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“A History of the Anglican Church—Part IV: 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 fourteenth essay in this series: “A History of the Anglican Church—Part IV.”

INTRODUCTION¹

This is Part IV of an essay in which I have, while borrowing from the systematic theology of St. Augustine of Hippo, shifted my focus to the “City of God”² within secular history of England and Great Britain since the fall of the

¹ This essay is written in the memory and honor of two of my former mentors and friends: (a) the late Senior U.S. District Court Judge Matthew Perry; and (b) the late John Roy Harper, Esq., both from Columbia, South Carolina. Judge Perry and Mr. Harper both exemplified the consummate gentleman and Christian lawyer.

² St. Augustine of Hippo defines the condition of humankind as divided into two broad camps: the city of man and the city of God. “This race we have distributed into two parts,” St. Augustine explains, “the one consisting of those who live according to man, the other of those who live according to God. And these we also mystically call the two cities, or the two communities of men, of which the one is predestined to reign eternally with God, and the other to suffer eternal punishment with the devil.... Of these two first parents of the human race, then, Cain was the first-born, and he belonged to the city of men; after him was born Abel, who belonged to the city of God.... When these two cities began to run their course by a series of deaths and births, the citizen of this world was the first-born, and after him the stranger in this world, the citizen of the city of God, predestined by grace, elected by grace, by race a

Roman Empire. St. Augustine has compared the “City of God” to being a “stranger,” because it is often in conflict with the “City of Man” (i.e., the earthly city),³ that it is dispersed throughout all the races and nations of earth.⁴ “This heavenly city, then, while it sojourns on earth, calls citizens out of all nations, and gathers together a society of pilgrims of all languages, not scrupling about diversities in the manners, laws, and institutions whereby earthly peace is secured and maintained, but recognizing that, however various these are, they all tend to one and the same end of earthly peace.”⁵

The secular history of England during the period 1087 to 1154 A.D. exemplify the Augustinian viewpoint that secular political history is saturated with ungodly jealousy, rivalry and lust between brothers, where the “wicked war with the wicked; the good also war with the wicked.”⁶ As Augustine explains, “[Cain,]the founder of the earthly city was a fratricide. Overcome with envy, he slew his own brother [Abel], a citizen of the eternal city, and a sojourner on earth. . . . [A]s Roman history records, Remus was slain by his brother Romulus. And there is no difference between the foundation of this city [Rome or the Roman Empire] and of the earthly city, unless it be that Romulus and Remus were both citizens of the earthly city.”⁷ The history of the Anglican Church is a mere manifestation of this sacred history.

First, my objective in writing this essay is to stress the significance of the English common law as “constitutional law,” as well as unwritten customary law.

stranger below, and by grace a citizen above. . . . Accordingly, it is recorded of Cain that he built a city, but Abel, being a sojourner, built none. For the city of the saints is above, although here below it begets citizens, in whom it sojourns till the time of its reign arrives, when it shall gather together all in the day of the resurrection; and then shall the promised kingdom be given to them, in which they shall reign with their Prince, the King of the ages, time without end.” [*The City of God* (New York, N.Y.: The Modern Library, 1950), pp. 478-479.]

According to Saint Augustine, these two cities share a common desire to enjoy peace, safety, and security; but otherwise these two cities have two distinct lifestyles which are leading to two different ends. “Of these,” Saint Augustine explained, “the earthly one has made to herself of whom she would, either from any other quarter, or even from among men, false gods whom she might serve by sacrifice; but she which is heavenly, and is a pilgrim on the earth, does not make false gods, but is herself made by the true God, of whom she herself must be the true sacrifice. Yet both alike either enjoy temporal good things, or are afflicted with temporal evils, but with diverse faith, diverse hope, and diverse love, until they must be separated by the last judgment, and each must receive her own end, of which there is no end.” [*The City of God* (New York, N.Y.: The Modern Library, 1950), p. 668.]

³ *Ibid.*, p. 609.

⁴ *Ibid.*, pp. 609-610.

⁵ *Ibid.*, p. 696.

⁶ *Ibid.*, p. 483.

⁷ *Ibid.*, p. 482.

The very ideals which later became a part of First Amendment of the United States Constitution, such as “substantive due process” and “ordered liberty,” are to be found in the English common law which is part and parcel of the unwritten English constitution. These constitutional ideas are not simply “Christian” in name but are also Christian in origin and are very “sacred” from the Christian theological viewpoint.

Second, my objective in writing this essay is to set forth the proposition that the Church, or the “City of God,” functions as a wise counselor and as example of moral leadership to the “City of Man.” In the “Parable of the Lamp Stand,” Jesus had said, “Ye are the light of the world. A city that is set on an hill cannot be hid. Neither do men light a candle, and put it under a bushel, but on a candlestick; and it giveth light unto all that are in the house.”⁸ Embracing the Augustinian worldview, I argue here, through my presentation of a short history of the Church of England, that God does take an active part in the affairs of men on earth and that it is the duty of Christian lawyers and judges to take an active part in the earthly conflicts, quarrels, litigations, and wars, in order to instill justice within the secular civil state. As St. Augustine rhetorically asked, “will a wise judge take his seat on the bench or no? Beyond question he will. For human society, which he thinks it a wickedness to abandon, contrains him and compels him to his duty.”⁹

From the very beginning, the Christian church considered itself to be that light of the world, and thus the Roman Catholic Church in the West not only declared its essential independence in order to shine its light to the outer world but also its superiority over temporal rulers. No temporal authority should directly or indirectly control the Church. The general Catholic belief was that God’s law was superior to human law; and so by this logic the Church was supreme over earthly monarchies and governments. Here we can see the embryonic emergence of what would become the official doctrine of the Roman Catholic Church: St. Thomas Aquinas’ legal theory, eternal law → divine law → moral natural law → positive, secular human law. Moreover, it is critical that we observe that this idea of the interconnection between God’s law and man’s earthly duties and positive human laws was thoroughly woven into the unwritten English constitution and common law through the Church of England.

The English crown was conceptually an agent of the Church and the Bishop of Rome (the Pope). Pope Gregory VII (1020 to 1085 A.D.) had decreed that no

⁸ Matthew 5:14-15.

⁹ St. Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 682.

temporal monarch should appoint clergy in the Church and that all early kings should acknowledge the ultimate authority of the Pope and the Church. But this does not imply that the Church was “pure” or “without sin.” As Saint Augustine has pointed out:

Let these and similar answers (if any fuller and fitter answers can be found) be given to their enemies by the redeemed family of the Lord Christ, and by the pilgrim city of King Christ. But let this city bear in mind, that **among her enemies lie hid those who are destined to be fellow-citizens [in the City of God]**, that she may not think it a fruitless labour to bear what they inflict as enemies until they become confessors of the faith. So, too, as long as she is a stranger in the world, **the city of God has in her communion , and bound to her by the sacraments, some who shall not eternally dwell in the lot of the saints.** Of these, some are not now recognized; others declare themselves, and do not hesitate to make common cause with our enemies in murmuring against God, whose sacramental badge they wear. These men you may to-day see thronging the churches with us, to-morrow crowding the theatres with the godless. But we have the less reason to despair of the reclamation even of such persons, if among our most declared enemies there are now some, unknown to themselves, who are destined to become our friends. In truth, these two cities are entangled together in this world, and intermixed until the last judgment effect their separation.¹⁰

From this perspective, Saint Augustine sets forth a system for assessing the moral quality of secular human history: the good and the bad are mixed together, as set forth in Jesus’ “Parable of the Wheat and the Tares.”¹¹ According to Saint Augustine, both the “City of God” and the “City of Man” contain these “wheat” and “tares.” The organized Church contains both the “wheat” and the “tares,” since the galactic struggle between Good and Evil pervades every human endeavor. From this perspective, the problem of “Church and State” will never be finally resolved, until the Christ’s Final Judgment.

Nevertheless, the organized, institutional Church is organized around “truth” and “love,” which are the fundamental ingredients of the Christian faith. Furthermore, the Roman Catholic Church’s claim was that it held the keys to the

¹⁰ Saint Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 38.

¹¹ Matthew 13:24-30.

kingdom of heaven. In the Medieval world, this claim carried political significance in the temporal world. If the Pope or Archbishop or Bishop decreed that a certain act or activity violated the law of God, then no earthly king or secular authority could legitimately overrule such a decree without violating the law of God. But this presented a fundamental problem: what happens when there is a conflict. The fundamental question was always this, Who should make the final decision on God’s law? From the monarchy’s perspective, a corrupt Church, Pope, or Archbishop could overthrow his legitimate authority, and so the English crown naturally sought to curtail Church influence and power to the extent that they threatened its sovereignty. Conversely, the Church sought to curtail the power of the monarchy in order to preserve the integrity of the Gospel and the mission of Christ.

According to Saint Augustine’s theology, we should not automatically assume that in Church-State conflict, that the Church is always right and that the State is always wrong, because the proverbial “wheat” and “tares” are thoroughly sown within both the Church and the State, as follows:

Augustinian View of Church-State Conflict

Corrupt Church → attacks	Just King (State; Secular Government)
Just Church	attacks ← Corrupt King (State; Secular Government)
Corrupt Church → attacks	attacks ← Corrupt King (State; Secular Government)

According to Augustine and the Catholic Church, Christ as the manifestation of truth itself, hovers above both the Church, his spiritual bride, and the State, his temporal servant. “For by consulting the Gospel we learn that Christ is Truth.”¹² In the Christian world, **truth itself is God** (i.e., “Truth is God.”), and this proposition is the very foundation of Christian jurisprudence, including western and Anglo-American jurisprudence.

But why does the “City of Man” (i.e., earthly city) pay attention to, and take interest in, the “City of God” to begin with? According to Saint Augustine, “this is the characteristic of the earthly city, that it worships God or gods who may aid it in reigning victoriously and peacefully on earth not through love of doing good, but through lust of rule. The good use the world that they may enjoy God: the wicked,

¹² Saint Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950). P. 645.

on the contrary, that they may enjoy the world would fain use God—those of them, at least, who have attained to the belief that He is and takes an interest in human affairs.”¹³ Thus, corrupt secular government will use the Church, or seek to influence it, in order to secure, or at least pretend to have, divine favor and blessings, even though it is itself inwardly corrupt. For this reason, the honest and faithful leaders within the Church of England conceptualized its role as the “City of God” that had to remain free from such corrupt influence from the secular state. But this resistance to the corrupt influences of corrupt secular leaders could be perilous. According to Augustine, the “City of God” exists within the larger “City of Man” (i.e., “the earthy city”), which is “often divided against itself by litigations, wars, quarrels, and such victories as are either life-destroying or short-lived. For each part of it that arms against another part of it seeks to triumph over the nations though itself in bondage to vice. If, when it has conquered, it is inflated with pride, its victory is life-destroying; but if it turns its thoughts upon the common casualties of our mortal condition, and is rather anxious concerning the disasters that may befall it than elated with the successes already achieved, this victory, though of a higher kind, is still only short-lived; for it cannot abidingly rule over those whom it has victoriously subjugated.”¹⁴

I believe that Augustine’s view is the correct view, and that modern-day secular lawyers and judges would be wise to embrace this viewpoint when construing or adjudicating church-state relationships. But equally important, I believe that lawyers and judges should also acknowledge the important and positive mission of the Church, albeit its imperfections.

A major and fundamental tenet within the Church’s mission is to promote a righteous and moral law which is also good for the secular state. According to St. Augustine and the Roman Catholic Church, this mission is not only good but essential. Thus, in presenting this essay, I certainly intend to promote the present-day mission of the Christian churches around the world; indeed, it is my belief that since the days of the Roman Empire the institutional church has stood for, or at least represented, a universal moral law and guidepost for secular states, jurists and lawyers around the world. “The ultimate purpose of the Church is the salvation of souls (see canon 1752). The Church is organized in this world as a society (canon 204 § 2) where it performs spiritual and temporal works.”¹⁵ The subject matter of this essay is meant not only to record the Christian religion’s significant

¹³ Ibid., p. 485.

¹⁴ Ibid, p. 481.

¹⁵ Rev. Msgr. John A. Renken, *Church Property: A Commentary on Canon Law Governing Temporal Goods in the United States and Canada* (Ontario, Canada: St. Paul Univ. P., 2009), p. vii.

contributions to western and Anglo-American jurisprudence, but also to document Church history.

This essay provides a quick outline of the life of St. Anselm, Archbishop of Canterbury, and history of the Church of England from 1087 A.D. up to the reign of Henry II in 1154 A.D. I have highlighted the life of St. Anselm because it reflects the struggle of the Church of England to maintain its autonomy and to fulfill its mission without molestation from what had become a corrupt monarchy under the reigns of William II and, to a lesser extent, the reign of Henry I. (But more importantly, this secular history is also spiritual history of the Church; for “the Church even now is the kingdom of Christ, and the kingdom of heaven.”¹⁶) St. Anselm, a doctor of the church, is between St. Augustine and St. Thomas Aquinas in stature within the Catholic Church. His career and life symbolizes the unique position of Christian lawyers and judges within the secular state. I do not mean to state that the incorporation of conventional Christian doctrines in the United States Constitution or other secular constitutions are in controversy; but instead, I do mean that certain Christian ideas, which overlap with constitutional doctrines such as “ordered liberty” and “substantive due process,” are perpetually in controversy, and that Christian lawyers and judges, as agents of the Church, may weigh into those controversies with Christian perspectives. Conversely, I do not mean to state that the secular state has the power to interpret or to abrogate the Bible; on the Church has the power to interpret the Bible for itself and its membership.

For whenever the state, whether indirectly or directly, starts down the road of interference with the Church’s power to interpret its own Bible, on questions that are purely theological, then it does violate the constitutional and theological wall of separation of church and state, and derogates freedom of religion and conscience. As previously mentioned, the Augustinian viewpoint does not assume that the Church is always right, and that the secular authority is always wrong. However, like Archbishop Anselm, whenever the circumstances present themselves, the modern-day Christian lawyer and judge has an ethical duty to protect the Christian church from the evil influences of corrupt, secular governments, and to assist the secular state with the abatement of Church practices that violate natural moral law, not simply for the sake of the Church, but also for the sake of the general welfare of both the Church and the State. For Augustine, the Christian has a duty to avail himself of the opportunity to fulfill the role of judge, arbitrator, or mediator between the City of God and the City of Man.

¹⁶ Saint Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 726.

SUMMARY

In 1087 A.D., William the Conqueror died and was succeeded by his son William Rufus (William II). By all accounts, William II was ruthless, carefree, greedy, licentious, and unchristian. Lanfranc, Archbishop of Canterbury, provided counsel to William II to govern wisely and justly; and this counsel was minimally effective until Lanfranc's death. But William II refused to appoint a new Archbishop in Canterbury and plundered several bishoprics, confiscating land and taking over church treasuries. In addition, William II's secular courts were corrupt and inefficient, causing the entire body-politic to lose confidence in his government. When William II fell sick and was believed to be on his deathbed, he repented of his sins and agreed to appoint Anselm as the Archbishop of Canterbury. William II unexpectedly regained his health, and to his surprise he discovered the Anselm was a strong archbishop who was steadfast in protecting the integrity of the church, resisting the evil of state influences through lay investiture, and fighting for the return of church property. William II forced Anselm into exile. After William II died, he was succeeded by his brother Henry I, who tried to return England to the glory-days of their honorable Anglo-Saxon past. Henry I, known as the "lion of justice," signed a document which became the basis and precursor of the Magna Carta of 1215 A.D. Unfortunately, Henry I wanted to appoint bishops in the Church of England and to require feudal homage from all the clergy, in exchange for a return of church property previously confiscated by William II. Archbishop Anselm, who had returned from exile, refused to grant Henry I's requests, and again there was conflict between the church and state in England. Finally, just as Anselm was about to excommunicate Henry I, a settlement was reached. After the death of Henry I in 1135, England suffered from weak leadership, causing the Church of England to step in to fill the void of moral leadership until the reign of Henry II in 1154 A.D.

Part IV.

AA. Saint Anselm, Archbishop of Canterbury (1033 – 1109 A.D.)

In ancient Israel, there were three divine offices: the monarchy, the priesthood, and the prophetic office. The Old Testament books of I and II Kings and I and II Samuel, for example, present the conflict and struggle that occurred between the Jewish monarchy and the priests and prophets. The Jewish prophetic voice had often been one of admonition, wisdom and instruction to the Jewish monarchy that had fallen away from God's grace. A similar relationship between

the prophetic leaders within Church of England and the English monarchy existed since the reign of William the Conqueror. Saint Anselm, Archbishop of Canterbury, was certainly one of those prophetic leaders within the Church of England who had tried to steer a selfish and ungrateful English monarchy away from moral decadence and corruption and toward a morally righteous path. In the medieval world and to the medieval mind-set, the sage of the Old Testament must have represented the living voice of God within the social and political affairs of nations and empires. The English priesthood must have conceptualized itself as walking in the footsteps of Samuel, Nathan, Isaiah, Jeremiah, Ezekiel, and many of the other great Hebrew prophets, and as the embodiment of the “City of God” on earth. Indeed, the life of Saint Anselm certainly reflects the nature of the “City of God” within the earthly city.

1. Early Years: Biography

Anselm was born in 1033 in Upper Burgandy, an area now part of Italy. At age 15, Anselm desired to join a monastery, but his father refused to grant consent and so the abbot rejected Anselm’s application. Sometime during his twenties, Anselm became familiar with Lanfranc, the famous Italian monk who had become a superstar in Normandy under William Duke of Normandy. Anselm decided to visit Normandy, where he sought counsel from Lanfranc as to a career in the Catholic ministry. Lanfranc sent Anselm to Maurillius, the archbishop of Rouen, who convinced Anselm to enroll in abbey as a novice. Anselm agreed; at the age of 27, he enrolled in an abbey where he completed his first work of philosophy within his first year. While there, Anselm was also deeply influenced by the Rule of Saint Benedict.

A few years later, William of Normandy (William I) conquered the British Isles in 1066, and later appointed Lanfranc as the Archbishop of Canterbury. Anselm visited both William I and Lanfranc in Canterbury, where he made a very favorable impression upon William I. The general consensus among the senior clergy in England was that Anselm would succeed Lanfranc as Archbishop of Canterbury. During this period, Anselm was appointed as the abbot of Bec Abbey in Normandy.

Under Anselm's direction, Bec became the foremost seat of learning in Europe, attracting students from France, Italy, and elsewhere. During this time, he wrote the *Monologion* and *Proslogion*. He then composed a series of dialogues on the nature of truth, free will, and the fall of Satan. When the nominalist Roscelin attempted to appeal to

the authority of Lanfranc and Anselm at his trial for the heresy of tritheism at Soissons in 1092, Anselm composed the first draft of *De Fide Trinitatis* as a rebuttal and as a defence of Trinitarianism and universals. The fame of the monastery grew not only from his intellectual achievements, however, but also from own good example and his loving, kindly method of discipline—particularly with the younger monks—and from his spirited defence of the abbey's independence from lay and archiepiscopal control, protecting it from the influence of both the new Archbishop of Rouen and the Earl of Leicester.¹⁷

2. Catholic Theology and Philosophy

Anselm was a skilled Catholic scholar and theologian who was well-qualified to serve the English crown as the as advisor and archbishop of Canterbury. His theology was closely aligned with that of St. Augustine of Hippo (St. Thomas Aquinas was not yet born).

Anselm has been called ‘the most luminous and penetrating intellect between St Augustine and St Thomas Aquinas’ and ‘the father of scholasticism’, Scotus Erigena having employed more mysticism in his arguments. Anselm's works are considered philosophical as well as theological since they endeavor to render Christian tenets of faith, traditionally taken as a revealed truth, as a rational system. His worldview was broadly Neoplatonic, as it was reconciled with Christianity in the works of St Augustine and Pseudo-Dionysius, with his understanding of Aristotelian logic gathered from the works of Boethius. He or the thinkers in northern France who shortly followed him—including Abelard, William of Conches, and Gilbert of Poitiers—inaugurated "one of the most brilliant periods of Western philosophy", innovating logic, semantics, ethics, metaphysics, and other areas of philosophical theology. Anselm held that faith necessarily precedes reason, but that reason can expand upon faith: "And I do not seek to understand that I may believe but believe that I might understand. For this too I believe since, unless I first believe, I shall not understand." This is possibly drawn from Tractate XXIX of St Augustine's *Ten Homilies on the First Epistle of John*: regarding John 7:14–18, Augustine counseled ‘Do not seek to understand in

¹⁷ https://en.wikipedia.org/wiki/Anselm_of_Canterbury#Dialogues

order to believe but believe that thou may understand.’ Anselm rephrased the idea repeatedly and Williams considered that his aptest motto was the original title of the *Proslogion*, ‘faith seeking understanding,’ which intended ‘an active love of God seeking a deeper knowledge of God.’ Once the faith is held fast, however, he argued an attempt *must* be made to demonstrate its truth by means of reason: ‘To me, it seems to be negligence if, after confirmation in the faith, we do not study to understand that which we believe.’ Merely rational proofs are always, however, to be tested by scripture and he employs Biblical passages and ‘what we believe’ (*quod credimus*) at times to raise problems or to present erroneous understandings, whose inconsistencies are then resolved by reason.

While at Bec, Anselm composed:

- *De Grammatico*
- *The Monologion*
- *The Proslogion*
- *De Veritate*
- *De Libertate Arbitrii*
- *De Casu Diaboli*
- *De Fide Trinitatis*, also known as *De Incarnatione Verbi*¹

While archbishop of Canterbury, he composed;

- *Cur Deus Homo*
- *De Conceptu Virginali*
- *De Processione Spiritus Sancti*
- *De Sacrificio Azymi et Fermentati*
- *De Sacramentis Ecclesiae*
- *De Concordia*

3. Church and State: William II, King of England (1087- 1100 A.D.)

When William the Conqueror (William I) died in 1087, his Normandy possessions went to his oldest son Robert II, and England went to his son William Rufus (William II).

William Rufus appears to have been thoroughly wicked, a coarse and debased likeness of his father. It was said, on a later day, that he ‘made hell fouler by his coming.’ He had almost no sense of decency or justice. His feudal levies on his tenants were extortionate. Lanfranc, who had tried to hold a tight rein on William and had given him wise advice, died in 1089. For four years William left the archbishopric unfilled, collecting the revenues of the see for himself. There were several vacant bishoprics and William’s treasurer, the unscrupulous shyster Ranulf Flambard, shamelessly diverted their incomes to the royal coffers.¹⁸

William II did not repent of his shameful actions until after he fell ill and believed that he was soon to die. He then appointed Anselm as Archbishop of Canterbury. “When William unexpectedly recovered, he found out that the mild Anselm was prepared to fight about the plundering of church lands by the king. He also discovered that Anselm believed strongly in the extreme papal claims to power over temporal rulers.”¹⁹

William II and Anselm reached a stalemate, as Anselm was as steadfast in his position as was Pope Gregory VII. The question of investiture of bishops and other clergymen now arose; Anselm believed that only the Pope could properly invest him as the archbishop and insisted that he travel to the court of Pope Urban II to secure the pallium that legitimized his office. William II refused to grant permission. On February 25, 1095, the Lords Spiritual and Temporal of England met in a council at Rockingham to discuss the issue. The next day, William ordered the bishops not to treat Anselm as their primate or as Canterbury's archbishop, because Anselm openly bypassed the English monarchy and adhered to the directives of Pope Urban. Interestingly, the “Lords Spiritual,” or the bishops, sided with the William II. The Bishop of Durham even suggested that William II depose and exile Anselm. However, the “Lords Temporal,” the nobles sided with Anselm. The conference ended in deadlock and the matter was postponed. “In 1097 Anselm finally succeeded in obtaining William’s permission to go into voluntary exile. Alone of the king’s subjects he had dared to resist.”²⁰

On August 2, 1100, William II was killed during a hunting accident. “There he was shot through the heart, perhaps by accident.... William’s younger brother Henry, who had been in the fateful hunting party, had ridden at once to Winchester

¹⁸ Goldwin Smith, *A History of England* (New York, N.Y.: Charles Scribner’s Sons, 1957), p. 45.

¹⁹ *Ibid.*, pp. 45-46.

²⁰ *Ibid.* p. 46.

and seized the royal treasure. Robert, the immediate heir, was far away in the Holy Land on a crusade.”²¹

4. Church and State: Confrontations with Henry I, King of England (1100 – 1135 A.D.)

When Henry I seized the throne of England, he attempted to restore law and order, as well as confidence, in the monarchy. Historians now call Henry I “the lion of justice.” He issued a written declaration which later became the basis for the Magna Carta in 1215. In this declaration, Henry acknowledged that even the king was subject to the law.²² In 1101, his older brother Robert returned from the Jerusalem crusades, made a claim for the throne of England, and invaded England. Henry I persuaded him to withdraw in exchange for an annual stipend of 3,000 marks annually. But, as fate would have it, as soon as Henry I saw an opening, he invaded his brother’s province of Normandy and imprisoned his brother. “Not even the Pope was able to open the prison door of the crusader. Robert stayed a prisoner until he died in 1134.”²³

Anselm was restored as Archbishop of Canterbury. Henry I offered to restore all of the church lands that had been confiscated by William II, in exchange for Anselm’s customary homage as a tenant-in-chief. Anselm refused to grant such homage.

Once more the problems of royal and spiritual power grew into conflict. A great church council of 1099, filled with the militant doctrines of Gregory VII, had forbidden any churchmen to do homage to a layman. Anselm had attended that council. He obstinately refused to do homage to Henry I for the fief he held. There was a second major difficulty. Gregory VII had decreed that investiture, the formal presentation to an elected archbishop or bishop of the ring and staff symbolic of the transfer of office to them, could only be performed by a churchman. There must be no ‘lay investiture.’ This decision of Gregory, repeated by the church council of 1099, apparently meant

²¹ Ibid.

²² Ibid.

²³ Ibid., p. 47.

that kings could no longer control appointments to spiritual offices. Thus the power of the state within the church would be greatly reduced. When Anselm steadily refused to allow royal investiture Henry I seized the church lands and exiled Anselm.²⁴

Anselm was about to excommunicate Henry I when a compromise was proposed and a settlement was reached in 1107. The final agreement provided that there would be no royal or lay investiture of any clergy who has been elected by the cathedral counsel. In exchange, the churchmen would render homage for the fiefs, thus admitting that they were feudally vassals of the king. Historians have generally considered this compromise as a victory for Henry I and the English monarchy, because cathedral counsel was itself controlled by the crown. But for those who would later champion the complete separation of church from state, this compromise was a sad defeat. In any event, the merger of “spiritual” and “temporal” laws in England was cemented together even tighter during Henry I’s reign.

Ansel died at the age of 76 in 1109 A.D. He was consecrated as a saint. Later, in 1720, Pope Clement XI named Anselm a Doctor of the Church.

BB. Church and State: Succession of Stephen of Blois (1135 to 1154 A.D.)

In 1135, Henry I died. He was succeeded by Stephen of Blois, son of William the Conqueror’s daughter Adela. It is unfortunate that Stephen early and largely lost control of both the barons and the clergy. He tried to buy loyalty, but the barons still disobeyed him. He quarreled with bishops, who turned against him. It is quite clear that Stephen lacked common sense and had no capacity for the monarchy. “In 1139, amidst the mounting anarchy of private warfare, Matilda landed in England to claim the throne. The bishops declared Matilda queen; but she was driven from London when she tried to collect a tax. Several years of indecisive civil war followed.”²⁵ Finally, Henry, bishop of Winchester and Theobald, the archbishop of Canterbury, succeeded in arranging a peace to end the war of succession, by allowing Stephen to remain on the throne for the rest of his

²⁴ Ibid., p. 47.

²⁵ Ibid., p. 49.

life, and that Henry of Anjou (the future King Henry II), the son of Matilda, would succeed him.

CONCLUSION

The “City of God” on earth is imperfect and subject to corruption and sin, but it is also a natural leader. It influences all classes of the social order—the upper, middle and lower classes within the social order. And it influences secular jurisprudence. **Importantly, it is because of this influence that the “City of God” is persecuted in this present world.** The unique jurisdiction of the Church is over the very souls of individuals, where it endeavors to establish harmony with the Law of God. As St. Augustine explained “[a]nd justice, whose office it is to render to every man his due, whereby there is in man himself a certain just order of nature, so that the soul is subjected to God, and the flesh to the soul, and consequently both soul and flesh to God...”²⁶

This essay discussed the struggle of the Roman Church of England to exist without the corrupt influences of secular politics and state control.

The great struggle between Church and State began in earnest in England after the reign of William I. It reached a nadir with the reign of his son, William Rufus (William II), who disregarded the Church. From the period 1187 to 1154 A.D., England was an established Christian kingdom that suffered from a constitutional crisis of Church-State conflict.

It is difficult to describe with accuracy the details of this on-going conflict, but it seems natural that both sides were at least partially culpable and did not always have pure hands. **St. Anselm, Archbishop of Canterbury, emerges as not simply a strong advocate for the Church but also as righteous moralist and advocate who symbolizes the modern-day role of Christian lawyers and judges within the secular state.** Indeed, as the history of the Church of England vividly reveals, it is the duty of Christian lawyers and judges to take an active part in the earthly conflicts, quarrels, litigations, and wars, in order to instill justice within the secular civil state. As St. Augustine rhetorically asked, “will a wise judge take his seat on the bench or no? Beyond question he will. For human society, which he thinks it a wickedness to abandon, constrains him and compels him to his duty.”²⁷ In England, during the period 1087 to 1154 A.D., Christianity

²⁶ St. Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 678.

²⁷ *Ibid.*, p. 682.

continued to be infused deeply into the veins of the entire English legal system through the Roman Church of England up to the reign of Henry II.

The Roman Church of England continued to mold secular Anglo-American jurisprudence into a refined English common-law court system, and to develop equity jurisprudence, which was administered by the Lord Chancellor (a bishop in the Church of England). This English common law system (both law and equity) reflected the central message of Jesus of Nazareth to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

THE END

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