal henceforth for the rest of time, at least if the things that are said are in fact true. But you too, judges, should be of good hope toward death, and you should think this one thing to be true: that there is nothing bad for a good man, whether living or dead, and that the gods are not without care for his troubles. Nor have my present troubles arisen of their own accord, but it is clear to me that it is now better, after all, for me to be dead and to have been released from troubles. This is also why the sign did not turn me away anywhere, and I at least am not at all angry at those who voted to condemn me and at my accusers. And yet it was not with this thought in mind that they voted to condemn me and accused me: rather, they supposed they would harm me. For this they are worthy of blame.

This much, however, I beg of them: when my sons grow up, punish them, men, and pain them in the very same way I pained you, if they seem to you to care for money or anything else before virtue. And if they are reputed to be something when they are nothing, reproach them just as I did you: tell them that they do not care for the things they should, and that they suppose they are something when they are worth nothing. And if you do these things, we will have been treated justly by you, both I myself and my sons. But now it is time to go away, I to die and you to live. Which of us goes to a better thing is unclear to everyone except to the god.¹⁰

I admit that Socrates' words, as presented in Plato's *Apology*, moved me closer toward a belief in universal morality and a common religion among all of humanity. I was beginning to understand why and how Saint Augustine and the Roman Catholic Church were drawn to Greek philosophy from the beginning. Socrates' words helped to lay the foundation of what I would later come to know as Stoicism, and in law school as the *law of nations* and *natural law*.

IV. Plato's *Republic*

I knew Plato's writings (as well as other Greek writers or philosophers) a few years before I knew St. Augustine's and Saint Thomas' works. This familiarity with the ancient Greeks helped me to appreciate Saint Augustine's and Saint

¹⁰ Reprinted (with revisions) from Thomas G. West, *Plato's Apology of Socrates: An Interpretation, with a New Translation*. Copyright by Cornell University, published by Cornell University Press.

Thomas' acceptance of Plato's and Aristotle's central ideas. During the late 1980s, while in college, I also read excerpts from Plato's *Republic*, which is a Socratic dialogue between Socrates and three other men: Cephalus, Polemarchus, and Thrasymachus, regarding the meaning of justice. (These dialogues on justice were openly discussed in a political theory course which I took in college. And they remained with me, resulting in my manuscript, *The Young Republic*, which evolved into my current novel *Bishop Edwards: A Gospel For African American Workers During the Age of Obama* (2015)). As I recall, it was Plato's use of characters to explicate complex political ideas and philosophies of justice which continued to influence my ideas.

Socrates' (and Plato's) method of opening a dialogue is in almost every instance to pose a question of meaning (to ask for a definition of a term or terms for the sake of forming up a logical argument). For example, Socrates might ask at the outset of a dialogue: "If you claim to be an honest man, how would you define *honesty*?" Or he might ask a person who claimed to be virtuous for a definition of virtue, or a person who claimed to be courageous for a definition of courage. And then Socrates might ask for examples of courageous, or virtuous, or honest behavior; or he might ask for analogues (things similar) to those things. Thus Socrates conversed with the young men of Athens, young men who were apparently disenchanted with their teachers whom their parents had hired and who apparently did not know as much as Socrates knew.

But Socrates, who some claimed to be the wisest man, claimed to know nothing except that every person should carefully determine what he thinks he knows. He said that the unexamined life is not worth living. He taught that men claimed to come to wisdom through poetry and argument and music, when it was plain that they did not even know what they were doing. And he also taught that politicians claimed to serve justice and to sit in judgment on their fellow citizens when at the same time those same politicians and "leaders" of the state could not even define justice and might, in fact, be said to be culpable (guilty) of certain injustices perpetrated against their fellow citizens. How, Socrates asked, can any man claim to serve justice when that same man cannot even *define* justice? The question is still relevant in the twenty-first century.¹¹

¹¹ <http://www.cliffsnotes.com/literature/r/republic/about-platos-republic> .

Thus, Plato's *Republic*, together with Shakespeare's *Julius Caesar*, had a profound impact on my understanding of political theory and history, eventually influence me to write my own political novel: *Bishop Edwards: A Gospel For African American Workers During the Age of Obama*. Without question, Plato's writings, although pagan, helped to lay the foundation of what I would later come to know in law school as the *law of nations* and *natural law*.

V. Aristotle's *Ethics*

I know St. Thomas Aquinas before I knew Aristotle, but my subsequent readings of Aristotle made me realize that Saint Thomas was really a grand synthesizer of classical Greco-Roman philosophy and Christian theology. Throughout my years of college and law school, I cannot recall reading any texts or writings from Aristotle—only summaries from other scholars' interpretations of him. (I had learned in college to go to the original source, and to not rely on summaries and interpretations.) But Aristotle was the one important thinker whose original works I did not touch until after I graduated from college. During the spring or summer of 1995, I purchased a copy of Aristotle's *Ethics*, which I read from cover to cover. I cannot now remember why I purchased this book, but this fell in line with my thirst of the ancient knowledge and particularly pre-Christian era knowledge. As I recall, I have I always been interested in just how intelligent ancient men and women of antiquity really were, and I have always wanted to know more about thoughts and viewpoints influential men of antiquity. [Note: for a great summary of Aristotle's *Ethic*, see the following link: <http://philosophy.lander.edu/ethics/aristotle1.html>]

Saint Augustine knew of Aristotle,¹² but Saint Augustine tended to embrace Plato's philosophy over Aristotle's. Whereas with Saint Thomas Aquinas, the opposite was true: St. Thomas embraced Aristotle. Because of Aristotle, I think that I had a much greater understanding of *natural law* philosophy and the theology of the Roman Catholic Church.

VI. Herodotus, the Greek Historian

In college, I took history courses which included materials with repeated references to the Greek historian Herodotus (484 B.C. – 425 B.C.). From the Greek historian Herodotus I received a keen interest in ancient world history which

¹² *The City of God* (New York, NY: The Modern Library, 1950), p. 257.

correlated with my interest in the *Book of Genesis* and the story of Moses. From all accounts, Herodotus described Egyptian civilization as largely brown and black civilization. Professor Cheikh Anta Diop “provides several examples (the inundations of the Nile) that he argues support his view that Herodotus was ‘quite scrupulous, objective, scientific for his time.’ Diop argues that Herodotus ‘always distinguishes carefully between what he has seen and what he has been told.’ Diop also notes that Strabo corroborated Herodotus's ideas about the Black Egyptians, Ethiopians, and Colchians.”¹³ And while I had no interest in religion at that time, I defended the Christian religion against many anti-Christian arguments that were lodged from fellow African American students and professors who claimed that Christianity was “a white man’s religion.” Many of them were quick to point out that many of the personalities mentioned in the Old Testament were brown and black Africans. But if these things were true, as many of them claimed, then should we not reclaim the Christian religion as an “African religion?” And yet Herodotus’ writings left me with the impression that Africa was not only the cradle of Judaism and Christianity, but that Africa was also the cradle of Greek and Western civilization as well. Herodotus related many of the Greek gods as of African origin and conception. For through these writings which referenced Herodotus’ observations and historical conclusions, I began to conceptualize myself, an African American, as member of the swarthy Aethiopia which played a decisive and major role in world history.

In his *Histories* (c. 440 BC) Herodotus presents some of the most ancient and detailed information about ‘Aethiopia’. He relates that he personally traveled up the Nile to the border of Egypt as far as Elephantine Island (modern Aswan); in his view, ‘Aethiopia’ is all of the inhabited land found to the south of Egypt, beginning at Elephantine. He describes a capital at Meroe, adding that the only deities worshipped there were Zeus (Amun) and Dionysus (Osiris). He relates that in the reign of Pharaoh Psamtik I (c. 650 BC), many Egyptian soldiers deserted their country and settled amidst the Aethiopians. He further wrote that of Egypt's 330 Pharaohs, there were 18 ‘Aethiopian’ Pharaohs before the Sabacos Kushite dynasty (i.e. the Memnon or 18th dynasty). He asserts that Aethiopia was one of the countries that practiced circumcision. Herodotus tells us that king Cambyses of Persia (c. 570 BC) sent spies to the Aethiopians ‘who dwelt in that part of Libya (Africa) which borders upon the southern sea.’ They found a strong and healthy people. Although

¹³ <https://en.wikipedia.org/wiki/Herodotus>

Cambyses then campaigned toward their country, by not preparing enough provisions for the long march, his army completely failed and returned quickly. In Book 3, Herodotus defines ‘Aethiopia’ as the farthest region of ‘Libya’ (i.e. Africa): ‘Where the south declines towards the setting sun lies the country called Aethiopia, the last inhabited land in that direction. There gold is obtained in great plenty, huge elephants abound, with wild trees of all sorts, and ebony; and the men are taller, handsomer, and longer lived than anywhere else.’¹⁴

Hence, years later I began to see, too, that this secular knowledge would only strengthen my faith in the validity and truth of the Old and New Testaments. And even though this information provided no scientific data such as DNA evidence, I settled upon the conclusion that Greco-Roman and Western civilization originated in Africa, and this conclusion allowed me to accept Europeans and all other races as my brothers and sisters. Roman Catholicism only seemed to be a cultural bridge between America and Europe into the ancient Mediterranean world of Greece, Egypt, and Africa. Hence, the foundation upon which I would later receive the North African Saint Augustine of Hippo’s Catholic philosophy and religion was laid in my collegiate history courses.

VII. Marcus Terentius Varro

In college, I purchased and commenced a life-long study of Saint Augustine’s *The City of God*. For the first time, in *The City of God*, I saw Christianity juxtaposed with the Greco-Roman classics, and in great and masterful prose. Augustine became my life-long teacher of Christian theology, history, philosophy, grammar, and rhetoric. From Saint Augustine’s *The City of God*, I heard about the Platonists, Cicero, Varro, and Marcus Terentius Varro, just to name a few of the concepts and person who were foreign to me, but which led me to further inquiry and learning. It is clear that Saint Augustine had studied many of the great Greeks and Romans, including Marcus Terentius Varro (116 B.C. – 27 B.C.) I mention Varro here, because I understand him to be one of the most learned Romans of his time, having written very many works, including the Nine Books of Disciplines, in which he defined the “Liberal Arts” as including the nine disciplines of grammar, rhetoric, logic, arithmetic, geometry, astronomy, musical theory, medicine, and architecture. Varro’s list was later used to define the “classical liberal arts” of the medieval university. All of this came to me, indirectly and vicariously, from Saint Augustine’s *The City of God*. And so, as I delved

¹⁴ <https://en.wikipedia.org/wiki/Aethiopia>

further into my study of *The City of God*, I more and more became convinced that the Christian religion is really a grand synthesis of universal truths, and that the Christian faith is truly catholic in nature.

VIII. Porphyry of Tyre

Another personality which Saint Augustine introduced to me, in *The City of God*, was Porphyry of Tyre (234 A.D. to 305 A.D.), who was an anti-Christian pagan.

As Porphyry's most influential contribution to philosophy, the *Introduction to Categories* incorporated Aristotle's logic into Neoplatonism, in particular the doctrine of the categories of being interpreted in terms of entities (in later philosophy, "universal"). Boethius' *Isagoge*, a Latin translation of Porphyry's "Introduction", became a standard medieval textbook in European schools and universities, which set the stage for medieval philosophical-theological developments of logic and the problem of universals. In medieval textbooks, the all-important *Arbor porphyriana* ("Porphyrian Tree") illustrates his logical classification of substance. To this day, taxonomy benefits from concepts in Porphyry's Tree, in classifying living organisms (see cladistics). The *Introduction* was translated into Arabic by Abd-Allāh Ibn al-Muqaffa' from a Syriac version. With the Arabicized name *Isāghūjī* (إيساغوجي) it long remained the standard introductory logic text in the Muslim world and influenced the study of theology, philosophy, grammar, and jurisprudence. Besides the adaptations and epitomes of this work, many independent works on logic by Muslim philosophers have been entitled *Isāghūjī*. Porphyry's discussion of *accident* sparked a long-running debate on the application of *accident* and *essence*.¹⁵

And so, as I have previously stated, all of this came to me, indirectly and vicariously, from Saint Augustine's *The City of God*. And so, as I delved further into my study of *The City of God*, I more and more became convinced that the Christian religion was not an ignorant and uninformed religion, but that it had been tested, vetted, and vindicated over the course of many centuries; that it is really a grand synthesis of universal truths; and that it is truly catholic in nature. This was a major academic conclusion that I had reached as an undergraduate collegiate

¹⁵ [https://en.wikipedia.org/wiki/Porphyry_\(philosopher\)](https://en.wikipedia.org/wiki/Porphyry_(philosopher))

student, so that by the time I entered law school during the fall of 1991, I gravitated toward the Roman Catholic Church for further learning and development.

IX. Saint Augustine's *The City of God*

My bachelor's degree in political science was supplemented by at least two years of reading and researching Saint Augustine's *The City of God*. This was one of the most important and influential textbooks that I read as an undergraduate student. I did not read it from cover to cover¹⁶; but I read passages, then whole chapters. I became thoroughly familiar with its table of contents, and knew how to navigate through the book to find information. I conducted Bible study, and kept a copy of *The City of God* close at hand, because I wanted to know what Saint Augustine might have thought about this passage or that passage. I also wanted to know how Saint Augustine might have applied or interpreted certain passages of the Old or New Testaments, and I rarely came away from these Bible studies without a profound understanding and enlightenment. But, perhaps, most importantly, I had attained a deep understanding of the Christian faith the complemented my learning in political philosophy, world history, government, and constitutional law. Saint Augustine had taught me how to interpret secular events through the doctrine of sin and an understanding of the fallen state of human beings. I had unwittingly become *catholic* in outlook and world view.¹⁷ Most importantly, I conceptualized God's eternal law or will as creation itself, and as the sum total of all things made, seen and unseen, so that all knowledge became reflections of God's will or law. Having thus adopted Augustine's world view, I believed that defections away from God's eternal law or will were the cause of social misery. And my interest in public policy and law were largely guided by an interest in helping the world to attain and remain within God's eternal will.

Part Two Catholicism and Pagan Law

I. Introduction

During the middle 1990s, after I commenced law school, my study of Saint Thomas Aquinas' (1225 A.D. – 1274 A.D.) theology and philosophy slowly increased, with the *Summa Theologica* (Summary of Theology) being my primary guide. While I was in law school, a Catholic priest and a Catholic seminarian

¹⁶ I eventually read the entire book (i.e., *The City of God*) over a period of seven to eight years.

¹⁷ In other words, in my mind, all things were related, correlated, designed for, or drawn to Jesus Christ and his Church.

encouraged me to read Saint Thomas. To this date, I still have not read the entire text of the *Summa Theologica*, but I have a working knowledge of its table of contents, and have studied selected chapters as the interest or need arises. Like Saint Augustine (354 A.D.- 430 A.D.), Saint Thomas embraced pagan and Greek scholarship and used all of this to vindicate the Christian faith. But what became quite clear to me, is the obvious truth certain elements of pagan or non-Christian legal philosophy which Saint Thomas incorporated into his Catholic legal theory in the *Summa Theologica*, and it was Saint Thomas' methodology of applying secular law to Christian principles that guided me through law school and throughout my career as a practicing attorney.

II. Solon, the Greek Lawgiver

I am convinced the Saint Thomas Aquinas stands upon the shoulders of great Greek and Roman philosophers and lawyers, such as Solon (638 – 558 B.C.), the great Athenian lawgiver who established significant constitutional, economic and moral reforms for Athenian society. I consider Solon to be to ancient Greece what Moses was to ancient Israel. In fact, there may very well be a connection between Egypt and Solon.

On the banks of the Nile was located the third of the three great seats of primeval civilization. Egypt holds with Phoenicia and Babylonia the honor of radiating all the ancient civilization over the world. The philosophers and statesmen of Greece all sought in Egypt the source of most of their own institutions; and Roman Emperors resorted to Egypt for wisdom. Even in the days of Moses, Egypt was noted for its learning; and the Hebrew lawgiver did not hesitate to adopt several of its laws and institutions for his own countrymen. Solon studied deeply those laws and institutions before he promulgated his own code for Athens.¹⁸

Solon is also given credit for helping to lay the foundations for Greek city-state democracy. According to Professor Michael B. Crowe, Solon's contributions to law established the idea of "natural justice" or "natural law." "The conceptions of law and of natural justice, in the cosmological as well as in the moral sense, had to keep pace with the social evolution of the Greek world. The city-states began to enjoy highly-developed systems of law; and wars and commerce, by multiplying

¹⁸ <http://www.historyoflaw.info/law-development-egypt.html>

the relations between the cities, made possible a comparison between those various codes. What we have loosely called 'natural law' or 'natural justice' was the ideal, by and large, of these codes. Solon, for example, the great Athenian lawgiver of the early sixth century B.C. was a firm believer in the ideal of justice. The early mythologists like Hesiod had seen in calamities like floods, fires, storms and war the punishment of the gods upon the unjust city. Solon's view was less naïve; he saw in the social evils of political unrest, party-faction, sedition, conspiracy and so on the consequences of injustice. Justice was for him the good health, the well-being of society. Pericles in the great Funeral Oration refers to 'that code which, although unwritten, yet cannot be broken without acknowledged disgrace'; Demosthenes (c. 384-322 B.C.) speaks of the 'whole life of man... governed by nature and by law' and of a 'law valid for all men given by nature.' And the quotations could be multiplied."¹⁹

Significantly, according to Professor Crowe, the struggle between Socrates and the Sophists, who had falsely accused him, was really the struggle between the idea of the supremacy of natural law over man-made human laws,-- an idea which the Sophists utterly rejected,²⁰ instead choosing to argue in favor of a theory that "might makes right," and arguing that to use natural law in order to attack existing inequity and injustice is to act very recklessly.²¹

III. Plato (Greek) and Aristotle (Greek)

As I have previously mentioned, I studied Plato (428 B.C.- 347 B.C.) as an undergraduate political science student and was impressed with his masterpieces, *Apology of Socrates* and the *Republic*. Plato's *Republic* masterfully displayed the same sort of dialectical dialogue about the *meaning of justice*²² which I had read in

¹⁹ Micheal B. Crowe, *The Changing Profile of the Natural Law* (The Hague, Netherlands: Martinus Nijhoff, 1977), pp. 7-8.

²⁰ Micheal B. Crowe, *The Changing Profile of the Natural Law* (The Hague, Netherlands: Martinus Nijhoff, 1977), pp. 7-10.

²¹ *Ibid.* pp. 9-10.

²² "In his philosophy Plato gives a prominent place to the idea of justice. Plato was highly dissatisfied with the prevailing degenerating conditions in Athens. The Athenian democracy was on the verge of ruin and was ultimately responsible for Socrates's death. The amateur meddlesomeness and excessive individualism became main targets of Plato's attack. This attack came in the form of the construction of an ideal society in which justice reigned supreme, since Plato believed justice to be the remedy for curing these evils. After criticizing the conventional theories of justice presented differently by Cephalus, Polymarchus, Thrasymachus and Glaucon, Plato gives us his own theory of justice according to which, individually, justice is a 'human virtue' that makes a person self-consistent and good; socially, justice is a social consciousness that makes a society internally harmonious and good. According to Plato, justice is a sort of specialization." D.R. Bhandari, "Plato's Concept Of Justice: An Analysis" <https://www.bu.edu/wcp/Papers/Anci/AnciBhan.htm>

the New Testament accounts of Jesus' encounters with the lawyers, chief priests, scribes, Sadducees, and Pharisees. Hence, the *idea of justice* began to appear as the key link between classical pagan thought and Christianity, and between law and religion. These Platonic dialogues on justice were openly discussed in my political theory courses, and I found them to be on par with the discussions on Christianity which I had grown up at my dinner table. Saint Augustine's *The City of God* next clarified Platonism's relationship to Christianity.

Certain partakers with us in the grace of Christ, wonder when they hear and read that Plato had conceptions concerning God, in which they recognize considerable agreement with the truth of our religion [i.e. Christianity].... Then, as to Plato's saying that the philosopher is a lover of God, nothing shines forth more conspicuously in those sacred writings. But the most striking thing in this connection, and that which most of all inclines me almost to assent to the opinion that Plato was not ignorant of those writings, is the answer which was given to the question elicited from the holy Moses when the words of God were conveyed to him by the angel; for, when he asked what was the name of that God who was commanding him to go and deliver the Hebrew people out of Egypt, this answer was given: 'I am who am; and thou shalt say to the children of Israel, He who is sent me unto you;' as though compared with Him that truly is, because He is unchangeable, those things which have been created mutable are not—a truth which Plato vehemently held, and most diligently commended. And I know not whether this sentiment is anywhere to be found in the books of those who were before Plato, unless in that book where it is said, 'I am who am; and thou shalt say to the children of Israel, *Who* is sent me unto you.'²³

The Platonic dialogues remained with me and influenced my Christian thinking, resulting in my manuscript, *The Young Republic* (1995), which eventually evolved into my current novel *Bishop Edwards: A Gospel For African American Workers During the Age of Obama*(2015). My purpose for writing *Bishop Edwards*, was perhaps similar to Plato's reasons for writing the *Republic*: I wanted to use the Socratic dialectic to explain the race problem and to promote social justice in the United States. The American race problem, as I conceived it, was riddled with subtleties and complexities, such as class, economic, and moral differentiation

²³ Saint Augustine, *The City of God* (New York, NY: The Modern Library, 1950), pp. 256-257.

within African Americans and other minority groups, and I tried to create characters—similar to Plato’s characters in the *Republic*—who were representative of various African American social classes in order to explore the dynamics of community dislocations and racial justice. And although I wrote what I considered to be a “Christian” novel, it was without question very “catholic” in that it rested many of its premises upon classical pagan truths.

Next in my undergraduate curriculum came Aristotle’s *Politics* and the unforgettable Aristotelian quote: “Law is reason unaffected by desire.” Here, I saw Saint Augustine’s doctrine of “God’s will” and “sin,” as follows:

Saint Augustine’s <i>The City of God</i>	Aristotle’s <i>Politics</i>
God’s will	Law
Sin	Desire

In other words, I continued the attempt at reconciling my own understanding of Christianity to the secular, collegiate education. In Aristotle’s definition of “desire,” I observed all of the “deadly sins” which I had been taught to avoid in Sunday schools and churches. Similarly, Aristotle’s definition of “law” seemed to reflect and promote the same justice which was ordained by God’s will, as I conceived it. But I was not fully aware that I had begun to make these correlations or reconciliations until I read summaries of Saint Thomas Aquinas’ *Summa Theologica*. Here, Saint Thomas explained four broad categories of law: Eternal Law → Divine Law (Old and New Testament) → Natural Law → Human Law. As an undergraduate student, I did not know that Saint Thomas was much influenced by Aristotelian thought, but I read excerpts of Aristotle’s *Politics*, Saint Thomas’ *Summa Theologica* and Aristotle’s entire book, *Ethics*. I pulled the essential principles from each of these writings and, as it were, made them my own. I must have thought that my search for truth was a unique and original journey, and that I was like a pioneer carving out a newer version of Christianity, because I never realized during my years of undergraduate study and law school that Saint Thomas’ logic rested heavily upon Aristotle’s premises and conclusions. Later, while in law school, the Roman Catholic Church served as my surrogate mother (my original mother church being the African Methodist Episcopal Church), and I frequently consulted with two Roman Catholic priests, befriended a Roman Catholic seminarian, and attended weekly mass and Bible studies. And although I was merely curious about learning more about the Roman Catholic faith, in truth, I was unwittingly becoming a Catholic Christian. Its ancient history and multicultural perspective, together with its renowned membership (including Saint Ambrose, Saint Monica, Saint Augustine, Saint Thomas, Saint Francis, and many,

many others) and renowned Christian scholarship, greatly appealed to intellectual tastes.

IV. Cicero (Roman)

In Saint Augustine's *The City of God*, I learned about an amazing Roman citizen named Marcus Tullius Cicero (106 B.C.- 43 B.C.).²⁴ Augustine presented Cicero as being sincere, forthright and honest. As I understand, the Roman Catholic Church considers Cicero to be a "righteous pagan." I learned later that, like Julius Caesar, Cicero was assassinated by the same group of assassins, because of his righteous political positions. Augustine quoted Cicero extensively in *The City of God*, and this is the only reason Cicero ever caught my attention.²⁵ Cicero was, among many other things, a preeminent Roman lawyer who expounded upon the meaning of natural law and natural justice, which Saint Augustine seemed to readily embrace! By this point in my intellectual journey, I had settled upon Saint Augustine's being my instructor in theology, and I had complete confidence in his

²⁴ "Marcus Tullius Cicero^[n 1] (/ˈsɪsiroʊ/; Classical Latin: [ˈmaːr.kʊs ˈtʊl.li.ʊs ˈki.ke.roː]; Greek: Κικέρων, *Kikerōn*; 3 January 106 BC – 7 December 43 BC) was a Roman philosopher, politician, lawyer, orator, political theorist, consul and constitutionalist. He came from a wealthy municipal family of the Roman equestrian order, and is widely considered one of Rome's greatest orators and prose stylists. His influence on the Latin language was so immense that the subsequent history of prose in not only Latin but European languages up to the 19th century was said to be either a reaction against or a return to his style. According to Michael Grant, "the influence of Cicero upon the history of European literature and ideas greatly exceeds that of any other prose writer in any language". Cicero introduced the Romans to the chief schools of Greek philosophy and created a Latin philosophical vocabulary (with neologisms such as *humanitas*, *qualitas*, *quantitas*, and *essentia*) distinguishing himself as a linguist, translator, and philosopher. Petrarch's rediscovery of Cicero's letters is often credited for initiating the 14th-century Renaissance in public affairs, humanism, and classical Roman culture. According to Polish historian Tadeusz Zieliński, "Renaissance was above all things a revival of Cicero, and only after him and through him of the rest of Classical antiquity." The peak of Cicero's authority and prestige came during the 18th-century Enlightenment, and his impact on leading Enlightenment thinkers such as John Locke, David Hume, and Montesquieu was substantial. His works rank among the most influential in European culture, and today still constitute one of the most important bodies of primary material for the writing and revision of Roman history, especially the last days of the Roman Republic. Though he was an accomplished orator and successful lawyer, Cicero believed his political career was his most important achievement. It was during his consulship that the Second Catilinarian Conspiracy attempted to overthrow the government through an attack on the city by outside forces, and Cicero suppressed the revolt by executing five conspirators without due process. During the chaotic latter half of the 1st century BC marked by civil wars and the dictatorship of Gaius Julius Caesar, Cicero championed a return to the traditional republican government. Following Julius Caesar's death Cicero became an enemy of Mark Antony in the ensuing power struggle, attacking him in a series of speeches. He was proscribed as an enemy of the state by the Second Triumvirate and consequently executed by soldiers operating on their behalf in 43 BC after having been intercepted during attempted flight from the Italian peninsula. His severed hands and head were then, as a final revenge of Mark Antony, displayed in the Roman Forum." <https://en.wikipedia.org/wiki/Cicero>

²⁵ Saint Augustine, *The City of God* (New York, NY: The Modern Library, 1950), pp. 47-48, 51-52, 60-61, 88, 94, 104, 132, 137, 139, 164, 282, 403, 816, 818.

assessment of the personalities of whom he described in *The City of God*, so that I had no reason to reject with wisdom and judgment of the pagan Cicero. Thus, through Saint Augustine, the preeminent Roman lawyer Cicero became my doorway to the ancient Roman legal system. That legal system seemed to hold the keys to Saint Paul's theological views, although I could not comprehend Saint Paul as readily as I could comprehend Saint Augustine or Cicero. Nevertheless, I suspected that Saint Paul, who was an educated Roman citizen, had likewise learned the Roman meanings of natural law and natural justice and infused this knowledge into his several New Testament epistles. But from Cicero, I was introduced to the very foundations of western law and jurisprudence, separate and apart from religion and Christianity. Plato and Aristotle discussed many subjects, but in the pagan Cicero I found statutory and constitutional law as well as natural justice. In my mind, "law," as the pagan Cicero defined it, was the same "law," as Saint Augustine understood it. This and other reasons lead me to conceive of secular law and legal systems as a very important responsibility for Christian lawyers and judges. Thus entering law school, I already had a preconceived idea of what sort of lawyer I wanted to be, but I deferred greatly to my secular-oriented law professors, who overwhelmed me with assignments which *seemly* appeared far removed from the Christian faith. As I have previously insinuated, during my law school years, the Roman Catholic Church and its gracious priests stepped in to assist me with reconciling secular "law-school law" with the Christian faith. To be sure, "law-school law" appeared to have a *religion of its own—a secular, civil religion, which seemed to swallow up and trump the Christian faith!* I fully understood the nature of a pluralistic society—that there are many good persons who are not religious or Christian-- but I nevertheless clung to the idea of the "righteous pagan," "natural law" and "natural justice" as being the saving grace of this secular "law-school" civil religion! After all, did not law-school reasoning rest upon the righteous pagan Socrates' "Socratic method?" Looking back upon this period in my life, more than twenty years later, it is my firm belief that without the writings of Saint Augustine, Saint Thomas, and the tutelage from Roman Catholic priests, while I was still a law student, that I may have easily abandoned the Christian faith!

V. Emperor Constantine (Roman) and the Emerging Christian Jurisprudence

As a Christian law student and young lawyer, I became immersed into Roman Catholicism and designated Constantine the Great as a very important figure in the history of Christianity and law. Constantine was the fifty-seventh emperor of the Roman Empire. He is credited with decriminalizing Christianity

throughout the Roman empire, when he issued the Edict of Milan in 313 A.D. Later, in 380 A.D., Emperor Theodosius made Christianity the official religion of the Roman Empire. From 380 A.D. until the Eleventh Century, A.D., Roman emperors and, following the collapse of the western empire, European kings claimed supreme authority over the Latin Church. In exchange for this arrangement, Catholic Bishops were established as imperial judges and incorporated into Rome's civil jurisdiction; and the Catholic Church was extended imperial resources and allowed to spread the Christian religion to the vast corners of the Roman Empire. It is unfortunate, however, that I learned none of this information from law school or any other continuing legal educational forum. For it was only through chance and happenstance, and my own internal desire to reconcile the Christian faith to my role as an attorney led me to this information.

Over the course of twenty years of law practice, I compiled my on-going research into a book, which I published in 2015, titled *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity*, which traces the origins of Anglo-American law and equity to the Christian religion, Judaism, and ancient Egypt. The Roman Catholic Church (and later the Church of England) transformed Roman equity into the canon law of the Catholic Church. A hierarchy of ecclesiastical judges were established within the Latin Church. "All bishops were expected to act skillfully as judges. This was possible in the later Roman Empire, because most bishops came from upper-class families and were brought up according to the educational ideals of the day (paideia). Their education included a basic training in law and (legal) rhetoric. After the merger of the early church law and Roman law in the fourth century, the church leaders themselves issued many procedural rules for centuries."²⁶

During the late Middle Ages, the Catholic Church's ecclesiastical courts assumed subject-matter jurisdiction over a wide range of topics, including "doctrine and liturgy; ecclesiastical property, polity, and patronage; sex, marriage and family life; education, charity, and inheritance; oral promises, oaths, and various contracts; and all manner of moral, ideological, and sexual crimes. The church also claimed temporal jurisdiction over subjects and persons that also fell within the concurrent jurisdiction of one or more civil authorities."²⁷ Thus Christian ideas and ideals became thoroughly woven into western jurisprudence through the western Roman Catholic Church. "Medieval writers pressed four main arguments in support of these jurisdictional claims. First, this new jurisdiction was seen as a simple extension of the church's traditional authority to govern the seven sacraments—baptism, confirmation, penance, eucharist, marriage, ordination, and

²⁶ John Witte, Jr., et al., *Christianity and Law: An Introduction* (Cambridge, UK: Cambridge Univ. P., 2008), p. 148.

²⁷ *Ibid.*, p. 10.

extreme unction. By the fifteenth century, the sacraments supported whole bodies of sophisticated church law, called ‘canon law.’ The sacrament of marriage supported the canon law of sex, marriage, and family life. The sacrament of penance supported the canon law of crimes and torts (delicts) and, indirectly, the canon law of contracts, oaths, charity, and inheritance. The sacrament of penance and extreme unction also supported a sophisticated canon law of charity and poor relief, and a vast network of church-based guilds, foundations, hospitals, and other institutions that served the *personae miserabiles* of Western society. The sacraments of ordination became the foundation for a refined canon law of corporate rights and duties of the clergy and monastics, and an intricate network of corporations and associations that they formed. The sacraments of baptism and confirmation supported a new constitutional law of natural rights and duties of Christian believers.”²⁸ And, perhaps most significantly, I became most attracted to “Christian equity,” as administered by the so-called church courts. “[M]edieval writers argued that the church’s canon law was the true source of Christian equity—‘the mother of exceptions,’ ‘the epitome of the law of love,’ and ‘the mother of justice,’ as they variously called it. As the mother of exceptions, canon law was flexible, reasonable, and fair, capable either of bending the rigor of a rule in an individual case through dispensations and injunctions, or punctiliously insisting on the letter of an agreement through orders of specific performance or reformation of documents. As the epitome of love, canon law afforded special care for the disadvantaged—widows, orphans, the poor, the handicapped, abused wives, neglected children, maltreated servants, and the like. It provided them with standing to press claims in church courts, competence to testify against their superiors without their permission, methods to gain succor and shelter from abuse and want, opportunities to pursue pious and protected careers in the cloister. As the mother of justice, canon law provided a method whereby the individual believer could be reconciled to God, neighbor, and self at once. Church courts treated both the legality and the morality of the conflicts before them. Their remedies enabled litigants to become righteous and just not only in their relationships with opposing parties and the rest of the community, but also in their relationship to God. This was one reason for the enormous popularity and success of the church courts in much of medieval Christendom. Church courts treated both the legality and the morality of the conflicts before them.”²⁹ Thus, in my mind, “Christian” law became synonymous with the doctrine of equity which Roman Catholic and Anglican clerics developed in ecclesiastical courts. And I conceptualized that one of my primary roles as a Christian lawyer was to ensure that equity, as well as law,

²⁸ Ibid., pp. 10-11.

²⁹ Ibid., pp. 11-12.

was properly administered in the secular civil courts. It is unfortunate that “Equity” does not appear as a major first-year law school course, but is only briefly mentioned in a few courses on “Remedies” or in a very small outline in bar review courses. And, there, again, I only discovered the power and force of “equity law and jurisprudence” during my personal efforts to reconcile the Christian faith to secular law; and during this process I encountered the rich history of equity jurisprudence extending as far back as ancient Egypt!³⁰

VI. Eastern Orthodox Church and the Law

A. Emperor Justinian (Roman)

After the Roman Empire collapsed in the West during the Fifth Century, A.D., the eastern half of the Roman Empire continued to flourish under the emperor Justinian I (482 A.D. to 565 A.D.). Justinian I made a significant contribution to the development and spread of Christianity and the Eastern Orthodox Church. “Justinian, who had always had a keen interest in theological matters and actively participated in debates on Christian doctrine, became even more devoted to religion during the later years of his life.”³¹ Indeed, the Eastern Orthodox Church considers Justinian I to be a saint. To be sure, I could write much on the extraordinary life of Justinian I, but that would be beyond the scope of this paper. Instead, the important point to be made here is that Justinian I was a zealous Christian who both Christianized and revitalized ancient Rome’s legal systems. Without Justinian’s efforts, Western Europe’s legal systems and heritage would not be what it was and is today. Through the Emperor Justinian, the Christian faith was incorporated into the secular legal system; and, vice versa, Rome’s legal system was also incorporated into the Christian faith.

B. *Corpus Juris Civilis*

Significantly, Justinian I was also very much interested in improving Roman law and administration. In fact, his lasting fame is through his legal reforms and revision of all Roman law, resulting in the enactment of the *Corpus Juris Civilis* (Body of Civil Law), which was revitalization and restatement of Rome’s ancient laws. The *Corpus Juris Civilis* was divided into four parts, as follows:

³⁰ Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL: Xlibris Pub., 2015).

³¹ https://en.wikipedia.org/wiki/Justinian_I

1. "*Codex Justinianus*" (529) compiled all of the extant imperial *constitutiones* from the time of Hadrian. It used both the *Codex Theodosianus* and private collections such as the *Codex Gregorianus* and *Codex Hermogenianus*.
2. "*Digesta*", or *Pandectae* , (533), was a compilation of passages from juristic books and law commentaries of the great Roman jurists of the classical period, mostly dating back to the second and third centuries, along with current edicts. It constituted both the current law of the time, and a turning point in Roman Law: from then on the sometimes contradictory case law of the past was subsumed into an ordered legal system.
3. "*Institutiones*" , or 'Elements' (533), a modified codification of the celebrated Roman jurist Gaius' legislation. The Institutes were intended as sort of legal textbook for law schools and included extracts from the two major works. It was made as the *Digest* neared completion, by Tribonian and two professors, Theophilus and Dorotheus.
4. "*Novellae*" , a number of new constitutions that were passed after 534, issued mostly in Greek. They were later re-worked into the *Syntagma*, a practical lawyer's edition, by the Byzantine jurist Athanasios of Emesa during the years 572–77.

All four of these together formed Justinian's *Corpus of Civil Law* which deeply influenced the Canon Law of the Western Church and the civil law of Medieval Europe, especially since it was said that *ecclesia vivit lege romana* — the church lives under Roman law.

The total of Justinian's legislature is known today as the **Corpus juris civilis**.... Early in his reign, Justinian appointed the *quaestor* Tribonian to oversee this task. The first draft of the *Codex Iustinianus*, a codification of imperial constitutions from the 2nd century onward, was issued on 7 April 529. (The final version appeared in 534.) It was followed by the *Digesta* (or *Pandectae*), a compilation of older legal texts, in 533, and by the *Institutiones*, a textbook explaining the principles of law. The *Novellae*, a collection of new laws issued during Justinian's reign, supplements the *Corpus*. As opposed to the rest of the corpus, the *Novellae* appeared in Greek, the common language of the Eastern Empire. The *Corpus* forms the basis of Latin jurisprudence (including ecclesiastical Canon Law) and, for historians, provides a valuable insight into the concerns and activities

of the later Roman Empire. As a collection it gathers together the many sources in which the *leges* (laws) and the other rules were expressed or published: proper laws, senatorial consults (*senatusconsulta*), imperial decrees, case law, and jurists' opinions and interpretations (*responsa prudentum*). Tribonian's code ensured the survival of Roman law. It formed the basis of later Byzantine law, as expressed in the *Basilika* of Basil I and Leo VI the Wise. The **only western province where the Justinianic code was introduced was Italy** (after the conquest, by the so-called Pragmatic Sanction of 554),^[36] **from where it was to pass to Western Europe in the 12th century and become the basis of much European law code.**³²

Hence, Western Europe did not received the *Corpus Juris Civilus* until the Twelfth Century, A.D. and, as previously mentioned, the discovery of this body of civil law greatly influenced and transformed Europe's legal systems. Indeed, the text of the *Corpus Juris Civilus* is impressive, and it appears to be strikingly modern. Below in Diagram 1, I have included a sample of the text from the *Corpus Juris Civilus*.

Diagram 1. *Corpus Juris Civilus* (exerts)

BOOK I OF THE INSTITUTES, 535 A.D.

Book I. Of Persons

I. Justice and Law.

JUSTICE is the constant and perpetual wish to render every one his due.

1. Jurisprudence is the knowledge of things divine and human; the science of the just and the unjust.
2. Having explained these general terms, we think we shall commence our exposition of the law of the Roman people most advantageously, if we pursue at first a plain and easy path, and then proceed to explain particular details with the utmost care and exactness. For, if at the outset we overload the mind of the student, while yet new to the subject and unable to bear much, with a multitude and variety of topics, one of two things will happen---we shall either cause him wholly to abandon his studies, or, after great toil, and often after great distrust to himself (the most frequent stumbling block in the way of youth), we shall at last conduct him to the point, to which, if he had been led by an easier road, he might, without great labor, and without any distrust of his own powers, have been sooner conducted.

³² Ibid.

3. The maxims of law are these: to live honestly, to hurt no one, to give every one his due.

4. The study of law is divided into two branches; that of public and that of private law. Public law regards the government of the Roman empire; private law, the interest of the individuals. We are now to treat of the latter, which is composed of three elements, and consists of precepts belonging to the natural law, to the law of nations, and to the civil law.

II. Natural, Common, and Civil Law.

The law of nature is that law which nature teaches to all animals. For this law does not belong exclusively to the human race, but belongs to all animals, whether of the earth, the air, or the water. Hence comes the union of the male and female, which we term matrimony; hence the procreation and bringing up of children. We see, indeed, that all the other animals besides men are considered as having knowledge of this law.

1. Civil law is thus distinguished from the law of nations. Every community governed by laws and customs uses partly its own law, partly laws common to all mankind. The law which a people makes for its own government belongs exclusively to that state and is called the civil law, as being the law of the particular state. But the law which natural reason appoints for all mankind obtains equally among all nations, because all nations make use of it. The people of Rome, then, are governed partly by their own laws, and partly by the laws which are common to all mankind. We will take notice of this distinction as occasion may arise.

2. Civil law takes its name from the state which it governs, as, for instance, from Athens; for it would be very proper to speak of the laws of Solon or Draco as the civil law of Athens. And thus the law which the Roman people make use of is called the civil law of the Romans, or that of the Quirites; for the Romans are called Quirites from Quirinum. But whenever we speak of civil law, without adding the name of any state, we mean our own law; just as the Greeks, when "the poet" is spoken of without any name being expressed, mean the great Homer, and we Romans mean Virgil.

The law of the nations is common to all mankind, for nations have established certain laws, as occasion and the necessities of human life required. Wars arose, and in their train followed captivity and then slavery, which is contrary to the law of nature; for by that law all men are originally born free. Further, by the law of nations almost all contracts were at first introduced, as, for instance, buying and selling, letting and hiring, partnership, deposits, loans returnable in kind, and very many others.

3. Our law is written and unwritten, just as among the Greeks some of their laws were written and others were not written. The written part consists of *leges* (*lex*), *plebiscita*, *senatusconsulta*, *constitutiones* of emperors, *edicta* of magistrates, and *responsa* of jurists [*i.e.*, jurists].

4. A *lex* is that which was enacted by the Roman people on its being proposed by a senatorian magistrate, as a consul. A *plebiscitum* is that which was enacted by the plebs on its being proposed by a plebeian magistrate, as a tribune. The plebs

differ from the people as a species from its genus, for all the citizens, including patricians and senators, are comprehended in the *populi* (people); but the plebs only included citizens [who were] not patricians or senators. *Plebiscita*, after the Hortensian law had been passed, began to have the same force as *leges*.

Here we find clear evidence of the genius of Roman antiquity and an advanced Roman legal system which clearly reflected the Christian faith. Indeed, under the Emperor Justinian, Christianity was the official religion of the empire and, for this reason, became the foundation of the secular law.

VII. Western Church and the Law

Western Europe's modern legal systems trace their roots to a common source: the Roman Catholic Church of the Eleventh and Twelfth Centuries, A.D.

A. Discovery of Aristotle and Roman *Corpus Juris Civilis*

Two major developments occurred during the Eleventh and Twelfth Centuries, A.D. First, Western Europe re-discovered Aristotle's writings, which the Arab Muslims have preserved throughout the Middle Ages. And, secondly, someone discovered a copy of the ancient Roman *Corpus Juris Civilis* (i.e., the Byzantine Code of Justinian), which recommenced the study of ancient Roman law in the West.

B. Gratian and the Canon law of the Roman Catholic Church

Another major development was the Benedictine monk Gratian's collection of church edicts, rules and law and compiling them into one body of canon law in about 1140 A.D.

C. Rise of Cathedral Schools and Western European Universities

Hence, the re-discovery of Aristotle, the Roman *Corpus Juris Civilis*, and the compilation of the Roman Catholic canon law led to a rebirth of learning, the development of universities, and to the study of law. "The first universities in Europe with a form of corporate/guild structure were the University of Bologna (1088), the University of Paris (c. 1150, later associated with the Sorbonne), and the University of Oxford (1167)."³³ The first academic degrees to be awarded in European universities were, in fact, law degrees.

³³ Ibid.

D. Catholic Monasticism and Christianization of Western Europe

These developments-- the re-discovery of Aristotle and the Roman *Corpus Juris Civilis*; the compilation of the Roman Catholic canon law; and the development of European learning and universities—were the direct results of Catholic monasticism and contact with Arab Muslims during the Crusades. The Roman Empire had previously collapsed during the Fifth Century, A.D., and the Catholic Church split in 1054 A.D. Thereafter, the Western Catholic Church developed a Latin-oriented liturgy; whereas the Eastern Catholic Church developed a Greek-oriented liturgy. In the Western half of the old Roman Empire, the Catholic monasteries preserved western civilization. “[M]onks and nuns taught classes; evidence of these immediate forerunners of the later university at many places dates back to the 6th century AD. The earliest universities were developed under the aegis of the [Roman Catholic] Church by papal bull as *studia generalia* and perhaps from cathedral schools. It is possible, however, that the development of cathedral schools into universities was quite rare, with the University of Paris being an exception.”³⁴ Saint Thomas Aquinas was the heir and product of ancient Catholic monasticism and up-start 13th Century (Medieval) European Universities which carried on the tradition vetting and improving Christian thought. As a Catholic monk and priest, St. Thomas became a “child of the university.”³⁵ He

³⁴ <https://en.wikipedia.org/wiki/University>

³⁵ “In 1245 Thomas was sent to study at the Faculty of the Arts at the University of Paris, where he most likely met Dominican scholar Albertus, then the Chair of Theology at the College of St. James in Paris. When Albertus was sent by his superiors to teach at the new *studium generale* at Cologne in 1248, Thomas followed him, declining Pope Innocent IV’s offer to appoint him abbot of Monte Cassino as a Dominican. Albertus then appointed the reluctant Thomas *magister studentium*. Because Thomas was quiet and didn't speak much, some of his fellow students thought he was slow. But Albertus prophetically exclaimed: ‘You call him the dumb ox, but in his teaching he will one day produce such a bellowing that it will be heard throughout the world.’ Thomas taught in Cologne as an apprentice professor (*baccalaureus biblicus*), instructing students on the books of the Old Testament and writing *Expositio super Isaiam ad litteram* (*Literal Commentary on Isaiah*), *Postilla super Ieremiam* (*Commentary on Jeremiah*) and *Postilla super Threnos* (*Commentary on Lamentations*). Then in 1252 he returned to Paris to study for the master's degree in theology. He lectured on the Bible as an apprentice professor, and upon becoming a *baccalaureus Sententiarum* (bachelor of the *Sentences*) devoted his final three years of study to commenting on Peter Lombard’s *Sentences*. In the first of his four theological syntheses, Thomas composed a massive commentary on the *Sentences* entitled *Scriptum super libros Sententiarum* (*Commentary on the Sentences*). Aside from his masters writings, he wrote *De ente et essentia* (*On Being and Essence*) for his fellow Dominicans in Paris. In the spring of 1256 Thomas was appointed regent master in theology at Paris and one of his first works upon assuming this office was *Contra impugnantes Dei cultum et religionem* (*Against Those Who Assail the Worship of God and Religion*), defending the mendicant orders, which had come under attack by William of Saint-Amour. During his tenure from 1256 to 1259, Thomas wrote numerous works, including: *Questiones disputatae de veritate* (*Disputed Questions on Truth*), a collection of twenty-nine disputed questions on aspects of faith and the human condition prepared for the public university debates he presided over on Lent and Advent; *Quaestiones quodlibetales* (*Quodlibetal Questions*), a collection of his responses to questions posed to him by the academic audience; and both *Expositio super librum Boethii De trinitate* (*Commentary on Boethius's De trinitate*) and *Expositio super librum Boethii De hebdomadibus* (*Commentary on Boethius's De hebdomadibus*), commentaries on the works of 6th-

attended monastic schools, attained a great Catholic education, and served as a distinguished theologian and professor.³⁶ He afterwards attended the University of Paris, which was only the second European university to be established. Indeed, European higher education had taken place for hundreds of years in Christian cathedral and monastic schools (also called the *Scholae monasticae*). Here, monks and nuns kept the torch of knowledge aflame while many of the former provinces of the ancient Roman Empire fell into the Dark Ages. Thus, the modern European university and the study of law in the west grew largely out of the Latin Roman Catholic Church, as invaluable materials had been transmitted through contact with the Islamic world and the Eastern Orthodox Church. Western jurisprudence thus grew largely out of both Catholic philosophy and Roman law which still decisively impact western and American jurisprudence. For these reasons, accredited American law schools which down-play the impact of Christianity on the secular legal system are misleading law students and lawyers. This is because, as it turns out, Catholic Christianity incorporated into Christ's fundamental doctrine of "love" the very best of ideas of "justice" and "law," from various pagan sources. This synthesis produced a higher idea of "justice" and purer definition of "law."

E. St. Thomas Aquinas' *Summa Theologica*

The genius of Saint Thomas Aquinas' (1225 A.D. – 1274 A.D.) *Summa Theologica* thus stands largely upon the shoulders of the great Justinian I and the *Corpus Juris Civilis*. The Roman Catholic Church owes perhaps as much a debt to Justinian I's legislative achievements as it does to Saint Thomas' contributions to theology. For when we consider the *Corpus Juris Civilis* in its entirety, we must conclude that Saint Thomas' legal philosophy was largely its mirror reflection. I say this not to diminish Saint Thomas' contributions, but rather to show the continuity between ancient Rome's legal system and the Roman Catholic Church.

CONCLUSION

This essay is a survey or an outline which I have compiled for myself and other practicing lawyers and judges to aid them in their search for the origins of the Christian faith in the secular law. I have shared a piece of my personal biography, in order to shed light on what helped to form my westernized worldviews: a rural

century Roman philosopher Boethius. By the end of his regency, Thomas was working on one of his most famous works, *Summa contra Gentiles*." https://en.wikipedia.org/wiki/Thomas_Aquinas

³⁶ Ibid.

upbringing, the African Methodist Episcopal Church, the Greek classics, and the Roman Catholic Church. This essay next traces the origins of western jurisprudence to ancient Egypt, Greece, and Rome, and it describes the Roman Catholic and Eastern Orthodox Churches' roles of preserving classical Greco-Roman law and philosophy, as well as Emperor Justinian's *Corpus Juris Civilis*, which is a major cornerstone of Christian and western jurisprudence. The Catholic canon laws, together with its ecclesiastical equity jurisprudence, have decisively shaped western law, including the Anglo-American common-law legal system. Hence, the chief Christian influence in modern secular law continues to be "equity jurisprudence" which has been infused within rules of civil and criminal procedure, statutory law, and the common law. Equity jurisprudence thus reflects Christian ideals within America's secular jurisprudence—which is to do justice and judgment in all cases, controversies and disputes.³⁷

THE END

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³⁷ See, generally, Genesis 18:19 and John 7:24. See, also, Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL.: Xlibris Pub., 2015).