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**“A History of the Anglican Church—Part XX:
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 thirty-first essay in this series: “A History of the Anglican Church—Part XX.”

INTRODUCTION¹

We now return in this essay to the delicate question of the role of the Christian faith within the secular legal systems of the world, while taking up Saint Augustine’s *The City of God* as our primary text and utilizing the history of England as our primary example. For whether a nation-state adopts an official church, as in the United Kingdom, or adopts no official church, as in the United States, the duty and function of the Christian lawyer and judge (i.e., “City of God” within the “City of Man”) remain precisely the same²; that is, “without injuring faith and godliness”³ to maintain “a common agreement”⁴ among both Christians and the secular government (including non-Christians) “regarding the acquisition of the necessaries of life”⁵; to make “this earthly peace to bear upon the peace of heaven”⁶; and to promote “the perfectly ordered and harmonious enjoyment of God and of one another in God.”⁷ Inwardly, the Church already possesses the “divine peace” which comes to it through faith and righteousness; but outwardly, the

¹ This paper on Richard Hooker’s classic work *Of the Laws of Ecclesiastical Polity* is dedicated to the local chapter of *The Federalist Society* at the University of Illinois College of Law. I joined *The Federalist Society* as a law student during the 1992-1993 academic term in order to better understand the historical origins of the United States Constitution; American constitutional law and jurisprudence; the doctrine of “original intent” in constitutional interpretation; and the doctrine of States Rights and 10th Amendment jurisprudence. I had at that time a working knowledge of *The Federalist Papers*, written by John Jay, Alexander Hamilton, and James Madison, and I was curious to observe how The Federal Society’s programmes promoted the ideals and ideas which Jay, Hamilton, and Madison set forth in *The Federalist Papers*.

² Saint Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), pp. 696-697.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

Church must cooperate and reach agreement with the “City of Man,” without compromising the Church’s own faith and godliness⁸; because the “City of Man” “desires earthly peace for the sake of enjoying earthly goods, and it makes war in order to attain to this peace... [a] peace purchased by toilsome wars....”⁹ Hence, the role of the Church—including the Christian lawyers and judges who are within it-- that is to say, the “City of God,” is to serve as a “light of truth,” in order to unveil the deception of “glorious victory” from “toilsome wars,” so that the “City of Man” does not “neglect the better things of the heavenly city,” such that “misery follow and ever increase.”¹⁰

Thus, from the beginning, the “City of God,” that is to say, the Church, has sought a necessary *relationship or partnership* with the “City of Man,” so as to ensure that the “peace” of the present lifetime also co-exists with “justice,”¹¹ that is to say, with the “peace of God.”¹² For this reason, St. Augustine of Hippo inquired into the question, “What was the happiness of the Christian emperors, and how far it was true happiness,” to which he answered:¹³

But we say that they are happy if they rule justly; if they are not lifted up amid the praises of those who pay them sublime honours, and the obsequiousness of those who salute them with an excessive humility, but remember that they are men; 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 defense 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

⁸ *Ibid.*

⁹ *Ibid.*, pp. 481-482.

¹⁰ *Ibid.*, p. 482.

¹¹ *Ibid.*, p. 112 (“Justice being taken away, then, what are kingdoms but great robberies?”)

¹² *Ibid.*, pp. 481-482.

¹³ *Ibid.*, p. 178.

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.¹⁴

In addition, along with this duty of the Christian magistrate to establish divine justice on earth, is the duty to ensure that even the Christian monarchy is subordinate to the law of nature (i.e., the law of reason), which is also the law of God); for this is the only method to achieve the well-ordered commonwealth, of which St. Augustine called “the universal peace which the *law of nature* preserves through all disturbances, and by which every one reaches his desert in a way regulated by the just Judge.”¹⁵ According to St. Augustine, “peace” is the presence of a just and natural order:

The peace of the body then consists in the duly proportioned arrangement of its parts. The peace of the irrational soul is the harmonious repose of the appetites, and that of the rational soul the harmony of knowledge and action. The peace of body and soul is the well-ordered and harmonious life and health of the living creature. Peace between man and God is the well-ordered obedience of faith to eternal law. Peace between man and man is the well-ordered concord. Domestic peace is the well-ordered concord between those of the family who rule and those who obey. Civil peace is a similar concord among the citizens. The peace of the celestial city is the perfectly ordered and harmonious enjoyment of God, and of one another in God. The peace of all things is the tranquility of order. Order is the distribution which allots things equal and unequal, each to its own place....¹⁶

The Reformed Church of England, as evidenced in Richard Hooker’s *Of the Laws of Ecclesiastical Polity*, readily incorporated St. Augustine’s prescriptions for the Christian magistrate and natural justice into its system of government.¹⁷ For Rev. Hooker, the City of God on earth is the Church¹⁸, which must co-exist within, and

¹⁴ Ibid.

¹⁵ Ibid., p. 690.

¹⁶ Ibid., p. 690.

¹⁷ Richard Hooker, *The Laws of Ecclesiastical Polity*, Book V (of VIII)(Nashotah, WI: Nashotah House Press, 2012), pp. 452-454.

¹⁸ Regarding the church and its ecclesiastical polity, Rev. Hooker wrote: “I might have added hereunto their more familiar and popular disputes, as, The Church is a city, yea the city of the great King; and the life of a city is polity:

cooperate with, the City of Man, through the application of law. “For concerning the dealings of men who administer government,” wrote Hooker, “and unto whom the execution of that law belongeth; they have their Judge who sitteth in heaven, and before whose tribunal-seat they are accountable for whatsoever abuse or corruption....”¹⁹ The Anglican order of balance and justice was essentially Augustinian in origin and scope. It reflected the cosmic order and God’s creation as the very essence and manifestation of his Word (i.e., Jesus the Christ):

Because God creates through wisdom, his creation is ordered: ‘You have arranged all things by measure and number and weight.’ The universe, created in and by the eternal Word, the ‘image of the invisible God,’ is destined for and addressed to man, himself created in the ‘image of God’ and called to a personal relationship with God. Our human understanding, which shares in the light of the divine intellect, can understand what God tells us by means of his creation, though not without great effort and only in a spirit of humility and respect before the Creator and his work. Because creation comes forth from God’s goodness, it shares in the goodness—‘ And God saw that it was good... very good’--- for God willed creation as a gift addressed to man, an inheritance destined for and entrusted to him....²⁰

God created the universe and keeps it in existence by his Word, the Son ‘upholding the universe by his word of power’ (Heb. 1:3) and by his Creator Spirit, the giver of life.²¹

... Joseph Cardinal Ratzinger (who became Pope Benedict XVI just over two weeks later) referred to the Christian religion as the religion of the Logos [i.e. Word]: ‘Christianity must always remember that it is the religion of the "Logos." It is faith in the "Creator Spiritus," (Creator Spirit), from which proceeds everything that exists. Today, this should be precisely its philosophical strength, in so far as the

The Church is the house of the living God; and what house can there be without some order for the government of it? In the royal house of a prince there must be officers for government, such as not any servant in the house but the prince whose the house is shall judge convenient. So the house of God must have orders for the government of it, such as not any of the household but God himself hath appointed. It cannot stand with the love and wisdom of God to leave such order untaken as is necessary for the due government of his Church.” Richard Hooker, *The Laws of Ecclesiastical Polity*, Books I- IV (of VIII)(Nashotah, WI: Nashotah House Press, 2012), p. 411.

¹⁹ Ibid., p. 286.

²⁰ *Catechism of the Catholic Church* (New York, N.Y.: Doubleday, 1997), pp. 88.

²¹ Ibid., p. 94.

problem is whether the world comes from the irrational, and reason is not, therefore, other than a "sub-product," on occasion even harmful of its development or whether the world comes from reason, and is, as a consequence, its criterion and goal.²²

The Christian faith inclines toward this second thesis, thus having, from the purely philosophical point of view, really good cards to play, despite the fact that many today consider only the first thesis as the only modern and rational one par excellence. However, a reason that springs from the irrational, and that is, in the final analysis, itself irrational, does not constitute a solution for our problems. Only *creative reason*, which in the crucified God is manifested as love, can really show us the way. In the so necessary dialogue between secularists and Catholics, we Christians must be very careful to remain faithful to this fundamental line: *to live a faith that comes from the "Logos," [i.e., Word] from creative reason, and that, because of this, is also open to all that is truly rational.*²³

Catholics can use Logos [i.e. Word] to refer to the moral law written in human hearts. This comes from Jeremiah 31:33 (prophecy of new covenant): "I will write my law on their hearts." St. Justin wrote that those who have not accepted Christ but follow the moral law of their hearts (Logos) follow God, because it is God who has written the moral law in each person's heart. Though man may not explicitly recognize God, he has the spirit of Christ if he follows Jesus' moral laws, written in his heart.²⁴

Michael Heller has argued "that Christ is the logos implies that God's immanence in the world is his rationality."²⁵

This Catholic "law of nature" was premised upon the idea of Jesus of Nazareth as Logos and Word of God. As the essence of creative reason, Jesus as the Incarnate Word was essence of law both civil and sacred. Hence, this Catholic "law of nature" found its way into English political philosophy during the seventeenth century and was extracted out from Hooker's *Of the Laws of Ecclesiastical Polity*, which, as we shall see below, was nearly a carbon copy of the writings of St.

²² "Logos (Christianity)" [https://en.wikipedia.org/wiki/Logos_\(Christianity\)](https://en.wikipedia.org/wiki/Logos_(Christianity)).

²³ Ibid. (Emphasis added in italics).

²⁴ Ibid.

²⁵ Ibid.

Augustine and St. Thomas Aquinas. Within Anglo-American constitutional history and jurisprudence, it is important to recall that the ancient pre-Christian Egyptians, Hebrews, Greeks, and Romans certainly laid the essential theological and philosophical idea of the “Word of God” and jurisprudential idea of a universal natural law, which were not lost upon the American Founding Fathers while drafting the United States Constitution. As two prominent theologians have observed:

The beliefs and rituals of the world’s religions are very different... so you may be surprised to discover that the ethics of the world’s religions are almost identical. This similarity even holds for religions that haven’t had much (or any) contact with the rest of the world. For example... [t]he golden rule, ‘Do unto others what you would have them do unto you,’ appears in almost the same words in many different and geographically separated faiths. For some reason, religions that don’t share a common belief or ritual may share the same vision of human virtue. Some theologians explain the common ethical teachings of the world’s religions by a concept called natural law. The idea is that human life produces common ethical laws for the same reason that physical laws (like the law of gravity) are the same in any part of the universe. Natural law imagines a kind of universal law of human goodness. Somehow, the nature of human existence leads all people to derive the same ethical norms. Perhaps natural law is real; maybe it’s some kind of divine revelation to all people; or maybe it’s something we don’t understand yet. What’s important is that many of these teachings don’t vary much from religion to religion. That similarity is a mystery to us, but a very wonderful mystery....²⁶

In the Middle Ages, some religious thinkers—such as St. Anselm (the archbishop of Canterbury from 1093-1109); St. Thomas Aquinas (1225-74), Italian theologian and philosopher; and Maimonides (1135-1204), Spanish rabbi and physician—tried to show that both reason and revelation came to the same conclusions. This school of thought is called Natural Law Theology.²⁷

²⁶ Rabbi Marc Gellman and Monsignor Thomas Hartman, *Religion For Dummies* (Indianapolis, IN: Wiley Publishing, Inc., 2002), p. 21.

²⁷ *Ibid.*, p. 29.

The Deist and Unitarian character of the civil religion of the United States certainly reflects a “Nature’s God” who is ecumenical and multidenominational. Simultaneously, the “law of nature” and “the God of nature,” which the American Founding Fathers understood, came from Catholic and Anglican theological sources that incorporated pre-Christian law and philosophy, because the English common law system was grounded in Anglican theology and law.²⁸

Rev. Hooker’s *Of the Laws of Ecclesiastical Polity* would also set the standard for the Church of England and, centuries later, the Methodist philosophy of the Rev. John Wesley, which influenced the Great Awakening during the pre-Revolutionary War era (1730s-1740s) in the American colonies. Rev. Hooker’s apologetics would essentially become the blueprint for “Wesley’s use of Scripture, tradition, reason, and experience...[in what has] been referred to as the ‘Wesleyan quadrilateral’... Albert Outler coined the quadrilateral. He drew the imagery from the Lamberth Quadrilateral used by the Anglicans, which refers to four walls of a fortress that defended those inside. About the quadrilateral, Outler said:

It was intended as a metaphor for a four-element syndrome, including the four-fold guidelines of authority in Wesley’s theological method. In such a quaternity Holy Scripture is clearly unique. But this in turn is illuminated by the collective Christian wisdom of other ages and cultures between the Apostolic Age and our own. It also allows for the rescue of the Gospel from obscurantism by means of the disciplines of critical reason. But always, Biblical revelation must be received in the heart by faith: this is the requirements of ‘experience.’²⁹

This Anglican theological system held that “God continues to care providentially for creation and for people. But the various laws of nature and activities of people

²⁸ It should be noted here that Richard Hooker not only held that the Church should not be separated from the State, but he also believed that the doctrine of “Separation of Church and State” was appropriate only where the Church existed in a non-Christian commonwealth of Infidels. “This was the state of the Jewish Church both in Egypt and Babylon, the state of Christian Churches a long time after Christ. And in this case because the proper affairs and actions of the Church, as it is the Church, have no dependency upon the laws or upon the Governors of the Civil state, an opinion hath thereby grown, that even so it should be always.... ‘The Apostles (saith he) did govern the Church in Rome when Nero did bear rule, even as at this day in all the Turk’s Dominions the Church hath a spiritual Regiment without dependence and so ought she to have, live she amongst Heathens or with Christians.’” Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, England: Cambridge Univ. P., 1989), p. 131. The American doctrine of “Separation of Church and State” certainly falls within this category, namely, that the churches should remain independent of the state, whether the state be Heathen or Christian. In this case, though, the American system of law was clearly built upon a Christian foundation, so that its civil government and its constitution, unlike those of ancient Egypt, Babylon, or Rome, had the “law of Christ” at its source.

²⁹ Don Thorsen, *Calvin vs Wesley: Bringing Belief In Line With Practice* (Nashville, TN: Abingdon Press, 2013), p. 26.

may be investigated inductively, deductively, and in other ways. Indeed, great amounts of knowledge and wisdom may be accumulated in order to aid people as well as the world through scientific, technological, medical, and other disciplines.’³⁰ In college and law school, I observed this Anglican ideal in the writings of several British philosophers and theologians, and it without question influenced my fundamental understanding of the secular legal system. In law school, my juris doctor thesis, *The American Jurist: A Natural Law Interpretation of the U.S. Constitution, 1787 to 1910*, was extracted out from Anglican theology, philosophy, and jurisprudence. As a direct consequence from this research, together with several years of observation, I have thus concluded that the Anglican order of balance became deeply infused within American custom, culture, and law from a variety of sources, including the Church of England and its other evangelical components.

The American constitutional doctrine of the separation of Church and State, to wit, the First Amendment to the United States Constitution, originated in the Anglican struggle for balance, justice, and order within the body politic. This occurred primarily within sixteenth-century Elizabethan England, following the struggle to officially bring various competing religious viewpoints—the Anglican, Catholic, Puritan, Separatists, Anabaptists, and others—within the single umbrella of the Church of England. The First Amendment to the United States Constitution states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances....

This constitutional doctrine did not originate in the American colonies but rather it grew out of the English Reformation of the late 1500s. It had Protestant origins; but it also had capitalistic origins.³¹ That is to say, the merchant classes which emerged in Tudor England eventually secured a powerful position within English society, so that by the eighteenth century it had dominated the Church of England

³⁰ Ibid., p. 9.

³¹ Adam Smith, *The Wealth of Nations* (New York, N.Y.: The Modern Library, 1994), pp. 847-875.

and curtailed its role in Parliament and legislation. The “Law of Christ”³² was treated as being no different than the “Law of Nations,” that is to say, as a universal but non-binding declaration to “do unto others as one would have others do to oneself.” And, more and more, during the eighteenth century, religious church paraphernalia and church denominationalism were viewed as tolerable only for so long as no one group or sect controlled the secular government. British politics had, from the seventeenth century through the nineteenth century, led to the conclusion that religious tolerance was the preferred policy for government stability and economic growth. Thus concluded the Englishman Adam Smith (1723-1790), who is considered the father of American capitalism:

But if politics had never called in the aid of religion, had the conquering party never adopted the tenets of one sect more than those of another, when it had gained the victory, it would probably have dealt equally and impartially with all the different sects, and have allowed every man to chuse his own priest and his own religion as he thought proper.... The interested and active zeal of religious teachers can be dangerous and troublesome only where there is, either but one sect tolerated in the society, or where the whole of a large society is divided into two or three great sects; the teachers of each acting by concert, and under a regular discipline and subordination. But that zeal must be altogether innocent where the society is divided into two or three hundred, or perhaps into as many thousand small sects, of which no one could be considerable enough to disturb the public tranquility.³³

For Adam Smith and others, the essentials of the “true religion” could be gleaned from all of the Christian sects (and perhaps most other world religions) and reduced to the singular proposition of the “Golden Rule.”³⁴ But to leaders within the Church of England during the late 1500s, the idea that the church could be separated from the state was both impracticable and improbable because of their conceptualization of “law.” They defined “law” in such broad terms that it was impossible to separate the secular mandate of law (e.g., the contractual duty of “good faith and fair dealing”) from the religious or ecclesiastical mandate of law

³² The fundamental “Law of Christ,” to wit, is to “love ye one another” (John 15:12); to do justice and judgement (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).

³³ Adam Smith, *The Wealth of Nations* (New York, N.Y.: The Modern Library), p. 851.

³⁴ The fundamental “Law of Christ,” to wit, is to “love ye one another” (John 15:12); to do justice and judgement (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).

(e.g., the Golden Rule). Nor could the secular endeavor of philosophy and the sciences (e.g., biology, chemistry) be removed from the *Book of Genesis*' account that God made the world and is the first cause of all existence (i.e., natural law). And, more to the point, they could not imagine that Christian men could form a secular government that was not inherently deeply-rooted in the "Law of Christ." Thus, in sixteenth and seventeenth century England, the "Church" and the "State" were viewed as two sides of the same coin; and the English monarchy was the supreme governor of the Church of England. See Table 1, "Anglican Order: Mixed Character of Law."

Table 1. Anglican Order: the "Mixed" Character of Law as both Ecclesiastical and Secular

1. Ecclesiastical Source of Law	The "Law of Christ" ³⁵ (Scripture) ; The Law of Equity.	Church of England (Agency)	The English Monarchy (Governor or Head of the Church of England)
2. Secular Source of Law	The "Law of Nature"; the "Law of Reason"	English Government; Parliament (Agency)	The English Monarchy (Governor or Head of the English Government)

Within the new Anglican system which emerged during the reign of Queen Elizabeth I, it is readily apparent that the influence of St. Thomas Aquinas held sway: God's eternal law was the foundation of all law, to wit, Eternal Law-- →Divine Law-- →Natural Law-- →Human (Civil) Law. Rev. Hooker expressly adopted Thomas Aquinas' legal philosophy, stating "[t]he greatest amongst the school-divines [i.e., Saint Thomas Aquinas] studying how to set down by exact definition the nature of an human law (of which nature all the Church's constitutions are) found not which way better to do it than in these words: 'Out of the precepts of the law of nature, as out of certain common and undemonstrable principles, man's reason doth necessarily proceed unto certain more particular determinations; which particular determinations being found out according unto the reason of man, they have the names of human laws, so that such other conditions be therein kept as the making of laws doth require,' that is, if they whose authority is thereunto required do establish and publish them as laws."³⁶

³⁵ Ibid.

³⁶ Richard Hooker, *The Laws of Ecclesiastical Polity*, Books I- IV (of VIII)(Nashotah, WI: Nashotah House Press, 2012), p. 381.

The only difference between the Roman Church of England and the new Protestant Church of England was that the Church was subordinate to the State and was no longer independent or separate from the English crown. This “mixed” character of secular law dominated my legal thinking in law school and it also set the stage for my fundamental understanding of the foundations of civil rights law in the United States and international human rights law generally. The strain of spiritual struggle within the Black Church in the United States during the 1950s and 60s—as exemplified in the speeches of Baptist minister Martin Luther King, Jr.—certainly reinforced this idea in my mind, that the secular law had a “mixed” character.³⁷ The Anglican order, as set forth by Richard Hooker and others, appears to be more closely aligned with Dr. King’s Christian theology than with today’s predominate pattern of secular American “Church-State” jurisprudence. For example, in his *Letter From the Birmingham City Jail*, Dr. King wrote:

First, I must confess that over the last few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro's great stumbling block in the stride toward freedom is not the White Citizen's Council-er or the Ku Klux Klanner, but the white moderate who is more devoted to "order" than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice....

In spite of my shattered dreams of the past, I came to Birmingham with the hope that the white religious leadership of this community would see the justice of our cause, and with deep moral concern, serve as the channel through which our just grievances would get to the power structure. I had hoped that each of you would understand. But again I have been disappointed. I have heard numerous religious leaders of the South call upon their worshippers to comply with a desegregation decision because it is the law, but I have longed to hear white ministers say, "follow this decree because integration is morally right and the Negro is your brother." In the midst of blatant injustices inflicted upon the Negro, I have watched white churches stand on the sideline and merely mouth pious irrelevancies and sanctimonious trivialities. In the midst of a mighty struggle to rid our nation of racial and economic injustice, I have heard so many ministers say, "those are social issues with which the gospel has no real concern.", and I have

³⁷ For more on this topic, see Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL.: Xlibris Publications, 2015).

watched so many churches commit themselves to a completely other-worldly religion which made a strange distinction between body and soul, the sacred and the secular.

Indeed, I believe that what Dr. King sought, fundamentally, was an American constitutional order that had at its foundation the higher “*Law of Christ*,”³⁸ as set forth in the writings of St. Augustine and St. Thomas (both of whom were quoted in *The Letter From the Birmingham City Jail*), and later established in Anglican theological and constitutional thought, such as in Bishop Thomas Cranmer’s *Book of Common Prayer*:

Grant, O God, that your holy and life-giving Spirit may so move every human heart [and especially the hearts of the people of this land], that barriers which divide us may crumble, suspicions disappear, and hatreds cease; that our divisions being healed, we may live in justice and peace; through Jesus Christ our Lord. Amen.³⁹

O God, you have bound us together in a common life. Help us, in the midst of our struggles for justice and truth, to confront one another without hatred or bitterness, and to work together with mutual forbearance and respect; through Jesus Christ our Lord. Amen.⁴⁰

Indeed, thus nourished in the bosom of the Church of England, the foundations of Anglo-American common law and constitutional law are profoundly Christian.

The most influential theologian and constitutional philosopher of the Elizabethan era was the Reverend Richard Hooker (1554-1600). He defended the Elizabethan settlement against claims from Puritans and Separatists that the Church should be completely separated from the State; the Elizabethan settlement thus sought to find common ground between the Roman Catholics on the one hand and the Puritan radicals on the other. In so doing, Richard Hooker became a Founding Father of the Anglican Church. His classic work *Of the Law of Ecclesiastical Polity* is considered the masterpiece of Elizabethan prose. But most

³⁸ The fundamental “Law of Christ,” to wit, is to “love ye one another” (John 15:12); to do justice and judgement (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).

³⁹ *The Book of Common Prayer* (New York, N.Y.: Good Books Pub., 2016), p. 735.

⁴⁰ *Ibid.*

importantly, Hooker's ideas of law, religion, and the relationship between the Church and State became monumental, and significantly influenced Anglo-American religious and political thinking during the Seventeenth and Eighteenth centuries. Many of Hooker's ideas remain relevant today and continue to guide the canons of the Church of England.

Throughout my academic career, Hooker's writings were only a secondary source: through John Locke's essays, I knew of Hooker but saw no need to research his original ideas and thoughts. This was an inadvertent mistake. It was not my fault, but rather the program of modern secular education at colleges and universities which sought to cull religion out of higher education that made Hooker's distinguished career and writings obscure. The result was to diminish the Christian sources and foundations of Anglo-American law. John Locke was hailed as a great political philosopher who greatly influenced the American Founding Fathers, but there was seldom, if any, mention of the fact that Locke's philosophy was built largely upon the Christian theology of Richard Hooker. Today, as I re-read Rev. Hooker, I am mindful of three very important developments:

First, the Roman Catholic Order (especially the theologies of St. Augustine and St. Thomas Aquinas) were incorporated into English law through the Church of England. Rev. Hooker's *Of the Laws of Ecclesiastical Polity*, which provided a formal defense of Queen Elizabeth's compromise settlement, reaffirmed this "catholic" component within English law.

Second, under the reign of Queen Elizabeth I (1558-1603), the Church of England became an official component of the new Reformed English constitution, together with the monarchy and Parliament. The church and the state were inseparable; the Christian faith and English jurisprudence were likewise inseparable. This means that in seventeenth century England, Christianity was woven into English constitutional law and jurisprudence.

Third, English political thought during the seventeenth century, including the writings of Thomas Hobbes and John Locke, together with great political movements of this era, were grounded upon the Christian principles enunciated in Hooker's groundbreaking work, *Of the Laws of Ecclesiastical Polity*. Hooker explained how a Christian commonwealth should be organized, and how constitutional doctrines such as "the law of nature," "the God of nature," "the rule of law" and the "consent of the governed" should bind the social order together. Hence, what has popularly passed into the public sphere as Deism and the eighteenth-century Enlightenment is really the brainchild of Hooker's Anglican

theology which synthesized faith with reason and described the God of the Old Testament as “the God of nature.” For this reason, the ideas which the Founding Fathers relied upon when framing the American Declaration of Independence and United States Constitution trace their roots to Hooker’s *Of the Laws of Ecclesiastical Polity*.

SUMMARY

During the reign of Elizabeth I (1558-1603), the Church of England was wrested back from the Roman Catholic Church and returned to its independent status which King Henry VIII had established in 1534. However, under Elizabeth I, the Church of England’s own unique character took shape; it had Catholicism as its primary foundation; it had Archbishop Thomas Cranmer’s *Book of Common Prayer* as its guide and founding charter; and it had, under Elizabeth I’s leadership, an Archbishop of Canterbury in Matthew Parker who was ready to negotiate and compromise with the Catholics and the Puritans. But the Church of England needed to establish its own unique identity; it needed to define its relationship to the state and its role within the English commonwealth. Rev. Richard Hooker (1554-1600) was the theologian who had the genius and talent to complete this task. His *Of the Laws of Ecclesiastical Polity*, which consisted of eight separate books, was written in the traditions of Saints Augustine and Thomas Aquinas, a masterpiece of Christian apologetics and English prose. Rev. Hooker’s *Ecclesiastical Polity* was both original exposition of novel and new ideas as well as a profound restatement of Catholic theology and law.

Rev. Hooker conceptualized all law as emanating from God who ordained it through creation; all law is discoverable through the law of reason. For these reasons, Rev. Hooker’s theology led naturally to the conclusion that the Christian faith required from a Christian commonwealth natural justice, natural order, transparency, due process of the law, and the consent of those who are governed. Finally, Rev. Hooker believed that since England was admittedly a “Christian commonwealth,” the Church of England could not be separated from the state. According to Hooker, the English monarch was properly and rightfully vested with both ecclesiastical (Church) and secular (State) authority. On the contrary, Hooker believed that England should follow the example of Christian emperors and kingdoms, as prescribed in Saint Augustine’s *The City of God*.

Section I. Biography of Rev. Richard Hooker (1554-1600)⁴¹

A. Early Years

The Reverend Richard Hooker was born March 1554 into a family that was neither wealthy or from noble origin.⁴² Rev. Hooker was, however, able to attain a good education at Exeter Grammar School and, through the assistance of his uncle, entrance into Corpus Christi College, Oxford.⁴³ Rev. Hooker attained a B.A. in 1574 and a MA degree in 1577. Rev. Hooker was also admitted as a fellow at Oxford in 1577 and ordained a priest in 1579.⁴⁴ Oxford later conferred upon Fr. Hooker the designation, “Doctor of the Church.”

B. Church Career, General Theology, and Legal Philosophy

⁴¹ “Richard Hooker (March 1554 – November 3, 1600) was an influential Anglican theologian, regarded, together with Thomas Cranmer and Matthew Parker, as a co-founder of Anglican theology. He was also important as an early proponent of the Anglo-American system of constitutional law. From 1584 until his death in 1600, Hooker served as a clergyman in several prominent Anglican churches. His eight-volume work, *Of the Laws of Ecclesiastical Polity*, which explained and defended every aspect of Anglican religious theory and practice, was a distinguished example of Elizabethan literature, and is still required reading in seminaries all over the world. Hooker considered fundamental questions about the authority and legitimacy of government (religious and secular), about the nature of law, and about various kinds of law, including the laws of physics as well as the laws of England. The philosophical basis for his work was Aristotelian, drawing from Thomas Aquinas, with a strong emphasis on natural law, eternally planted by God in creation. Hooke argued that all positive laws of Church and State are developed from Scriptural revelation, ancient tradition, reason, and experience. *Of the Laws of Ecclesiastical Polity* influenced John Locke, and (both directly and through Locke), American political philosophy in the late 1700s. Hooker believed that the Church of England should be a broad, tolerant, inclusive body, in which as many as possible could worship God. He argued for a *Via Media* (middle way) between the positions of the Roman Catholics and the Puritans. Hooker insisted that reason and tradition should be taken into consideration when interpreting the Scriptures, and that it was important to recognize that the Bible was written in a particular historical context, in response to specific situations. Hooker's emphases on reason, tolerance, and inclusiveness considerably influenced the development of Anglicanism. Together with Thomas Cranmer, the author of *The Book of Common Prayer*, Hooker is considered to be the co-founder of the Anglican religious tradition, which began in England during the Reformation and today has over seventy million members around the world. Hooker's great work, *Of the Laws of Ecclesiastical Polity*, explains and defends every aspect of Anglican religious theory and practice, and is still required reading in seminaries all over the world. The first four books of *Of the Laws of Ecclesiastical Polity* were published in 1594. The fifth was published in 1597, and the rest appeared after his death, Books VI and VIII in 1648, and Book VII in 1662. The last three volumes appear to have been heavily edited. The work represents a distinguished example of Elizabethan literature, and excerpts are still included in anthologies of English literature. Izaak Walton, Hooker's biographer quotes King James I as saying, "I observe there is in Mr. Hooker no affected language; but a grave, comprehensive, clear manifestation of reason, and that backed with the authority of the Scriptures, the fathers, and schoolmen, and with all law both sacred and civil." King James I had his sons tutored in Hooker's works, and began a tradition of study that soon made Hooker the foremost Anglican theologian. Hooker was also important as an early proponent of the Anglo-American system of constitutional law. *Of the Laws of Ecclesiastical Polity* influenced John Locke, and (both directly and through Locke), American political philosophy in the late 1700s. Locke quotes Hooker numerous times in *The Second Treatise of Civil Government*.” http://www.newworldencyclopedia.org/entry/Richard_Hooker

⁴² “Richard Hooker,” https://en.wikipedia.org/wiki/Richard_Hooker.

⁴³ Ibid.

⁴⁴ Ibid.

In 1581, Rev. Hooker became a public figure after he preached an anti-Puritan sermon at Paul's Cross Church. He was soon afterwards drawn into the ongoing debate between Puritans and Anglicans within the Church of England. It was Rev. Hooker's position to defend the Church of England against Puritan criticisms. This eventually led to his public controversy and conflict with the Puritan theologian Walter Travers in 1584. This conflict was eventually settled in favor of Rev. Hooker, whose defense of the Anglican viewpoint received support both from the Archbishop of Canterbury and the Privy Council. "About this time Rev. Hooker began to write his major work *Of the Laws of Ecclesiastical Polity*, a critique of the Puritans and their attacks on the Church of England and particularly the *Book of Common Prayer*."⁴⁵

In 1585, Rev. Hooker was appointed Master of the Temple Church (jointly run by the Inner Temple and Middle Temple Inns of Court), where he both studied and taught law. In 1591, he left the Temple Church to become Subdean of Salisbury Cathedral, Prebend of Netheravon, and Rector of Boscombe. "He seems to have lived mainly in London but apparently did spend time in Salisbury where he was Subdean of Salisbury Cathedral and made use of the Cathedral Library. The first four volumes of the major work [*Of Laws of Ecclesiastical Polity*] were published in 1593 with a subsidy from Edwin Sandys and apparently the last four were held back for further revision by the author."⁴⁶ In 1595, Rev. Hooker became Rector of the parishes of St. Mary the Virgin in Bishopsbourne and St. John the Baptist Barham in Kent.⁴⁷ Rev. Hooker left London to continue his writing. He published the fifth book of *Of the Laws of Ecclesiastical Polity* in 1597. Rev. Hooker died 3 November 1600; Books VI and VIII were published posthumously in 1648; and Book VII was published posthumously in 1661.⁴⁸

Rev. Hooker died at age 46, but his work and legacy were monumental:

King James I is quoted by Izaak Walton, Hooker's biographer, as saying, "I observe there is in Mr. Hooker no affected language; but a grave, comprehensive, clear manifestation of reason, and that backed with the authority of the Scriptures, the fathers and schoolmen, and with all law both sacred and civil." Hooker's emphasis on Scripture, reason, and tradition considerably influenced the development of Anglicanism, as well as many political philosophers, including John

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, England: Cambridge Univ. P., 1989), p. xxxi.

Locke. Locke quotes Hooker numerous times in the Second Treatise of Civil Government and was greatly influenced by Hooker's natural-law ethics and his staunch defence of human reason. As Frederick Copleston notes, Hooker's moderation and civil style of argument were remarkable in the religious atmosphere of his time. In the Church of Engl” and he is celebrated with a Lesser Festival on 3 November and the same day is also observed in the Calendars of other parts of the Anglican Communion.⁴⁹

Hence, as we shall see below, Rev. Hooker’s voluminous writings laid the foundation for synthesizing and articulating English constitutional, legal, and ecclesiastical jurisprudence which became the foundation of Anglo-American constitutional jurisprudence. His *Of the Laws of Ecclesiastical Polity* was the most important English prose of the sixteenth century, and it would later influence both English and American theologians, political philosophers, and lawyers during the seventeenth and eighteen centuries.

Section II. *Of the Laws of Ecclesiastical Polity*, Book I, Chapters 1- 10.

C. Chapter 1: General Discourse Concerning Laws

Rev. Hooker adopted the views of St. Augustine and St. Thomas that all laws have their source in an eternal cause that is evidenced in the nature of things that exist. Rev. Hooker held that “the very foundation and root” of laws needed to be carefully examined, in order to be justifiable as valid and binding upon a society or group of persons.⁵⁰ Thus adopting St. Thomas Aquinas’ theory of law, Rev. Hooker’s general rule of statutory construction was this: both the civil and ecclesiastical laws in England shall not contravene “*the of God*” or the “*law of nature*”⁵¹:

That which doth guide and direct his reason is first the general law of nature; which law of nature and the moral law of Scripture are in the substance of law all one. But because there are also in Scripture a number of laws particular and positive, which being in force may not by any law of man be violated; we are in making laws to have thereunto an especial eye. As for example, it might perhaps seem reasonable unto the Church of God, following the general laws

⁴⁹ “Richard Hooker,” https://en.wikipedia.org/wiki/Richard_Hooker

⁵⁰ Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, England: Cambridge Univ. P., 1989), pp. 52-54.

⁵¹ Richard Hooker, *The Laws of Ecclesiastical Polity*, Books I- IV (of VIII)(Nashotah, WI: Nashotah House Press, 2012), p. 382.

concerning this nature of marriage, to ordain in particular that cousin-germans shall not marry. Which law notwithstanding ought not to be received in the Church, if there should be in Scripture a law particular to the contrary, forbidding utterly the bonds of marriage to be so far forth abridged. The same [St. Thomas Aquinas] therefore whose definition of human laws we mentioned before, doth add thereunto this caution concerning the rule and canon whereby to make them: human laws are measures in respect of men whose actions they must direct; howbeit such measures they are, as have also their higher rules to be measured by, which rules are two, the law of God, and the law of nature. So that laws human must be made according to the general laws of nature, and without contradiction unto any positive law in Scripture. Otherwise they are ill made.⁵²

Otherwise, the “quality” of any law could not be rightfully defended as valid, without a proper justification or defense that emanated from the foundation of all law, which is God. “And because the point about which we strive is the quality of our laws, our first entrance hereinto cannot better be made, than with consideration of the nature of law in general, and of that law which giveth life unto all the rest, which are commendable just and good, namely the law whereby the Eternal himself doth work. Proceeding from hence to the law first of nature, then of scripture, we shall have the easier access unto those things which come after to be debated, concerning the particular cause and question which we have in hand.”⁵³

Of course, Rev. Hooker’s objective was to show precisely how the Church of England and the Civil Body Politic both shared jurisdiction of the same laws, which, for the name of convenience, were divided between the church (ecclesiastical) and the state (civil); to show how these laws were derived from the same source (i.e. God, or the first cause of existence); and to show how in a Christian commonwealth the “church” and the “state” were essentially interchangeable corporate bodies with slightly different functions within the English constitutional system. See, e.g., Table 1, below.

Table 1. Anglican Order: the “Mixed” Character of Law as both Ecclesiastical and Secular

1. Ecclesiastical	The “Law of Christ” ⁵⁴	Church of England	The English
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⁵² Ibid.

⁵³ Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, England: Cambridge Univ. P., 1989), pp. 52-54.

⁵⁴ Ibid., p. 52.

Source of Law	(Scripture) ; The Law of Equity.	(Agency)	Monarchy (Governor or Head of the Church of England)
2. Secular Source of Law	The “Law of Nature”; the “Law of Reason”	English Government; Parliament (Agency)	The English Monarchy (Governor or Head of the English Government)

For, as Rev. Hooker wrote, “There can be no error in our conceit concerning this point, if we remember still what accident that is, for which a society hath the name of a commonwealth, and what accident that which we name it simply in regard of some regiment or policy which men live; a church for the truth of that religion which they profess. Now names betokening accidents unabstracted, do betoken not only those accidents, but also together with them the subjects whereunto they cleave.”⁵⁵ There can thus be no doubt that, as England understood itself in the 16th and 17th century, the Church of England and the English Commonwealth were the same conjoined social entity and body politic.⁵⁶

D. Chapter 2: Of that law which God before the beginning hath set for himself to do all things by

Rev. Hooker’s natural law theory was not original or unique but rather was a carbon copy of that of St. Augustine and St. Thomas Aquinas. The law of nature was two-fold:

- The purpose or end for which the thing was created to exist⁵⁷; and
- The “law of reason”

Hence, the very foundation of Anglican theology was Catholic in origin and, likewise, scientific and Greek (e.g., the philosophies of Plato and Aristotle). In Hooker’s system, there could be no conflict or war between “Reason” on the one hand and “Science” on the other. The “law of reason” was essential in Rev. Hooker’s theological system; it was essential in order to determine the purpose or end for which a person, animal, plant, or inanimate object was created. All this, to be sure, characterized the “Anglican order”; and, during Rev. Hooker’s day, it also

⁵⁵ Richard Hooker, *The Laws of Ecclesiastical Polity*, Books VI- VIII (of VIII)(Nashotah, WI: Nashotah House Press, 2012), pp. 336.

⁵⁶ Ibid.

⁵⁷ Hooker writes, “Howbeit undoubtedly a proper and certain reason there is of every finite work of God, inasmuch as there is a law imposed upon it; which if there were not, it should be infinite even as the worker himself is. They err therefor who think that of the will of God to do this or that, there is no reason besides his will.” Ibid., pp. 56-57.

defined the “Tudor order.” All things created needed to work in harmony in accordance with God’s law, or natural law, which was the purpose or end for which it was created. As the *Catechism of the Catholic Church* teaches: “[i]n creation God laid a foundation and established laws that remain firm, on which the believer can rely with confidence”⁵⁸; “God himself created the visible world in all its richness, diversity, and order”⁵⁹; “[n]othing exists that does not owe its existence to God the Creator. The world began when God’s word drew it out of nothingness; all existent beings, all nature, and all human history are rooted in this primordial event”; “[b]y the very nature of creation, material being is endowed with its own stability, truth, and excellence, its own order and laws.”⁶⁰

“All things that are have some operation not violent or casual,” Hooker wrote. “Neither doth anything ever begin to exercise the same without some foreconceived end for which it worketh.”⁶¹ Law for Rev. Hooker was to be found in nature, in the search for scientific principles and truths emanating from observation, testing the law of cause and effect, and discovery. “That which doth assign unto each thing the kind [i.e. God], that which doth moderate the force and power, that which doth appoint the form and measure of working, the same we term a *Law*”⁶² For Rev. Hooker, just as it was with St. Augustine, God is Law, and Law is God:

So that no certain end could ever be attained, unless the actions whereby it is attained were regular, that is to say, made suitable fit and correspondent unto their end, by some canon, rule or law. Which thing doth first take place in the works even of God himself. All things therefore do work after a sort according to law: all other things according to a law, whereof some superiors, unto whom they are subject, is author; only the works and operations of God have him both for their worker, and for the law whereby they are wrought. The being of God is a kind of law to his working: for the perfection which God is, giveth perfection to that he doth.⁶³

To himself he is a law in all things, whereof our Saviour speaketh, saying, My Father worketh as yet, so I. God worketh nothing without

⁵⁸ *Catechism of the Catholic Church* (New York, N.Y.: Doubleday, 1997), p. 100.

⁵⁹ *Ibid.*, p. 98.

⁶⁰ *Ibid.*

⁶¹ Richard Hooker, *The Laws of Ecclesiastical Polity*, Books VI- VIII (of VIII)(Nashotah, WI: Nashotah House Press, 2012), pp. 57-58.

⁶² *Ibid.*

⁶³ *Ibid.*

cause. All those things which are done by him, have some end for which they are done: and the end for which they are done, is a reason of his will to do them.⁶⁴

Rev. Hooker likewise observes with St. Augustine that Plato and the Platonists come nearest the Christian faith in acknowledging the fundamental principle that there is a “first cause” to all existence and that this “first cause” is “an *Intellectual* worker.”⁶⁵ Of the Greek Stoics, Rev. Hooker wrote: “[t]hey all confess therefore in the working of that first cause, that *counsel* is used, *reason* followed, a *way* observed, that is to say, constant *order* and *law* is kept, whereof itself must needs be author unto itself.”⁶⁶

For this reason, Rev. Hooker placed the Anglican system of law squarely under the rule of God, whereby “the world is ruled by so good a guide, as transgresseth not his own law, than which nothing can be more absolute, perfect, and just.”⁶⁷ Hence, within the Anglican system of law (both civil and ecclesiastical), all law needed to comport with the law of nature, the law of reason, and the law of God—interchangeable Law.

E. Chapter 3: The law which natural agents observe

Scientific inquiry thus became an essential element of the Anglican mind, because the things which exist (i.e., all of God’s creations) contained the natural law whereby human beings must discover, through reason, the will of God. For Hooker, mankind must frame his civil and ecclesiastical laws around the law of reason (i.e., natural law). The Universe contained eternal and universal principles whereby all human laws must comport; disorder and chaos to result from the failure to abide by these principles. The Anglican constitutional “order” thus tied together the scientific laws of nature, reason, philosophy, and Scriptures. The “laws of nature”⁶⁸ were described in Hooker’s *Laws of Ecclesiastical Polity* as “those things which nature worketh,” whose initial cause rested in the “bosom of God” and “the God of Nature.”⁶⁹ “Nature therefore,” wrote Hooker, “is nothing else but God’s Instrument.”⁷⁰

⁶⁴ Ibid., p. 56.

⁶⁵ Ibid., p. 55.

⁶⁶ Ibid., p. 56.

⁶⁷ Ibid., p. 57.

⁶⁸ Ibid., p. 61.

⁶⁹ Ibid., p. 62.

⁷⁰ Ibid., p. 63.

And as it cometh to pass in a kingdom rightly ordered, that after a law is once published, it presently takes effect far and wide, all states framing themselves thereunto; even so let us think it fareth in the natural course of the world: since the time that God did first proclaim the edicts of his law upon it, heaven and earth have hearkened unto his voice, and their labour hath been to do his will: He made a law for the rain. He gave his decree unto the sea that the waters should not pass his commandment. Now if nature should intermit her course, and leave altogether, though it were but for a while, the observation of her own laws: if those principal and mother elements of the world, whereof all things in this lower world are made, should lose the qualities which now they have, if the frame of that heavenly arch erected over our heads should loosen and dissolve itself: if celestial spheres should forget their wonted motions and by irregular volubility, turn themselves any way as it might happen: if the prince of the lights of heaven which now as a Giant doth run his unwearied course, should as it were through a languishing faintness begin to stand and to rest himself: if the Moon should wander from her beaten way, the times and seasons of the year blend themselves by disordered and confused mixture, the winds breathe out their last gasp, the clouds yield no rain, the earth be defeated of heavenly influence, the fruits of the earth pine away as children at the withered breasts of their mother no longer able to yield them relief, what would become of man himself, whom these things now do all serve? See we not plainly that obedience of creatures unto the law of nature is the stay of the whole world?⁷¹

Hence, we find here a clear description of the unwritten English constitution. That constitution is “unwritten” by man, because it is essentially tied up with the eternal will of God, to be interpreted through the “law of reason” and the “law of nature,” from which England’s common law and statutory law were to be extracted. Here we also find here a clear constitutional source, or reference, to the expressed language used in the American Declaration of Independence, to wit, “When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them to another, and to assume among the powers of the earth, the separate and equal station to which the *Laws of Nature* and *Nature’s God* entitle them...” Within American constitutional jurisprudence, this “natural law” link, of course, begins with St John’s theology of the Logos and St.

⁷¹ Ibid., p. 60.

Paul's epistles; then St. Augustine and St. Thomas Aquinas (i.e., Roman Catholic theology); then Rev. Richard Hooker (i.e., *The Laws of Ecclesiastical Polity*); then John Locke's *Essays*; and, finally, ends with Thomas Jefferson, James Madison and other Founding Fathers. Rev. Hooker's understanding of Nature and Nature's God pre-dated the 18th Century Enlightenment and the Deist philosophy, and yet he concluded "[b]ut unto us there is one only guide of all agents natural, and he both the creator, and the worker of all in all, alone to be blessed, adored and honoured by all for ever."⁷²

In other words, Rev. Hooker's description of the God of Nature is essentially no different than the so-called Deist God of Nature; such that the Catholic-Anglican God of Nature, which was clearly incorporated into England's constitutional jurisprudence, may credibly be taken to be the same "Nature's God," as referenced in the American Declaration of Independence.

F. Chapter 4: The law which the Angels of God obey

Rev. Hooker turns to the actions, thoughts, and propensities of angelic beings in order to differentiate angels from mortal men and women. The reason is threefold:

- First, angels are in full submission to God's will and law;
- Second, the souls of men and women are no different than angelic souls, except angels have full and complete knowledge of God and are not weighed down by fleshly temptations; and,
- The objective of civil and ecclesiastical law is to direct mortal men and women towards angelic behavior.⁷³

Similarly, American Founding Father James Madison wrote in *The Federalist Papers* that "[i]f men were angels, no government would be necessary."⁷⁴ For, as stated in the *Catechism of the Catholic Church*: "St. Augustine says: ' "Angel" is the name of their office, not of their nature. If you seek the name of their nature, it is "spirit"; if you seek the name of their office, it is "angel"; from what they are, 'spirit,' from what they do, "angel.'" With their whole beings the angels are servants and messengers of God. Because they 'always behold the face of my Father who is in heaven' they are the 'mighty ones who do his word, hearkening to the voice of his word.'"⁷⁵ In other words, the chief objective of law and

⁷² Ibid., p. 63.

⁷³ Ibid., pp. 64-66.

⁷⁴ James Madison, *Federalist No. 51*, February 8, 1788.

⁷⁵ *Catechism of the Catholic Church* (New York, N.Y.: Doubleday, 1997), p. 96.

government is to lead mankind to angelic virtue and to the good, true, and supreme God.

G. Chapter 5: The law whereby man is in his actions directed to the imitation of God.

Rev. Hooker's brief discourse on angels thus led him to his next point: both the ecclesiastical and civil authority had shared obligations to direct men's and women's toward virtuous conduct and behavior. All things made by God—including mankind—is "good" by nature. "And for this cause there is in all things an appetite or desire, whereby they incline to something which they may be: and when they are it, they shall be perfecter than now they are. All which perfections are contained under the general name of Goodness. And because there is not in the world anything whereby another may not some way be made the perfecter, therefore all things that are, are good."⁷⁶ "Angels already have full and complete knowledge in the highest degree that can be imparted unto them," Hooker concluded. According to Hooker, in order for mankind to be made more perfect, it must (1) attain a "knowledge of truth" and (2) grow "in the exercise of virtue."⁷⁷ In this two-fold endeavor, mankind may strive toward the "immutability of God" and "resemblance with God,"⁷⁸ like the angels.

For Rev. Hooker, both civil and ecclesiastical laws shared a dual function in directing mankind towards this state of virtue and perfection. "Laws politic, ordained for external order and regiment amongst men, are never framed as they should be, unless presuming the will of man to be inwardly obstinate, rebellious, and averse from all obedience unto the sacred laws of his nature; in a word, unless presuming man to be in regard of his depraved mind little better than a wild beast, they do accordingly provide notwithstanding so to frame his outward actions, that they be no hindrance unto the common good for which societies are instituted: unless they doe this they are not perfect."⁷⁹ This placed the "Law of Christ" at the center of England's legal and constitutional framework.

H. Chapter 6: Men's first beginning to understand that law

⁷⁶ Arthur Stephen McGrade, *Richard Hooker: Of the Laws of Ecclesiastical Polity* (Cambridge, England: Cambridge Univ. P., 1989), p. 66.

⁷⁷ *Ibid.*, p. 67.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*, pp. 87-88.

The fundamental problem of being human, according to Hooker, is to ascertain the difference between good and evil, and the only way to know the difference between the two is through education. “Education and instruction are the means, the one by use, the other by precept to make our natural faculty of reason, both the better and the sooner able to judge rightly between truth and error, good and evil.”⁸⁰ Hence, the “law of reason” is the primary source of law; the ability to determine between right and wrong, good and evil, is the ability to reason. In Anglican theology, there is no conflict between “Faith and Reason” or between “Faith and Science.”⁸¹ For it is the duty of mankind to search out and to understand the law of nature through reason.⁸²

I. Chapter 7: Of man’s will which is the first thing that laws of action are made to guide

Next, Rev. Hooker addresses the problem of human “will” and human “appetite,” which are often in conflict with each other. Education is designed to teach the human will to desire goodness and virtue, but too often the human appetite intervenes and impairs the human will. As Rev. Hooker described it: “[f]inally appetite is the will’s solicitor, and the will is the appetite’s controller; what we covet according to the one, by the other we often reject, neither is any other desire termed properly will, but that where reason and understanding, or the show of reason prescribeth the thing desired.”⁸³

When the “appetite” controls the actions, it does so without recourse to reason; for it often seeks short-term pleasure while disregarding the long-term or greater good; and this leads to sin and transgression. “The soul then ought to conduct the body, and the spirit of our minds the soul. This is therefore the first law, whereby the highest power of the mind requireth general obedience at the hands of all the rest concurring with it unto action.”⁸⁴ Thus, education must, through reason, teach and promote virtue and knowledge of the long-term and greater good. “For the laws of well-doing are the dictates of right reason... In the rest there is the light of reason, whereby good may be known from evil, and which discovering the same rightly is termed right.”⁸⁵

⁸⁰ Ibid., pp. 69-70.

⁸¹ Ibid., p. 69.

⁸² Ibid., p. 81.

⁸³ Ibid., p. 71.

⁸⁴ Ibid., p. 79.

⁸⁵ Ibid., p. 72.

Rev. Hooker recognized the impact of sin within our human bodies. Like St. Paul and St. Augustine, Rev. Hooker acknowledged that sin affects the human will's ability to comport with God's will and to do justice and righteousness. In fact, Hooker believed that sin often takes over the human will, such that it drives the human soul toward perdition. Education and law thus serves the dual purpose of informing human beings as to the consequences of sin and, secondly, of restraining and punishing crimes. For this reason, Rev. Hooker believed that the Church of England and the civil body politic were two sides of the same coin, sharing overlapping jurisdiction over England's Christian commonwealth.

J. Chapter 8: Of the natural finding out of laws by the light of reason to guide the will unto that which is good

According to Rev. Hooker, the objective and purpose of the law is the "framing men's actions"⁸⁶; and to frame men's actions, "the knowledge of good from evil is necessary."⁸⁷ There are according to Rev. Hooker two ways to attain this knowledge: (1) observation (or personal experience); and (2) instruction (or learning from others).⁸⁸ God's creations, as natural agents, are in fact a "law unto themselves" capable to ascertaining the law of nature or the law of God. This is true of pagan and non-Christian nations.

The apostle St. Paul having speech concerning the Heathen saith of them, 'They are a law unto themselves. His meaning is, that by force of the light of reason, wherewith God illuminateth everyone which cometh into the world, men being enabled to know truth from falsehood, and good from evil, do thereby learn in many things what the will of God is; which will himself not revealing by any extraordinaryt means unto them, but they by natural discourse attaining the knowledge thereof, seem the makers of those laws which indeed are his, and they but only the finders of them out. A law therefore generally taken, is a directive rule into goodness of operation.'⁸⁹

Reason thus teaches that "the greater good is to be chosen before the less."⁹⁰ In other words, appetite must not overpower the human will to comport with right

⁸⁶ Ibid., p. 75.

⁸⁷ Ibid., p. 75.

⁸⁸ Ibid.

⁸⁹ Ibid., p. 77.

⁹⁰ Ibid.

reason (i.e., what Aristotle called “reason unaffected by desire”). This right reason is, in fact, universal; and can often be expressed as equitable maxims such as, “God to be worshipped, Parents to be honoured, Others to be used by us as we ourselves would by them.”⁹¹ Thus quoting St. Augustine, Hooker writes: “ ‘Do as thou wouldest be done unto, is a sentence which all nations under heaven are agreed upon.’ ”⁹² “And to conclude, the general principles thereof are such, as it is not easy to find men ignorant of them. Law rational therefore, which men commonly use to call the law of nature, meaning thereby the law which human nature knoweth itself in reason universally bound unto, which also for that cause may be termed most fitly the law of reason: this law, I say, comprehendeth all those things which men by the light of their natural understanding evidently know, or at leastwise may know, to be beseeming or unbeseeming, virtuous or vicious, good or evil for them to do.”⁹³ Further, Rev. Hooker added that common sense teaches us truth; for example, “where there is smoke, there has been fire.” “We know things,” Hooker explained, “either as they are in themselves, or as they are in mutual relation one to another.”⁹⁴ Mankind can and should investigate the works of nature in order to ascertain an understanding of the truth of nature; this is natural law. Hooker thus explained:

Laws of reason have these marks to be known by. Such as keep them, resemble most lively in the voluntary actions, that very manner of working which nature herself doth necessarily observe in the course of the whole world. The works of nature are all behoveful, beautiful, without superfluity or defect; even so theirs, if they be framed according to the which the law of reason teacheth. Secondly those laws are investigable by reason without the help of revelation supernatural and divine.⁹⁵

In other words, the universal laws of natural law are not hidden from us but are readily observable through reason, observation, and investigation.⁹⁶ Hence, the science project, as we have seen in the writings of Francis Bacon and within the empiricism of John Locke, became an important component to Anglican Christianity. Reason was not opposed to the Christian Faith but was instead a vital component to the Christian Faith.

⁹¹ Ibid., p. 78.

⁹² Ibid., p. 83.

⁹³ Ibid., p. 82.

⁹⁴ Ibid., p. 79.

⁹⁵ Ibid., p. 81.

⁹⁶ Ibid.

K. Chapter 9. Of the benefit of keeping that law which reason teacheth

Having thus developed a legal system whereby truth served as the touchstone of all legal reasoning, Rev. Hooker upheld education of the physical and natural laws as sine quo non. Human laws were thus seen as reflections of higher laws not made by human hands. For Rev. Hooker, the English constitution had been extracted out of these higher laws and reflected a balance and order in the universe. Rev. Hooker thus observed:

Now the due observation of this law which reason teacheth us, cannot but be effectual unto their great good that observe the same. For we see the whole world and each part thereof so compacted, that as long as each thing performeth only that work which is natural unto it, it thereby preserveth both other things, and also itself. Contrariwise, let any principal thing, as the Sun, the Moon, any one of the heavens or elements, but once cease or fail, or swerve, and who doth not easily conceive, that the sequel thereof would be ruin both to itself, and whatsoever dependeth on it?⁹⁷

The benefit of keeping the law of reason is the health, safety, and prosperity of both individuals and the entire community. The absence of such observance is disorder and social misery. This was, in a nutshell, the Anglican social, ecclesiastical, and political order.

L. Chapter 10. How reason doth lead men unto the making of human laws, whereby politic societies are governed, and to agreement about laws whereby the fellowship or communion of independent societies standeth

In practical politics, Rev. Hooker called this universal balance and order the “commonweal” or the common good to be attained; this was, as he conceived it, the Christian commonwealth of England. “The latter is that which we call the law of a commonweal, the very soul of a politic body, the parts whereof are by law animated, held together, and set on work in such actions as the common good requireth.”⁹⁸ For Rev. Hooker, the common good could be achieved only where the laws adequately addressed the sin that is inside of mankind; law must thus presume the fallen state of mankind and direct it back towards the common good,

⁹⁷ Ibid., p. 85.

⁹⁸ Ibid., p. 87.

which is a reflection of the “Law of Christ.” As Rev. Hooker explained: “Laws politic, ordained for external order and regiment amongst men, are never framed as they should be, unless presuming the will of man to be inwardly obstinate, rebellious, and averse from all obedience unto the sacred laws of his nature; in a word, unless presuming man to be in regard of his depraved mind little better than a wild beast, they do accordingly provide notwithstanding so to frame his outward actions, that they be no hindrance unto the common good for which societies are instituted: unless they doe this they are not perfect.”⁹⁹ This same foundation of constitutional law (i.e., the common good) is to be found in the Preamble to the United States Constitution, to wit: “We the People of the United States, in Order to form a more perfect union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”¹⁰⁰

Another important observation which Rev. Hooker made was that political power could be legitimated through only one of two methods: first, by direct establishment from God alone; or, second, through the *consent of governed*, a very novel concept during the sixteenth century. For example, within the natural unit of the household, Hooker opined that the father was the natural head thereof, as having been established by God.¹⁰¹ Similarly, where families extend themselves overtime, the heads of clans have often been the same fathers of larger extended families—i.e., kings and monarchs. However, in larger and more advance societies, where family ties no longer serve as a binding force, Hooker opined that civil and political power could *only be legitimated through the consent of the governed*.¹⁰² Rev. Hooker held that without “consent upon whose persons they impose laws,” governmental authority is “no better than mere tyranny.”¹⁰³ Political consent of the governed thus became for Rev. Hooker a necessary ingredient to preserve balance and order with England’s Christian commonwealth. “As in parliaments, councils, and the like assemblies, although we be not personally ourselves present, notwithstanding our assent is by reason of others agents there in

⁹⁹ Ibid., pp. 87-88.

¹⁰⁰ See, e.g., Roderick O. Ford, *The Law of Moses: Commentaries on the Old and New Testament Law* (Tampa, FL.: Xlibris Pub., 2017), p. xxiv (“Thus read together, both the Declaration of Independence and the United States Constitution were premised upon natural justice or natural law—a universal moral law—upon which the administration of law depended in order to impose the general good faith and fairness among and between the citizens of the United States. The U.S. Constitution was thus conceptualized as the new ‘Social Contract’ for the United States of America.”)

¹⁰¹ Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, England: Cambridge Univ. P., 1989), p. xxxi., p. 90.

¹⁰² Ibid., pp. 90-93.

¹⁰³ Ibid., p. 93.

our behalf.”¹⁰⁴ Hence, as stated in the American Declaration of Independence, the phrase “... that to secure these rights, governments are instituted among men deriving their just powers from the consent of the governed...” may rightfully be deemed a relic of Hooker’s Christian theology and political philosophy.

Rev. Hooker also insisted that “Law” is above even the English king. In other words, no king’s arbitrary will could supplant or displace the Common Law of England. This constitutional principle had emerged through the centuries. As Rev. Hooker observed, Englishmen “saw that to live by one man’s will, became the cause of all men’s misery. This constrained them to come unto laws, wherein all men might see their duties beforehand, and know the penalties of transgressing them.”¹⁰⁵

Finally, Rev. Hooker addressed the role of Ecclesiastical law within the body politic. Since both natural law and positive civil laws were governed by the “law of reason,” the Church had an important role to play in not only preparing mankind to live in harmony and peace through the “Law of Christ,” but also in making and interpreting the civil laws as well. This is true because positive civil laws are often “mixed,”¹⁰⁶ thus containing directives that are purely secular but also grounded in the “Law of Christ.”

Section III *Of the Laws of Ecclesiastical Polity*, Book I, Chapters 11- 16.

To sum up Book I, Rev. Hooker returns to the primary “cause in question,” that is to say: *what exactly is law?*¹⁰⁷ This question is similar to Socrates’s inquiry: *what is justice?* For whether we analyze these questions from a theological, philosophical, or legal perspective, we must concisely analyze (1) the nature of things and (2) the relationship of things to each other (i.e., the interaction of the various laws of nature). For Rev. Hooker, this was the foundation of truth upon which both secular and ecclesiastical jurisprudence must be built. And since

¹⁰⁴ Ibid., p. 93.

¹⁰⁵ Ibid., p. 91.

¹⁰⁶ Ibid., p. 95.

¹⁰⁷ We should point out here that Rev. Hooker had expressly adopted Thomas Aquinas’ legal philosophy, stating “The greatest amongst the school-divines [i.e., Saint Thomas Aquinas] studying how to set down by exact definition the nature of an human law (of which nature all the Church’s constitutions are) found not which way better to do it than in these words: ‘Out of the precepts of the law of nature, as out of certain common and undemonstratable principles, man’s reason doth necessarily proceed unto certain more particular determinations; which particular determinations being found out according unto the reason of man, they have the names of human laws, so that such other conditions be therein kept as the making of laws doth require,’ that is, if they whose authority is thereunto required do establish and publish them as laws.” Richard Hooker, *The Laws of Ecclesiastical Polity*, Books I- IV (of VIII)(Nashotah, WI: Nashotah House Press, 2012), p. 381.

mankind cannot create the “laws of nature,” which have been foreordained by the will of God, these same immutable laws of nature should be the foundation upon which mutable, positive manmade laws should be built. Augustinian natural law and the “laws of nature” were thus readily incorporated into Anglican jurisprudence during the seventeenth century. Within this Anglican jurisprudence, a respect for, and adherence to, the cosmic order and system, as it existed before the advent of human civilization, was *sine quo non*. Hence, for Rev. Hooker, the primary the “cause in question,” as to the true origin and extent of laws both sacred and secular is God. In other words, God is the fountain of all law....

Thus we see how even one and the self-same thing is under divers considerations conveyed through many laws, and that to measure by any one kind of law all the actions of men were to confound the admirable order, *wherein God hath disposed all laws, each as in nature, so in degree distinct from other*. Wherefore that here we may briefly end, of law there can be no less acknowledged, than *that her seat is the bosom of God, her voice the harmony of the world, all things in heaven and earth do her homage, the very least as feeling her care, and the greatest as not exempted from her power, but Angels and men and creatures of what condition soever, though each in different sort and manner, yet all with uniform consent, admiring her as the mother of their peace and joy.*¹⁰⁸

For Rev. Hooker, the authority of the Sacred Scriptures was both self-proving and self-evident. They were in perfect harmony with the cosmic order; they reflected God’s supernatural revelation to mankind; and they must be taken seriously by secular governments, or else those governments would deteriorate and decline. For Rev. Hooker, the end of mankind is virtuous and righteous living, and the Sacred Scriptures contained supreme guidance for reaching this end. Thus assuming that the civil authority wants the very best for the citizens within its commonwealth, Rev. Hooker concluded that it should embrace the Sacred Scriptures as the foundation of its laws. The “Law of Christ” must be the fountain of the secular law.

¹⁰⁸ Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, UK: Cambridge Univ. P., 2002), p. 127.

M. Chapter 11. Wherefore God hath by scripture further made known such supernatural laws as do serve for men's direction

Infinity and perfection are chief characteristics of God, and God is completely “good”; therefore, Rev. Hooker reasoned that God is the only infinitely perfect and infinitely good being in existence. God also is the “first cause” of all other lower forms of existence. For this reason, Rev. Hooker reasoned that God created everything to be good and that human beings were created to seek infinite goodness and perfection, which is God. The goodness and perfection within humanity, however, cannot be attained without *mutual assistance* and *mutual help* from other human beings within the social order; and all human societies, are, in turn, in need of assistance from all other lower forms of beings, including animals, plants, and other inanimate beings.

All things thus exist in accordance with their natures which God implanted within them; “[a]ll things (God only excepted),” Rev. Hooker concluded, “besides the nature which they have in themselves receive externally some perfection from other things, as hath been showed. Insomuch as there is in the whole world no one thing great or small but either in respect of knowledge or of use it may unto our perfection add somewhat.”¹⁰⁹ In other words, all things exist to aid in the perfection, whether directly or indirectly, all other things. This is a reflection of divine law, divine order, and God’s will.

According to Rev. Hooker, so far as human beings are concerned, they are born and grow in degrees in knowledge and virtue towards a state of ultimate perfection, which is God. “[W]e labour to eat, and we eat to live, and we live to do good, and the good which we do is as seed sown ‘with reference unto a future harvest...’¹¹⁰ which is “the last final cause of our working.”¹¹¹ This human striving, according to Rev. Hooker, occurs in degrees:

Man doth seek a triple perfection, first, a sensual, consisting in those things which very life itself requireth either as necessary supplements, or as beauties and ornaments thereof; then an intellectual, consisting in those things which none underneath man is either capable of or

¹⁰⁹ *Ibid.*, p. 100.

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

acquainted with; lastly a spiritual and divine, consisting in those things whereunto we tend by supernatural means here, but cannot here attain unto them. They that make the first of these three the scope of their whole life, are said by the Apostle to have no God, but only their belly, to be earthly minded men. Unto the second they bend themselves, who seek especially to excel in all such knowledge and virtue as doth most commend men. To this branch belong the law of moral and civil perfection. That there is somewhat higher than either of these two no other proof doth need....¹¹²

Rev. Hooker also describes a principle or law of the Christian faith, which does not keep mankind in superstition but continuously enlightens the human intellect:

Concerning faith the principal object whereof is that eternal verity which hath discovered the treasures of hidden wisdom in Christ; concerning hope the highest object whereof is that everlasting goodness which in Christ doth quicken the dead; concerning charity the final object whereof is that incomprehensible beauty which shineth in the countenance of Christ the son of the living God; concerning these virtues, the first of which beginning here with a weak apprehension of things not seen, endeth with the intuitive vision of God in the world to come; the second beginning here with a trembling expectation of things far removed and as yet but only heard of, endeth with real and actual fruition of that which no tongue can express; the third beginning here with a weak inclination of heart towards him unto whom we are not able to approach, endeth with endless union, the mystery whereof is higher than the reach of the thoughts of men; concerning that faith hope and charity without which there can be no salvation; was there ever any mention made saving only in that law which God himself hath from heaven revealed?¹¹³

The third goal or aspiration of seeking spiritual and divine perfection in God is taught to mankind supernaturally through the Divine Scriptures and through

¹¹² *Ibid.*, p. 103.

¹¹³ *Ibid.*, p. 106-107.

revelation, because “God himself is the teacher of truth.”¹¹⁴ This is the first and highest of all law: to love and honor God with a whole mind, heart and soul. The “good” works, which mankind is able to achieve here on earth, is tending towards a greater good—a good that greater than themselves and infinite, who is God.¹¹⁵

Worldly “wealth or honour or pleasure”¹¹⁶ do not represent the infinite perfection, who is God; “[n]o good is infinite but only God: therefore he our felicity and bliss.”¹¹⁷ Union with God is thus the “happiest degree of our perfection.”¹¹⁸ Unlike animals, which are by nature self-interested; mankind is able to assess the quality of its appetite and desires, and to work toward the infinite good (i.e., God), or towards some lower, self-centered goal. Although Hooker does not provide his assessment of what would happen if human beings do not seek the highest good, the presumption is that the Church and the State should be founded upon the highest, infinite good, which is God. Thus incorporating the Gospels into his exposition, Rev. Hooker concludes this chapter with asserting that “charity” is the highest sign of perfection in human deeds and strivings.¹¹⁹

N. Chapter 12. The cause why so many natural or rational laws are set down in holy scripture

For Rev. Hooker, the “law of reason” and the “laws of nature” are necessary tools for understanding God’s revealed truths of the Scriptures. He thus writes, “the evidence of God’s own testimony added unto the natural assent of reason concerning the certainty of them, doth not a little comfort and confirm the same.”¹²⁰

Natural reason is thus aided with supernatural revelation. “God the author of that natural desire had appointed natural means whereby to fulfill it...”¹²¹ But once the supernatural revelations have revealed God’s truth and plan to the human mind, such revelation is no longer a matter of unfathomable, unconscionable superstition,

¹¹⁴ *Ibid.*, p. 105.

¹¹⁵ *Ibid.*, p. 101.

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*, pp. 106-107.

¹²⁰ *Ibid.*, p. 108.

¹²¹ *Ibid.*, p. 109.

but rather becomes converted into concrete, natural, and articulable truth. Hence, when Sir Isaac Newton sat underneath the apple tree and was struck on the head by a falling apple, he deduced from what was once a mysterious and strange phenomenon what became known as the “law of gravitational pull.” This is an example of how God’s revelation enlightens the human understanding with new knowledge—God’s revealed truth. Faith thus serves as the catapult to greater understanding, which, in turn, strengthens faith, in never-ending, recurring cycle. Hence, for Rev. Hooker, there could be no conflict between “faith” and “reason.”

O. Chapter 13. The benefit of having divine laws written

Rev. Hooker’s objective in writing *Of the Laws of Ecclesiastical Polity* was to defend the Church of England. A part of his defense was to differentiate that church from the Roman Catholic Church, which considered the written Sacred Scripture and Sacred Tradition as both part and parcel of God’s divine law.

Rev. Hooker rejects “Sacred Tradition” as being part of the Sacred Scriptures, and concludes that the written word of God (i.e., the Old and New Testaments) were inerrant and sufficient. He did not place a great deal of trust in “Sacred Tradition,” due to the “hazard the truth is in when it passeth through the hands of report, how maimed and deformed it becometh...”¹²² On the contrary, writes Hooker, “[t]he singular benefit that hath grown unto the world by receiving the laws of God, even by his own appointment committed unto writing, we are not able to esteem as the value thereof deserveth.”¹²³ That is to say, the value of the written Old and New Testament scriptures is priceless and cannot be fairly estimated. According to Rev. Hooker, the sacred traditions of the Roman Catholic Church were far less reliable than the written Old and New Testaments: “[h]ow miserable had the state of the Church of God been long ere this, if wanting the sacred scripture we had no record of his laws, but only the memory of man receiving the same by report and relation from his predecessors?”¹²⁴

“What hazard the truth is in when it passeth through the hands of report, how maimed and deformed it becometh; they are not, they [i.e., the Roman Catholics]

¹²² *Ibid.*, p. 111.

¹²³ *Ibid.* p. 110.

¹²⁴ *Ibid.*, p. 111.

cannot possibly be ignorant.”¹²⁵ For this reason, Rev. Hooker placed little or no value on sacred traditions and admonished Christians to rely solely upon the Sacred Scriptures.

P. Chapter 14. The sufficiency of scripture unto the end for which it was instituted

For Rev. Hooker, the end of mankind is salvation from divine punishment (both in this world and the world to come) and reunification with God (i.e., infinite peace).

The end of the Sacred Scriptures, then, is to lead mankind to salvation. “... God himself hath therefore revealed his will, because otherwise men could not have known so much as is necessary, his surceasing to speak to the world since the publishing of the Gospel of Jesus Christ, and the delivery of the same writing, is unto us a manifest token that the way of salvation is now sufficiently opened, and that we need no other means for our full instruction, than God hath already furnished us withal.”¹²⁶

Holy Scriptures’ “principle intent... is to deliver the laws of duties supernatural.”¹²⁷ “... God hath by supernatural means revealed the way of life so far forth as doth suffice.... God hath so many times and ways spoken to the sons of men. Neither hath he by speech only, but by writing also instructed and taught his Church.”¹²⁸ “Being therefore persuaded by other means that these scriptures are the oracles of God, themselves do then teach us the rest, and lay before us all the duties which God requireth at our hands as necessary unto salvation.”¹²⁹ “So that the general end both of old and new is one, the difference between them consisting in tis, that the old did make wise by teaching salvation through Christ that should come, the new by teaching that Christ the Saviour is come, and that Jesus whom the Jews did crucify, and whom God did raise again from the dead is he.”¹³⁰

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*, pp. 114-115.

¹²⁷ *Ibid.*, p. 112.

¹²⁸ *Ibid.*, p. 114.

¹²⁹ *Ibid.*, p. 113.

¹³⁰ *Ibid.*, p. 115.

For Rev. Hooker, Scripture and nature or natural law agree with each other, “nature and scripture do serve in such full sort, that they both jointly and not severally either of them be so complete, that unto everlasting felicity we need not the knowledge of anything more than these.”¹³¹

Q. Chapter 15. Of laws positive contained in scripture, the mutability of certain of them, and the general use of scripture

Rev. Hooker concluded that there are two broad types of laws: laws created by God, which are unchangeable; and laws created by human beings, societies, and organizations, which are changeable. “Now laws or statutes are of two sorts. For they are either received from Gods, or else from men.”¹³²

“The reason is, because the subject or matter of laws in general is thus far forth constant: which matter is that for the ordering whereof laws were instituted, and being instituted are not changeable without cause, neither can they have cause of change, when that which gave them their first institution, remaineth forever one and the same. On the other side laws that were made for men or societies or Churches, in regard of their being such as they do not always continue...”¹³³

R. Chapter 16. A conclusion showing all this belongeth to the cause in question

Rev. Hooker believed in a Higher Law, which, under certain circumstances (to wit, when the “law of reason” or the “law of God” are breached) may justify disobeying secular government. In other words, civil disobedience and civil objections to the powers of king, court or parliament, could be resorted to whenever the civil authorities breached the “law of reason” or the “law of God.” During the 1640s, this idea certainly fueled the passions of the very dissenters whom Hooker tried to pacify in his *Of the Laws of Ecclesiastical Polity* and led, eventually, to the English Civil War. It also supported Sir. Edward Coke’s jurisprudence which held that within the Common Law of England was a “higher law” whereby not even the King of England (i.e., the theory of divine right) could breach. For Rev. Hooker, no law could properly be deemed “law” unless it

¹³¹ *Ibid.*, p. 116.

¹³² *Ibid.*, p. 119.

¹³³ *Ibid.*, p. 118.

contained within it the essence of reason, righteousness, and virtue. This is why any law that is void of all reason may be rightfully disobeyed, particularly where it defies the dictates of reason (i.e., the law of God).

Men do both, as the Apostle teacheth, yea, those men which have no written law of God to show what is good or evil, carry written in their hearts the universal law of mankind, the law of reason, whereby they judge as by a rule which God hath given unto all men for that purpose. The law of reason doth somewhat direct men how to honour God as their Creator, but how to glorify God in such sort as is required, to the end he may be an everlasting Saviour, this we are taught by divine law, which law both ascertaineth the truth and supplieth unto us the want of that other law. So that in moral actions, divine law helpeth exceedingly the law of reason to guide man's life, but in supernatural it alone guideth. Proceed we further, let us place man in some public society with others, whether Civil or Spiritual: and in this case there is no remedy but we must add yet a further law. For although even here likewise the laws of nature and reason be of necessary use, yet somewhat over and besides them is necessary, namely human and positive law, together with that law which is of commerce between grand societys, the law of nations and of nations Christian. For which cause the law of God hath likewise said, 'Let every soul be subject to the higher powers. The public power of all societies is above every soul contained in the same societies. And the principal use of that power is to give laws unto all that are under it, which laws in such case we must obey, unless there be reason showed which may necessarily enforce that the law of reason or of God, doth enjoin the contrary.'¹³⁴

The delicate question in Anglo-American jurisprudence, founded as it is upon the Christian doctrine of natural law and natural right, is this: When may dissenters rightfully refuse to obey governmental authority and draw the line against governmental intrusion and power. For Rev. Hooker and other natural law theorists, the Ten Commandments (i.e., the Law of Moses) served as a valid

¹³⁴ *Ibid.*, pp. 124-125.

guidepost, to wit: Thou shalt not kill; Thou shalt not steal; Thou shalt not bear false witness; Thou shalt not covet.... So that a law which carries out and sanctions murder, theft, perjury, and dishonesty may lawfully be disobeyed and objected to, as violations of a “Higher Law” (i.e., “law of reason,” the “law of God,” or the “Law of Christ”). Other natural law theorists also included the command, “Thou shalt have no other gods before me,” to likewise guarantee the free exercise of religion and freedom of conscience. Here we see with clairvoyance the idea of God as Higher Law and as the First Cause; and of God’s Word as the *logos* within all creation, such that its imprint is expressed within the universal moral consciousness of mankind. See, e.g., Table 2, below:

Table 2. The Law of Moses, Christianity, and the Natural Law Origins of Secular Law¹³⁵

Ten Commandments; Law of Moses; Law of Christ; the Laws of Nature	Secular Civil Law (Private Action); Civil Rights/ Human Rights Laws	Secular Civil Law (Government Action); Civil Rights/ Human Rights Law
“Thou shalt have no other gods before me....”	Law Against Private Religious Discrimination with regards to Public Accommodations (Hotels; Restaurants, etc.) and Labor and Employment Practices	Freedom of Religion; Freedom of Conscience International Human Rights: Freedom of Religion
“Thou Shalt Not Kill....”	Laws Against Homicide and Murder; Right of Self-Defense (Justifiable Homicide). International Human Rights: genocide; slavery; involuntary servitude.	Right to Substantive and Procedural Due Process of Law (Criminal Law and Procedure) International Human Rights: genocide; slavery; involuntary servitude.
“Thou Shalt Not Steal....”	Laws Against Fraud and Theft Laws against Slavery and Involuntary Servitude International Human Rights: corporate exploitation of	Right to Substantive and Procedural Due Process of Law (e.g., Eminent Domain Law; Impairment of Contracts Clause, U.S. Constitution) Laws against Slavery and Involuntary Servitude

¹³⁵ See, e.g., Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL: Xlibris Publication, 2015).

	resources, labor foreign nationals; financial and debt servitude of private persons in foreign nations; slavery; involuntary servitude.	International Human Rights: colonial exploitation of resources, labor of foreign nations; financial and debt servitude of foreign nations; slavery; involuntary servitude.
“Thou Shalt Not Bear False Witness....”	Laws Against Defamation, Libel, Slander, Fraud, Deception, Concealment, and Perjury. Laws against Slavery and Involuntary Servitude.	Laws Against Defamation, Libel, Slander, Fraud, Deception, concealment, and Perjury Laws against Slavery and Involuntary Servitude International Human Rights: Private and Government deprecation of national minority groups in order justify segregation, economic exploitation, and genocide.
“Thou Shalt Not Covet....”	Laws against Adultery; Tortious Interference with Contracts; Unfair Competition and Solicitation of Employees. Laws against Slavery and Involuntary Servitude	International Public Law and International Private Law International Human Rights: Laws against Slavery and Involuntary Servitude
“Love ye one another” ¹³⁶ (Equity jurisprudence: this is a “catchall “ commandment including the Ten Commandments and the entire Law of Moses...)	The Law of Equity; the duty to follow the “Golden Rule.” A “reasonable person standard” to be applied in all human conduct and interactions (e.g., the law of torts); the “doctrine of good faith and fair dealing” in contracts, including commercial transactions and the marital covenant.	The Law of Equity; Duty to impart impartial justice; due constitutional process of law. Civil and human rights laws prohibiting private and public discrimination in education, housing, employment, public accommodations, etc.

¹³⁶ The fundamental “Law of Christ,” to wit, is to “love ye one another” (John 15:12); to do justice and judgement (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).

	Civil and human rights laws prohibiting private and public discrimination in education, housing, employment, public accommodations, etc.	
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To understand this fundamental connection between Christianity and western secular jurisprudence, perhaps it is best to reflect upon the teachings of the Roman Catholic Church¹³⁷, to wit:

The Decalogue in the Church's Tradition

In fidelity to Scripture and in conformity with the example of Jesus, the tradition of the Church has acknowledged the primordial importance and significance of the Decalogue.

Ever since St. Augustine, the Ten Commandments have occupied a predominant place in the catechesis of baptismal candidates and the faithful. In the fifteenth century, the custom arose of expressing the commandments of the Decalogue in rhymed formulae, easy to memorize and in positive form.... The catechisms of the Church have often expounded Christian morality by following the order of the Ten Commandments....

The Ten Commandments state what is required in the love of God and love of neighbor. The first three concern the love of God, the other seven love of neighbor.

As charity comprises the two commandments to which the Lord related the whole Law and the prophets... so the Ten Commandments were themselves given on two tablets. Three were written on one tablet and seven on the other.

The Council of Trent teaches that the Ten Commandments are obligatory for Christians and that the justified man is still bound to

¹³⁷ *Catechism of the Catholic Church* (New York, N.Y.: Doubleday, 1997), p. 557-559.

keep them; the Second Vatican Council confirms: ‘The bishops, successors of the apostles, receive from the Lord... mission of teaching all peoples, and of preaching the Gospel to every creature, so that all men may attain salvation through faith, Baptism and the *observance of the Commandments*.¹³⁸

The unity of the Decalogue

The Decalogue forms a coherent whole.... To transgress one commandment is to infringe all the others. One cannot honor another person without blessing God his Creator. One cannot adore God without loving all men, his creatures. The Decalogue brings man’s religious and social life into unity.¹³⁹

The Decalogue and the natural law

The Ten Commandments belong to God’s revelation. At the same time they teach us the true humanity of man. They bring to light the essential duties, and therefore, indirectly, the fundamental rights inherent in the nature of the human person. The Decalogue contains a privileged expression of the natural law:

From the beginning, God had implanted in the heart of man the precepts of the natural law. Then he was content to remind him of them. This was the Decalogue.

The commandments of the Decalogue, *although accessible to reason alone*, have been revealed. To attain a complete and certain understanding of the requirements of the natural law, sinful humanity needed this revelation:

A full explanation of the commandments of the Decalogue became necessary in the state of sin because the light of reason was obscured and the will had gone astray.

¹³⁸ *ibid.*

¹³⁹ *ibid.*

We know God’s commandments through the divine revelation proposed to us in the Church, and through the voice of moral conscience.¹⁴⁰

The obligation of the Decalogue

Since they express man’s fundamental duties towards God and towards his neighbor, the Ten Commandments reveal, in their primordial content, grave obligations. *They are fundamentally immutable, and they oblige always and everywhere. No one can dispense from them. The Ten Commandments are engraved by God in the human heart.*¹⁴¹

Within British North America, and later the United States, this same Christian theological and constitutional principle on the Ten Commandments, natural law and natural justice has inspired various movements for civil liberties and civil rights. This idea that a divine law, which both contains divine command preserving human dignity and is immutable, became the foundation of Anglo-American constitutional law—i.e., the Fundamental Law (for example, the right to life, liberty, property, freedom of conscience, and the pursuit of happiness). Here we see plainly that the “law of God” (e.g., the Ten Commandments) is self-evident in nature, reaffirmed in the human experience, memorialized in various customary practices and laws around the world, and validated through human reason (including religion, philosophy, jurisprudence, and science) as being *morally right*¹⁴²

Section IV: Of the Laws of Ecclesiastical Polity, Books II thru VIII (“Church and State”)

Rev. Hooker’s remaining eight books in *Of the Laws of Ecclesiastical Polity* addressed the critical question regarding the “power of Ecclesiastical Dominion,” as well as various objections to the Reformed Church of England’s laws and liturgy. This question of ecclesiastical dominion contained not only theological

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

¹⁴² For example, murder and theft are universally understood to be inherently wrong, as violent breaches of the social order, natural law, natural justice, and the cosmic order.

doctrine but also secular political theory and constitutional law, going to the very heart of the foundations of English society, church, and government.

The new Church of England needed to define and defend itself against dissenters, two of which included the Catholics, who wanted the English monarchy to be subordinated to Church of England (and the Pope); and the Anabaptists, who wanted complete separation of the State from the Church. The Anglican balance at once rejected and yet incorporated a multitude of viewpoints, resulting in what may rightfully be termed a “quasi-separation” of the Church and State, where the “law of Christ” reigned supreme in both spheres but where different roles and functions would be carried out. Both the Church and the State thus operated as *two sides of the same coin*, carrying out the same fundamental laws of England, but serving two separate, distinct, and complimentary functions. See, e.g., Table 3, “Quasi-Separation of Church and State.”¹⁴³

Table 3. “Quasi-Separation of Church and State in Late 16th/Early 17th Century England.”¹⁴⁴

Church	<p>Ecclesiastical Law</p> <p><u>Primary Source of Law</u>: The Old and New Testaments</p> <p><u>Secondary Source of Law</u>: “law of reason”; “law of nature”</p>	<p>Administration</p> <p>Church affairs only</p>	<p>Court</p> <p>Ecclesiastical courts</p>
State	<p>Civil (i.e., Secular) Law</p> <p><u>Primary Source of</u></p>	<p>Administration</p> <p>Secular or government affairs</p>	<p>Court</p> <p>Civil or secular</p>

¹⁴³ Rev. Hooker writes: “Herein therefore we agree with those men, by whom human laws are defined to be ordinances, which such as have lawful authority given them for that purpose do probably draw from the laws of nature and God, by discourse of reason aided with the influence of divine grace.” Richard Hooker, *The Laws of Ecclesiastical Polity*, Books I- IV (of VIII)(Nashotah, WI: Nashotah House Press, 2012), p. 380.

¹⁴⁴ Ibid.

	<u>Law</u> : “law of reason”; “law of nature” <u>Secondary Source of Law</u> : The Old and New Testaments	only	courts
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S. Objection of the Catholics Regarding the English Monarchy’s Headship of the Church of England

To the Catholics within England, Rev. Hooker addressed their opposition to the power and authority of the English monarchy over the Church of England. Since the days of William the Conqueror, the Pope had exercised supreme and final authority over the Church of England, while maintaining an ecclesiastical court and taxation system in England. Simultaneously, Roman Catholic clerics in England also claimed immunity from prosecution within the King’s royal courts, thus severely limiting the English crown’s power within its own realm. And, finally, most seriously, the Pope retained the power to depose and to excommunicate the English monarch, thus subjugating the English crown to the Holy See in Rome. This political power of the Pope was at the heart of the conflict which led Henry VIII to separate from the Church of Rome in 1534. And it remained at the heart of Anglican political theory, which Rev. Hooker felt compelled to address in *Of the Laws of Ecclesiastical Polity*.

Again and again, Rev. Hooker relied upon the Old Testament in order to argue the case of monarchial independence from the Church of Rome and the case of monarchial supremacy over the Church of England. For Rev. Hooker, the English monarch was exempt from discipline, punishment, and excommunication, because only God could punish or excommunicate a king or queen. For example, Rev. Hooker points out that in the Old Testament, wherein there is an account of King David’s commission of adultery with Bathsheba, the punishment under the

Law of Moses was death. But since, Rev. Hooker reasoned, King David was “appointed a judge of all men that live under him but not any of them his judge,” King David could not be executed.¹⁴⁵ Rev. Hooker likewise observes this same rule during the reign of David’s son, Solomon: “We read that God did say unto David, If Solomon thy Son forget my laws I will punish his transgressions with a rod. But that he gave Commission unto any of Solomon’s Brethren to chastise Solomon we do not read.”¹⁴⁶

Next, Rev. Hooker goes further to define what may rightly be framed as the “Divine Right of Kings” in England:

First, as there could be in natural bodies no motion of any thing unless there were some which moveth all things and continueth unmovable, even so in politic societies there must be some unpunishable or else no man shall suffer punishment. For since punishments proceed always from Superiors to whom the administration of justice belongeth, which administration must have necessarily a fountain that deriveth it to all others, and receiveth it not from any because otherwise the course of justice should go infinitely in a Circle, every Superior having his Superior without end, which cannot be; therefore a wellspring it followeth there is and a supreme head of justice whereunto all are subject, but itself in subjection to none.¹⁴⁷

Wherefore since the Kings of England are within their own dominions the most high and can have no peer how is it possible that any either civil or Ecclesiastical person under them should have over them coercive power when such power would make that person so far forth his Superior’s superior ruler and judge? It cannot therefore stand with the nature of such Sovereign regiment that any Subject should have power to exercise on kings so highly authorized the greatest censure of excommunication according to the platform of reformed discipline, but if this ought to take place the other is necessarily to give place.

¹⁴⁵ Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, UK: Cambridge Univ. P., 2002), p. 221.

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.*, p. 219.

For which cause till better reason be brought to prove that Kings cannot lawfully be exempted from subjection unto Ecclesiastical Courts we must and do affirm their said exemption lawful.¹⁴⁸

Importantly, Rev. Hooker did not sanction royal lawlessness but argued instead that the English monarchy was even more bound than the English commoners to the fundamental laws of England (i.e., the law of reason, the law of Christ, and the law of God).¹⁴⁹ “What power the king hath,” Rev. Hooker writes, “it by law, the bounds and limits of it are known; the entire community giveth general order by law how all things publicly are to be done, and the king as head thereof, the highest in authority over all, causeth according to the same law every particular to be framed and ordered thereby. The whole body politic maketh laws, which laws give power unto the king, and the king having bound himself to use according unto law that power, it so falleth out, that the execution of the one is accomplished by the other in most religious and peacable sort.”¹⁵⁰

According to Rev. Hooker, unlike English commoners, the English monarchy must actually exemplify the “royal law of Christ” (i.e., the fundamental laws of England; see also the *Book of James* 2:8). However, the English monarchy could not be punished or executed for breaking this royal law.¹⁵¹ The only remedy then, for English subjects, whenever the English monarch broke the established laws of England, was civil disobedience, *perhaps including deposing and removing the monarch from the throne, since no monarch was above the fundamental law of England*. According to Rev. Hooker, in no case was there any provision within the English constitution to discipline, punish or execute an

¹⁴⁸ Ibid., p. 226.

¹⁴⁹ Ibid., p. 221.

¹⁵⁰ Richard Hooker, *The Laws of Ecclesiastical Polity*, Books VI-VIII (of VIII)(Nashotah, WI: Nashotah House Press, 2012), pp. 443.

¹⁵¹ “The king is not subject unto laws; that is to say, the punishment which breach of laws doth bring upon inferiors taketh not hold on the king’s person; although the general laws which all mankind is bound unto do tie no less the king than others, but rather more. For the grievousness of sin is aggravated by the greatness of him that by so much the more obnoxious unto Divine revenge, by how much the less he feareth human.” Richard Hooker, *The Laws of Ecclesiastical Polity*, Books VI-VIII (of VIII)(Nashotah, WI: Nashotah House Press, 2012), pp. 448-449.

English monarch,¹⁵² since all punishment of a Christian monarch is reserved for God alone.¹⁵³

T. Objection of the Anabaptists Regarding the Union of Church and State

To the Anabaptists in England, Rev. Hooker addressed with specificity all of the reasons why there could be no complete separation of the Church from the State. Rev. Hooker feared that the Anabaptists dangerously restricted the jurisdiction of God to ecclesiastical matters only; and that, in addition to restricting God's laws to the church, they also dangerously culled the arts, sciences, natural law, and the law of reason out from the Christian faith, thus leading the Christian faithful to religious fatalism, emotional enthusiasm and blind superstition.¹⁵⁴ See, e.g., Table 4, "The Anabaptists' Legacy," below.

Table 4. The Anabaptists' Legacy on Anglo-American Constitutional Law

"Common Anabaptist beliefs and practices of the 16th century continue to influence modern Christianity and Western society.

- Voluntary church membership and believer's baptism
- Freedom of religion – liberty of conscience
- Separation of church and state
- Separation or nonconformity to the world
- Nonresistance, in modernized groups interpreted as pacifism
- Priesthood of all believers

"The Anabaptists were early promoters of a free church and freedom of religion (sometimes associated with separation of church and state). When it was introduced by the Anabaptists in the 15th and 16th centuries, religious freedom independent of the state was unthinkable to both clerical and governmental leaders. Religious liberty was equated with anarchy; Kropotkin traces the birth of anarchist thought in Europe to these early Anabaptist communities."

Source: <https://en.wikipedia.org/wiki/Anabaptism>

¹⁵² Ibid.

¹⁵³ Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, UK: Cambridge Univ. P., 2002), pp. 221-222.

¹⁵⁴ Richard Hooker, *The Laws of Ecclesiastical Polity*, Books I- IV (of VIII)(Nashotah, WI: Nashotah House Press, 2012), p. 383.

These Anabaptists seemed to downplay God as the author of all reason, including the laws of nature and science. Thus objecting to these Anabaptists who held this position, Rev. Hooker wrote:

And what doth let but that we may observe both, when they are not the one to the other in any sort repugnant? For of such laws only we speak, as being made in form and manner already declared, can have in them no contradiction unto the laws of Almighty God. Yea that which is more, the laws thus made God himself doth in such sort authorize, that to despise them is to despise in them Him. It is a loose and licentious opinion which the Anabaptists have embraced, holding that a Christian man's liberty is lost, and the soul which Christ hath redeemed unto himself injuriously drawn into servitude under the yoke of human power, if any law be now imposed besides the Gospel of Jesus Christ: in obedience whereunto the Spirit of God and not the constraint of man is to lead us, according to that of the blessed Apostle, 'Such as are led by the Spirit of God they are the sons of God,' and not such as live in thralldom unto men. Their judgment is therefore that the Church of Christ should admit no law-makers but the Evangelists. The author of that which causeth another thing to be, is author of that thing also which thereby is caused. The light of natural understanding, wit, and reason, is from God....¹⁵⁵

In addition, as stated in *Of the Laws of Ecclesiastical Polity*, Rev. Hooker listed the primary Anabaptist's objections as follows:

Objection # 1: There should be a complete separation of Church from the State.¹⁵⁶ "[A] Christian man's liberty is lost and the soul which Christ hath redeemed unto himself injuriously drawn into servitude under the yoke of human power if any law be now imposed besides the gospel of Christ...."¹⁵⁷

¹⁵⁵ Ibid.,

¹⁵⁶ Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, UK: Cambridge Univ. P., 2002), pp. 187-191.

¹⁵⁷ Ibid., p. 187.

Objection # 2: According to the Anabaptists, “the Church of Christ should admit no lawmakers but the Evangelists, no courts but Presbyteries, no punishments but Ecclesiastical Censures.”¹⁵⁸

Objection # 3: “[W]e are to maintain the use of human laws and the continual necessity of making them from time to time as long as this present world doth last... utterly condemn the making of laws in the Church [by the State].¹⁵⁹

Objection # 4: Human laws should not, and cannot, “touch the conscience, that to break and transgress them cannot make men in the sight of God culpable as sin doth....”¹⁶⁰

a. “For first the Conscience is the proper court of God, the guiltiness thereof is sin and the punishment eternal death. Men are not able to make any law that shall command the heart, it is not in them to make the inward conceit of a crime or to appoint for any crime other punishment than corporal.”¹⁶¹

b. Human laws “therefore can have no power over the Soul, neither can the heart of man be polluted by transgressing them.”¹⁶²

c. “St. Augustine rightly defineth sin to be that which is spoken done or desired not against any law, but against the law of the living God. The law of God is proposed unto men as a glass wherein to behold the stains and spots of their sinful souls. By it they are to judge themselves and when they find themselves to have transgressed against it then to bewail their offenses with David, ‘Against thee only O Lord have I sinned and done wickedly in thy sight, that so our present tears may extinguish the flames which otherwise we are to feel and which God in that day shall condemn the wicked unto when they shall render account of the evil which they have done, not by violating Statute laws and Canons, but by disobedience unto his law and word.’¹⁶³

Objection # 5: When Christians break human laws, they are simply “obnoxious unto external punishment in this world so that the Magistrate may in

¹⁵⁸ *ibid.*, pp. 187-188.

¹⁵⁹ *ibid.*, p. 188.

¹⁶⁰ *ibid.*

¹⁶¹ *ibid.*

¹⁶² *ibid.*

¹⁶³ *ibid.*, p. 188.

regard of such offense committed justly correct the Offender and cause him without injury to endure such pain as the law doth appoint, but further it reacheth not.”¹⁶⁴

Objection # 6: “For since it is (say they [i.e., the Anabaptists]) apparent out of the Chronicles that judgment in Church matters pertaineth unto God; seeing likewise it is evident out of the Apostle that the high Priest is set over those matters in God’s behalf, it must needs follow that the principality or direction of the judgment of them is by God’s ordinance appertaining unto the high Priest and consequently to the ministry of the Church, and if it be by God’s ordinance appertaining unto them how can it be translated from them unto the Civil Magistrate?”¹⁶⁵

Rev. Hooker’s Reply to these Anabaptists’ Objection was as follows:

Reply # 1: “[T]he law of God himself doth require at our hands subjection. Be ye Subject, saith St. Peter. And St. Paul, Let every Soul be subject, subject all unto powers as are set over us.”¹⁶⁶

Reply # 2: “The reason why we are bound in conscience to be subject unto all powers is because All powers are of God.”¹⁶⁷

Reply # 3: “[I]f respect be had unto those particular persons to whom the same is derived, if they either receive it immediately from God as Moses and Aaron did or from nature as Parents do or from men by a natural and orderly course as every Governor appointed in any Commonwealth by the orders thereof doth, then is not the kind of their power only of God’s institution, but the derivation thereof also into their persons is from him.”¹⁶⁸

Reply # 4: The Civil Magistrates are the lord’s ministers. “[God] hath placed them in their rooms and doth term them his Ministers. Subjection thereof is

¹⁶⁴ Ibid.

¹⁶⁵ Ibid, p. 212.

¹⁶⁶ Ibid., pp. 188-189.

¹⁶⁷ “They are of God either instituting or permitting them. Power is then of divine institution when either God himself doth deliver or men by light of nature find out the kind thereof. So that the power of parents over children and of husbands over their wives, the power of all sorts of superiors made by consent of commonwealths within themselves or grown from agreement amongst nations, such power is of God’s own institution in respect of the kind thereof.” Ibid., p. 189.

¹⁶⁸ Ibid. pp. 189-190.

due unto all such powers inasmuch as they are of God's own institution even then when they are of man's creation...."¹⁶⁹

Reply # 5: "As for them that exercise power altogether against order, although the kind of power which they have may be of God, yet is their exercise thereof against God, and therefore not of God otherwise than by permission as all injustice is."¹⁷⁰

Reply # 6: Render unto Caesar. "Had it any other ground than the law of nations which maketh Kingdoms subdued by just war to be subject unto their Conquerors? By this power Caesar exacting tribute our Saviour confesseth it to be his right, a right which could not be withheld without injury; yea disobedience herein to him had been rebellion against God."¹⁷¹

Reply # 7: "The Apostle's precept therefore is, Be subject even for God's cause; be subject not for fear, but for mere conscience knowing that he which resisteth them purchaseth unto himself condemnation. Disobedience therefore unto laws which are made by men is not a thing of so small account as some would make it. Howbeit too rigorous it were that the breach of every human law should be held a deadly sin."¹⁷²

Aside from addressing the specific objections of these Anabaptists, Rev. Hooker set forth his own independent arguments for maintaining the unity of Church and State within England. Rev. Hooker looked to history of the Judaism in the Old Testament, and noted that "their kings were invested with both" civil and spiritual (i.e., ecclesiastical) authority. Thus patterned after the Hebrew kings on the Old Testament, Rev. Hooker surmised that the English monarchy was both a civil and a priestly office. In other words, as was kings David and Solomon in the Old Testament, the English King was both governor and high priest.

And if it be happily surmised that thus much was given unto Simon [i.e., the Apostle Peter] as being both Prince and High Priest, which

¹⁶⁹ *ibid.*, p. 190.

¹⁷⁰ *ibid.*

¹⁷¹ *ibid.*, p. 190.

¹⁷² *ibid.*, p. 191.

otherwise (being only their Civil Governor) he could not lawfully have enjoyed, we must not that all this is no more than the ancient Kings of that people had being Kings and not Priests. By this power David, Asa, Johasaphant, Heszekiah, Josiah and the rese made those laws and orders, which the Sacred History speaketh of concerning matter of mere religion, the affairs of the Temple and Service of God. Finally had it not been by the virtue of this power, how should it possibly have come to pass that the piety or impiety of the Kings did always accordingly change the public face of religion, which thing the Priests by themselves never did, neither could at any time hinder from being done? Had the Priests alone been possessed with all power in Spiritual affairs how should any law concerning matter of religion have been made, but only by them? In them it had been and not in the King, to change the face of religion at any time. The altering of religion, the making of Ecclesiastical laws with other the like actions belonging unto the power of dominion are still termed the deeds of the King, to show that in him was placed Supremacy of power even in this kind over all, and that unto their High Priests the same was never committed, saving only at such times as their Priests were also Kings or Princes over them...¹⁷³

When that society which is both a Church and a Commonwealth doth flourish in those things which belong unto it as a Commonwealth, we then say the Commonwealth doth flourish; when in those things which concern it as a Church, the Church doth flourish; when in both, then the Church and Commonwealth flourish together. The Prophet Isaiah, to note corruptions in the Commonwealth complainteth that where judgment and justice had lodged now were murderers. Princes were become companions of thieves, everyone loved gifts and rewards, but the fatherless was not judged, neither did the widow's cause come before them. To show abuses in the Church, Malachi doth make his complaint, Ye offer unclean bread upon mine altar; if ye offer the

¹⁷³ *Ibid.*, pp. 128-129.

blind for Sacrifice it is not evil as you think: if the lame and the sick, nothing is amiss. The treasures which David did bestow upon the Temple do argue the Love which he bore to the Church. The pains that Nehemiah took for building the walls of the City are tokens of his care for the Commonwealth. Causes of the Commonwealth or Province are such as Gallio was content to be judge of. If it were a matter of wrong or an evil deed, O ye Jews, I would according to reason maintain you. Causes of the Church, are such as Gallio there rejecteth; If it be a question of your law look you unto it: I will be no judge of those things. In respect of these differences therefore the Church and the Commonwealth may in speech be compared or opposed aptly enough the one to the other, yet this is no argument that they are two independent societies.¹⁷⁴

For this reason, Rev. Hooker argued against “a necessary separation perpetual and personal between the Church and Commonwealth.”¹⁷⁵ He criticizes those dissenters who “tie all kind power Ecclesiastical unto the Church as if it were in every degree their only right, which are by proper spiritual function termed Church-Governors and might not to Christian Princes any wise appertain.”¹⁷⁶ Rev. Hooker vehemently rejected the doctrine of strict “Separation of Church and State”¹⁷⁷ for England, primarily because membership within the body politic was necessarily and essentially tied to membership in the Church of England, such that “within the Realm of England... society is both the Church and Commonwealth...”¹⁷⁸ “So that even in such a politic Society, as consisteth of none but Christians, yet the Church of Christ and the Commonwealth are two corporations independently each subsisting by itself. *We hold that seeing there is not any man of the Church of England, but the same man is also a member of the*

¹⁷⁴ Ibid., pp. 135-136.

¹⁷⁵ Ibid., p. 129.

¹⁷⁶ Ibid.

¹⁷⁷ Hooker’s critics argued that “the Church and the Commonwealth are corporations not distinguished only in nature and definition, but in subsistence perpetually severed, so that they that are of the one can neither appoint, nor execute in whole nor in part the duties which belong unto them, which are of the other, without open breach of the law of God, which hath divided them, and doth require that being so divided they should distinctly and severally work as depending both upon God and not hanging one upon the other’s approbation for that which either hath to do.” Ibid., p. 129.

¹⁷⁸ Ibid., p. 138.

Commonwealth, nor any man a member of the Commonwealth which is not also of the Church of England....”¹⁷⁹

Rev. Hooker also looked to ancient Rome since, the days of the first Christian emperor Constantine, in order to set forth the example of the earliest Church fathers, including St. Ambrose¹⁸⁰ and St. Augustine¹⁸¹, and to show plainly that the early Church clearly embraced the lawful authority of the Christian emperor, but they did so within a judicial system that separated the civil courts from the church courts, and reserved church-court jurisdiction to the Roman Catholic Bishops.¹⁸² Hence, within the same legal framework within Constantine’s Roman Empire, both the Church and the State exercised separate judicial authority and jurisdiction over different matters, but while utilizing the same fundamental laws. For Rev. Hooker, this meant that the emperor’s exercise of civil authority was also a “religious function,”¹⁸³ since it was at all times accountable to a Higher Law, which was the parameters of the Christian faith. Thus, in the strictest sense, within the Anglican order, the separation of the church from the state was impractical. Instead, Rev. Hooker’s scheme may rightfully be called the “*quasi-separation*” of the church from the state; since both church and state implemented the same fundamental “law of reason,” “law of Christ,” and “law of God,” while exercising two separate and distinct functions, within and without the walls of the Church of England.

But perhaps, Rev. Hooker’s most persuasive argument was that “true religion” is universal and it is revealed by God to all who choose to seek it; and thus, in turn, all who seek this “true religion” are members of the church of God, through which God reveals his will and law, and dispenses his justice. This had been the entire theme of the Old Testament, where the Hebrew prophets were sent to both the heathens and the Jews to forewarn them as to the judgment of the Lord. “True religion is that proper difference, whereby a Church is distinguished from other politic societies of men.”¹⁸⁴

¹⁷⁹ *Ibid.*, p. 130.

¹⁸⁰ *Ibid.*, p. 215.

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*

¹⁸³ *Ibid.*, p. 217.

¹⁸⁴ *Ibid.*, p. 130.

For Rev. Hooker, not only the individual had an obligation to “seek ye first the kingdom of God,” but whole communities and societies likewise shared in this obligation, such that “in all commonwealths things spiritual ought above temporal to be provided for.”¹⁸⁵ These “spiritual things” are, according to Rev. Hooker, necessary for the formulation and implementation of secular, civil laws. The same “spiritual things” undergirded ecclesiastical laws within the church, and bound together the entire Christian commonwealth. “Unto the Jews he so revealed the true religion, that he gave them in special consideration laws not only for administration of things spiritual, but also temporal. The Lord himself appointing both the one and the other in that Commonwealth, did not thereby distract it into several independent Communities, but instituted several functions of one and the same Community.”¹⁸⁶

Otherwise, where the “church” is separated from the “state,” the laws of the state may conflict and oppose the church, as in “heathen” nations and empires where the true church is separate from the state.¹⁸⁷ Rev. Hooker was surprised that his detractors persisted in arguing for a separation of the church from the state, “as under Heathen Kings the church did deal with her own affairs within herself, without depending at all upon any in civil authority, and the Commonwealth in hers altogether without the privity of the Church, so it ought to continue still even in such Commonwealths as have now publicly embraced the truth of Christian religion, whether they ought to be evermore two societies in such sort several and distinct.”¹⁸⁸ Rev. Hooker pointed out that the only way to separate the church from the state was to restrict church membership only to the clergy, and to deny church membership to the people and the prince—an absurdity.¹⁸⁹

In ancient Rome, after the Emperor Constantine made Christianity the official religion of the empire, where both the people and the prince became Christian, the entire society merged into one unit, although divided only through separate functions: civil and ecclesiastical.¹⁹⁰ Since there is one “spirit” which undergirds both the laws ecclesiastical and civil, the only difference between the

¹⁸⁵ *Ibid.*, p. 132.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*, p.131.

¹⁸⁸ *Ibid.*, p. 133.

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*,

Church and the State was the function and role of the different offices. In other words, within a Christian commonwealth, there were to be civil functions and ecclesiastical or church functions, but each essentially subjected to the same spiritual law of God.¹⁹¹ “For the truth is,” Rev. Hooker wrote, “that the Church and the Commonwealth are names which import things really different. But those things are accidents and such accidents as may and should always lovingly dwell together in one subject.”¹⁹² “The Commonwealth and the Church therefore being such names, they do not only betoken those accidents of civil government and Christian religion which we have mentioned, but also together with them such multitudes as are the subjects of those accidents.”¹⁹³

U. Objections of the Puritans and Separatists Regarding the Use of Reason, Natural Law, and the Arts and Sciences to Supplement the Sacred Scriptures and Implement Ecclesiastical Laws

Rev. Hooker’s primary opponents were the Puritans (and Separatists) who criticized the new Church of England’s ecclesiastical laws and liturgy, and who “hold that one only law, the Scripture, must be the rule to direct in all things, even so far as to the ‘taking up of a rush or ‘straw.’”¹⁹⁴ The Puritans seemed to strike at the Church of England’s authority to promulgate sacred rules, laws and customs which are not specifically referenced in the sacred Scriptures. Hence, as their very name suggests, these Puritans wanted to “purify” the Church of England of several of these alleged unfounded church doctrines that had no basis whatsoever in the sacred Scriptures. For Rev. Hooker, the Puritans’ reading of divine Scripture was problematic because it would take away all of the necessary tools of reason, logic, common sense, and the law of nature—tools that he believed were absolutely essential not only in interpreting the sacred Scriptures but for establishing Church order. For Rev. Hooker, the “law of Reason”¹⁹⁵ is so thoroughly tied up with the mind of God that it, too, is tantamount to being interchangeable with the sacred Scriptures.¹⁹⁶ “[T]hat inasmuch as law doth stand upon reason, to allege reason serveth as well as to cite Scripture,” Rev. Hooker concluded.¹⁹⁷

¹⁹¹ *Ibid.*, pp. 132-134.

¹⁹² *Ibid.*, p. 134.

¹⁹³ *Ibid.*, p. 135.

¹⁹⁴ Richard Hooker, *The Laws of Ecclesiastical Polity*, Books I- IV (of VIII)(Nashotah, WI: Nashotah House Press, 2012), pp. 287.

¹⁹⁵ *Ibid.*, p. 288.

¹⁹⁶ *Ibid.*, p. 308.

¹⁹⁷ *Ibid.*

For Rev. Hooker had also expressly adopted Thomas Aquinas' legal philosophy, stating "[t]he greatest amongst the school-divines [i.e., Saint Thomas Aquinas] studying how to set down by exact definition the nature of an human law (of which nature all the Church's constitutions are) found not which way better to do it than in these words: 'Out of the precepts of the law of nature, as out of certain common and undemonstratable principles, man's reason doth necessarily proceed unto certain more particular determinations; which particular determinations being found out according unto the reason of man, they have the names of human laws, so that such other conditions be therein kept as the making of laws doth require,' that is, if they whose authority is thereunto required do establish and publish them as laws."¹⁹⁸

Thus, for Rev. Hooker, the same "law of Reason" which served to qualify the moral justification for civil laws within the secular state also served to bind members within the church.¹⁹⁹ Thus, within the Church of England, the church fathers held the same binding authority to make laws as do the civil magistrates within the secular state. Contrary to the Puritans' arguments, Rev. Hooker argued that the Church of England had the right to make and issue binding laws upon churchmen, even though those ecclesiastical laws were not explicitly mentioned or authorized in the sacred Scriptures. To conclude otherwise, Rev. Hooker argued, is tantamount to overthrowing the legitimate authority of any church, since no church can properly function without an ability to issue some rules, parameters, and laws not found explicitly in the sacred Scriptures.²⁰⁰ For Rev. Hooker, the same "law of Reason" applied to ecclesiastical laws: "that *whatsoever is reasonable*, the same is lawful whosoever is author of it; that the authority of custom is great...."²⁰¹ Otherwise, Rev. Hooker agreed with the Puritans, to the extent that ecclesiastical laws violated "some higher law, some law of Scripture, to the contrary."²⁰² The Puritans did not have the right to break any of the ecclesiastical laws within the Church of England "unless in the Scripture they could shew some law, that did license them thus to break a received custom."²⁰³

¹⁹⁸ Ibid., p. 381.

¹⁹⁹ Rev. Hooker writes: "Herein therefore we agree with those men, by whom human laws are defined to be ordinances, which such as have lawful authority given them for that purpose do probably draw from the laws of nature and God, by discourse of reason aided with the influence of divine grace." Richard Hooker, *The Laws of Ecclesiastical Polity*, Books I- IV (of VIII)(Nashotah, WI: Nashotah House Press, 2012), p. 380.

²⁰⁰ Ibid., p. 308.

²⁰¹ Ibid., pp. 308-309.

²⁰² Ibid., p. 309.

²⁰³ Ibid.

The Puritans also seemed to attack the Thomist legal system which the Anglican Church had embraced (i.e., St. Thomas Aquinas' theory of law, to wit: Eternal Law --→Divine Law--→Natural Law--→Human (Civil) Law).²⁰⁴ Rev. Hooker feared that following the logic of these Puritans, the law of nature and the law of reason would be completely removed as essential elements from the sacred Scriptures, thus leading to gross misinterpretations of the Bible and to superstition. Rev. Hooker did not wish to see the Christian faith void of the law of reason. "Again," Rev. Hooker insisted, "that authority of men should prevail with men either against or above Reason, is no part of our belief. 'Companies of learned men' be they never so great and reverend, are to yield unto Reason...."²⁰⁵ For Rev. Hooker, the sacred Scriptures did not repeal the law of nature.²⁰⁶ Rev. Hooker observed:

But admit this [i.e., that Scriptures repealed the law of nature], and mark, I beseech you, what would follow. God in delivering Scripture to his Church should clean have abrogated amongst them the law of nature; which is an infallible knowledge imprinted in the minds of all the children of men, whereby both general principles for directing of human actions are comprehended, and conclusion derived from them; upon which conclusions growth in particularity the choice of good and evil in the daily affairs of this life. Admit this, and what shall the Scripture be but a snare and a torment to weak consciences, filling them with infinite perplexities, scrupulosities, doubts insoluble, and extreme dispairst?²⁰⁷

For Rev. Hooker, the law of nature and the law of reason were the legitimate basis for both ecclesiastical and civil laws. See Table 5, "Natural law foundations of Ecclesiastical and Civil laws."

²⁰⁴ Rev. Hooker expressly adopted Thomas Aquinas' legal philosophy, stating "The greatest amongst the school-divines [i.e., Saint Thomas Aquinas] studying how to set down by exact definition the nature of an human law (of which nature all the Church's constitutions are) found not which way better to do it than in these words: 'Out of the precepts of the law of nature, as out of certain common and undemonstratable principles, man's reason doth necessarily proceed unto certain more particular determinations; which particular determinations being found out according unto the reason of man, they have the names of human laws, so that such other conditions be therein kept as the making of laws doth require,' that is, if they whose authority is thereunto required do establish and publish them as laws." *Ibid.*, p. 381.

²⁰⁵ *Ibid.*, p. 325.

²⁰⁶ *Ibid.*, p. 334.

²⁰⁷ *Ibid.*, pp. 334-335.

Table 5. Natural law foundations of Ecclesiastical and Civil Laws²⁰⁸

Church laws (ecclesiastical rules, by-laws, charters, books of discipline, standard operating procedures; membership criteria; governance, etc.)	Law of reason; law of nature.
Secular laws (civil, criminal, constitutional, corporate laws, etc) ²⁰⁹	Law of reason; law of nature

Hence, the same grounds for “civil disobedience” against the secular authority could likewise serve as grounds for disobeying church authority as well. For this reason, Rev. Hooker insisted that the Puritans could have no legitimate basis for disobeying the laws and customs within the Church of England, “unless in the Scripture they could shew some law, that did license them thus to break a received custom.”²¹⁰

The Puritans, however, downplayed natural law and the law of reason as binding components for interpreting the sacred Scripture. In Book II of *The Law of Ecclesiastical Polity*, Rev. Hooker wrote: “In this we dissent, and this we presently do examine.”²¹¹ First off, it is important to acknowledge that Rev. Hooker and his fellow Anglicans had no intention of jettisoning the entire Catholic faith or the teachings of the Catholic Fathers. This Catholic faith held that Jesus the Christ was the Word of God and, as such, the very substance of Reason.²¹² Throughout

²⁰⁸ Rev. Hooker writes: “Herein therefore we agree with those men, by whom human laws are defined to be ordinances, which such as have lawful authority given them for that purpose do probably draw from the laws of nature and God, by discourse of reason aided with the influence of divine grace.” Richard Hooker, *The Laws of Ecclesiastical Polity*, Books I- IV (of VIII)(Nashotah, WI: Nashotah House Press, 2012), p. 380.

²⁰⁹ Ibid.

²¹⁰ Ibid., pp. 334-335.

²¹¹ Ibid., p. 288.

²¹² “Whereunto the sum of our answer is, first, that as Christ being Lord or Head over all, doth by virtue of that sovereignty rule all; so he hath no more a superior in governing his Church, than in exercising sovereign dominion upon the rest of the world desides. Secondly, that all authority, as well civil as ecclesiastical, is subordinate unto his [i.e., Christ’s authority]. And thirdly, that the civil magistrate being termed Head, by reason of that authority in ecclesiastical affairs which it hath been already declared that themselves do in word acknowledge to be lawful; if followeth that he is an Head even subordinated of, and to Christ. For more plain explication whereof, first, unto God we acknowledge daily, that kingdom, power, and glory, are his; that he is the immortal and invisible King of ages, as well the future which shall be, as the present which now is. That which the Father doth work as Lord and king over all,

the New Testament Gospel, Jesus had relied upon reasoning skills to explain and defend the Law of Moses. Thus, Rev. Hooker used the following example:

Our Lord and Saviour himself did hope by disputation to do some good, yea by disputation not only of but against, the truth, albeit with purpose for the truth. That Christ should be the son of David was truth; yet against this truth our Lord in the gospel objecteth, ‘If Christ be the sone of David, how doth David call him Lord?’ There is as yet no way known how to dispute, or to determine of things disputed, without the use of natural reason.²¹³

Rev. Hooker thus deduced that no Christian evangelism or Christian apologetics could be viable without the use of natural reason. Indeed, within the new Anglicanism, at least in theory, reason could not be opposed to faith, and faith could not be opposed to reason, but rather reason was to function as the lord chancellor of the Christian faith. As such, Rev. Hooker’s Anglicanism could also not reject “worldly wisdom,” since this could be utilized as the aid of evangelism and apologetics. Did not Jesus of Nazareth, in his many parables and teachings, together with the Church Fathers, rely upon this same worldly wisdom in explaining the mysteries of the kingdom?²¹⁴

he worketh not without, but by the Son, who through coeternal generation receiveth of the Father that power which the Father hath of himself. And for that cause our Saviour’s words concerning his own dominion are, ‘To me all power both in heaven and in earth is given.’ The Father by the Son both did create, and doth guide all; wherefore Christ hath supreme dominion over the whole universal world. Christ is God, Christ is Aoyos, the consubstantial Word of God, Christ is also the consubstantial Word made man. As God, he saith of himself, ‘I am Alpha and Omega, the beginning and the end: he which was, which is, and which is to come; even the very Omnipotent... The cause of error in this point doth seem to have been a misconceit, that Christ, as Mediator, being inferior unto his Father, doth, as Mediator, all works of regiment over the Church; when in truth, government doth belong to his kingly office, mediatorship, to his priestly.... A like slip of judgment it is, when they hold that civil authority is from God, but not mediately through Christ, nor with any subordination unto Christ. For ‘there is no power,’ saith the Apostle, ‘but from God’; nor doth any thing come from God but by the hands of our Lord Jesus Christ.” Richard Hooker, *The Laws of Ecclesiastical Polity*, Books VI- VIII (of VIII)(Nashotah, WI: Nashotah House Press, 2012), pp. 375-379.

²¹³ Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Cambridge, UK: Cambridge Univ. P., 2002), p. 379.

²¹⁴ *Ibid.*, pp. 371-385.

In rejecting the Puritan's arguments, Rev. Hooker also took upon himself the task of essentially defending the Roman Catholic understanding of the sacred Scriptures, thus arguing against the position of many Puritans and dissenters that the sacred Scriptures represented the inerrant word of God and that church was not authorized to promulgate any other laws or canons. Here, Rev. Hooker warned Christians against falling into narrow-mindedness and religious superstition through ignorance of the wide world around them—a world of the sciences and the arts, through which the voice of God speaks His wisdom. He counseled his fellow Christians to search the sacred Scriptures for wisdom, but to also search out truth, knowledge, and wisdom through experience and reason within the wide world around them—a world which contains all of God's creations and natural laws. In thus addressing these Puritans, Rev. Hooker states:

First therefore whereas they allege, 'That Wisdom' doth teach men 'every good way,' and have thereupon inferred that no way is good in any kind of action unless wisdom do by Scripture lead unto it; see they not plainly how they restrain the manifold ways which wisdom hath to teach men by unto one only way of teaching, which is by Scripture? The bounds of wisdom are large, and within them much is contained. Wisdom was Adam's instructor in Paradise; wisdom endued the fathers who lived before the law with the knowledge of holy things; by the wisdom of the law of God David attained to excel others in understanding; and Solomon likewise to excel David by the selfsame wisdom of God teaching him many things besides the law. The ways of well-doing are in number even as many as are the kinds of voluntary actions; so that whatsoever we do in this world and may do it ill, we shew ourselves therein by well-doing to the wise. Now if wisdom did teach men by Scripture not only all the ways that are right and good in some certain kind, according to that of St. Paul concerning the use of Scripture, but did simply without any manner of exception, restraint, or distinction, teach every way of doing well; there is no Art but Scripture should teach it, because every art doth teach the way how to do something or other well. To teach men therefore wisdom professeth, and to teach them every good way; but not every good way by one way of teaching. Whatsoever either men

on earth or the Angels of heaven do know, it is as a drop of that unemptiable fountain of wisdom; which wisdom hath diversely imparted her treasures unto the world. As her ways are of sundry kinds, so her manner of teaching is not merely one and the same. Some things she openeth by the sacred books of Scripture; some things by the glorious works of Nature: with some things she inspireth them from above by spiritual influence; in some things she leadeth and traineth them only by worldly experience and practice. We may not so in any one special kind admire her, that we disgrace her in any other; but let all her ways be according unto their place and degree adored....²¹⁵

The question between us is concerning matter of action, what things are lawful or unlawful for men to do.... If therefore it be not unlawful to know and with full persuasion to believe much more than Scripture alone doth teach; if it be against all sense and reason to condemn the knowledge of so many arts and sciences as are otherwise learned than in Holy Scripture, notwithstanding the manifest speeches of ancient Catholic Fathers, which seem to close up within the bosom thereof all manner good and lawful knowledge; wherefore should their words be thought more effectual to shew that we may not in deeds and practice, than they are to prove that in speculation and knowledge we ought not to go any farther than the Scripture?

... Shall we hereupon then conclude, that we may not take knowledge of or give credit unto any thing, which sense or experience or report or art doth propose, unless we find the same in Scripture? No; it is too plain that so far to extend their speeches is to wrest them against their true intent and meaning.²¹⁶

Now, to sum up, the Catholic position was that “sacred tradition” must be incorporated into the written sacred Scriptures and was necessary for salvation; but Rev. Hooker rejected this position, concluding that the sacred Scriptures, standing alone and without the “sacred traditions,” were sufficient instructions for the

²¹⁵ *Ibid.*, pp. 289-290.

²¹⁶ *Ibid.*, pp. 300-302.

achievement of mankind's salvation. On the other hand, Rev. Hooker did not go so far as to downplay these "sacred traditions," customs, and ecclesiastical laws as being completely frivolous, non-binding ecclesiastical laws, as the Puritans claimed. For Rev. Hooker, these ecclesiastical laws were indeed legitimate and binding ecclesiastical laws, even though they were not explicitly mentioned in the sacred Scriptures or necessary for mankind's salvation. Like civil laws within the secular state, the ecclesiastical laws within the church were to be judged by the law of nature and the law of reason.

Significantly, Rev. Hooker's apologetics as to the Anglican theological system would also set the standard for the Methodist philosophy of the Rev. John Wesley, which influenced the Great Awakening during the pre-Revolutionary War era (1730s-1740s) in the American colonies. Rev. Hooker's apologetics would essentially become the blueprint for "Wesley's use of *Scripture, tradition, reason, and experience*...[in what has] been referred to as the 'Wesleyan quadrilateral'... Albert Outler coined the *quadrilateral*. He drew the imagery from the Lamberth Quadrilateral used by the Anglicans, which refers to four walls of a fortress that defended those inside. About the quadrilateral, Outler said: "It was intended as a metaphor for a four-element syndrome, including the four-fold guidelines of authority in Wesley's theological method. In such a quaternity Holy Scripture is clearly unique. But this in turn is illuminated by the collective Christian wisdom of other ages and cultures between the Apostolic Age and our own. It also allows for the rescue of the Gospel from obscurantism by means of the disciplines of critical reason. But always, Biblical revelation must be received in the heart by faith: this is the requirements of 'experience.'"²¹⁷ English philosopher John Locke, who drew much from Rev. Hooker's *Of the Laws of Ecclesiastical Polity* and theology, significantly influenced the theology and philosophy of Anglican priest and Methodist founder John Wesley, who incorporated the "law of reason" and scientific "experience" into his Methodist four-fold theological doctrine (i.e., use of *Scripture, tradition, reason, and experience*).

V. Objections of the Dissenters as to the Episcopal form of Church Government

Now the heart of the English constitution is the episcopal form of church government of which the English crown presides as the "Supreme Governor."

²¹⁷ Don Thorsen, *Calvin vs Wesley: Bringing Belief In Line With Practice* (Nashville, TN: Abingdon Press, 2013), p. 26.

Hence, as early as the 16th century, the movement for democracy and egalitarianism with the civil government actually began as a movement for the reform of ecclesiastical government within the Church of England. This movement, at first, focused on the papal authority at Rome; but after the English Reformation of 1534, it turned its attention to the hierarchy, influence, and wealth of the Anglican episcopacy. Led by the Anabaptists and inspired by the teachings of the Protestant John Calvin, these Dissenters gained influence during the 17th century, eventually pointing the way forward for the Calvinistic Puritans and the English merchants who wanted a steady loosening of Anglican ecclesiastical influence over the monarchy, the legal system, and public policy. Conservative forces within English society (particularly the forefathers of the British Tory Party), armed with the doctrines of the Rev. Richard Hooker's *Of Laws of Ecclesiastical Polity*, rebutted this more liberal movement toward secularism, and defended the established Church of England and its incorporation into the body politic.

During the late 16th Century, as the Elizabethan Protestant Church of England was taking its shape, there were dissenters (particularly those who were influenced by John Calvin) who did not like the Anglican bishops, and who urged that senior Anglican bishops' powers be curtailed or that their offices be revoked. Rev. Hooker thus summarized these objections as follows: "[i]n our present regiment of bishops two things there are complained of, the one their great authority, and the other their great honour. Touching the authority of our bishops, the first thing which therein displeaseth their adversaries, is their superiority which bishops have over other ministers."²¹⁸ They contrasted the wealth and opulence of the Anglican bishops with the simplicity and poverty of Christ and his twelve disciples.²¹⁹ These Dissenters' chief arguments are summarized in *Of the Laws of Ecclesiastical Policy*, as follows:

²¹⁸ Richard Hooker, *The Laws of Ecclesiastical Polity*, Books VI- VIII (of VIII)(Nashotah, WI: Nashotah House Press, 2012), p. 149

²¹⁹ "Thus against the wealth of the clergy they allege how meanly Christ himself was provided for; against bishops' palaces, his want of a hole to hide his head in; against the service done unto them, that 'he came to 'minister, not be ministered unto in the world.' Which things, as they are not unfit to control covetous, proud or ambitious desires of the ministers of Christ, and even of all Christians, whatsoever they be; and to teach men contentment of mind, how mean soever their estate is, considering that they are but servants to him, whose condition was far more abased than theirs is, or can be; so to prove such difference in state between us and him unlawful, they are of no force or strength at all." Ibid., p. 301. See also, p. 281 ("But the honouring of the clergy with wealth, this is in

There was no necessity of instituting bishops; the Church might have stood well enough without them; they areas those superfluous things, which neither while they continue do good, nor do harm when they are removed, because there is not any profitable use whereunto they should serve. For first, in the primitive Church their pastors were all equal, the bishops of those days were the very same which pastors of parish churches at this day are with us, no one at commandment or controlment by any other's authority amongst them. The Church therefore may stand and flourish without bishops. If they be necessary, wherefore were they not sooner instituted? Again, if any such thing [i.e., bishops] were needful for the Church, Christ would have set it down in Scripture, as he did all kind of officers needful for Jewish regiment. He which prescribed unto the Jews so particularly the least thing pertinent unto their temple, would not have left so weighty offices undetermined of in Scriptures, but that he knew the Church could never have any profitable use of them. Furthermore, it is the judgment of Cyprian, that equity requireth every man's cause to be heard, where the fault he is charged with was committed: and the reason he allegeth is, forasmuch as there they may have both accusers and witnesses in their cause. Sith therefore every man's cause is meetest to be handled at home by the judges of his own parish, to what purpose serveth their device, which have appointed bishops unto whom such causes may be brought, and archbishops to whom they may be also from thence removed?²²⁰

To these argumentative contentions, the Rev. Hooker took up his pen to answer in Book VII in *Of Laws of Ecclesiastical Polity*. Perhaps his most compelling argument was that England's clergymen provided a tremendous service to the nation and this service was of priceless value; that the clergy were still the most educated group and served as the backbone of public and higher education; that

the eyes of them which pretend to seek nothing but mere reformation of abuse, a sin that can never be remitted. How soon, O how soon might the Church be perfect, even without any spot or wrinkle, if public authority would at the length say Amen unto the holy and devout requests of those godly brethren, who as yet with outstretched necks groan in the pangs of their zeal to see the houses of bishops rifled, and their so long desired livings gloriously divided amongst the righteous!").

²²⁰ Ibid., pp. 215-216.

they were in general overworked and underpaid; that without their service, the provision of the poor laws and poverty assistance would evaporate; and there was not a single group that bore as much as one-seventh of the heavy burden which rested upon the clergymen's shoulders.²²¹

For Rev. Hooker, the “episcopal” form of church government was more than church tradition, but rather it was an absolute necessity. Rev. Hooker reasoned that no church could properly function without some form of hierarchy, which he generally referred to as “episcopal authority.” He compared the non-episcopal church to an army with all captains but no general—a recipe for disorganization and disaster. He also evaluated the alternative Protestant forms of church government, where they inevitably set up some form of hierarchy among their pastors, even if only in brief synods or gatherings. Rev. Hooker further quoted John Calvin, himself acknowledged the ancient history of bishops:

Mr. Calvin himself, though an enemy unto regiment by bishops, doth notwithstanding confess, that in old time the ministers which had charge to teach, chose of their company one in every city, to whom they appropriated the title of bishop, lest equality should breed dissension. He added farther, that look what duty the Roman consuls did execute in proposing matters unto the senate, in asking their opinions, in directing them by advice, admonition, exhortation, in guiding actions by their authority, and in seeing that performed which was with common consent agreed on, the like charge had the bishop in the assembly of other ministers. Thus much Calvin being forced by the evidence of truth to grant, doth yet deny the bishops to have been so in authority at the first as the bear rule over other ministers: wherein what rule he doth mean, I know not.... And undoubtedly if as the consuls of Rome, so the bishops in the Church of Christ had such

²²¹ “As for the case of public burdens, let any politician living make it appear, that by confiscation of bishops' livings, and their utter dissolution at once, the commonwealth shall ever have half relief and ease which it receiveth by their continuance as now they are, and it shall give us some cause to think, that albeit we see they are impiously and irreligiously minded, yet we may esteem them at least to be tolerable commonwealth's-men. But the case is too clear and manifest, the world doth but too plainly see it that no one order of subjects whatsoever within this land doth bear the seventh part of that proportion which the clergy beareth in the burdens of the commonwealth. No revenue of the crown like unto it, either for certainty or for greatness. Let the good which this way haft grown to the commonwealth by the dissolution of religious houses, teach men what ease unto public burdens there is like to grow by the overthrow of the clergy.” *Ibid.*, pp. 321.

authority, as both to direct other ministers, and to see that every of them should observe that which their common consent had agreed on, how this could be done by the bishop not bearing rule over them, for mine own part I must acknowledge that my poor conceit is not able to comprehend.²²²

Aside from addressing the various contentions of John Calvin and the Dissenters, Rev. Hooker carefully traced the history of the bishops within the Church of England to the twelve Apostles of Christ, and to the subsequent Apostolic Succession. “Bishops we say there have been always, even as long as the Church of Christ itself hath been. The Apostles who planted it, did themselves rule as bishops over it; neither could they so well have kept things in order during their own times, but that episcopal authority was given them from above, to exercise far and wide over all other guides and pastors of God’s Church... But shall we thereby conclude that the Church hath no use of them [i.e., bishops], that without them it may stand and flourish? No, the cause wherefore they were so soon universally appointed was, for that it plainly appeared that without them the Church could not have contained long.”²²³ “This we boldly therefore set down as a most infallible truth,” Rev. Hooker writes, “That the Church of Christ is at this day lawfully, and so hath been sithence the first beginning, governed by Bishops, having permanent superiority, and ruling power over other ministers of the word and sacraments.”²²⁴

Rev. Hooker argued that the first Apostles exercised “episcopal authority either at large or with restraint they had and exercised. Their episcopal power they sometimes gave unto others to exercise as agents only in their stead, and as it were by commission from them.”²²⁵ In defense of the Church of England, Rev. Hooker thus described Apostolic Succession as follows:

The Apostles were sent as special chosen eyewitnesses of Jesus Christ, from whom immediately they received their whole embassage, and their commission to be the principal first founders of an house of God, consisting as well of Gentiles as of Jews. In this there are not

²²² *Ibid.*, pp. 175-176.

²²³ *Ibid.*, pp. 218-219.

²²⁴ *Ibid.*, p. 150.

²²⁵ *Ibid.*, pp. 152-153.

after them any other like unto them; and yet the Apostles have now their successors upon earth, their true successors, if not in the largeness, surely in the kind of the episcopal function, whereby they had power to sit as spiritual ordinary judges, both over laity and over clergy, where churches Christian were established.

The Apostles of our Lord did according unto those directions which were given them from above, erect churches in all such cities as received the word of truth, the gospel of God. All churches by them erected received from them the same faith, the same sacraments, the same form of public regiment. The form of regiment by them established at first was, that the laity or people should be subject unto a college of ecclesiastical persons, which were in every such city appointed for that purpose. These in their writings they term sometimes presbyters, sometimes bishops. To take one church out of a number for a pattern what the rest were; the presbyters of Ephesus, as it is in the history of their departure from the Apostle Paul at Miletum.... These persons ecclesiastical being termed as then, presbyters and bishops both, were all subject unto Paul as to an higher governor appointed of God to be over them.²²⁶

The first Bishops of the Church of Christ were his blessed Apostles; for the office whereunto Matthias was chosen the sacred history doth term *eriqkornv*, an episcopal office. Which being spoken expressly of one, agreeth no less unto them all than unto him. For which cause St. Cyprian speaking generally of them all doth call them Bishops.²²⁷

They which were termed Apostles, as being sent of Christ to publish his gospel throughout the world, and were named likewise Bishops, in that the care of government was also committed unto them, did no less perform the offices of their episcopal authority by governing, than of their apostolical by teaching.²²⁸

²²⁶ *Ibid.*, pp. 154-155.

²²⁷ *Ibid.*, p. 151.

²²⁸ *Ibid.*

But the history of their actions shewth plainly enough how the thing itself which that name appropriated importeth, that is to say, even such spiritual chieftly as we have already defined to be properly episcopal, was in the holy Apostles of Christ. Bishops therefore they were at large.²²⁹

“The apostle St. Paul,” Rev. Hooker argued, “had episcopal authority, but so at large that we cannot assign unto him any one certain diocess. His positive orders and constitutions churches every where did obey.”²³⁰ While quoting St. Jerome, Rev. Hooker wrote that “ ‘All bishops are...the Apostles’ successors.’ ”²³¹ Quoting St. Augustine, Rev. Hooker wrote that “ ‘A Bishop is a Presbyter’s superior.’ ”²³² Importantly, Rev. Hooker also insisted that a bishop by nature of this position has jurisdiction and authority over the church. “A thing so unusual,” wrote Rev. Hooker, “it was for a bishop not to have ample jurisdiction....”²³³

The 16th Century Church of England was of necessity a reflection of the Roman Empire. In ancient Rome, following 325 A.D., the Bishop was comparable to the Roman Consul. Rev. Hooker points out that “[a] law imperial there is, which sheweth that there was great care had to provide for every Christian city a bishop as near as might be, and that each city had some territory belonging unto it, which territory was also under the bishop of the same city.... Unto the bishop of every city, not only the presbyters of the same city, but also of the territory thereunto belonging, were from the first beginning subject.”²³⁴

As Christianity spread throughout the Roman Empire, a hierarchical regiment also developed. As Rev. Hooker points out:

For we must note that when as yet there were in cities no parish churches, but only colleges of presbyters under their bishop’s regiment, yet smaller congregations and churches there were even then abroad, in which churches there was but some one only presbyter to perform among them divine duties. Towns and villages abroad

²²⁹ *Ibid.*, p. 151.

²³⁰ *Ibid.*, p. 186.

²³¹ *Ibid.*, p. 154.

²³² *Ibid.*, p. 168.

²³³ *Ibid.*, p. 186.

²³⁴ *Ibid.*, p. 184.

receiving the faith of Christ from cities whereunto they were adjacent, did as spiritual and heavenly colonies by their subjection honour those ancient mother churches out of which they grew. And in the Christian cities themselves, when the mighty increase of believers made it necessary to have them divided into certain several companies, and over every of those companies one only pastor to be appointed for the ministry of holy things; between the first and the rest after it there could not but a natural inequality, even as between the temple and synagogues in Jerusalem. The clergy of cities were termed *urbici*, to show a difference between them and the clergies of the towns, of villages, of castles abroad. And how many soever these parishes or congregations were in number, which did depend on any on principal city church, unto the bishop of that one church they and their several sole presbyters were all subject.... The church where the bishop is set with his college of presbyters about him we call a *see*; the local compass of his authority we term a *diocess*. Unto a bishop within the compass of his own both see and diocess, it hath by right of his place evermore appertained to ordain presbyters, to make deacons, and with judgment to dispose of all things of weight.²³⁵

Hence, according to Rev. Hooker, the episcopal form of Church government was sacred because it was ordained by Christ himself. The episcopal form of Church government was also natural and necessary, since no church could function properly without some form of hierarchy. Rev. Hooker pointed out that even the Calvinists', Anabaptists', and Separatists' alternative church models of ecclesiastical government contained hierarchy with senior clergy performing the same supervisor functions as bishops. Moreover, the episcopal government form was also an historical accident, in that the church cannot exist in a vacuum but rather in accord with the civil laws within the surrounding city-state or nation-state in which it exists. For this reason, the early Roman church developed its ecclesiastical structure in response to, and in conjunction with, the political structure of the ancient Roman government under the emperor Constantine. Subsequently, Roman law influenced the ecclesiastical law of the Roman Catholic Church. The Roman Empire, wherein the early church originated and spread,

²³⁵ *Ibid.*, pp. 184-186.

necessitated that the Western Church evolve into an organized, hierarchical, and episcopal structure. Most importantly, according to Rev. Hooker, the Sacred Scriptures which contained the laws of the ancient Hebrew Church, authorized the episcopal structure for the church of Jesus Christ. Rev. Hooker thus concluded that the Church of England's episcopal structure rested upon solid Scriptural, historical, and legal foundations. The Church of England's episcopal authority was, in fact, necessitated by the very nature of church administration.

CONCLUSION

The modern form Anglo-American constitutional law and jurisprudence took its shape in the ecclesiastical debates that formed during the reign of Queen Elizabeth I (1558-1603). The Church of England remained during her reign the epicenter of the English legal system, and the "law of Christ" remained at the core of English constitutional jurisprudence. Richard Hooker's masterpiece in *Of the Laws of Ecclesiastical Polity* clearly reflects and documents this constitutional history, together with the prevailing ideas and attitudes which were prevalent during the late 16th and early 17th centuries. Significantly, King James I (1603-1625) would later declare: "I observe there is in Mr. Hooker no affected language; but a grave, comprehensive, clear manifestation of reason, and that backed with the authority of the Scriptures, the fathers and schoolmen, and with all law both sacred and civil."

Of the Laws of Ecclesiastical Polity embraces the doctrine that law comes from, and is ordained, by God. This God is immutable and perfect; He established law throughout eternity; He set it in motion as the First Cause. Law is thus ordered by God, and all of God's creations are "legal agents" or "natural sub-agents" of God; they must follow the "law of nature" in accordance with their natural constitutions as ordained by God. As the *Catechism of the Catholic Church* teaches: "[i]n creation God laid a foundation and established laws that remain firm, on which the believer can rely with confidence"²³⁶; "God himself created the visible world in all its richness, diversity, and order"²³⁷; "[n]othing exists that does not owe its existence to God the Creator. The world began when God's word drew it out of nothingness; all existent beings, all nature, and all human history are

²³⁶ *Catechism of the Catholic Church* (New York, N.Y.: Doubleday, 1997), p. 100.

²³⁷ *Ibid.*, p, 98.

rooted in this primordial event”; “[b]y the very nature of creation, material being is endowed with its own stability, truth, and excellence, its own order and laws.”²³⁸

Thus, according to Rev. Hooker, the closest model for human beings are the perfect angels whose will is completely subjected to God and whose knowledge of God is supreme and perfect. The example of Christ’s life of love and service is the primary foundation of all law, both for the church and for the civil government. For Rev. Hooker, who quoted Saint Paul and Saint Augustine as his primary authority, the “Golden Rule” has obviously been universally held to be the correct canon of human conduct in every nation on earth. It must thus follow that the “law of nature” is of primary concern for both Church and State. This “law of nature” can be found in nature among God’s creations; and it is the duty of every good Christian to discover the “laws of nature.” Otherwise, there can be no way to determine between truth and falsity or between good and evil. In order to judge rightly, the “law of reason” must guide the understanding of nature; for, says Hooker, we understand the objects and things of nature both through understanding their own separate qualities, as well as their relationships to other things and objects. This Christian mindset was fundamentally scientific in design and frame, so that within the Anglican order there could be, at least in theory, no conflict between “Reason” and “Faith.” In other words, the very prescriptions which St. Thomas Aquinas devised for civil jurisprudence were incorporated into the Anglican constitutional system through the Reformed Church of England, which nourished the political theory which shaped seventeenth and eighteenth-century Anglo-American constitutional law and philosophy.

THE END

²³⁸ *ibid.*

Bibliography:

Aquinas, Thomas (Saint). *Summa Theologica*. New York, NY: The Catholic Primer (2005).

Augustine, Aurelius (Saint). *The City of God*. New York, NY: The Modern Library (1950).

Hooker, Richard. *Of the Laws of Ecclesiastical Polity*. Cambridge, UK: Cambridge University Press (1989).

_____. *The Laws of Ecclesiastical Polity*, Books I-IV (of VIII).
Nashotah, WI: Nashotah House Press, 2012.

_____. *The Laws of Ecclesiastical Polity*, Book V (of VIII).
Nashotah, WI: Nashotah House Press, 2012.

_____. *The Laws of Ecclesiastical Polity*, Book VI-VIII (of VIII).
Nashotah, WI: Nashotah House Press, 2012.

References:

Bode, Carl. *The Portable Emerson*. New York, NY: Penguin Books (1981).

Burt, Edwin A. *The English Philosophers From Bacon To Mill*. New York, NY: The Modern Library (1967).

Catechism of the Catholic Church (New York, NY: Doubleday, 1997).

Daniell, Timothy Tyndale. *The Lawyers: The Inns of Court: The Home of the Common Law*. New York, N.Y.: Oceana Publications, Inc. (1976).

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

Russell, Bertrand. *A History of Western Philosophy*. New York, NY: Touchstone, 2007.

Smith, Goldwin. *A History of England*. New York, NY: Charles Scribner's Sons (1957).

The Federalist Papers. Nashville, TN: Thomas Nelson, Inc. 2014.

Witte, John, Jr. and Frank S. Alexander. *Christianity and Law: An Introduction*.
Cambridge, UK: Cambridge Press, 2008.

Woods, Thomas E. *How The Catholic Church Built Western Civilization*.
Washington, D.C.: Regnery Publishing, Inc., 2005.