

# **ST. LUKE’S INN OF COURT**

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**“A History of the Anglican Church—Part XV:  
An Essay on the Role of Christian Lawyers and Judges within the Secular  
State”©**

**By**

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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 twenty-sixth essay in this series: “A History of the Anglican Church—Part XV.”

## INTRODUCTION<sup>1</sup>

Now the separation of Church from the State appeared to me in college and law school as a Western European phenomenon. Since the days of Roman Emperor Constantine, these two institutions had been one integral entity from which came the *Corpus Juris Civilis* (the Code of Justinian) and the legal philosophy of Saint Thomas Aquinas. The entire Western world was ruled by God’s eternal law, from which His seers, prophets, messengers, and priests had extracted the divine law (Old and New Testaments), which, in turn, reflected the natural law, of which came the laws civil and ecclesiastical. In high school, I first learned of Fr. Martin Luther and the Protestant Reformation, which coincided with the rise of the Renaissance and the secular state. And yet as I delved into the writings and philosophy of the men of the Renaissance period (late 1400s through middle

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<sup>1</sup> This paper is dedicated to Dr. Susan Chapelle (A.B. Harvard; Ph.D. Johns Hopkins) of the History Department at Morgan State University. Dr. Chapelle taught me how to think about and to interpret race, ethnicity, and gender within the social currents and movements of American history for two semesters during the Fall of 1988 and Spring 1989. Dr. Chapelle supervised my history research project, “The Philosophy and Times of William Edward Burghardt DuBois, 1868- 1963.”

1600s), I saw no displacement of the fundamental Law of Christ. Rather, it seemed to me that the great Renaissance thinkers, writers and theologians were beginning to question the most absurd, superstitious teachings of the Roman Catholic Church which had no foundation whatsoever in Scripture and could not be held to reflect the true Catholic ideas and ideals of the Church's greatest thinkers, such as St. Augustine of Hippo. In high school, when I wrote my senior thesis paper on "Martin Luther and the Protestant Reformation," I naturally agreed with Luther's opinions and viewed them as a spiritual yearning and longing for the true faith—a purer expression of Christ, and a more authentic reflection of his Church.<sup>2</sup>

The small farming community in rural, northern Florida where I grew up was in many ways the direct heritage of the Protestant Reformation. It laid the groundwork for my religious education, and but for my religious experiences growing up there, I likely could not have understood the great religious ideals of the Reformation Period (late 1400- mid-1600s). Indeed, growing up Christian in the Bible-belt of rural, northern Florida, I had occasion to witness many "born-again" Protestant Christians expressing praise and religious devotion to their Christian God. Rural religious revivals in the rural South during the 1970s and 80s were spirit-filled and deeply-emotional. Tent-like revivals, visiting bishops, elders, pastors, and choirs came frequently through my little town. We even frequently entertained self-proclaimed prophets, non-denominational Evangelicals, and Jehovah's Witnesses in my home. The dinner table at my home seldom failed to include a lively discussion of biblical reference, one of Christ's quotations, or

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<sup>2</sup> In high school, as previously mentioned, I wrote a research paper on "Martin Luther and the Protestant Reformation" with deep interest and great sympathy in Luther's cause. For I could understand and agreed with Luther, even in high school, because my deeply-religious, Protestant parents had frequently discussed and debated the exact same principles which Luther called "justification by faith" alone, as opposed to justification through merely following the good works imposed by the canon law of the Roman Catholic Church. Martin Luther's name surfaced in at least two or three of my high school courses, which described various practices of the late Medieval Roman Catholic Church—the sale of indulges; the sale of bones claimed to be those of various saints, such as Paul and Peter; and the belief that various relics, which the Church sold, could perform miracles. As a Protestant Christian who was reading and learning about these things for the first time, my natural instincts were to both laugh and condemn what appeared to be absurd Church practices. And from then on, largely due to my mother's influence and my learning of the Jim Jones religious massacres in Jonestown, Guyana during the late 1970s, I became quite suspicious of most organized churches which claimed to be able to perform miracles: the faith healers, the faith promisers of financial prosperity, etc. I rejected that sort of evangelism which the Anglican Church had criticized as "enthusiasm," because I longed to find a rational God; a God who was one and the same with science and reason. And I placed the **religious superstition** of the sixteenth-century Roman Catholic Church—which Martin Luther and the Protestant reformers revolted against—and the **religious superstition** of various denominational and non-denominational Protestant churches, in the same category.

theological doctrine. In those days, my mother, who was an A.M.E. member, also sought spiritual guidance from renowned television ministers, such as Jerry Falwell, Jimmy Swaggart, and various faith-healing ministries; and my step-father, who was a Baptist deacon, often relented to this, but not without lively theological debate with my mother, either during dinner, or other occasion as time and circumstances allowed. My first musical concert of any kind occurred during the late 1970s in southern Georgia, where the great Gospel singer Shirley Caesar sang *Faded Rose* and other beautiful spirituals; and during those days I looked forward to watching the annual Billy Graham Crusade on television as much as I looked forward to watching the Super Bowl!<sup>3</sup> This rich Christian heritage was actually the fruit of the Protestant Reformation of the sixteenth century and its legacy upon the relationship between church and state.

In college and law school, I began to suspect that religion was a significant and major force in shaping contemporary American public policy, but I could ascertain no clear understanding of this phenomenon, until I began to delve more deeply into text materials covering the late Medieval and early modern English and European history. Within these text materials, I could see this religious influence on law and the secular state quite clearly. It flowed logically and naturally from the Roman Catholic Church to the Protestant nation-states of England, France, and northern Europe; and from there to colonial America. During the late 1980s and early 90s, I conceived of a scholarly Christianity—the Catholic faith of St. Augustine and St. Thomas Aquinas—and not simply that of my rural, Protestant upbringing. So that when I entered law school in 1991, I entertained a vague notion in my mind of how Christianity related to secular law and government. In my mind, both the *Declaration of Independence* and the *United States Constitution* were not exempt from St. Thomas Aquinas’ legal theory, to wit: Eternal Law ---> Divine Law (i.e., Old & New Testament) ---> Natural Law ----> Human Law (Civil Laws). See Table 2, “Protestant Reformation’s Separation of Church and State.” In retrospect, more than twenty years later, it now seems clearer to me that my

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<sup>3</sup> I do not think that I could have appreciated, or correctly contextualized or understood, the great leaders of the Protestant Reformation without my Christian childhood and upbringing in rural, northern Florida. For it was during these formative years, that I came to know Christian spiritualism, duality, original sin, grace, redemption, conversion, becoming “born again,” and working daily with the Lord. I was told that I could go directly to Christ! But how revolutionary these ideas were during the late fifteenth and early sixteenth centuries, when the magisterium and might of the Roman Catholic Church regulated England and all of Western Europe!

ideas regarding the connection between Christianity and American constitutional law was truer than what I first believed, because most of the early Protestant Reformers had been former Roman Catholic priests or theologians who continued to embrace St. Thomas' fundamental conception of law. When the Protestant Reformers reformed the church, they also reformed the state, but fundamentally they maintained the fundamental Catholic structure of the secular law's foundations.

In law school, I seriously entertained the ideas that the "secular" state was really an exemplification of the "Law of Christ," in its purest form; and this idea has remained riveted to my religious thinking. I honestly saw the "secular" state as deeply "Protestant" in nature. To my mind, "secularism" was really "Protestant secularism." That word "secularism" was in my mind "Pan-Christian," or the Christian world as it existed outside of the Roman Catholic Church. Secularism was at once modern, scientific, and Christian; secularism also maintained the best of Roman Catholicism while rejecting its untenable superstitions. The "secular" state thus grew out of the Christian struggle to reform and to purify the Roman Catholic Church, the Church of England, and other national churches; and, during this long, tedious process of effectuating religious reform, the Reformation reformed the state as well. The Reformed Church thus had to exist within the context of its own ideology, which made the "secular state" its necessary result. That "secular state" allowed men and women to work out their "secular" vocations and their "spiritual" salvation; and to experience the "free-will" to accept the true faith or to reject it; and to provide for a plurality of religious expression and free choice according to *conscience*. The domain of that "secular state" would be conceptually restricted to "the things seen" and to things that were objectively or scientifically true. Within the Protestant conception of jurisprudence, secular laws need only concern themselves with "the things seen" and objectively or scientifically true; these secular laws need not touch upon "the things that are unseen" such as the many questions of religious faith. Meanwhile, to the early Protestant mind, all Truth still remained within the spiritual domain of the Christian church, which had a duty to influence and guide the "secular" state. Hence, to the early Protestant Christian mind, the "truth" of the "secular state"—including scientific and demonstrable truth-- was actually a sub-part to the entire truth of the Christian faith. For this reason, "Protestant Secularism" has continued

to remain in my mind as a *purier form* of the Christian doctrine; that is to say, the “secular” state provided for the expression of the all-love of God and the purest Law of Christ to “love ye one another,” without respect of person, creed, nationality, etc.<sup>4</sup> During my early years as an attorney during the late 1990s and early 2000s, I eventually read into Dr. Martin Luther King, Jr.’s general philosophy this same Protestant secularism, whereby the basic tenets of the Christian faith both coincided with and paralleled American constitutional jurisprudence. Thus viewed from this perspective, I concluded in law school and during the early years of my legal career, that the “secular” law—including the *Declaration of Independence* and the *U.S. Constitution*-- was in nature and substance very “Christian.”

I was fortunate, too, to have been able to read Luther and Calvin with the Protestant upbringing and religious tutelage that came from growing up in the rural South. I had no trouble with comprehending terms such as “justification by faith” and “not by works alone,” and similar theological concepts, because my step-father (a Baptist deacon) and my mother frequently discussed and debated these concepts around my dinner table on a nightly basis. I had a fairly good working knowledge of the New Testament ever since I was about thirteen. So that when I compared Luther’s ideals to church practices such as the sale of indulgences, my natural instincts were to draw upon the original teachings of Christ and then to fairly assess the validity of Luther’s and other Protestant’s criticisms of the Catholic Church. Clearly, the Protestant Reformation had been led by Christians who truly wanted to “purify” the Roman Catholic Church, or to separate by forming truer, more authentic Christian Churches. In my mind, the residue of these movements resulted in “Protestant Secularism,” where the secular state was actually founded upon the Western Christian tradition. “Protestant secularism” was actually the entire world outside of the church walls; but it remained at once an expression and extension of the Law of Christ. That is to say, Protestant secularism was an expression of Christian *agape love* and the universal *Golden Rule*. Indeed, the “secular” state could not be a space without reason, order, and justice; like the Christian faith, the “secular” state must be founded upon the basic principle of the *Golden Rule* and *agape love*. Jesus of Nazareth’s idea of the “kingdom of God” thus anticipated the Christian “secular” state, where sinners and non-sinners all co-

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<sup>4</sup> See, e.g., “The Parable of the Good Samaritan” at Luke 10:25-37.

existed within the same “secular” space which was governed by a “secular” law. Within that “secular” space, men and women could work out their salvation. According to St. Paul, within this “kingdom of God” even the non-Christian Gentiles, without the Law of Moses, might attain unto righteousness through the natural law and conscience which Christ would judge. Jesus’ “kingdom of God” thus formed the foundation of Protestant secularism. For instance, Jesus’ “Parable of the Good Samaritan” taught Christians to love beyond national and religious boundaries; this boundless agape love could not be contained inside of a church, nor could it be always adequately regulated. This agape love had to take place inside of a space, and that “space” eventually became the “secular” space of Western Christendom. Within that “space,” at least in theory, no one Christian sect could mandate allegiance or conformity; and no one Christian sect could be ratified as the one and only “national church.” Most men and women must work out their salvation and their vocations within this “secular” space, whose Protestant foundation remained at all times the Law of Christ.

Another example of this can be found in Jesus’ “Parable of the Wheat and the Tares,” where he taught that kingdom of God existed interspersed inside of the city of man, and would not be separated until the Final Judgment. Hence, Protestant secularism began to disdain Christian intolerance and religious uniformity; the Law of Christ stressed diversity and freedom, and hence the necessity of a “secular” space. And yet, to my mind, the “secular” space remained at all times an expression of God’s grace, where he allowed sinners to roam free; where freewill to choose the true faith existed; and where persons could practice and express their faith in a manner in which they understood it. I thus conceptualized “secularism” as the ultimate expression of the divine *Logos*, as the ultimate form of agape love, whereby the Christian commonwealth created an inclusive space—the secular space for both the Christian and the non-Christian—to co-exist in peace and to contribute to community and national affairs.

The British schools of economics— Adam Smith, Jeremy Bentham, J.S. Mill, Karl Marx, and many others—further left their imprint upon my understanding of the Christian ethic and duty within a post-industrial social order. I have since not been able to separate economic laws from the Law of Christ. British history since the reign of the Tudors certainly bore and presented this truth in my mind: the economic foundations of our secular order are at very heart of the central

themes within Old and New Testament Laws. In English history, I could see, time and time again, the various groups of oppressed Englishmen, invoking the “Law of God” or the “Law of Christ” as the fundamental basis for their claim to fundamental constitutional rights. For instance, the struggle by the English working classes (e.g., the Lollards, the Levellers, the Chartists and Methodists movements) for the franchise, for health and safety legislations, for social welfare and uplift, etc., left its indelible mark upon my attitude toward role of religion within the secular state. During my law-school years, the link between “law and Christianity” thus became more and more intertwined in my thinking; whereas, amongst my law colleagues, the link between Christianity and the secular legal system seemed to become more and more improbable, if not altogether impossible.<sup>5</sup>

In law school, when I sat to write my thesis paper, *The American Jurist: A Natural Law Interpretation of the U.S. Constitution, 1787 to 1910*, I had pretty much settled upon the notion that the American “secular state” was originally conceptualized by Protestant Christians to be a space where universal natural law and the “law of reason” reigned supreme. And within that “space,” the secular state needed to only concern itself with universal “cause and effect,” and with things that could be readily proven to be conceptually or universally true or false; this “secular space” need not concern itself with matters of faith and religion. The “secular space” was to be regulated only by the universal law of reason and the natural law. This universal natural law and “law of reason” were extracted from the teachings of the Stoics and the Roman senator Cicero; they were in essence the *Logos* of Greco-Roman philosophy, patterned after the writings of St. Paul, particularly in the *Book of Romans*; and after the writings of St. Augustine and St. Thomas Aquinas; and the Roman Catholic canon law.

In the new United States, there would be freedom of religious thought and tolerance, but limited by a rule of reason, equity, and natural law. This new and revolutionary American experiment was to my mind a clear expression of Protestant secularism, where at all times the Law of Christ (and the Christian faith) remained fundamental and foundational. The American Revolution of the

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<sup>5</sup> Most peculiar, too, was the fact that despite my Protestant influence and upbringing, I found few sympathies and allies among Protestant law students and professors—rather, my dearest supporters and benefactors were the Catholics and Jews.



eighteenth century was thus the great granddaughter of the Protestant Reformation of the sixteenth century. For during the sixteenth century, we find the first generations of Protestants who set in motion the theological and philosophical revolutions which culminated in the Enlightenment two centuries later. The first generation of Protestants, such as Martin Luther of Germany and King Henry VIII of England, protested against certain established church practices and doctrines, but they did not wish to change prevailing economic and political conditions; the second generation or type of Protestant, such as Oliver Cromwell, John Locke, and the later Enlightenment philosophes, wished to change both church practices as well as predominant economic and repressive political conditions, which they believed the church permitted and condoned.

**Table 1. Three Major Generations or Types of Protestant Dissenters**

<b>Protestant Dissenters (First Generation) late 1400s to early 1600s</b>
■ Reform Catholic Church
■ Reform Catholic Theology and Doctrine
■ Establish Catholic-Christian Government
■ Rule of the Natural Law
<b>Protestant Dissenters (Second Generation) mid 1600s to early 1700s</b>
■ Reform Catholic Church
■ Reform Catholic Theology and Doctrine; ■ Reform Political, Economic and Social Institutions
■ Establish Christian Commonwealth ■ Establish Reformed National Church
■ Rule of the Natural Law
<b>Protestant Dissenters (Third Generation) early 1700s to mid 1800s</b>
■ Abolish National Churches
■ Enlightenment Ideology ■ Complete Religious Freedom; ■ Independent churches; autonomous churches; ■ Reform Political, Economic and Social Institutions
■ Rule of Natural Law

In Protestant England and Europe, during the first generation of the Protestant Reformation, the relationship between church and state changed fundamentally in varying ways. In Germany, Switzerland, Holland and

Scandinavia, the church would be separated from the state, but the churches were “nationalized” and supported by state taxes, and the secular magistrates were still conceptualized as “Christian magistrates” within a Christian commonwealth. In England, Henry VIII made it very clear, after the Church of England separated from the Roman Church in 1534, that the fundamental Anglican doctrine would remain conservative, orthodox, and “catholic.” For this reason, the “secular” state in England and Europe after the Reformation remained decisively “Christian.”<sup>6</sup> But within this “Christian” secular realm, at least in theory, the Law of Christ would permit tolerance of non-Christians, a diversity of opposing or conflicting opinions which posed no threat to the national church, and religious freedom.<sup>7</sup> This ideal was not uniform in Europe, and in England, the “orthodox” Church of England remained as dominant over English subjects as the Roman Catholic Church had been previously.<sup>8</sup>

**Table 2., “Protestant Reformation’s Separation of Church and State.”**

Church	State
<p style="text-align: center;">Non-Catholic</p> <p style="text-align: center;">National</p> <p style="text-align: center;">State-Sponsored</p>	<p style="text-align: center;">Pan-Christian and Greco/ Roman Ideals (Western ideology)</p> <p style="text-align: center;">Freedom of Christian Worship</p> <p style="text-align: center;">Religious Tolerance/ Freedom of Religious Worship/ Beliefs</p>

<sup>6</sup> John Witte, Jr. and Frank S. Alexander. *Christianity and Law: An Introduction* ( Cambridge, UK: Cambridge Press, 2008), pp. 15-26..

<sup>7</sup> Ibid.

<sup>8</sup> “The Supremacy Act (1534) declared the monarch to be ‘Supreme Head’ of the Church and Commonwealth of England as well as the Defender of the Faith. The English monarchs, through their parliaments, established a uniform doctrine and liturgy and issued the Book of Common Prayer (1559), Thirty-Nine Articles (1576), and eventually the Authorized (King James) Version of the Bible (1611). They also assumed jurisdiction over poor relief, education, and other activities that had previously been carried on under Catholic auspices, and dissolved the many monasteries, foundations, and guilds through which the church had administered its social ministry and welfare. Communicant status in the Church of England was rendered a condition for citizenship status in the Commonwealth of England. Contraventions of royal religious policy were punishable both as heresy and as treason.” John Witte, Jr. and Frank S. Alexander. *Christianity and Law: An Introduction* ( Cambridge, UK: Cambridge Press, 2008), p. 19.

Church Law	Secular/ State Civil Law
<p data-bbox="402 415 586 447">Eternal Law</p> <p data-bbox="402 499 581 531">Divine Law</p> <p data-bbox="280 583 703 615">Canon or Ecclesiastical Law</p> <p data-bbox="217 667 766 789"><i>Natural Law</i> (i.e., the Greco-Roman <i>Logos</i>, the laws of Nature, Science, Reason, Equity, etc.)</p>	<p data-bbox="852 415 1401 537"><i>Natural Law</i> (i.e., the Greco-Roman <i>Logos</i>, the laws of Nature, Science, Reason, Equity, etc.)</p>

In law school, I thus isolated the one concept which both church and state shared in common, and that was the “natural law” and the “law of reason,” or the *Logos* of Greco-Roman philosophy. As I understood “natural law,” in law school, the Greek Plato and the Roman stoic Cicero had defined “natural law” as a universal law for all time and ages, for every nation and peoples, unchangeable and eternal. For St. Paul, St. Augustine, and St. Thomas, this pagan definition of “natural law” closely mirrored the law of God found in the Decalogue and the “Word” of God spoken of in the Gospel of John, 1:1-3, to wit: “In the beginning was the Word, and the Word was with God, and the Word was God. The same was in the beginning with God. All things were made by him; and without him was not any thing made that was made.” Hence, the idea that there were “Christian” pagans even before the birth of Christ, as expressed in the writings of Justin Martyr and others,<sup>9</sup> entered my mind through writings from several authors who made

<sup>9</sup> See, e.g., Justin Martyr, [https://en.wikipedia.org/wiki/Justin\\_Martyr](https://en.wikipedia.org/wiki/Justin_Martyr) (“The Apologist Justin Martyr, however, took a much more positive view of him. In his First Apology, he said both Socrates and Heraclitus were Christians before Christ: ‘those who lived reasonably are Christians, even though they have been thought atheists; as, among the Greeks, Socrates and Heraclitus, and men like them.’ Justin, like others, thought that the Greek philosophers had derived, if not borrowed, the most essential elements of truth found in their teaching from the Old Testament. But at the same time he adopted the Stoic doctrine of the “seminal word,” and so philosophy was to him an operation of the Word—in fact, through his identification of the Word with Christ, it was brought into immediate connection with him. Thus he does not scruple to declare that Socrates and Heraclitus were Christians (Apol., i. 46, ii. 10). His aim, of course, is to emphasize the absolute significance of Christ, so that all that ever existed of virtue

these assertions. And, as previously mentioned, the Unitarianism of Ralph Waldo Emerson significantly influenced my thinking during this period, so that the “natural law” of the Roman Catholic Church and Protestant Europe became one and the same as the “natural law” of the Enlightenment philosophes of France, England and colonial America.

The foundations of the Church of England were deeply rooted in both Roman Catholicism and the Protestant Reformation. King Henry VIII, who was the founder of the Protestant Church of England, was at once both Medieval and an Early Modern. King Henry VIII was like the zeitgeist of his age-- caught up in the whirlwind of radical change during the early sixteenth century! Henry VIII rode the whirlwinds of the economic changes and the changes in ideas that would revolutionize the relationship between Church and State in Europe. Henry VIII struggled to maintain the old world of catholic orthodox and the new world of mercantilism and nationalism. He tried to instill the Medieval ideals of hierarchy, while cultivating the Renaissance ideals of freedom of thought and economic independence. At all costs, as head of the new Protestant Church of England, Henry VIII would not tolerate dissent; and as head of the secular state, he believed in Tudor absolutism. But even Henry VIII could not stop the free-flow of Protestant ideas from Europe—ideas which would slowly eat away at Tudor absolutism and the Medieval social structure that Henry VIII wanted to maintain.

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and truth may be referred to him. The old philosophers and law-givers had only a part of the Logos, while the whole appears in Christ. While the gentile peoples, seduced by devils, had deserted the true God for idols, the Jews and Samaritans possessed the revelation given through the prophets and awaited the Messiah. However, the law, while containing commandments intended to promote the true fear of God, had other prescriptions of a purely pedagogic nature, which necessarily ceased when Christ, their end, appeared; of such temporary and merely relative regulations were circumcision, animal sacrifices, the Sabbath, and the laws as to food. Through Christ the abiding law of God has been fully proclaimed. In his character as the teacher of the new doctrine and promulgator of the new law lies the essential nature of his redeeming work. The idea of an economy of grace, of a restoration of the union with God which had been destroyed by sin, is not foreign to him. It is noteworthy that in the "Dialogue" he no longer speaks of a "seed of the Word" in every man, and in his non-apologetic works the emphasis is laid upon the redeeming acts of the life of Christ rather than upon the demonstration of the reasonableness and moral value of Christianity, though the fragmentary character of the latter works makes it difficult to determine exactly to what extent this is true and how far the teaching of Irenaeus on redemption is derived from him. The 1913 Catholic Encyclopedia notes that scholars have differed on whether Justin's writings on the nature of God were meant to express his firm opinion on points of doctrine, or to speculate on these matters. Specific points Justin addressed include that the Logos is "numerically distinct from the Father" though "born of the very substance of the Father", and that "through the Word, God has made everything". Justin used the metaphor of fire to describe the Logos as spreading like a flame, rather than "dividing" the substance of the Father. He also defended the Holy Spirit as a member of the Trinity, as well as the birth of Jesus to Mary when she was a virgin. The Encyclopedia states that Justin places the genesis of the Logos as a voluntary act of the Father at the beginning of creation, noting that this is an "unfortunate" conflict with later Christian teachings.")

Everywhere, the learned men of England were beginning to honestly apply rational thinking and reason to both the Roman Catholic Church's and the Church of England's dogma and practices. They did not see themselves as apostates or heretics, but rather as seekers after the truth of Christ and as purifiers of the established Church. The Protestant Reformation thus hit the Roman Catholic Church first, but the desire among the commoners to be truly free from repressive economic conditions also created many dissenters within the Church of England. Due to the Church of England's authority over both church and state, Protestant dissenters often had an economic as well as a religious motive for protesting against it. The Anglican episcopacy was often considered to be an integral part of the political establishment and the predominating economic order. King Henry VIII's Protestantism thus stood for conservative Tudor absolutism in terms of Anglican orthodoxy, but he remained fiercely loyal to the English merchants, mercantilism, and nationalism. Henry VIII wanted both the Medieval world of social and church hierarchy and tradition, but at the same time he promoted Renaissance culture and economic growth. The Church of England thus maintained its powerful and influential position in every aspect of England's political and economic affairs. And Anglican theology more and more came to be viewed to be an integral part of England's elite establishment.

## **SUMMARY**

King Henry VIII was bestowed the title "Defender of the Faith" by Pope Leo X because he was opposed to the Protestant ideals of the German theologian Martin Luther. Today, Henry VIII remains a most controversial historical figure. On the one hand, he was a great English monarch, but on the other hand he appears at the same time as a brutal tyrant who executed wife, former friend and declared traitor out of whimsical fanaticism. Today, historians now reassess Henry VIII as, an important, pivotal figure whose achievements and mistakes culminated in the modern English nation-state and its modern constitutional ideals. This paper looks at the "Life and Times of Henry VIII" in order to assess how the Protestant Reformation impacted England during his reign. Significantly, Henry VIII remained an orthodox Christian after he successfully separated the Church of England from Rome. With few exceptions, Henry VIII tolerated very little changes to Anglican Church doctrine. As the new Head of the Church of England, Henry

VIII determined that the fundamental relationship between affairs of the church and those of the state would remain, but several Catholic institutions, such as the monasteries, were destroyed. Anglican Protestantism then created the new “secular” state to fill in the gaps of charity and social services left void following the destruction of the monasteries. And, for the most part, England’s legal system, Inns of Court, and university system, remained deeply “catholic” and Anglican. The fundamental Christian structure of English law was left untouched during the reign of Henry VIII. But perhaps the greatest development which occurred during this reign would be the *sweeping theological revolutions* that occurred inside the Church of England, spurred on in part by European Protestantism, and which would come to fruition during the early seventeenth century.

**Part XV: Anglican Church: The House of Tudor- Part 2 (Life and Times of King Henry VIII, 1491- 1547 A.D.)**

King Henry VIII (1491-1547) was England’s first “Renaissance” prince. He vigorously opposed Martin Luther and the Protestant Reformation; published a book titled *Defense of the Seven Sacraments* (1521) in favor of Catholicism; and, as a result of this publication, was awarded the title “Defender of the Faith” by Pope Leo X—a royal title (i.e., “Defender of the Faith”) that has remained with the British Crown ever since, and is currently worn by Queen Elizabeth II. In fact, Henry VIII was a devoted and dutiful Catholic even after he severed his ties from Rome in 1534. He continued to insist that the new and independent Church of England remained fundamentally “catholic” in its doctrine. This meant that the English Renaissance from 1509 to 1547 was thus presided over by a conservative Anglo-Catholic monarch in King Henry VIII. Under his reign, the fundamental views of St. Thomas Aquinas held firm:

**Table 3. England’s Thomist law**

<b>Tudor England’s Hierarchy of Laws</b>
Eternal Law (God’s omnipotent and eternal will)
Divine Law (Old & New Testaments)
Natural Law
Human Law (Common Law; Ecclesiastical Law; and Civil Law)

Thus, the new Church of England remained “Anglo-Catholic,” rather than Protestant, under the entire reign of Henry VIII. After 1534, “God” in England became English.

Henry VIII also embodied the emerging sovereignty of the new English nation-state. Fundamentally, that sovereignty would vest in the English crown which, in turn, would seek counsel from Parliament but remain ultimately accountable to Christ alone. This English nationalism was strengthened after Henry VIII’s severance of the Pope as the head of the Church of England in 1534. And it was quickened by the rise of the “New Aristocracy” and England’s emerging self-consciousness as an independent nation-state destined to compete on the world stage with Spain, Portugal, France, and the Holy Roman Emperor. The conflicting interests of the Pope, and all papal authority in England after 1534, eventually yielded to Henry VIII’ strong will. *Along with the rise of the English mercantile class, the State had finally triumphed over the Church.* This break with the Church did not come quickly or completely all at once, but rather emerged across the next three centuries in America and England.

Henry VIII is, of course, known for the many men and women whom he had executed and for his six wives, two of whom he had executed, as follows:

**Table 4. Henry VIII’s Six Wives**

<b>English Queen (married to Henry VIII)</b>	<b>Marriage Ended</b>
Catherine of Aragon (1485-1536)	Marriage annulled
Ann Boleyn (1501-1536)	Executed/ beheaded
Jane Seymour (1508-1537)	Died shortly after childbirth (son, Edward VI)
Anne of Cleves (1515-1557)	Divorced
Catherine Howard (1521-1542)	Executed/ beheaded
Catherine Parr (1512-1548)	Widowed in 1547 upon Henry VIII’s death

**Table 5. Executions During Henry VIII’s Reign**

<b>Prominent Officials/ Nobles (executed by order of King Henry VIII)</b>	<b>Year Executed</b>
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Edmund Dudley	1510
Sir Richard Empson	1510
Edmund de la Pole, 6th Earl of Suffolk	1513
Edward Stafford, 3rd Duke of Buckingham	1521
Elizabeth Barton, The Nun of Kent	1534
John Fisher, Bishop of Rochester	1535
Sir Thomas More	1535
George Boleyn, Viscount Rochford	1536
Henry Norris	1536
William Brereton	1536
Mark Smeaton	1536
Francis Weston	1536
Anne Boleyn	1536
Robert Aske. Leader of Pilgrimage of Grace	1537
Francis Bigod. Leader of Bigod's Rebellion	1537
Thomas Fitzgerald, 10th Earl of Kildare (and his five uncles )	1537
Edward Neville	1538
Henry Pole, 1st Baron Montagu	1539
Henry Courtenay, Marquess of Exeter	1539
Thomas Cromwell	1540
Walter Hungerford	1540
Margaret Pole, Countess of Salisbury	1541
Francis Dereham	1541
Leonard Grey	1541
Thomas Culpeper	1541
Catherine Howard	1542
Jane Boleyn	1542
Anne Askew	1546
Henry Howard, Earl of Surrey	1547

It should be stressed, however, that the conflict between the House of Lancaster and the House of York (i.e., the War of Roses) lingered even up to the time of Henry VIII, and this caused the young king to remain vigilant against potential



assassins and traitors and too strictly enforce respect for the rule of law. Henry VIII's tendency toward strict enforcement of the royal law and execution of traitors was without question the fruit of the lingering "War of Roses" within English politics.

We should also remember that Henry VIII wanted to keep pace with his father's achievements in raising the rising merchant classes into the "New Aristocracy" and to become himself the symbol of this new English nationalism. History should remember Henry VIII to be a great politician: for he knew how to exercise the royal prerogative while also swaying public opinion in his favor. He is likely the first English monarch to bring almost every major question to the floor of Parliament. Henry VIII cultivated a respect for the English constitution, precedent and the rule of law. But he also knew how to sway the members of Parliament in his favor. In short, Henry VIII could create public opinion and ride the whirlwind of Parliamentary politics, whereas most of the English monarchs who came after him could not.

The "New Aristocracy"—the merchants, the country gentry, the absentee landlords, etc.—which his father Henry VII had elevated, now approved Henry VIII's policies and politics, even despite many of his brutal executions. For this reason, "[t]he interests of the crown had become more closely identified with those of Englishmen. Henry kept a high degree of peace and prosperity at home. It was true that his acts were often arbitrary, cruel, unjust, and selfish; yet they touched but few men, and those that the king harmed were often not widely loved in England."<sup>10</sup>

#### **A. King Henry VIII (1491- 1547 A.D.)**

Henry Tudor, the younger, was born on June 28, 1492 as the second son of King Henry VII and Elizabeth of York. His older brother, Arthur, was the heir to the English throne. Henry VII had arranged for his son Arthur to marry the Spanish princess Catherine of Aragon in a political alliance. Unfortunately, Arthur died five months after this marriage, and Henry VII, who was anxious to not lose diplomatic ties with Spain and the enormous Spanish dowry, arranged for Catherine of Aragon to marry his second son, Henry, the younger, who would become King Henry

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<sup>10</sup> Goldwin Smith, *A History of England* (New York, NY: Charles Scribner's Sons, 1957), p. 227

VIII. This fateful marriage would eventually lead to the end of the Pope as head of the Church of England in 1534. In the meanwhile, and prior to 1534, King Henry VIII, who ascended to the throne of England in 1509, remained deeply Catholic. As a young prince, Henry was enormously popular, and he remained so long after he became the king of England! He has been described as athletic, highly intelligent, good-looking, and popular throughout all England. As previously mentioned, Henry VIII, despite all of his faults and mistakes, never lost this popularity among Parliament, the rising “New Aristocracy,” and, at least prior to 1534, the common Englishmen.

### **B. Tudor Absolutism: the Royal Prerogative**

The Anglo-American idea of the modern nation-state grew out of Henry VIII’s conception of the “royal prerogative” and his idea of crown as being absolutely sovereign, without exception. Henry VIII was naturally strong-willed. He was a well-read and learned Renaissance prince who understood that as the sovereign in England he had absolute power subject only to the law of God.

### **C. Church and State: Pope Clement VII**

To Henry VIII, the fundamental question was this: can an English prince disobey the Pope? If so, under what circumstances? His answer came to him. A king had the right in good conscience to go directly to God alone, if the Pope would not relent due to pressure from a foreign secular prince, such as the Holy Roman Emperor.

The canon law said that a man might not marry his deceased brother’s wife. True, Pope Julius II had issued a dispensation to permit the marriage of Henry and Catherine. Was the dispensation valid? Henry later contended it was not. Did the ‘course of Leviticus’ (XX.21) raise doubts in Henry’s mind? In the book of Leviticus it was written that if a man marries his brother’s widow ‘they shall be childless.’ In any event, scruples of conscience may have been a terrible reality to Henry VIII; and they many not.... By 1527 Henry resolved to seek a divorce from Catherine [of Aragon]. A contemporary records that ‘the king is studying the matter so diligently that I believe he knows more in this case than a great theologian and jurist.’ The papal legate

Campeggio wrote that ‘an angel would not be able to persuade him otherwise. Embassy after embassy was sent to Pope Clement VII.’<sup>11</sup>

Henry VIII’s real problem was that England was the junior partner in international affairs. The Holy Roman Emperor Charles V was ten times stronger than England; and Catherine of Aragon, Henry’s wife and queen, was Charles V’s aunt. Pope Clement VII was the guest of Charles V and could not go against his wishes. Given this set of circumstances, Henry VIII was caught into an international web of state politics. He may have very well concluded that but for the Pope’s subservience to Emperor Charles V, he would be granted a lawful annulment of his marriage to Catherine of Aragon. This reasoning could have very well justified, in Henry VIII’s mind, a complete break from the Roman Church. If the Pope’s spiritual authority was swayed by, if not altogether a subject to, the earthly ruler in the Holy Roman Emperor, then why should the King of England also remain subject to the Pope’s spiritual authority?

Indeed, “[i]n Tudor England political writers preached, with increasing frequency, the idea that absolute non-resistance to the king was essential for the security of the state.”<sup>12</sup> When Henry VIII broke away from the Roman Catholic Church in 1534, he established the Anglo-American ideal of the nation-state as an independent and sovereign entity accountable to no one, not even the Pope. The traditional legal and constitutional structures remained intact, but the changes in political structure and authority after the Act of Supremacy of 1534 significantly modified which laws in England were emphasized as supreme and fundamental laws, and which laws took precedence over other laws. These issues would later reach a boiling point one hundred years later during the English Civil War of the 1640s.

#### **D. Church and State: King of England as “Defender of the Faith”**

Meanwhile, Henry VIII remained deeply a religious and staunch Catholic. He lived during the era when Europe’s great Protestant theologians had emerged and were beginning to challenge the might of the Roman Catholic Church.

#### **Table 6. Protestant Leaders During the Era of Henry VIII**

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<sup>11</sup> Ibid., p. 215.

<sup>12</sup> Ibid., p. 217.

Martin Luther	1483-1546	Germany
Ulrich Zwingli	1484- 1531	Switzerland
King Henry VIII	1491-1547	England
John Calvin	1509-1564	France; Switzerland

Henry VIII did not like the recent Protestant developments that were occurring on the European continent. He found his contemporary Martin Luther (1483-1546), the German monk who revolted against the Roman Catholic Church, to be contemptuous. Luther had attacked the validity of the Seven Sacraments and many of the Church's practices, such as the sale of indulgences. Luther believed that all Christians were priests, or could become priests through simple election from fellow believers. Luther argued that the Pope and the Roman Catholic Church had actually usurped the authority of Christ himself, and had actually become the biblical "Anti-Christ." Since the Catholic Church's authority was so integrally tied up in the authority of the English monarchy, Henry VIII read and detested Martin Luther's writings. Luther's 95 Theses and other writings prompted Henry VIII to write and publish his own rebuttal to Lutheranism, titled *Defense of the Seven Sacraments*, in 1521, in which he wrote:

We have in this little book, gentle reader, clearly demonstrated, I hope, how absurdly and impiously [Martin] Luther has handled the holy sacraments. For though we have not touched all things contained in his book, yet so far as was necessary to defend the sacraments (which was our only design), I suppose I have treated, though not so sufficiently as might have been done, yet more than is even necessary.

. . .

But that others may understand how false and wicked his doctrine is, lest they might be so far deceived as to have a good opinion of him, I doubt not but in all parts there are very learned men . . . who have much more clearly discovered the same, than can be shown by me. And if there be any who desire to know this strange work of his, I think I have sufficiently made it apparent to them. For seeing by what has been said, it is evident to all men what sacrilegious opinions he has of the sacrament of our Lord's Body, from which the sanctity of

all the other sacraments flow: who would have doubted, if I had said nothing else, how unworthily, without scruple, he treats all the rest of the sacraments? Which, as you have seen, he has handled in such sort that he abolishes and destroys them all, except Baptism alone. . . .

What everybody believes, he alone by his vain reason laughs at, denouncing himself to admit nothing but clear and evident Scriptures. And these, too, if alleged by any against him, he either evades by some private exposition of his own, or else denies them to belong to their own authors. None of the Doctors are so ancient, none so holy, none of so great authority in treating of Holy Writ, but this new doctor, this little saint, this man of learning, rejects with great authority.

Seeing, therefore, he despiseth all men and believes none, he ought not to take it ill if everybody discredit him again. I am so far from holding any further dispute with him that I almost repent myself of what I have already argued against him. For what avails it to dispute against one who disagrees with everyone, even with himself? Who affirms in one place what he denies in another, denying what he presently affirms? Who, if you object faith, combats by reason; if you touch him with reason, pretends faith? If you allege philosophers, he flies to Scripture; if you propound Scripture, he trifles with sophistry. Who is ashamed of nothing, fears none, and thinks himself under no law. Who contemns the ancient Doctors of the church, and derides the new ones in the highest degree; loads with reproaches the Chief Bishop of the church. Finally, he so undervalues customs, doctrine, manners, laws, decrees and faith of the church (yea, the whole church itself) that he almost denies there is any such thing as a church, except perhaps such a one as himself makes up of two or three heretics, of whom himself is chief. . . .

For this defense of the Roman Catholic Church, Pope Leo X bestowed upon Henry VIII the title of “*Defender of the Faith*,” meaning the Roman Catholic faith. Even after the Act of Supremacy in 1534, which declared that “the king, our sovereign lord, his heirs, and successors, kings of this realm, shall be taken,

accepted, and reputed the only supreme head in earth of the Church of England....,” Henry VIII “continued to be rigidly orthodox; the faith of Christendom was to be fully maintained within his kingdom. All doctrines and rituals were to be those of the church before the separation from Rome.”<sup>13</sup>

Although Henry VIII wanted to maintain the “catholic” faith within the Church of England, but his actions to remove the Pope as head of the Church of England would have a far-reaching impact. From that point onward, the State (i.e., the English monarchy; and, later, the Parliament) would become far superior in term of earthly political power to the Church of England. And this new political arrangement, coupled with the rise of materialism and the “New Aristocracy” of English merchants, whose interests were tied to the English crown and to the royal prerogative, would eventually lead to the dwindling *spiritual influence* of the Church of England over English law, during the seventeenth and eighteenth centuries. “The church was indeed the junior partner of the State.”<sup>14</sup> “For example, the jurisdiction in equity, which had been so largely concentrated in chancery in Wolsey’s day, now flowed back into the royal council. From thence it streamed into the common law courts. More obvious was the fact that Henry VIII now became the leader of those who insisted that the papal jurisdiction be limited or abolished and that the *regnum* must be maintained against the *sacerdotium*.”<sup>15</sup>

Another far-reaching influence of Henry VIII’s is his decision to license the publication of an English translation of the Bible by John Rogers. This translation allowed thousands of Englishmen to read the Scriptures and to discuss religious problems and doctrines for themselves. In 1537, he licensed the first translation; and in 1539, he ordered a second edition to be used in all of the Churches of England. Unbeknownst to Henry VIII these steps would usher in the floodgates of Protestant thought currently brewing on the European continent.

### **E. Church and State: Act of Supremacy of 1534**

Now the long struggle between Church and State, from the days of William the Conqueror during the eleventh century and King Henry II during the twelfth century and so forth, was now finally settled in 1534. “The church was annexed to

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<sup>13</sup> Ibid., pp. 222-224.

<sup>14</sup> Ibid., p. 223.

<sup>15</sup> Ibid., p. 217.

the state,” through Parliament’s Act of Supremacy of 1534. The text of that act stated:

Albeit the king's Majesty justly and rightfully is and ought to be the supreme head of the Church of England, and so is recognized by the clergy of this realm in their convocations, yet nevertheless, for corroboration and confirmation thereof, and for increase of virtue in Christ's religion within this realm of England, and to repress and extirpate all errors, heresies, and other enormities and abuses heretofore used in the same, be it enacted, by authority of this present Parliament, that the king, our sovereign lord, his heirs and successors, kings of this realm, shall be taken, accepted, and reputed the only supreme head in earth of the Church of England, called Anglicana Ecclesia; and shall have and enjoy, annexed and united to the imperial crown of this realm, as well the title and style thereof, as all honors, dignities, preeminences, jurisdictions, privileges, authorities, immunities, profits, and commodities to the said dignity of the supreme head of the same Church belonging and appertaining; and that our said sovereign lord, his heirs and successors, kings of this realm, shall have full power and authority from time to time to visit, repress, redress, record, order, correct, restrain, and amend all such errors, heresies, abuses, offenses, contempts and enormities, whatsoever they be, which by any manner of spiritual authority or jurisdiction ought or may lawfully be reformed, repressed, ordered, redressed, corrected, restrained, or amended, most to the pleasure of Almighty God, the increase of virtue in Christ's religion, and for the conservation of the peace, unity, and tranquility of this realm; any usage, foreign land, foreign authority, prescription, or any other thing or things to the contrary hereof notwithstanding.

Not every Englishmen could make the adjustment of recognizing an earthly king as the head of God’s church. For some, only Christ could be the recognized head of the church; for others, only the Pope. But Henry VIII did not tolerate dissenters in matters of faith, nor did he tolerate treason, which he saw as disobeying the king’s commands. Prominent men such as Bishop John Fisher and Sir Thomas More were executed in 1535 because they refused to take the Oath of Allegiance to King Henry as Head of the Church of England.

The Supremacy Act (1534) declared the monarch to be ‘Supreme Head’ of the Church and Commonwealth of England as well as the Defender of the Faith. The English monarchs, through their parliaments, established a uniform doctrine and liturgy and issued the Book of Common Prayer (1559), Thirty-Nine Articles (1576), and eventually the Authorized (King James) Version of the Bible (1611). They also assumed jurisdiction over poor relief, education, and other activities that had previously been carried on under Catholic auspices, and dissolved the many monasteries, foundations, and guilds through which the church had administered its social ministry and welfare. Communicant status in the Church of England was rendered a condition for citizenship status in the Commonwealth of England. Contraventions of royal religious policy were punishable both as heresy and as treason.<sup>16</sup>

Thus Tudor absolutism imposed orthodox Christianity upon England, and the Christian faith continued to remain thoroughly woven into English law, culture and society. We should pause here to reflect upon other Protestant movements during the period. Both Luther and Calvin, for example, advocated similar church-state arrangements where would be established “national churches” and where the chief magistrates were expected to be “Christians” and to function as “ministers of a Christian commonwealth.”<sup>17</sup> The “wall of separation between church and state,” which dominated the thinking of the American founding fathers, would have been unthinkable (if not altogether impractical) to these early Protestant reformers.

#### **F. Church and State: Revolt and Suppression**

The Roman Catholic Church had performed a marvelous work among the peasants and the working classes of England. The rank-and-file Englishmen loved their parish priests and their local monks. For this reason, not only prominent men expressed their dismay towards the Act of Succession of 1534, but so, too, did the

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<sup>16</sup>John Witte, Jr. and Frank S. Alexander. *Christianity and Law: An Introduction* (Cambridge, UK: Cambridge Press, 2008), p. 19.

<sup>17</sup> *Ibid.*, pp. 15-26.



English peasants express their opposition to Henry VIII and his favored chancellors who plundered the Catholic monasteries throughout the realm.

These monasteries had been centers of education, training, and social welfare throughout England. And many peasants, workers, sick, ill, and poverty-stricken persons expressed their concerns about closing the monasteries. For several months in 1537, rebellion broke out all over the northern counties. “Most of the rebels were peasants. Singing the sixteen verses of their ‘Pilgrims’ Song,’ reciting the verse in the nineteen chapter of Deuteronomy that says ‘Thou shalt not remove thy neighbor’s landmark,’ they streamed through Lincolnshire, Norfolk, and Yorkshire. But this movement really had no geographical cohesion; the rebels could not agree about their demands; the monks in the monasteries could not make up their minds to support such a rebellion. Meanwhile Henry VIII waited until he had gathered strength. Then he ... cruelly crushed the insurrection. In July, 1537, the leaders were executed. All over England those who were ‘led and seduced by the devil’ ... found that their punishment was almost invariably the headsman’s axe or the hangman’s noose.”<sup>18</sup>

Hence, Henry VIII’s Tudor Absolutism in its purest form was this: the king’s law is God’s will to be disobeyed on pain of death. After the monasteries were destroyed or confiscated, Parliament later filled in the gaps through enactments of what became known as “Poor Laws” in order to redistribute resources to the poor and needy.

## CONCLUSION

King Henry VIII was a powerful force in history largely because he had a forceful personality and conceived himself as Christ’s vicar over both church and state. In many respects, history has misjudged Henry VIII. It is true that he made huge mistakes, but he was largely a prisoner of a world which he did not create. He acted through tradition and an education which taught him his place in God’s order; and, as King of England, he believed that he had divine duty and authorization to execute God’s will on earth. And but for Henry VIII’s forceful personality, England may have never released itself from the suzerainty of the Roman Catholic Church, which had in effect reduced England to a fiefdom of the

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<sup>18</sup> Goldwin Smith, *A History of England* (New York, N.Y.: Charles Scribner’s Sons, 1957), p. 224.

more powerful Holy Roman Empire. And despite all of Henry VIII's awful executions, history has too often failed to point out that he remained a popular monarch among English commoners and the merchants. The common Englishmen identified wholeheartedly with Henry VIII, and they generally viewed him as the protector of all England's interests. So that when Henry VIII took action, even when committing his many executions and establishing the Church of England in 1534, the commoners and the rising middle-class Englishmen largely supported him. Anglican orthodoxy thus remained at the foundations of English law during the reign of Henry VIII. Whatever England aspired to do or become during the reign of Henry VIII, it did so from the vantage-point of the Law of Christ.

**THE END**

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