ST. LUKE'S INN OF COURT

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"A History of the Anglican Church—Part VII:
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 eighteenth essay in this series: "A History of the Anglican Church—Part VII."

PART VII The English Inns of Court (1300 to 1600 A.D.)

Introduction

The American legal profession traces its roots to the English Common Law and the Inns of Court of England. Several of the signers of the Declaration of Independence and U.S. Constitution were distinguished members of these inns. And the English Inns of Court were repositories of secular law and jurisprudence, Christian theology and Catholic and natural-law theory-- all key ingredients of the common law of England. Under this system, the British crown was early and largely shaped by the Roman Church of England and Catholic theology. Up through the period 1300 to 1600, England's legal system, guided by the Roman canon law, remained staunchly conservative and Catholic:

> Despite these intermittent waves of revolt, restoration, and constitutional reform, much English law remained rather strikingly traditional in the early modern period. Unlike other Protestant lands, England did not pass comprehensive new legal reformations that reflected and implemented its new Protestant faith. Armed with the conservative legal syntheses of Richard Hooker (1553-1600) and others, England chose to maintain a good deal of its traditional medieval common law and canon law, which was only gradually reformed over the centuries by piecemeal parliamentary statutes and judicial precedents. Moreover, after divesting the church of its lands and jurisdiction during the early Reformation era, Queen Elizabeth I (1533-1603) and her successors turned anew to established Anglican church institutions to help administer the English laws of charity, education, domestic relations, and more.[1]

Not surprisingly, the Church of England's and St. Augustine's prescriptions for a just and righteous ruler, governor or prince was almost a carbon copy of the Old Testament admonitions to the kings of ancient Israel. In *The City of God*, St. Augustine opined that Christian kings or emperors…

> … are happy if they rule justly; if they make their power the handmaid of His majesty by using it for the greatest possible extension of His worship; if they fear, love, worship God; if more than their own they love that kingdom in which they are not afraid to have partners; if they are slow to punish, ready to pardon; if they apply that punishment as necessary to government and defence of the republic, and not in order to gratify their own enmity; if they grant pardon, not that iniquity may go unpunished, but with the hope that the transgressor may amend his ways; if they compensate with the lenity of mercy and the liberality of benevolence for whatever severity they may be compelled to decree; if their luxury is as much restrained as it might have been unrestrained; if they prefer to govern depraved desires rather than any nation whatever; and if they do all these things, not through ardent desire of empty glory, but through love of eternal

[1] John Witte, Jr. and Frank S. Alexander, Christianity and Law: An Introduction (Cambridge, UK: Cambridge University Press, 2008), p 20.

> felicity, not neglecting to offer to the true God, who is their God, for their sins, the sacrifices of humility, contrition, and prayer. Such Christian emperors, we say, are happy in the present time by hope, and are destined to be so in the enjoyment of the reality itself, when that which we wait for shall have arrived.[2]

Who, in St. Augustine's ideal Christian state, were to advise the Christian prince? Christian priests, Christian theologians, and Christian lawyers, of course. In England, these were the Pope, the Archbishop of Canterbury, other senior archbishops, and senior clerics.

Thus, as a Christian monarchy, the British crown conceptualized itself as a partnership with Christ. All of its royals decrees and laws emanated from the law of Christ. Therefore, everyone who exercised influence over the administration of English law-- whether solicitor, barrister, or judge-- was required to swear an oath of allegiance to the British crown and the Church of England. This essentially meant that the inns of court were Christian institutions, directly tied to the British crown, courts, and the Church of England. For this reason, the English inns of court early and largely functioned as arms of the Catholic and Reformed Church of England. Indeed, before the Reformation under King Henry VIII (1491-1547), the Roman Catholic clergy continued to influence, mold and shape English law; and after the Reformation, the Church of England with Henry VIII as its supreme head mandated that all English barristers and judges swear oaths of allegiance to both the monarchy and the church. This essentially meant that the English inns of court were Christian institutions; for to be called to the bar required membership in the Church of England. The inns of court thus became the home of the English common law, under the guiding influence of Christian law and jurisprudence. The common law of England thus became a creature of Catholic natural law theory, natural justice, natural rights, and fundamental human rights law which laid the foundations for the Magna Carta, the American Declaration of Independence, the American Constitution of 1787, and the American Bill of Rights. And all of this came naturally out of a Catholic-Christian conceptualization of human dignity, which was slowly developed over time in the English inns of court.

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[2] Saint Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p.178.

A fundamental objective of this essay concerns the Christian character of the British legal profession since the reign of Edward I (early 1300s) up to 1600. In previous essays throughout this series, we have seen how from 800 A.D. up to 1400 A.D., the Roman Church of England molded and shaped the English common law. This essay sets forth the proposition that the English legal profession, through the operation of its various inns of court, inns of chancery, the sergeants inn, and the colleges of Oxford and Cambridge, required membership in the Church of England up through the period 1600 (and even up though the year 1900). This essentially placed the Holy Bible (i.e., the laws of Moses and the teachings of Jesus of Nazareth) at the foundation of the British legal system. An English barrister or judge must take an oath of allegiance to the English crown and to the Church of England; and he must administer the laws of England in accordance with Christian ideals as expressed in the form of English law and equity. This system of law maintained the classical and very ancient legal system that had been developed within the Roman Catholic Church through the writings of theologians such as St. Augustine of Hippo and St. Thomas Aquinas; namely, *that man-made laws must be subordinate to, and reflect, natural law and equity, which were defined as being synonymous to the Law of Christ and (or) the Law of God*. This English common law system (both law and equity) reflected the central message of Jesus of Nazareth to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).[3] And this was the system of English common law that was eventually transmitted to the American colonies during the seventeenth and eighteenth centuries. Indeed, English common law and equity were, in essence, a refined form of Christian law and jurisprudence.

SUMMARY

The period 1300 to 1600 A.D. in British history witnessed the rise of world trade, mercantilism, nationalism, and secularization. The role and function of Roman clerics were more and more diminished; and the role of secular lawyers, who now served the wealthy merchants and nationalistic European kings or

[3] John Witte, Jr. and Frank S. Alexander, *Christianity and Law: An Introduction* (Cambridge, UK: Cambridge University Press, 2008).

queens, significantly increased. In England, the founding of the inns of court occurred during this period. These inns were in theory secular but in reality they were arms of the Church of England. In order to qualify for bar membership, an applicant needed to be a member of one of the several inns of court or inns of chancery; and he needed to swear an oath of allegiance to the British crown and to the Church of England. He must have also become an active member of the Church of England. After the Reformation, most Catholics and Jews could not qualify for the English bar. This remained law well into the nineteenth century. As a result, the English common law was nourished in the English inns of court as a distinct form of Christian jurisprudence, which the American colonies eventually inherited during the eighteenth century. In fact, the Declaration of Independence, the U.S. Constitution (1787) and the American Bill of Rights (1789) are widely described as expressions of the English Common Law.

Today, there are four inns of court in Great Britain: Lincoln's Inn, Middle Temple, Inner Temple, and Gray's Inn. And each of them traces their origins to thirteenth century, Medieval period. They primary function is to train and qualify students for the English bar, to provide continuing legal education, and to support the legal profession. Their Christian heritage is preserved in the fact that a royal member of the British crown is automatically assigned membership in each of the four inns and a chapel or church, staffed by clerics from the Church of England, are officially a part of each of the four inns.

I. The Barrister's Oath to the Church of England

For several centuries, from 1300 up through 1900, the English lawyer and judge swore oaths of allegiance to the British crown. These oaths were synonymous to swearing oaths of allegiance to the Church of England. That is to say, the lay English barrister or judge, after the mid-fourteenth century, was required to swear oaths of allegiance to the English crown *and* to the Church of England.

Prior to the reign of Edward I (1272 to 1307 A.D.), the English legal profession was dominated by Roman Catholic clerics; and, afterwards, the lay lawyers and judges were heavily regulated by the bishops. The secular laws of England were Christian laws, and to be admitted to the English bar required an oath of allegiance to a Christian monarchy and the taking of the Eucharist within

the Roman Church of England. This policy remained in force well throughout the nineteenth century. From 1300 up to 1600 (and even up through the period 1900), the English barrister or judge was required to be either a cleric or practicing law member of the Church of England. This policy applied not only to the legal profession, but to civil service and government offices in general throughout the British empire.

> [I]n 1815 the Church of England was the dominant state religion. In order to hold public office a man had to be a communicating member of the Church of England. This angered many non-conformists and Roman Catholics who were excluded from participating in local or national government or from sitting as MPs in Parliament. However, the tide began flowing very strongly against the Church of England in the 1820s. Calls for repeal of the Test and Corporation Acts and Catholic Emancipation in Ireland threatened the status and position of the Church. Many Anglican traditionalists were afraid these reforms were the thin edge of the wedge and that unless they opposed reform then the Church of England could be eventually disestablished. Some of the bishops dug their heels in and supported the Tories in the House of Lords in rejecting the Reform Bill, but the backlash led to fierce anti-clericalism during the Swing Riots and a strong desire amongst Whigs like Lord Grey to reform the Church of England.[4]

All of this should not go without notice to students of American legal history, since the Common Law of England, as it existed during the year 1607, was adopted as official law in several of the thirteen original American colonies in 1776. Up to this period in American history, the English common law had remained the handmaiden of the Church of England. And the English legal profession was predominantly a Christian institution. It thus follows, then, that the English common and system of English equity which the United States inherited in 1776 was a refined form of Christian jurisprudence. This is readily seen in the nature of the oaths for taking and holding office as lawyer or judge in England: the lawyer or judge must swear allegiance to Christian laws and ideals as handed down from the English crown and church. For instance, a Text of the Oath as published in 1535, states:

> I (state your name) do utterly testifie and declare in my Conscience, that the Kings Highnesse is the onely Supreame Governour of this

[4] http://www.historyhome.co.uk/peel/religion/relandpol.htm

> Realme, and all other his Highnesse Dominions and Countries, as well in all Spirituall or Ecclesiasticall things or causes, as Temporall: And that no forraine Prince, Person, Prelate, State or Potentate, hath or ought to have any Jurisdiction, Power, Superiorities, Preeminence or Authority Ecclesiasticall or Spirituall within this Realme. And therefore, I do utterly renounce and forsake all Jurisdictions, Powers, Superiorities, or Authorities; and do promise that from henchforth I shall beare faith and true Allegiance to the Kings Highnesse, his Heires and lawfull Successors: and to my power shall assist and defend all Jurisdictions, Priviledges, Preheminences and Authorities granted or belonging to the Kings Highnesse, his Heires and Successors or united and annexed to the Imperial Crowne of the Realme: so helpe me God: and by the Contents of this Booke.[1]

And a text of the Oath as published in 1559 reads:

> I, A. B., do utterly testify and declare in my conscience that the Queen's Highness is the only supreme governor of this realm, and of all other her Highness's dominions and countries, as well in all spiritual or ecclesiastical things or causes, as temporal, and that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority ecclesiastical or spiritual within this realm; and therefore I do utterly renounce and forsake all foreign jurisdictions, powers, superiorities and authorities, and do promise that from henceforth I shall bear faith and true allegiance to the Queen's Highness, her heirs and lawful successors, and to my power shall assist and defend all jurisdictions, pre-eminences, privileges and authorities granted or belonging to the Queen's Highness, her heirs or successors, or united or annexed to the imperial crown of this realm. So help me God, and by the contents of this Book.[2]

During the reign of Henry VIII (1491-1547 A.D.), after the Church of England officially broke away from the Roman Catholic Church, these oaths were strictly enforced, -- a violation of which could result in capital punishment. For example, Roman Catholics who refused to take the “Oath of Supremacy” could be indicted for treason. This is what happened to Sir Thomas Moore, who had opposed King Henry VIII's separation from the Roman Catholic Church and divorce from his

first wife Queen Catherine of Aragon. Moore also refused to accept Henry VIII as Supreme Head of the Church of England, a title which had been given by Parliament through the "Act of Supremacy of 1534." As a consequence, Moore was imprisoned in 1534 for his *refusal to take the oath*; and in 1535, he was tried for treason, convicted on perjured testimony, and beheaded. From this period up to 1900, Jews, Catholics, dissenters, non-conformists, and protesters could face a similar fate. Active membership in the Church of England was necessary to be a member of Parliament, a member of the bar, a judge, hold many civil service positions, or even to conduct many lucrative trades or businesses.

> The way mandatory [church] attendance was enforced was by way of the Corporation Act 1661 and the Test Act 1673 (following earlier Elizabethan legislation). These made it next to impossible to hold any kind of office or be in business, or a member of trade guilds etc *without taking the Anglican sacrament*. These Acts were eventually repealed in 1828 which helped non-Anglican zin 1829. Jewish emancipation took until 1890 to achieve.[5]

In England, the Christian religion, at least as it was set forth from the British crown and the Church of England, was the "laws spiritual" of the British empire and it was integrally woven into the English common law through the various inns of court, the "home of the common law."[6]

II. English Common Law—As Catholic and Natural Law Jurisprudence

The English common law thus developed as a refined form of Roman Catholic natural-law theory and jurisprudence. It was originally a form of applied Catholic theology that was used to govern practical human affairs and behavior in England—such as property law, family law, and criminal justice—according to the law of God.[7] The English common law has been described in the *Catholic Encyclopedia* as "subject of unstinted eulogy and it is, undoubtedly, one of the

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[5] http://www.funtrivia.com/askft/Question31737.html

[6] See, generally, Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law* (Dobbs Ferry, New York: Oceana Publications, Inc., 1976).

[7] Kevin Smith, "Common Law," *Catholic Encyclopedia* On-Line (citing, REEVES, *History of the English Law* (Philadelphia, 1880); BLACKSTONE, *Commentaries on the Laws of England*, SHARSWOOD edition (Philadelphia, 1875); POLLOCK AND MAITLAND, *The History of English Law* (Boston, 1875); KENT, *Commentaries upon American Law* (12th ed., Boston, 1873).)

most splendid embodiments of human genius. It is a source of profound satisfaction to Catholics that it came into being as a definite system and was nurtured, and to a great extent administered, during the first ten centuries of its existence by the clergy of the Catholic Church."[8] Hence, England, while under this Catholic jurisdiction, conceptualized God's law was eternal law; the Old and New Testament as divine law; and the human reason as natural law. All other human laws, such as the Anglo-Saxon customary laws, had to comport with the law of reason (natural law); the Bible (divine law) and thus God's will (eternal law).

What this meant in practical terms is that all law represented the eternal personality and will of God. From this premise, the English common law was conceptualized as an unwritten moral code already existing in nature and could be discovered through reason and (or) revelation. "In theory the Common Law is there all the time, and always has been, just waiting to be discovered or revealed to the judicial mind."[9] The Anglo-Saxon and Norman judges developed a respect for recorded opinion, so that they could reason among themselves and postulate as to what the law was, is, or ought to be. A respect for prior decisions developed; and so the common law was extracted of the human condition, custom and experience. Common law judges and advocates thus developed a unique method of interpreting law. "But the[common law] judicial mind, like Moses on the Mount Nebo, must not be exposed to the strain of too close a view of the Promised Land. The judicial eye must peer murkily through the spectacles of its predecessors. *Stare decisis*- let that which has been decided stand."[10]

Out from this jurisprudence came the typical common law jurisprudence which is today taught in American law schools, such as the law of property, contracts, criminal law and torts. Conceptually, these areas of law developed using Catholic theology and jurisprudence (ancient Greco-Roman natural law; Roman

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[8] Ibid.

[9] Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law* (Dobbs Ferry, New York: Oceana Publications, Inc., 1976), p. 57.

[10] Ibid.

cannon law; and the Bible).[11] Their fundamental aim was to create a well-ordered Christian commonwealth where the law of Christ governed the affairs of its members.[12] This English common law system (both law and equity) reflected the central message of Jesus of Nazareth to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).[13]

III. The English Common Law—As Constitutional Legal Theory

It is today widely held that the American Declaration of Independence (1776), U.S. Constitution (1787), and Bill of Rights (1789) were formed out of the "English Common Law,"[14] which may be also called the "unwritten English constitution." This English Common Law reflected, perhaps more than any other, the Law of Christ. It upheld the idea of fundamental rights and "fundamental law." These juridical ideals, however, did not suddenly appear; but, like the rest of the English common law, the Common Law of England emerged over several centuries.

As author Timothy Daniell has observed:

> The Common Law seeks to ensure that the citizen shall live under the rule of law, and shall not be subject to arbitrary taxation, imprisonment, confiscation, or other manifestation of tyranny.[15]
>
> The Common Law writs provided the means for this protection.[16]

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[11] John Witte, Jr. and Frank S. Alexander, *Christianity and Law: An Introduction* (Cambridge, UK: Cambridge University Press, 2008).
[12] Ibid.
[13] Ibid.
[14] In this essay, I shall refer to the "unwritten English constitution" as the "English Common Law," as opposed to the common law of England. The "Common Law," with all-capital letters denotes the "fundamental law" of England. Whereas the "common law of England" only refers to lesser forms of law, such as the law of contracts, torts, property law, and criminal law.
[15] Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law* (Dobbs Ferry, New York: Oceana Publications, Inc., 1976), p. 63.
[16] Ibid.

Habea Corpus secured the production of the body of any man who was unlawfully imprisoned, even by order of the King, so that the Judge, on being satisfied of this, could order his immediate release.

Certiorari enabled the Courts to quash any unjust decision of any inferior tribunal or other quasi-legal body. [17]

Prohibition was the means by which the Common Law Court forbade the commission of illegal Acts, including illegal or unjust trials, while, by Mandamus the officials of the King could be ordered to perform their duties as required by law.[18]

The Police, the Magistrates and every arm of the Executive was subject to the control of the Courts of Common Law by means of these remedies. Now, however, the complete triumph is Parliament's, and perhaps the Common Law itself can pose a solid threat to Parliament supreme and omnipotent, where it has shown to have failed the electorate and otherwise eroded the civil liberties of its people."[19]

The American colonies "adopted that system of jurisprudence common to their heritage, the English Common Law as it stood in the seventeenth century."[20]

The Common Law rapidly developed into the sword with which the citizen has sought to rely and to defend himself against 'the insolence

[17] Ibid.
[18] Ibid.
[19] (NOTE: the author also points out that "Now that Parliament is 'supremo', and the Government supreme within it, the Englishman probably needs the protection for his liberties in a written constitution, as have been given the citizens of the United States. The price of liberty is eternal vigilance, and never must our pride in the Common Law, and its own achievements, blind us to the need to modify, adapt and extend it anew to cope with the dangers of our modern age, where previously Kings ruled their Englishmen and Parliament benevolently.") Ibid.

[20] Ibid., p. 65.

> of office, and the slights which patient merit of the unworthy takes.'"[21]
>
> In particular it sought to protect the individual against arbitrary levying of taxes by the monarch. Even the great Elizabeth abandoned all efforts to tax her subjects without Parliamentary consent, but the Stuarts were less wise.
>
> The Petition Right, presented to the Stuart Parliament in 1628, included at Coke's suggestion a declaration of the illegality of taxation without Parliamentary consent, and one of the main causes of the Civil War in England was Charles I successful attempt to raise taxes without Parliamentary consent for the building and maintenance of his Navy. John Hampden, a Buckinghamshire squire and Member of Parliament, refused to pay this tax, but the Court declared he had to. In 1688 the Glorious Revolution overthrew James II, and shortly afterwards the Bill of Rights affirmed the supremacy of Parliament and the independence of the Judiciary."[22]

Clearly, the American Bill of Rights incorporated the English Common Law into the U.S. Constitution. On this very point, the *Catholic Encyclopedia* states:

> When the thirteen American colonies achieved their independence, the English common law, as it existed with its legal and equitable features in the year 1607, was universally held by the courts to be the common law of each of the thirteen states which constituted the new confederated republic known as the United States of America. As the United States have increased in number, either by the admission of new states to the Union carved out of the original undivided territory, or by the extension of territorial area through purchase or contest, the common law as it existed at the close of the War of the American Revolution has been held to be the common law of such new states with the exception that, in the State of Louisiana, the civil law of Rome, which ruled within the vast area originally

[21] Ibid., p. 62.
[22] Ibid., pp. 62-63.

> called Louisiana, has been maintained, subject only to subsequent legislative modifications."[23]

And author Timothy Daniell has written that "[t]he American Judiciary follows a distinguished path steeped in legal alumni which began with the Puritan thinkers of the seventeenth century, and the finer traditions of legal scholarship. In the old days of course, the leaders in civil life were often the repositories of literary and academic knowledge, as by way of example was one of the first, Sewall, C.J., whose Diary remains a masterful work (1652-1730), or the eminent theologian, Dr. Jonathan Edwards, 1703-1758, sometime President of Princetown [sic]…." [24]

Of Thomas Jefferson, Mr. Daniell further writes that: "God bless America; the Common Law has reason to be grateful,"[25] and "[i]t was a young country squire from Virginia—a lawyer who…inspired the certificate of the Articles of Confederation….

> We hold these truths to be self-evident, that all men are created equal, That they are endowed by their creator with certain inalienable rights, that among these are Life, Liberty, and the pursuit of Happiness; That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed; That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence indeed, will dictate that Governments long established should not be changed for light and transient causes; and… Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their form Systems of Government… To prove this, let

[23] Kevin Smith, "Common Law," *Catholic Encyclopedia* On-Line (citing, REEVES, *History of the English Law* (Philadelphia, 1880); BLACKSTONE, *Commentaries on the Laws of England*, SHARSWOOD edition (Philadelphia, 1875); POLLOCK AND MAITLAND, *The History of English Law* (Boston, 1875); KENT, *Commentaries upon American Law* (12th ed., Boston, 1873).)

[24] Ibid., pp. 66-67.
[25] Ibid., pp. 69-70.

> Facts be submitted to a candid world. (Here follow eighteen paragraphs of King George III historic blunders….)

Lastly, but certainly not least, the American Civil War (1861-65) was part and parcel of a long train of civil wars and civil strivings that has been recurring in Mother England since the eleventh century. The American Civil War, without question, further extended the application of the Common Law of England (i.e., the American Bill of Rights) to citizens throughout the various American states and regardless of previous condition of servitude or race. "The mantle of the English Common Law," writes Mr. Daniell, "was decisively dyed with the colour of the Civil War. That period, an adolescent conflagration, ennobled the country towards maturity, but weakened the distinctive character of the southern states. Reference to the XIV amendment, adopted in 1868, well illustrates the subtle transition made by the Supreme Court and which guaranteed its throne in the young democracy. This principle was firmly laid down: That citizens of the United States are protected by their common rights, as enshrined in the constitution, against state legislature. The year 1868 marked the watershed of the devolutionary system of American jurisprudence and heralded the beginnings of a Supreme Court which re-enforced its infinite residuary power over the definitive jurisdictions of the various states. From then onwards, to the present day, the Supreme Court became the bastion of personal liberty and sectarian rights in the community. Of historic interest was the cause of the nineteenth century Negro who found refuge within the portico of the Supreme Court in the Capital."[26]

IV. English Common Law—the Inns of Court

A. The Knights Templars (Precursors to the Inner & Middle Temple Inns of Court)

We now turn to the five great inns of court of England. The two Temple Inns—the Inner Temple and the Middle Temple-- take their names and origins from the Order of the Knights Templars, which was founded in Jerusalem in 1118 as a military religious order which owed allegiance to no ecclesiastical authority save the Pope himself. The name "temple" suggests that the buildings which this organized occupied were for religious worship and service. "The Knights

[26] Ibid., pp. 65-66.

Templars were one of the three principal Christian orders founded to wrest Jerusalem from the unfair hand of the infidel, who had captured the Holy City in A.D. 1076 and thus precipitated the Fall of Jerusalem in 1187 and the Siege of Acre in 1189."[27] The Order was created as a Crusade mission to the Holy Land.[28] It was a military regiment, designed to protect Christian pilgrims and the transportation of goods, trade, and valuable correspondence between princes and clerics. This meant that their services became extremely valuable, and they were able to charge hefty fees for their dangerous services. As a result, the Knights Templars became one of the most powerful religious orders in early Medieval Europe.

> The Order became one of the most powerful institutions in the western world, and with an iron glove influenced European politics. The reasons were obvious: the military power of the Order ensured the safe custody and delivery of deposited bullion (which itself was able to be stored in strongholds stretching from Ireland to Armenia), in contrast to the unstable kingdoms of monarchs; and the saintly reputation of the officers of the Order was a guarantee to more worldly profiteers of the integrity of this mighty brotherhood. The Order became the great international financier of the age, and rivaled the Italian banking houses until their peremptory disbandment in the fourteenth century whilst in their zenith. It is truly said that the Paris Temple was the centre of the World Bourse, and that the Templars held the key to the eastern Exchange…. [F]rom the middle of the twelfth century for some 150 years, the Templars strode mightily across the territories of Christendom, propelled by its momentum, and was very ably protected on its flanks by the illustrious chivalry of its cause. At the great Councils of the church, namely the Lateran in 1215, and the Troyes in 1274, the Templars vied with the authority of the Pope himself…. [T]he Order flourished as a mercantile

[27] Ibid., pp. 187-188.

[28] "The Knights Templars were one of three principal Christian orders founded to wrest Jerusalem from the unfair hand of the infidel, who had captured the Holy City in A.D. 1076 and thus precipitated the Fall of Jerusalem in 1187 and the Siege of Acre in 1189. The 'poor knights of Christ,' 'of the Temple of Solomon', whence their name derived, were a military organization from the beginning, wheras the Knights Hospitallers, and the Teutonic Knights were not." Pp. 187-188.

> institution, and may be regarded as the precursor of the modern corporate giants who owe no fealty to territorial states or kingdoms, to the chagrin of modern exchequers.[29]

They were organized into three departments of offices: (a) Knights proper; (b) chaplains, who gradually assumed more power than even archbishops; and (c) the serjeants-at-arms and squires. They wore the red cross, the ensign commissioned for them by Pope Eugenius III (1145-53). "It is interesting, although inconclusive, to note that some of the names used by the Templars were later inherited by the lawyers who came to dwell on their possessions: the serjeant-at-law, and The Master of the Temple. (A royal peculiar to this day)."[30] During the early 1300s, the Templars, due to real and alleged widespread corruption, were ruthlessly crushed by the papacy and other European monarchies.

> On 13 October 1307, a blanket arrest of all knights was made in France, although Edward II of England refused to act until the issue of the Papal Bull enforced him on the 8 January 1308 to follow suit. The injustices perpetuated in the name of law and morality have seldom been exceeded and the knights and their brethren were subjected to abominable inquisitions of torture and abuse which culminate, some three years later, in their deaths, impoverishment and banishment by the Order of the Council of Vienne, that was on the 26 May 1312. It is unnecessary to pass nay opinion on the sordid affair save so to say the sermonal edict delivered was in consistory and not in general council, and that the Order of the Temple of Solomon was never formally pronounced guilty of a single crime or charge. After the 'Examinations' of the year 1309-10, fifty-four Templars were burnt alive in Paris, and their Grand Master Jaques de Molay, host so often to the treacherous king in preceding years, was burnt at the stake on the banks of the Seine still protesting to his and his brethren's innocence. It is to be noted that no contemporary writer of repute did dare endorse the verdict of guilt leveled at the Order, and Dante himself maintained the innocence of the Templars…. In England, the episode left an indelible imprint on the course of the Common Law:

[29] Ibid., pp. 187-189.
[30] Ibid., p. 190.

> confrontations obtained under duress gained little probative value in criminal cases.[31]

The disbandment of the Knights Templars left the legacy of Christian fraternal orders with secular missions throughout England and Europe. Their national and multinational corporate structures would later serve as a model for similar secular companies and organizations. After the Knights were disbanded in England during the reign of King Edward I, the emerging class of lay lawyers moved into several of the buildings and houses previously owned by the Knights Templars. These lawyers adopted some of the official titles and rank structures of the Knights Templars. For example, just as the Knights Templars had " sergeants," so too did many of the English judges call themselves "sergeants-at-law," and were organized into the Order of the Coif. And just as some members of the Knights Templars were called "squires," many of the lower ranking members of this new legal profession assumed the title of squire or "esquire," which was also a title of honor and respect applied to non-lawyers as well.

These lawyers and judges eventually organized two of the four remaining inns of court in England: the Inner Temple and the Middle Temple. Together, these two inns of court share the Church of St. Mary's (the Temple Church). The Temple Church is rich with English lore and history. The Temple Church's 2017 website lists several important historical accomplishments, as follows:

> THE TEMPLE CHURCH, LONDON MOTHER CHURCH OF THE COMMON LAW
>
> Welcome to this part of our site. We are delighted to be celebrating Magna Carta and its legacy here at the Temple, at the heart of legal and constitutional London. I hope that you will be able to visit us before long, and to see this special and historic place for yourself. We have a special Magna Carta Exhibition in the Round Church, which (we are glad to see!) our many visitors are clearly enjoying.
>
> We are an active Church in the Church of England, and have one of the finest choirs in England; the choir is broadcast regularly on BBC

[31] Ibid., pp. 192-193.

Radio 3 and Classic FM. We hope you will, if you are due to be in London, be able to join us for a choral service here.

We have been closely linked to Magna Carta and its legacy ever since 1214.

The Temple was King John's London headquarters, 1214-5. From here he issued two vital preliminary charters, and here in January 1215 the barons confronted him for the first time with the demand that he subject himself to the rule of a charter.

The hero of Magna Carta was William Marshal, Earl of Pembroke. He mediated between John and the barons, secured the agreement embodied in Magna Carta and was one of the King's advisors at Runnymede. When John died the Marshal became guardian of the boy-king Henry III and of the kingdom. He re-issued Magna Carta under his own seal in 1216 and 1217, and so ensured its survival. He was buried in the Temple's Round Church, where his effigy still lies.

William's heir, William Marshal the second Earl, was one of the Surety Barons at Runnymede. He then fought alongside his father at the Battle of Lincoln to save the kingdom for Henry III. He married Henry's sister. He too was buried in the Round, next to his father, where his effigy still lies.

The Temple's Chancel was built, 1135-40, to be the funerary chapel of Henry III and his queen. With Henry's re-issue of Magna Carta in 1225 the Charter was secure.

The Temple's Common Law lawyers led the resistance in the 17th century against the Stuart kings' absolutism. The lawyers – such as Coke and Selden – repeatedly invoked Magna Carta.

In the same decades the Temple's lawyers were drawing up the constitutions for the early American colonies. Links with the USA have been strong ever since. Five members of Inner / Middle Temple signed the Declaration of Independence, seven the Constitution. The

> American Ambassador to London and US Chief Justice Roberts are both Benchers of Middle Temple.
>
> The Temple has since 1608 been the collegiate Church of the legal colleges Inner and Middle Temple, and stands at the heart of this unforgettably beautiful and historic part of London.
>
> With best wishes from the Temple Church
>
> Robin Griffith-Jones, DLitt,
> The Reverend and Valiant Master of the Temple

Hence, the English legal profession may fairly be described as having arose out of the Catholic priesthood; the sheer nature of the Temple itself denotes a priestly exclusivity and privilege. For in the Judea-Christian tradition, as well as within the religious traditions of many non-Christians, only priests were allowed to enter a temple, wherein dwelled God or various other lesser gods. The Knights Templars, then, was a military priestly order which laid the structural foundations for the organized English bar.

B. The Honorable Society of the Inner Temple

The name "inner" in the Inner Temple was derived from the fact that the society grew so large that during meetings there were an overflow crowd of law students in the inner court of the Temple. According to its 2017 website:

> The Inner Temple is one of the four Inns of Court and here you can find information on how to become a barrister; how to join the Inn; scholarships; student barrister (BPTC) qualifying sessions; CPD for practising barristers and social events. You will also be able to find out about the Inner Temple's history, from its buildings to some of its more famous members; filming and even hosting your own function at Inner Temple.
>
> The Inns of Court are unincorporated associations which have existed since the 14th Century and play a central role in the recruitment of student members, training of aspiring barristers and continuing professional development of established barristers. The Inns of Court hold the exclusive rights to call candidates to practise law at the Bar

of England and Wales. They consist of the Honourable Societies of the Inner Temple, Middle Temple, Lincoln's Inn and Gray's Inn.

The Inn has over 8,000 qualified members, including Judges, Barristers (both practising and non-practising) and Pupils. Each year approximately 450 students apply to join the Inn with the intention of training for the Bar.

Membership of the Inner Temple is divided into three categories: Students, Barristers and Masters of the Bench (Benchers). The Inn also appoints Honorary, Academic and Royal Benchers. The Inn has over 8,000 qualified members, including Judges, Barristers (both practising and non-practising) and Pupils. Each year approximately 450 students apply to join the Inner Temple with the intention of training for the Bar.

The Inn is governed by over 200 governing Benchers, who are responsible for managing the property, supervising the finances and deciding the policy of the Inn.

The Treasury Office is the first port of call for those visiting the Inn. The department's main function is to handle all membership enquiries and applications; term dinner bookings for all members, as well as special functions such as the Summer Party and seasonal events like the Children's Easter Egg Hunt and Christmas Tea. However, the staff are also on hand to answer any general enquiries, filming requests and to sell parking permits to those visiting the Inn or its Chambers.

Education & Training is one of the primary functions of the Inn. We have a dedicated Education & Training Department with responsibilities ranging from educational outreach, the recruitment of undergraduates, the allocation of scholarships (worth a total of £1,575,000 per annum), the provision of student qualifying sessions and advocacy training for pupils and barristers.

The Surveyor's Department run the Inn's extensive property, dating back over several centuries, between Fleet Street and the Embankment. It comprises a large number of properties which are let

out to barristers' chambers and residential tenants, which provides the Inn with its main source of income.

Banqueting & Venue Hire of the Hall, function rooms, accommodation and garden is available for private or corporate hire throughout the year via the Inn's Catering Department. The rooms are also used every weekday by members of the Inn. During legal terms there are dinners on certain nights and lunch is available every weekday for members of the Inns.

The Inn's Library is staffed by experienced information professionals and offers users access to a wide range of print and electronic resources in a comfortable working environment. Additional Library services include: AccessToLaw, a gateway site providing annotated links to selected UK, Commonwealth and worldwide legal websites; a Current Awareness Weblog covering legal news, new case law and changes in legislation; legal research FAQs; a document supply service for barrister members outside London, and Wi-Fi access. It also houses an important collection of manuscripts and historic letters including Edward VI's Devise for the Succession (1553) and the earliest known depictions of the Royal Courts in session at Westminster (mid 15th century).

The Temple Church is jointly administered and maintained by the Inner Temple and Middle Temple and enjoys the status of a "Royal Peculiar" (a place of worship that falls directly under the jurisdiction of the British monarch, rather than a diocese). It is independent from the Diocese of London and the Master of the Temple is appointed directly by the Queen. The Temple Church is also home to the Temple Music Foundation which presents concerts throughout the year featuring the choirmen and choirboys of the world famous Temple Church Choir, as well as the now well established Temple Song series in Middle Temple Hall.

C. The Middle Temple Inn of Court

We turn now to the Middle Temple Inn of Court. According to tradition, the Crown confiscated the property of the Knights Templars and leased it to the lawyers, who later divided this property into two distinct inns of court (i.e., the

Middle Temple and the Inner Temple) some time during the 14th Century.[32] The Middle Temple has maintained a stellar reputation of producing leading barristers and judges. According to its website:

> A modern institution with a long and distinguished history, Middle Temple is a place of many parts. First and foremost, Middle Temple is one of the four Inns of Court which have the exclusive right to Call students to the Bar. The education and training of advocates lie at the heart of the Inn, but we are also a professional society for our membership worldwide; and we maintain a heritage estate in central London housing chambers from which barristers practise.
>
> Several important activities support Middle Temple's core functions. In addition to teaching, training and the management of the Inn's property portfolio, these include the provision of around £1 million per year in support of our students and other junior members; the running of a modern Law library and an historic archive; the oversight (with Inner Temple) of the historic Temple Church; and the management of a commercial events business. All of these activities represent the 21st century Middle Temple, but training and education will always be at its core.
>
> Our core purposes
>
> The Inn's estate on the banks of the Thames was provided by Letters Patent to 'The Honourable Society of the Middle Temple' in 1608 on condition that it would always be used for the joint objectives of educating and accommodating those practising or training in the Law.
>
> Over four hundred years later, Middle Temple's core purposes are still based on these founding principles:
>
> The education and training of students and barristers; and the promotion of diversity and access to the Bar by the provision of financial support to students and all other means.

[32] Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law* (Dobbs Ferry, New York: Oceana Publications, Inc., 1976), p. 227.
[32] Ibid.

- The maintenance of the Inn's estate and its historic heritage; and the provision of professional accommodation for barristers and other services and facilities in support of the Inn's core purposes.
- The achievement of the highest standards of advocacy in support of the judiciary and the rule of law; the promotion of the ethos of the Bar; and the maintenance of the highest professional standards in the public interest.

Who we are

Middle Temple's membership comprises students, barristers and senior members of the Bar and Judiciary. Members of the Inn's Governing Body (Parliament) are known as Masters of the Bench. The Chairman is the Treasurer, who is elected each year for a 12-month period of office. The Chief Executive, who is a full-time permanent member of the Inn's staff, is the Under Treasurer. A staff of 90 permanent employees assist the Under Treasurer with the day-to-day management and operation of the Inn, along with part-time staff who support our corporate events.

For a general description of how the Middle Temple attained and maintained its buildings, library and other facilities, see Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law.*[33]

D. The Honorable Society of Lincoln's Inn (Inn of Court)

The records of Lincoln's Inn appear before any of the other three existing inns of court in Britain. Its records date back to 1422. "The Inn has always been more closely associated with Equity than have the other Inns, and the professional chambers are for the most part occupied by members of the respected Chancery Bar. This congregation of conveyancers and 'paper-work' lawyers lies in the historical proximity of the Chancery offices down the lane."[34] According to its current website[35]:

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[33] Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law* (Dobbs Ferry, New York: Oceana Publications, Inc., 1976), pp. 227-249.
[33] Ibid.

[34] Ibid, p. 162.
[35] http://www.lincolnsinn.org.uk/index.php/history-of-the-inn

History of the Inn: Origins

The exact origins of Lincoln's Inn, and indeed of the other three Inns of Court, are not fully known. The extant records of Lincoln's Inn open in 1422, the earliest of any of the Inns of Court; but a society of lawyers by that name was then already in existence. It is likely that it evolved during the late part of the fourteenth century. In contrast to many of the colleges of Oxford or Cambridge, which it resembles, there was no conscious founding or dated charter.

First, why "Inn"? As well as applying to the houses used by travellers and pilgrims - the usage that usually comes to mind - the term, or its Latin equivalent *hospitium*, also applied to the large houses of magnates of all kinds, such as statesmen, bishops, civil servants, and lawyers, whose business brought them to town, especially when Parliament and the courts were in session. The area in which many were situated were then suburbs, salubrious but convenient for both Westminster and the City. This type of inn was often not simply an individual residence but provided accommodation for a whole retinue of guests and typically included, both as a focus for medieval living arrangements and as a status symbol, a hall (indeed, the bishops' inns were also called palaces). Law students, or "apprentices" of law, who at the period learnt their craft largely by attending court, sought shared accommodation during the legal terms, sometimes in part of an inn of a magnate who did not need it.

Originally there were at least twenty inns associated with lawyers. Gradually these became places of legal education and there emerged the four principal Inns of Court (ie Inns of the men of Court) that we know today. The other Inns became known as the Inns of Chancery. You may come across their names, such as Staple Inn or Clement's Inn, in the vicinity. They were treated at first as preparatory schools for the main Inns of Court and then during the seventeenth century became the Inns exclusively for attorneys (ie solicitors) and clerks (they had all vanished as societies by the beginning of the twentieth century).

The term "barrister" was originally a purely internal or domestic rank - a graduate of the Inn who had successfully negotiated the elaborate legal exercises set in Hall, which was laid out for moots like a court, with a bar. Although there were various attempts to regulate those

who appeared in court, any requirement that they be barristers of an Inn of Court emerged at first only as a matter of practice - a case in 1590 finally confirmed it as a matter of law. And once that happened the process of excluding mere attorneys from membership of the Inns of Court was accelerated.

The recognition of barristers' exclusive right of audience was no doubt due in part to the thoroughness of the original medieval system of legal education provided by the Inns - at least seven years between admission as a student and call to the bar. That system completely broke down with the English Civil War in 1642. It has to be said that legal education in the Inns from then until the nineteenth century, or later, cannot be regarded as the most glorious part of their history. The old residence requirements for students were diluted into the mere ritual of dining and the old exercises were reduced to the perfunctory formality of reciting the first few lines of a standard formula from a pre-prepared card. Bar exams were only introduced in 1852 and were not even compulsory until 1872, and in any event could be passed by anyone with a modicum of application with a few weeks study. So, a far cry from today.

Then, why "Lincoln's" Inn? Tradition has it that the name comes from Henry de Lacy, third Earl of Lincoln (d. 1311) whose own house was nearby and may have been patron of the Inn. Tradition is not to be entirely gainsaid and indeed the Earl's arms form part of the Inn's arms, but it is more likely that the name came from Thomas de Lincoln, one of the serjeants at law (senior practitioners, before the days of QCs) during the fourteenth century.

You can read more on all aspects of the Inn, past and present, in the beautifully produced book, ***A Portrait of Lincoln's Inn*** - sadly,now out of print, though a copy can be viewed in the Library (members only). A small colour brochure, *An Introduction to Lincoln's Inn*, originally written by the late Sir Robert Megarry, is available from the Treasury Office.

For a general description of how the Lincoln Inn attained and maintained its buildings, library and other facilities, see Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law*.[36]

[36] Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law* (Dobbs Ferry, New York: Oceana Publications, Inc., 1976), pp. 161-181.

E. The Honorable Society of Gray's Inn (Inn of Court)

Gray's Inn is considerably younger than the Inner Temple and Middle Temple Inns of Court. Although its founding date is unknown, its records do not begin until the sixteenth century, around 1569. Evidence of the inns existence during the late fifteenth century exists but is very scarce. "The heyday of the Inn was in the reign of Elizabeth I (1558-1603), or 'Good Queen Bess' as the Society still calls her in affection. The records are illuminated with the names of great Elizabethans: Cecil (Lord Burleigh), Walsingham, the Bacons (father and son), Gerard, Howard of Effinham, Sir Philip Sidney. During this period the Society became renowned for its revelries and feasting, which may indicate why the Queen was so enthusiastic a visitor."[37] According to its current website[38]:

> The first habitation known to have been on or close to the site of the present Hall was the Manor House of the ancient Manor of Purpoole (also Portpoole), meaning "the market by the lake". The market was the cattle market, the present site of the Prudential Insurance Building in Holborn. The lake or lakes were the area to the north and east of Purpoole Lane (to the east of Gray's Inn Road), where the land can be seen to fall away. The Manor House was the property of Sir Reginald de Grey, Chief Justice of Chester, Constable and Sheriff of Nottingham, who died in 1308. None of the Inns of Court has a proven year of foundation. Though some have later charters, none of the Inns were founded by charter, ordinance or endowment and there is no extant record of a first lease. Indeed the records of the Inn do not commence until 1569.
>
> In 1370 the Manor House is described for the first time as "hospitium" (a hostel). That change of description suggests a gathering of lodgers at the Manor House by 1370 and it seems probable that the "hospitium" was a learned society of lawyers because, only eighteen years later, in 1388, two members became Serjeants.

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[36] Ibid.

[37] Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law* (Dobbs Ferry, New York: Oceana Publications, Inc., 1976), p. 255.

[38] https://www.graysinn.org.uk/history

The reason why Holborn became a district of lawyers seems to have been a decree of Henry III, dated 2 December 1234, that no body providing legal education should be located in the City of London, which had the effect of moving the legal profession to the boundary of the City closest to Westminster and the courts.

For many centuries it had been the view, held with varying degrees of confidence, that the starting point of the Inns of Court was a writ of Edward I made on the advice of his Council in 1292. In 1285 the King went to France to attend to the affairs of his Duchy of Aquitaine; he stayed away for nearly 4 years and during that time many of his judicial and administrative Officers in England engaged in corruption. On his return the King set up a commission to inquire into the whole matter and many of the judges were disgraced and dismissed.

16TH Century

In the fifteenth century there were many more legal societies or Inns than the four Inns of Court that we know today. Those with the most active educational programmes attracted the brighter and more ambitious students, who in their turn became Readers and Serjeants. During this century there were more men called to be Serjeants from Gray's Inn than any other Inn of Court.

Today the governance of the Inns of Court is entrusted to the Benchers made up in the main from judges of the High Court and senior barristers. It was not always so. Up to the end of the sixteenth century the title of Bencher was accorded to those who judged the moots held in the Inns of Court. Benchers were not concerned with the control of the Inn's affairs, that was left to the Grand Company - the Treasurer, Readers and Ancients.

During the sixteenth century the four Inns of Court prospered greatly. Not only were the judges closely connected with the Inns, but the prosperity of the Inns had attracted the support of the statesmen of the day. Edmund Dudley, a financial agent and adviser to Henry VII, was a fellow of the Inn until beheaded on the orders of Henry VIII in the first year of his reign. Thomas Cromwell, Henry VIII's persecutor of

the old religious order, was a member. He suffered the same fate for his excessive zeal later in the King's reign.

As the sixteenth century advanced, prosperity attracted a broader culture to the Inns. Good manners, courtly behaviour, singing and dancing came to the fore. Hall was cleared for the galliard and colourful masques and revels were performed. The entertainment on occasions spread to street processions and river pageants. Perhaps the Inns were too successful in these pursuits, because they soon became fashionable places for noblemen and country gentlemen to send their sons. "Of Gray's Inn" and "student of Gray's Inn" merited inclusion in epitaphs on many tombstones. Many members had no intention of becoming barristers. Between 1561 and 1600 the average admittance to the Inn was 62, whereas the annual calls to the Bar were only 6. Nevertheless this has been named "the Golden Age" when Queen Elizabeth herself was the Inn's Patron Lady; Lord Burleigh, the Queen's First Minister, Lord Howard of Effingham, the Admiral who defeated the Spanish Armada in 1588, and Sir Francis Walsingham, the Chief Secretary who founded the Queen's secret service, were all members of the Inn. It was not only from the Benchers' table that the Inn took its fame.The Inn was renowned for its "Shows" and there can be little doubt that William Shakespeare played in Gray's Inn Hall, where his patron, Lord Southampton was a member.

17th century onwards

Between 1680 and 1687 there were three disastrous fires at the Inn. That of 1684 was particularly grievous for it burnt the Library, which was then on the present site of No 1 Gray's Inn Square, and that is probably when the Inn's ancient records were lost.The fire on 21st January 1687 burnt up "5 staircases". For the next hundred years or more, qualification for call to the Bar depended on eating dinners and on the recommendation of a Judge or a Bencher. By the 1840s the regulations had changed little from the 1740s except that taking the Sacrament according to the rites of the Church of England had ceased to be a condition of Call.

By 1846 it was being urged in the profession and in Parliament that students ought to receive a comprehensive legal education and that there should be uniformity of practice of Call to the Bar. In 1852 the

> Council of Legal Education was established and each of the Inns undertook not only to pay expenses but also to lend two classrooms. Twenty years later examination for Call to the Bar was introduced. The Council became housed in Lincoln's Inn but following the 1939-45 War moved into purpose-built accommodation in Gray's Inn Place and later expanded further into Atkin Building as the Inns of Court School of Law. Additionally, a need has been found for advanced advocacy training at the stage of pupillage. The Inn has led the way in introducing mock trials and advocacy training before the judges and senior practitioners of the Inn in addition to students' moots and debates. This training is now compulsory for all pupils.

For a general description of how the Middle Temple attained and maintained its buildings, library and other facilities, see Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law*[39]

VI. The Serjeant's Inn

Lastly, we turn to the once-important Sergeant's Inn. This was a special association for distinguished and senior barristers or judges. It was customary practice to only select judges from this select group, up until it was dissolved in 1877.

The membership of the Inn had consisted of a small class of senior barristers called serjeants-at-law, who were selected from the members of the other four inns and had exclusive rights of audience in certain Courts. Their pre-eminence was affected by the new rank of Queen's Counsel, which was granted to barristers who were not serjeants. The serjeant's privileges were withdrawn by the government in the 19th century, no more serjeants were appointed, and they eventually died out. The area now known as Serjeants' Inn, one of two sites formerly occupied by the Serjeants, the other being in Chancery Lane, was purchased by the Inner Temple in 2002.[40]

It was formerly the custom for senior judges to join Serjeants' Inn, thereby leaving the Inn in which they had practised as barristers. This meant that the Masters of the

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[39] Timothy Tyndale Daniell, *THE LAWYERS: The Inns of Court: The Home of the Common Law* (Dobbs Ferry, New York: Oceana Publications, Inc., 1976), pp. 251-278.

[40] https://en.wikipedia.org/wiki/Inns_of_Court

Bench of the four barristers' Inns of Court were mostly themselves barristers. Since there is now no Serjeants' Inn, judges remain in the Inns which they joined as students and belonged to as barristers. This has had the effect of making the majority of the Masters of the Bench senior judges, either because they become benchers when appointed as judges, or because they become judges after being appointed as benchers.[41]

CONCLUSION

The English inns of court are the home of the English Common Law, which is the foundation of the American constitution and legal system. As arms of the Church of England, these inns early and largely developed the English common law as a form of Christian jurisprudence that was separate and apart from conventional ecclesiastical law. This English common law system (both law and equity) reflected the central message of Jesus of Nazareth to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3). It is through English common law and the English inns of court that Christian ideals first came to form the foundations of American constitutional law and jurisprudence. The American legal system is thus, in essence, "secularized" Christianity; or, for the lack of a better description, it is a "Christian legal system" without an official "Christian" nomenclature. Howsoever we may try to write Christianity out from American legal history, the sheer futility of such efforts lie in the fact that the very soul and spirit of American jurisprudence are fundamentally Christian in form and substance. And, what is the body without its soul and spirit, save a dead corpse? Christianity is thus the foundation of American constitutional law and jurisprudence.

THE END

[41] Ibid.

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