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“Emerson and Nature:

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 fourth essay in this series: “Emerson and Nature.”

INTRODUCTION

I have chosen “Emerson and Nature” as the topic of this fourth essay in this series, because Ralph Waldo Emerson (1803- 1882) is the greatest interpreter of the natural law (i.e., “Nature”) whom I have ever read. I was first introduced to Emerson’s *The American Scholar* (1837) essay in high school; I did not understand it then; but in college, I re-read this essay with clarity and great interest, along with his *Divinity School Address* (1838). During my college years, these two essays had a profound influence on my religious development. For I was then introduced to yet another genre of Christian thinking-- alongside Catholic Christianity-- which later significantly influenced my approach to secular law practice. For this reason, Emerson stands third in line to Saint Augustine and Saint Thomas Aquinas as the religious philosopher and theologian who most significantly molded and shaped my Christian worldview and conceptualization of religion and secular law. *I do not hesitate in stating that Ralph Waldo Emerson is a secular lawyer’s theologian!* Emerson is, perhaps, only American theologian whom I would designate as the “*special chaplain to American lawyers and judges.*” Indeed, Emerson’s Unitarian theology of nature and style removes the sectarian components of organized religion and focuses almost exclusively on interpreting the “Hand of God” in real life, which he calls “Nature.” Saint Thomas Aquinas’ legal theory included a four-fold scheme which comprised of Eternal Law → Divine Law → Natural Law → Human Law. However, Emerson’s legal scheme seems to be twofold: Natural

Law → Human Law. Let me further explain: according to Emerson, “[t]he Hebrew and Greek Scriptures contain immortal sentences, that have been bread of life to millions. But they have no epical integrity; are fragmentary; are not shown in their order to the intellect. I look for the new Teacher that shall follow so far those shining laws that he shall see them come full circle; shall see their rounding complete; shall see the world to be the mirror of the soul; shall see the identity of the law of gravitation with purity of heart; and shall show that Ought, that Duty, is one thing with Science, with Beauty, and with Joy.”¹

Emerson’s ministry did not grapple so much with sectarian doctrines, such as Eternal Law, Divine Law, and related theology, but rather Emerson reminded his audiences of the divinity of real life, which he called “Nature.” Emerson believed that “Nature” was God’s personality and law emanating throughout all of life, a viewpoint that closely aligns with the view of the Catholic Church. However, Emerson’s emphasis on “Nature” appears to be more thorough and extensive than that of any other theologian before or since. To Emerson, God is Nature; and Nature is Law. **“All science,”** said Emerson, **“has one aim, namely, to find a theory of nature.”**² Thus, here, in one sentence, Emerson vindicated almost everything that I had drawn from in the wells of Catholic writings, including those of Saint Augustine of Hippo and Saint Thomas Aquinas. In Emerson’s worldview and theory of “Nature,” then, I could also see the “natural law” of Catholic Christianity. In Emerson’s world view, I also saw St. Thomas’ worldview that the all of the secular sciences (including secular laws) emanate from the mind and will of God (i.e., Eternal Law). Like Saint Augustine, Emerson appeared to conceptualize “Nature” as the iron law (or as the will of God), which could not be opposed. “*Nature*, in the common sense,” Emerson explained, “refers to essences unchanged by man; space, the air, the river, the leaf. *Art* is applied to the mixture of his will with the same things, as in a house, a canal, a statute, a picture. But his operations taken together are so insignificant, a little chipping, baking, patching, and washing, that in an impression so grand as that of the world on the human mind, they do not vary the result.”³ Thus, Emerson’s influence upon my legal education and legal career rests with his deep understanding and insights into the facts of “Nature,” which I conceptualized as the very foundation of jurisprudence. Emerson’s version of “nature” or “natural law” thus appeared to be the correct conceptualization of human endeavors and transactions in the real world. And I concluded that unless secular lawyers and judges also correctly mastered the facts of nature, as Emerson had, then they could never attain the power to administer real and meaning justice in the secular courts. Ralph Waldo

¹ Carl Bode, *The Portable Emerson* (New York, NY: Penguin Books, 1981), p. 91.

² *Ibid*, p. 8.

³ *Ibid*.

Emerson thus became in my mind a representative “Priest of Natural Justice” who had the genius and skill to effectively minister to secular lawyers and judges, as to the will of God in the secular law. For in Emerson’s theology can be found the the subject matter of constitutional law, the law of evidence, and the rules of civil and criminal procedure. Thus, the role of the Christian lawyer and judge within the secular state should be guided by the philosophy and example of Ralph Waldo Emerson.

SUMMARY

I hold in my hands the very same book which has inspired me since 1991: *The Portable Emerson* (1981).⁴ For in it contains the original notes which I scribbled in the margins, and well as the markings of favorite passages of Emerson’s several essays. Emerson’s essays revealed a new type of Gospel: “God’s creation,” or “Nature,” which he implored us to study as fervently as we studied divine Scripture, in order to attain our salvation. Thus, I found in Emerson an understanding of nature that was uncommon, unique, and profound—a definition of “natural law” that was most appropriate for Christian lawyers and judges within a secular state. Below, I have included my favorite Emerson quotes that best explain his descriptions of “Nature” and “natural law”:

I. “Nature” (1836)

(a). “Ethics and religion differ herein; that one is the system of human duties commencing from man; the other, from God. Religion includes the personality of God; Ethics does not. They are one to our present design. They both put nature under foot.”⁵

(b). “Any distrust of the permanence of laws would paralyze the faculties of man. Their permanence is sacredly respected, and his faith therein is perfect. The wheels and springs of man are all set to the hypothesis of the permanence of nature. We are not built like a ship to be tossed, but like a house to stand.”⁶

(c). “All science has one aim, namely, to find a theory of nature.”⁷

⁴ Carol Bode, *The Portable Emerson* (New York, N.Y.: Penguin Books, 1981).

⁵ *Ibid.*, p. 39.

⁶ *Ibid.*, p. 33.

⁷ *Ibid.*, p. 8.

(d). “Nature, in common sense, refers to essences unchanged by man; space, the air, the river, the leaf. Art is applied to the mixture of his will with the same things, as in a house, a canal, a statute, a picture. But his operations taken together are so insignificant, a little chipping, baking, patching, and washing, that in an impression so grant as that of the world on the human mind, they do not vary the result.”⁸

II. “The American Scholar” (1837)

(e). “The first in time and the first in importance of the influences upon the mind is that of nature. Every day, the sun; and, after sunset, Night and her stars. Ever the winds blow; ever the grass grows. Every day, men and women, conversing—beholding and beholden. The scholar is he of all men whom this spectacle most engages. He must settle its value in his mind. What is nature to him? There is never a beginning, there is never an end, to the inexplicable continuity of this web of God, but always circular power returning into itself.”⁹

(f). “It presently learns that since the dawn of history there has been constant accumulation and classifying of facts. But what is classification but the perceiving that these objects are not chaotic, and are not foreign, but have a law which is also a law of the human mind?”¹⁰

(g). “Its laws are the laws of his own mind. Nature then becomes to him the measure of his attainments. So much of nature as he is ignorant of, so much of his own mind does he not yet possess. And, in fine, the ancient precept, ‘Know thyself,’ and the modern precept, ‘Study nature,’ become at last one maxim.”¹¹

(h). “The world is nothing, the man is all; in yourself is the law of all nature... in yourself slumbers the whole of Reason; it is for you to know all; it is for you to dare all.”¹²

(i). “Inaction is cowardice, but there can be no scholar without the heroic mind... Only so much do I know, as I have lived. Instantly we know whose words are loaded with life, and whose not.”¹³

⁸ *Ibid.*, p. 8.

⁹ *Ibid.*, p. 53.

¹⁰ *Ibid.*, p. 54.

¹¹ *Ibid.*

¹² *Ibid.*, p. 70.

¹³ *Ibid.*, p. 59.

III. “The Divinity School Address” (1838)

(j). Moral Virtue: “A more secret, sweet, and overpowering beauty appears to man when his heart and mind open to the sentiment of virtue. Then he is instructed in what is above him. He learns that his being is without bound; that to the good, to the perfect, he is born, low as he now lies in evil and weakness. That which he venerates is still his own, though he has not realized it yet. He ought. He knows the sense of the grand word, though his analysis fails to render account of it. When in innocency or when by intellectual perception he attains to say,— ‘I love the Right; Truth is beautiful within and without for evermore. Virtue, I am thine; save me; use me; thee will I serve, day and night, in great, in small, that I may be not virtuous, but virtue;’—then is the end of the creation answered, and God is well pleased.”¹⁴

(k). “The intuition of the moral sentiment is an insight of the perfection of the laws of the soul. These laws execute themselves. They are out of time, out of space, and not subject to circumstance.”¹⁵

(l). “If a man is at heart just, then in so far is he God; the safety of God, the immortality of God, the majesty of God do enter into that man with justice.”¹⁶

(m). “If a man dissemble, deceive, he deceives himself, and goes out of acquaintance with his own being.”¹⁷

(n). “A man in the view of absolute goodness, adores, with total humility. Every step so downward, is a step upward. The man who renounces himself, comes to himself.”¹⁸

(o). “Character is always known. Thefts never enrich; alms never impoverish; murder will speak out of stone walls. The least admixture of a lie... will instantly vitiate the effect. But speak the truth, and all nature and all spirits help you with unexpected furtherance.... See again the perfection of the Law as it applies itself to the affections, and becomes the law of society.”¹⁹

¹⁴ Ibid., p. 73.

¹⁵ Ibid., p. 74.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

(p). “As we are, so we associate. The good, by affinity, seek the good; the vile, by affinity, the vile. Thus of their own volition, souls proceed into heaven, into hell.”²⁰

(q). “The doctrine of inspiration is lost; the base doctrine of the majority of voices usurps the place of the doctrine of the soul. Miracles, prophecy, poetry, the ideal life, the holy life, exist as ancient history merely; they are not in the belief, nor in the aspiration of society; but, when suggested, seem ridiculous. Life is comic or pitiful as soon as the high ends of being fade out of sight, and man becomes near-sighted, and can only attend to what addresses the senses.”²¹²²

(r). “The...defect of the traditionary and limited way of using the mind of Christ is a consequence of the first; this, namely, that the Moral Nature, that Law of laws whose revelations introduce greatness—yea, God himself—into the open soul, is not explored as the foundation of the established teaching in society. Men have come to speak of the revelation as somewhat long ago given and done, as if God were dead. The injury to faith throttles the preacher; and the goodliest of institutions becomes an uncertain and inarticulate voice.”²³

(s). “Whenever a man comes, there comes revolution. The old is for slaves. When a man comes, all books are legible, all things transparent, all religions are forms. He is religious. Man is the wonder-worker. He is see amid miracles. All men bless and curse. He saith yea and nay, only. The stationariness of religion; the assumption that the age of inspiration is past, that the Bible is closed; the fear of degrading the character of Jesus by representing him as a man—indicate with sufficient clearness the falsehood of our theology. It is the office of a true teacher to show us that God is, not was; that He speaketh, not spake. The true Christianity,— a faith like Christ’s in the infinitude of man,— is lost. None believeth in the soul of man, but only in some man or person old and departed. Ah me! No man goeth alone. All men go it flocks to this saint or that poet, avoiding the God who seeth in secret. They cannot see in secret; they love to be blind in public. They think society wiser than their soul, and know not that one soul, and their soul, is wiser than the whole world.”²⁴

²⁰ Ibid., pp. 74-75.

²¹ Ibid., p. 77.

²² Ibid., p. 81.

²³ Ibid.,

²⁴ Ibid., pp. 86-87.

IV. “Self-Reliance” (1841, 1844)

(t). “[D]eal with Cause and Effect, the chancellors of God. In the Will work and acquire, and thou hast chained the wheel of Chance, and shall sit hereafter out of fear from her rotations. A political victory, a rise of rents, the recovery of your sick or the return of your absent friend, or some other favorable event raises your spirits, and you think good days are preparing for you. Do not believe it. Nothing can bring you peace but yourself. Nothing can bring you peace but the triumph of principles.”²⁵

V. “Spiritual Laws” (1841, 1844)

(u). “Truth has not single victories; all things are its organs,-- not only dust and stones, but errors and lies. The laws of disease, physicians say, are as beautiful as the laws of health. Our philosophy is affirmative and readily accepts the testimony of negative facts, as every shadow points to the sun. By a divine necessity every fact in nature is constrained to offer its testimony.”²⁶

(v). “Let a man believe in God, and not in names and places and persons.”²⁷

VI. “Experience” (1841, 1844)

(w). “The consciousness in each man is a sliding scale, which identifies him now with the First Cause, and now with the flesh of his body; life above life, in infinite degrees. The sentiment from which it sprung determines the dignity of any deed, and the question ever is, not what you have done or forborne, but at whose command you have done or forborne it.”²⁸

VII. “Plato” (1841, 1844)

(x). “Among secular books, Plato only is entitled to Omar’s fanatical compliment to the Koran, when he said, ‘Burn the libraries; for their value is in this book.’”²⁹

²⁵ Ibid. p. 164.

²⁶ Ibid., p. 202.

²⁷ Ibid., p. 207.

²⁸ Ibid., p. 282.

²⁹ Ibid., p. 295.

(y). “Plato is philosophy, and philosophy, Plato....”³⁰

(z). “He was born 427 [B.C.], about the time of the death of Pericles; was of patrician connection in his times and city, and is said to have had an early inclination for war, but, in his twentieth year, meeting with Socrates, was easily dissuaded from this pursuit and remained for ten years his scholar, until the death of Socrates. He then went to Megara, accepted the invitations of Dion and Dionysius to the court of Sicily, and went thither three times, though very capriciously treated. He travelled into Italy; then into Egypt, where he stayed a long time; some say three,-- some say thirteen years. It is said he went farther, into Babylonia: this is uncertain. Returning to Athens, he gave lessons in the Academy to those whom his fame drew thither; and died, as we have received it, in the act of writing, at eighty-one years.”³¹

(aa). “Meantime, Plato, in Egypt and in Eastern pilgrimages, imbibed the idea of one Deity, in which all things are absorbed.”³²

VIII. “The Fugitive Slave Law” (1854)

(bb). “The Anglo-Saxon race is proud and strong and selfish. They believe only in Anglo-Saxons.”³³

(cc). “Whenever a man has come to his mind, that there is... no Constitution but his dealing well and justly with his neighbor; no liberty but his invincible will to do right....”³⁴

(dd). “I fear there is no reliance to be put on any kind or form of covenant, no, not on sacred forms, none on churches, none on bibles. For one would have said that a Christian would not keep slaves;-- but the Christians keep slaves. Of course they will not dare to read the Bible? Won't they? They quote the Bible, quote Paul, quote Christ, to justify slavery. If slavery is good, then is lying, theft, arson, homicide, each and all good, and to be maintained by Union societies.”³⁵

³⁰ Ibid.

³¹ Ibid., pp. 297-298.

³² Ibid., p. 303.

³³ Ibid., p. 554.

³⁴ Ibid., p. 552.

³⁵ Ibid. 551.

(ee). “We should not forgive the clergy for taking on every issue the immoral side; nor the Bench, if it put itself on the side of the culprit; nor the Government, if it sustain the mob against the law.”³⁶

(ff). “Yes, that is the stern edict of Providence, that liberty shall be no hasty fruit, but that event on event, population on population, age on age, shall cast itself into the opposite scale, and not until liberty has slowly accumulated weight enough to countervail and preponderate against all this, can the sufficient recoil come.”³⁷

(gg). “Slavery is disheartening; but Nature is not so helpless but it can rid itself at last of every wrong. But the spasms of Nature are centuries and ages, and will tax the faith of short-lived men. Slowly, slowly the Avenger comes, but comes surely. The proverbs of the nations affirm these delays, but affirm the arrival. They say, ‘God may consent, but not forever.’ The delay of the Divine Justice—this was the meaning and soul of the Greek Tragedy; this the soul of their religion.”³⁸

CONCLUSION

Ralph Waldo Emerson came to me, during the late 1980s and early 1990s, during my undergraduate years in college, as the preeminent interpreter of what the Roman Catholic Church called “natural law.” I easily fit Emerson into my “catholic” Christian world view; Emerson’s doctrine naturally supplemented my readings of the writings of Saint Augustine and Saint Thomas; and he helped to formulate my emerging understanding of the source of all law as the “First Cause” as setting in motion (a) Eternal Law → (b) Divine Law → (c) Natural law → (d) Human Law. Emerson, a Unitarian Christian minister, afforded me the opportunity of observing yet another version of what I called “catholic” Christianity, and which laid the foundation of my secular education and knowledge. As I recall, in college and law school, I soon concluded that all knowledge—including secular knowledge taught and sought after in universities and colleges—came from God, the First Cause and primary mover of events. Saint Augustine and Saint Thomas said so in their writings, and Ralph Waldo Emerson’s conceptualization of “Nature” confirmed these things in his speeches and essays.

³⁶ Ibid., p. 555.

³⁷ Ibid., p. 554.

³⁸ Ibid., pp. 553-554.

In my private thoughts, I thus reasoned: human beings did not create themselves, and, in fact, *human beings have not created anything.*³⁹ From all things created—seen and unseen, human and nonhuman—we may use our *reason* to deduce and draw inferences of their natures (i.e, their “internal laws”).⁴⁰ These natures reveal purpose or law⁴¹; and from the relationships between all created things of different natures, which we may understand from our reason, flow science, natural law, and natural justice, upon which human and civil laws are derived. This, I think, is what Ralph Waldo Emerson meant in *The American Scholar* when he said, “know thyself” and “study nature.”⁴² Emerson seemed to purport that what comes inside of the individual mind (or rational soul) as reasoned truth is also the same universal truth that can be found in everyone else (other rational souls), and thus to study nature is to observe the law of universal truth. Emerson’s observations accurately described my fundamental conception of natural law as encompassing every conceivable academic subject, whether secular or sacred. And, in practical terms, this natural law seemed to me to be the primary objective of the law of evidence, within secular jurisprudence; and the primary subject of whether allegations of fact were relevant, trustworthy, prejudicial, authentic, provable, or admissible within a court of law. In legal proceedings, the fundamental question always is: ***What are the facts?*** This fundamental question essentially means this: ***What are the natures, natural laws and meanings of the facts?*** In other words, in legal proceedings, the facts must be thoroughly and correctly understood, in order for the law to be correctly applied. I thus began to see that the secular legal system was founded upon the “laws of nature,” as they are expressed in the innumerable “arts and sciences” that shed light on the meaning of human transactions and natural phenomena that determine the issues within a legal proceeding, as, for example:

Expert Witnesses In Court:

³⁹ Human beings have the power to modify and combine natural resources and to produce manufactured materials, but human beings do not have the power to create anything from nothing or non-existent matter.

⁴⁰ “Natural law expresses the original moral sense which enables man to discern by reason the good and the evil, the truth and the lie: ‘The natural law is written and engraved in the soul of each and every man, because it is human reason ordaining him to do good and forbidding him to sin.... But this command of human reason would not have the force of law if it were not the voice and interpreter of a higher reason to which our spirit and our freedom must be submitted.’ The ‘divine and natural’ law shows man the way to follow so as to practice the good and attain his end. The natural law states the first and essential precepts which govern the moral life. It hinges upon the desire for God and submission to him, who is the source and judge of all that is good, as well as upon the sense that the other is one’s equal. Its principal precepts are expressed in the Decalogue. This law is called ‘natural,’ not in reference to the nature of irrational beings, but because reason which decrees it properly belongs to human nature.....” *Catechism of the Catholic Church* (New York, NY: Doubleday, 1997), p. 527.

⁴¹ This statement reflects the “teleological view” of creation, “relating to the study of ultimate causes in nature or of actions in relation to their ends or utility.” See, generally, the writings of Aristotle and St. Thomas Aquinas.

⁴² <http://www.emersoncentral.com/amscholar.htm>

1. Engineers
2. Medical Doctors
3. Doctors of Philosophy
4. Business Management Experts, etc., etc.

Lay Witnesses In Court

1. Testimonial Evidence
2. Supplemented w/ documentary evidence, real evidence, etc.

And so, in law school, the law of evidence, criminal procedure, and civil procedure thus became, in my mind, the critical link between “secular jurisprudence” and “natural law.” Christianity and law thus became more and more linked, and I then began to conceptualize that one of the primary roles of Christian lawyers and judges was to ensure that the legal system thoroughly had a handle upon the correct set of facts (i.e., “natural law”), so that injustice could be avoided. In my mind, practical nuts-and-bolts law practice was really the practice of natural justice and natural law in different disguise. Again, I was led by Emerson’s idea that “[a]ll science has one aim, namely, to find a theory of nature,”⁴³ and that *secular laws which contradicted science (i.e., theories of nature) were invalid*. Everything that Thomas Aquinas had observed on the subject of “reason” and the “nature of things,” in order to ascertain truth, or the moral order of things, also appeared to be reflected in my law school courses.

Every judge and lawyer knows that the “facts” are equally important in a legal proceeding as the operative “law” governing the case, precisely because without an adequate and thorough rendition of the facts, no law can be properly applied. And, while in law school, as I thought about the connection between Christian theologians, such as Emerson and Saint Augustine, to American jurisprudence, I began to observe that the “facts” in legal proceedings are what ties the secular law to Christianity and other religions belief systems. The “facts” revolve around the “natures” of things created—both seen and unseen—and contain their own “laws”—indeed, “natural laws”. And, howsoever we choose to frame questions of law or questions of fact—justice within secular courts depend upon an accurate and precise rendition of a totality of facts. **These “facts,” I concluded, were nothing more than self-contained natural laws, which Christian theologians have observed, and which secular doctors of philosophy have studied in varying fields of study.** Again, I settled in on the proposition that “[a]ll science has one aim, namely, to find a theory of nature.”⁴⁴

⁴³ Ibid, p. 8.

⁴⁴ Ibid, p. 8.

During the summer in between my first and second years of law school, I concluded that the “natural laws” of St. Thomas and Emerson were the same “natural laws” upon which secular “constitutional, statutory, or case law” must rest, -- or else suffer the problem of promulgating laws and court decisions that are based upon pure “legal fiction,” whereby those laws or court decisions would bear no resemblance whatsoever to the “facts” (i.e., “science” or “nature”). Again, I relied greatly upon Saint Augustine, Saint Thomas, and Emerson in reaching these conclusions, and I attempted a bold research project during the summer of 1992, titled “The American Jurist: A Natural Law Interpretation of the United States Constitution, 1787 to 1910,” whereby I sought to test whether Emerson’s theory that “Nature,” moving as in invisible “Hand of God,” could rid society of injustices, through studying major U.S. Supreme Court decisions, and lower state and federal court decisions, in order to ascertain whether to so-called “immoral laws” or “immoral court decisions” did in fact create a negative impact (i.e., “sin”) within the social order. This was a bold project, but I needed to at least make this attempt, while these ideas were fresh in my mind, and because I sought to know whether there was indeed an intelligent, invisible Divinity in the universe, who governed human affairs and events—this was my heartfelt desire in 1992. The result—influenced in large measure by the Catholic Church doctors and the Unitarian ideas of Ralph Waldo Emerson-- was my Juris Doctor paper, “The American Jurist,” a one hundred and twenty page research paper which fulfilled my graduation requirement. Thus during this period my conceptualization of the role of Christian lawyers and judges within the secular state began to take shape.

THE END

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