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### **“A History of the Anglican Church—Part II: 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 twelfth essay in this series: “A History of the Anglican Church—Part II.”

### INTRODUCTION<sup>1</sup>

Up to this point, I have surveyed the ideas of individual Christian theologians and philosophers within the Roman Empire, Medieval Europe, and

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<sup>1</sup> This essay is written in honor of the Reverend William Goodell (1792-1878), a member of the “City of God,” because he represents the thousands of unsung Christian abolitionists and anti-slavery activists who led the Church against the African slave trade and slavery, prior to the end of the Civil War. Since 2003, Rev. Goodell’s works have greatly influenced my understanding of the English common law, civil rights and liberties. Rev. Goodell is the author of *The American Slave Code (1853)*, which is a compilation of American statutory, judicial, and attorney-general opinions on the customs, practices, usages and laws of American slavery up to about 1852. Rev. Goodell argued, in essence, that the institution of African slavery, *as practiced in the United States*, violated the English or Anglo-American common law, which reflects the Law of Christ. He argued further that the institution of African slavery bore few resemblances to the slavery of ancient Rome or the slavery of feudal England and Europe. He argued that English or Anglo-American common law, if applied to black slaves, would automatically free them. I would have never connected the Christian religion to the English common law if I had never read Rev. Goodell’s classic work *The American Slave Code*.

England. This is Part II 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” within secular history of England and Great Britain since the fall of the Roman Empire.

That “City of God” is a mystery<sup>2</sup> but its outward manifestation may be seen in the development and history of the institutional churches in Rome and England, from 600 A.D. to arrival of William of Normandy in 1066 A.D. During this period, the Archbishop of Canterbury, bishops, priests, deacons and trained Church clerks significantly influenced the Anglo-Saxon customary law and formulated a type of Christian jurisprudence which became the English common law. Fundamentally the great gift of the Roman Church of England to secular Anglo-American jurisprudence is the English common law. The English common law represents 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).

Although this essay recounts the “Anglo-Saxon” history of England from about 600 A.D. to 1066 A.D., I would be remiss if I did not mention that the true

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<sup>2</sup> 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 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.]

source of my intellectual curiosity for the subject-matter of this essay is that “City of God” as it was manifest in the anti-slavery church movements of the United States.

This “City of God” percolated up from the wellsprings of my legal research into various civil rights issues for cases being litigated in the U.S. District Courts of Florida.

A critical question that I often ran into was this: “what role does the common law play in Section 1981 and Section 1983 litigation?”

Can a private entity be sued under Section 1981 for violating a person’s common law contract rights, or common law right to be free from torts, because his race?

Can a public entity be sued under Section 1983 for depriving a person of his common law rights of contract or common law right to be free from tortious conduct, because of his race?

In each case, the victims were African Americans. And so I naturally thought about how lawyers and judges might have treated this issue in 1866 or 1900, after the Civil Rights Act of 1866 was enacted.

In fact, I thought about how the Abolitionists might have attempted to vindicate the rights of slaves and free blacks prior to the American Civil War.

What I discovered was a treasure trove of material from the “City of God” on earth, including material from the Reverend William Goodell (1792- 1878), whose works have greatly influenced my civil rights advocacy since 2001.

Rev. Goodell is the author of *The American Slave Code*, which is a compilation of American statutory, judicial, and attorney-general opinions on the usages of American slavery up to about 1850. Rev. Goodell at that time argued that the American common law, if applied to the African slaves, would free the slaves.

Rev. Goodell taught me that American common law, which comes from the English common law, contains the very principles of freedom and justice that are the foundations of the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution. (And, as we shall see below and in future essays

within this series, this same English common law is the foundation of fundamental rights in the written English constitution and in documents such as the *Magna Carta*.

But, most importantly, Rev. Goodell taught me that the Christian religion is the foundation of the English common law.

I also believe that Rev. Goodell's viewpoint that Christianity was the foundation of the English common law was the widely held view of English and American abolitionists during this period.

I am quite certain that Frederick Douglass held to the same viewpoint; for Douglass, who was himself an ordained minister the African Methodist church, defended the "true" Christian faith, even as he indicted the "false" Christianity of the slave-holding Christian South.

From a practical and historical perspective, I have argued in various United States District Courts and the Eleventh U.S. Circuit Court of Appeals, that 42 U.S.C. Section 1981 (Equal Rights Under Law); 42 U.S.C. Section 1982 (Property Rights); and 42 U.S.C. Section 1983 (Deprivation of Civil Rights) should look to the English common law for guidance and authority.

From the period 2003 through 2013, I have vigorously argued in American federal and state courts that to deprive an African American of his common law rights (e.g., torts, contracts, etc.), *because his race*, violated these federal civil rights statutes. I made these legal and constitutional arguments not simply as a lawyer but also a Christian; not simply as person of African descent, but also as a Christian advocate.

This essay is thus a form of an admonition to American lawyers and judges against deprecating the Christian foundations of American jurisprudence.

It is also as a form of admonition against African American lawyers, judges and clergy who fail or refuse to connect the Christian religion to the American civil rights movement and the substantive meaning of American civil rights laws.

An understanding of the influence of the Roman Church's (i.e. "the City of God") influence upon the legal history of England from the period 600 A.D. to 1066 A.D. is essential toward an understanding of the Christian foundations of American common law, statutory law, and constitutional law. I also believe that

this English history contains the ecclesiastical and legal foundations of the American civil rights movement.

For this reason, I hereby present Part II of “A History of the Anglican Church.”

## **SUMMARY**

Prior to 600 A.D., there was no uniform law in the British Isles. The Britons during this period were primarily the Celtic tribes. These Celtic tribes had cultivated a primitive form of Christianity. Their Anglo-Saxon brothers were still very pagan, until King Ethelbert invited a Roman Catholic mission into his kingdom and converted to Christianity in about 597 A.D. King Ethelbert’s kingdom of Kent extended to cover other Anglo-Saxon kingdoms. These kingdoms eventually became Christian, under the tutelage and guidance of the Pope and the Archbishop of Canterbury. Anglo-Saxon customary laws became centralized and Christianized under King Ethelbert’s reign. This process of centralization and Christianization produced what is today called the English common law. This law was administered in three levels of courts: the village courts; the hundreds courts; and the squire courts.

### **Part II. Christianity and Law in England (600 A.D. to 1066 A.D.)**

#### **Q. Anglo-Saxon Kingdoms in the British Isles**

Before the Roman legions invaded the British Isles, most of its inhabitants were Celtic.<sup>3</sup> They were collectively known as the “Britons” in ancient times.

These Celts or Britons were divided into turbulent and rival tribes, ruled by chiefs and kings.<sup>4</sup>

The Celtic society was stratified: kings, nobles, freemen, and slaves.

Celtic paganism consisted of “a considerable body of rites, symbols, and magical observance, now lost in the clouds of time. A priesthood of druids formed an influential and respected class. They were the feared medicine men, the teachers

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<sup>3</sup> Godwin Smith, *A History of England* (New York, N.Y.: Charles Scribner’s Sons, 1957), p. 4.

<sup>4</sup> *Ibid.*, pp. 5-6.

the magistrates, the magicians. It was they who preserved the traditions, the lore and the sacred cults of their tribes.”<sup>5</sup>

The Celtic races included the Irish, the Welsh, and the Scots. They maintained cultural distinctiveness even after several centuries of Roman invasion and occupation.

These Celtic races were known collectively as the “Britons” to the Romans. They were subjects of the Roman Empire up through the Fifth Century, A.D., when the empire collapsed.

During the Roman occupation of the British Isles, primitive Christianity reached these Celtic tribes. This was not then the “Roman Church” of the Popes; for Constantine had not yet legalized the Christian faith. Instead, the primitive Christianity that reached the Celts was still the “persecuted Christianity” of the empire.

After the Roman Empire collapsed during the Fifth Century, and before the Roman Church sent its first missionaries to the British Isles, the Celts had already established their own Christian culture.

The Germanic invasions (Angles, Saxons, Jutes and other mingled groups) into the British Isles did not begin until around 450 A.D., after the Romans had withdrawn. These Germanic tribes were pagan.

Thus, by 500 A.D., the Celtic tribes (the “Britons” who had lived under the Roman Empire) were primitive Christians, but the newcomers (the Anglo-Saxons) were still pagan.

## **R. Customary Law among Anglo-Saxon Kingdoms**

In tracing the roots of the English common law, it is important to distinguish between “customary” law and the “common law.”

The customary law among the Britons and Anglo-Saxons was decisively primitive and very pagan.

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<sup>5</sup> *Ibid.* p. 6.

This customary law was disjointed, unwritten, and pagan. Up to the Seventh Century, the seven great kingdoms of the Anglo-Saxons heptarchy applied this customary law. These kingdoms included:

1. Northumbria
2. Mercia
3. East Anglia
4. Essex
5. Wessex
6. Kent
7. Sussex

There is very little that distinguishes the customary practices, usages, and laws of these primitive Anglo-Saxon tribal groups from those customary laws of tribal groups in the primitive Americas, Asia or Africa.

For example, as in many parts of the primitive Americas, Asia, and Africa, the Anglo-Saxon customary laws were unwritten rules for regulating theft, murder, family relations, and community property.

Dispute resolution for customary-law administration was mostly based upon superstition, pragmatism and tradition. This was true among the primitive tribes of the Americas, Asia and Africa; and it was also true of the primitive Anglo-Saxons.

Beginning in the later part of the Sixth Century, however, the Christian religion, however, would be the process of unifying the primitive Anglo-Saxon tribes. “Into a territory thus divided among strong and ambitious kings there came the unifying force of Christianity.”<sup>6</sup>

With this unifying force emerged a “common law” for all of the Anglo-Saxon tribes.

The English “common law” is thus attributed to the collective body of “customary law” that was developed among these various Anglo-Saxon tribes, plus the religious rules imposed by the new Christian religion.

The English “common law” developed as a merger between Christianity and Anglo-Saxon customary law.

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<sup>6</sup> *ibid.*, p. 15.

## **S. Celtic Christians in the British Isles**

Customary law among the Celts had already been Roman and Christian from about 55 B.C. through 450 A.D.<sup>7</sup>

“In the fifth century Celtic Christianity was planted widely among the Picts by the evangelical Ninian; in Ireland by St. Patrick; in Wales, Cornwall and Devon by St. Illtyd, a disciple of St. Germanus and the constellation of these missionaries.”<sup>8</sup>

However, these Celtic traditions were not a part of the Anglo-Saxon culture, customs and traditions that evolved into what became the English common law.

## **T. Customary Law among the Celtic Christians**

Suffice it to say, the Celtic tribes (Irish, Welsh, Scots) were Christian for three or four centuries before the Anglo-Saxons were eventually converted to Christianity during the Sixth Century.

This means that Celtic customary laws were probably also Christian centuries before the Anglo-Saxons received Christianity.

The Celts, however, did not conquer or impose their will and law upon the pagan Anglo-Saxons.

Only after the Anglo-Saxons became Christian and unified did they merge with the Christian Celtic tribes through the influences of the Roman Church in Britain during the Seventh Century.

## **U. King Ethelbert, King of Kent (Wessex)(560 A.D.– 616 A.D.)- A Biography**

A brief description of King Ethelbert has already been stated in Part I in this essay.

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<sup>7</sup> Ibid. pp. 6- 12.

<sup>8</sup> Ibid. p. 11.

It is here important to note that King Ethelbert was only one of six other Anglo-Saxon kings. Each of these kingdoms was governed by their own customary laws.

King Ethelbert's reign is noteworthy because he is the first of these Anglo-Saxon kings to embrace Christianity and to establish the Roman Church of England.

## **V. Christianity and Law during the reign of King Ethelbert**

The influence of the Roman Church—it's Christian scholarship and leadership—undoubtedly influenced King Ethelbert's jurisprudence and created a lasting impact upon Anglo-Saxon institutions.

Literacy and writing first arrived with the Catholic mission to Briton in 597 A.D., and so King Ethelbert's written code was likely the product of Christian learning and influence.<sup>9</sup>

Thus, King Ethelbert's reign first brought forth the "written law" known as the "dooms," which was a collection of both customary and ecclesiastical law.

These written laws became the foundation of the English common law.<sup>10</sup>

"The existing fragments of written Anglo-Saxon laws, or dooms, span five centuries, beginning with the enactments of Ethelbert, first Christian king of Kent, and ending with those of Canute. These dooms, together with the various charters

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<sup>9</sup> "Some time after the arrival of Augustine's mission, perhaps in 602 or 603, Æthelberht issued a set of laws, in ninety sections. These laws are by far the earliest surviving code composed in any of the Germanic countries, and they were almost certainly among the first documents written down in Anglo-Saxon, as literacy would have arrived in England with Augustine's mission. The only surviving early manuscript, the Textus Roffensis, dates from the twelfth century, and it now resides in the Medway Studies Centre in Strood, Kent. Æthelberht's code makes reference to the church in the very first item, which enumerates the compensation required for the property of a bishop, a deacon, a priest, and so on; but overall, the laws seem remarkably uninfluenced by Christian principles. Bede asserted that they were composed "after the Roman manner", but there is little discernible Roman influence either. In subject matter, the laws have been compared to the Lex Salica of the Franks, but it is not thought that Æthelberht based his new code on any specific previous model."

[https://en.wikipedia.org/wiki/%C3%86thelberht\\_of\\_Kent#Law\\_code](https://en.wikipedia.org/wiki/%C3%86thelberht_of_Kent#Law_code)

<sup>10</sup> Ibid., p. 23.

issued by the kings, form a most valuable source for students of Anglo-Saxon institutions.”<sup>11</sup>

A sample of King Ethelbert’s laws is listed below in the following chart:

**“THE LAWS OF KING ZETHELBIHT.  
THESE ARE THE DOOMS WHICH KING “JETHEL  
BIHT ESTABLISHED IN THE DAYS OF AUGUSTINE.**

“1. The property of God and of the church, “twelve-fold; a bishop’s property, eleven-fold; a priest's property, nine-fold; a deacon’s property, six-fold; a clerk's property, three-fold; ° ‘ church-frith,’ two-fold; “ ‘ m . . . . frith,’ two-fold.

3. If the king drink at any one’s ‘home, and any one there do any " ‘ lyswe,’ let him make two-fold ‘ wt.’

4. If a freeman steal from the king, let him pay nine-fold.

5. If a man slay another in the king’s ° ‘ tin,’ let him make . ‘ b6t’ with L. shillings.

6. If any one slay a freeman, L. shillings to the king, as ‘\* ‘ drihtin-beah.’

7. If the kings ‘ ‘ ambiht-smith,’ or ‘ laad-rinc,’ slay a man, let him pay a f half ‘ ‘ leod-geld.’

8. The king’s ‘ ‘ mund-byrd,’ L. shillings.

9. If a freeman steal from a “freeman, let him make three fold ‘ b5t;’ and let the king have the “ wite ’ and all the chattels. ’

10. If a man lie with the king’s " maiden, let him pay a ‘ bot’ of L. shillings.

11. If she be a grinding slave, let him pay a ‘ b5t’ of xxv. shillings. The third [class] xii. shillings.

12. Let the king’s ° ‘ fed-esl ’ be paid for with xx. shillings.

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<sup>11</sup> Ibid.

13. If a man slay another in an ‘ eorl’s’ ‘ tun,’ let make ‘ b6t’ with xii. shillings.
14. If a man lie with an ‘ eorl’s’ 5 ‘ birele,’ let him make ‘b6t’ with xii. shillings.
15. A ‘ ceorl’s’ ‘ mund-byrd,’ vi. shillings.
16. If a man lie with a ‘ ceorl’s’ ‘ birele,’ let him make ‘ b6t’ with vi. shillings; with a slave of the second [class], L. E ‘ scaetts;’ with one of the third, xxx. ‘ sczetts.’
17. If any one be the first “to make an inroad into a man’s ‘ tin,’ let him make ‘ b6t’ with vi. shillings ; let him who follows, with iii. shillings; after, each, a shilling.
18. If a man furnish weapons to another where there is ‘strife, though no evil be done, let him make ‘ bot’ with vi. shillings....
77. If a man buy a maiden ‘with cattle, let the bargain stand, if it be without guile; but if there be guile, “let him bring her home again, and let his ‘property be restored to him.
78. If she bear a live child, let her have half the property, if the husband die first.  
testes adducito, juratoque ipsemet sextus, se eas res in fora pretio
79. If she wish to go away with her children, let her have half the property.
80. If the husband wish to have them, [let her portion be] ‘las one child.
81. If she bear no child, let her paternal kindred have the ‘ ‘ fioh ’ and the l’ ‘ morgen-gyfe.’
- S2. If a man carry off a maiden by force, let him pay L. shillings to the owner, and afterwards buy [the object of] “his will of the owner.
83. If she be betrothed to another man in “money, let him make ‘bot’ with xx. shillings.
84. If she become ‘ ‘ gaengang,’ xxxv. shillings; and xv. shil

lings to the king. 1

85. If a man lie with an 'esne's' wife, her husband still living, let him make twofold ' bfit.'

86. If one 'esne' slay another unoffending, let him pay for him at his full worth.

87. If an ' esne's' eye and foot be struck out or off, let him be paid for at his full worth.

88. If any one bind another's ' esne,' let him make ' b6t' with VI. shillings.

89. Let the ' weg-reat' of a 'theow' be 111. shillings.

90. If a ' theow' steal, let him make twofold ' b5t.'"

Did Christian bishops and priests preside over the secular courts during the reign of King Ethelbert up through the arrival of William of Normandy in 1066 A.D.?<sup>12</sup>

The answer to this question is "Yes."<sup>13</sup>

Christian clergymen and churchmen dominated the two major types of local courts: **shire courts** (presided over, supervised or attended by the bishops) and the **hundred courts** (presided over, supervised or attended by the priests).

The bishop, indeed, seems in [Anglo-Saxon King] Cnut's time to have been the chief source of authority in the shiremoot [i.e., the Shire Courts]. Not only in looking after the execution of divine right, but also in taking care of the rights of the king, he was to be assisted by the ealdorman (the earl). He primarily was to declare... the law, secular and spiritual; in case of need the earl (ealdorman) was then to lend the force of the secular arm.... Again, we read in the unofficial Institute of Polity, composed in 975, that the bishop shall in accusations direct the purgation so that no man may wrong another,

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<sup>12</sup> Frank Zinkeisen, "The Anglo-Saxon Courts of Law," Political Science Quarterly, Vol. 10, No. 1 (Mar. 1895), pp. 132-144.

<sup>13</sup> Ibid.

either in oath or ordeal—a function which pertain to him, indeed, in virtue of his spiritual office. The preeminent position of the bishop in the shiremoot [i.e., the Shire Court] is easily explained by his greater moral weight and his undoubtedly better knowledge of the law.<sup>14</sup>

This early Christian dominance of the English courts was due to the fact that Christian clergymen and churchmen were the most learned men in Anglo-Saxon society.

The archbishops of Canterbury and York and the bishops tended to be the chief judicial officers. “As to **actual judicial authority**, it seems, at least in the time of [the Anglo-Saxon king] Cnut, **to have lain chiefly in the hands of the bishop**, who was assisted by the secular arm of the ealdorman (earl) and the executive power of the latter or his deputy, whether a sheriff or other officer.”<sup>15</sup>

Notwithstanding, Anglo-Saxon customary practices and pagan superstition continued to influence the English courts as well.

The early English legal system was actually a merger between Christianity and Anglo-Saxon customary law. “The Anglo-Saxons felt that if a man faltered God was pointing to his guilt. And if a man took a false oath he imperiled his soul. In a religious age such a procedure was a solemn affair... in the Anglo-Saxon age, there were probably few guilty men who would refuse to confess their guilt when the alternative appeared to be a direct challenge to God or the eternal damnation of their souls through a combination of guilt and perjury.”<sup>16</sup>

## 1. Shire Courts

The shire courts: “The shire court referred to the magnates, both lay and spiritual, who were entitled to sit in council for the shire and was a very early form of representative democracy. The Shire Courts themselves met twice a year to allocate shire gold which had been collected by the Shire-reeve. The gathering was headed by nobility, usually Bishops, Earls, Abbots or Lords. The practice of holding shire courts began in Wessex and was later used throughout the rest of England.”<sup>17</sup>

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<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Godwin Smith, *A History of England* (New York, N.Y.: Charles Scribner’s Sons, 1957), p. 24-25.

<sup>17</sup> [https://en.wikipedia.org/wiki/Shire\\_Court](https://en.wikipedia.org/wiki/Shire_Court)

“Initially the Court would travel and use different locations for its meetings, but after a while the name began to refer to the building or location where the court would usually meet. Amongst the lay and spiritual members of the Shire Court was the Shire Reeve the king's representative and chief administrative officer.”<sup>18</sup>

## **2. Hundred Courts**

The hundred courts: It was supposed that each county held approximately one hundred families. Each county was thus assigned its own court, called “hundred courts.”

These hundred courts were sub-divisions of the shire courts.<sup>19</sup>

“It is certain that in the twelfth century a reeve, a priest, and four men attended some of the local hundred courts to represent village interests....”<sup>20</sup>

## **3. Tunn, Burr, or Vill Courts**

Beneath the “hundred” or county local government unit was the “village,” which consisted of between ten to thirty families.<sup>21</sup>

The village unit also developed its own courts, but when and how is not known with historical accuracy.

## **R. Christianity and Law during the reign of King Alfred the Great (849 A.D. to 899 A.D.)**

A brief description of King Alfred the Great’s biography has already been stated in Part I in this essay.

King Alfred laid the Christian foundations of the English jurisprudence and common law that was eventually incorporated into the England of William of Normandy after 1066 A.D. and passed on to succeeding generations.

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid. p. 21.

<sup>21</sup> Ibid., p. 20.

In fact, King Alfred decreed in essence that the “Law of Moses,” “Golden Rule” and Christ’s “Sermon the Mount” were to be the foundation of the common law in England.

A sample of King Alfred’s laws is listed below in the following chart:

### **THE LAWS OF KING ALFRED.**

#### **“ALFRED’S DOOMS.”**

“The Lord spake these words to Moses, and thus said: I am the Lord thy God. I led thee out of the land of the Egyptians, and of their bondage.

1. Love thou not other strange gods above me.
2. Utter thou not my name idly, for thou shalt not be guiltless towards me if thou utter my name idly.
3. Remember that thou hallow the rest-day. Work for your selves six days, and on the seventh rest l’. For in six days Christ wrought the heavens and the earth, the seas, and all \_ creatures that are in them, and rested on the seventh day: and therefore the Lord hallowed it.
4. Honour thy father and thy mother whom the Lord hath given thee, that thou mayst be the longer living on earth.
5. Slay thou not.
6. Commit thou not adultery.
7. Steal thou not.
8. Say thou not false witness °.
9. Covet thou not thy neighbour's goods unjustly.
10. Make thou not to thyself golden or silver gods.
11. These are the dooms which thou shalt set for them. If any one buy a Christian ‘ theow,’ let him serve VI. years; the seventh he shall be free without purchase. With such raiment as he went in, with such go he out. If he have a wife of his

own, go she out with him. If, however, the lord have given him a wife, be she and her child the lord's. But if the ' theow' should say: 'I will not from my lord, nor from my wife, nor from my child, nor from my goods ;' let his lord then bring him to the door of the Temple, and bore his ear through with an awl, in token that he ever after shall be a ' theow.'

12. Though any one sell his daughter to servitude, let her not be altogether such a 'theowu' as other female slaves are. He ought not to sell her away among a strange folk. But if he who bought her reek not of her; let her go free among a strange folk. If, however, he allow his son to cohabit with her ", let him marry her: ° and let him see that she have raiment, and that which is the worth of her maid-hood, that is, the dowry; I let him give her that. If he do unto her none of these things, then let her be free.

13. Let the man who slayeth another wilfully perish by death. Let him who slayeth another of necessity or unwillingly or unwilfully, as God may have sent him into his hands, and for whom he has not lain in wait, be worthy of his life, and of law ful ' bot,' if he seek an asylum. If, however, any one pre sumptuously and wilfully slay his neighbour through guile, pluck thou him from my altar, to the end that he may perish by death.

14. He who smiteth his father or his mother, he shall perish by death.

15. He who stealeth a freeman, and selletli him, and it be proved against him so that he cannot clear himself; let him perish by death. He who cnrseth his father or his mother, let him perish by death.

16. If any one smite his neighbour with a stone or with his fist, and he nevertheless can go out with a staff; let him get him a leech, and work his work the while that himself may not.

17. He who smiteth his own ' tlieow-esne ' or his female slave, and he die not on the same day; though he live [but] two or three nights, he is not altogether so guilty, because it was his own property; but if he die the same day, then let the guilt rest on him.

18. If any one, in strife, hurt a breeding woman, let him make 'b6t' for the hurt, as the judges shall prescribe to him.

If she die, let him give soul for soul.

19. If any one thrust out another's eye, let him give his own for it; tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe....

49. These are the dooms which the Almighty God himself spake unto Moses, and commanded him to keep: and after the only begotten son of the Lord, our God, that is, our Saviour Christ, came on earth, he said that he came not to break nor to forbid these commandments, but with all good to increase them: and mercy and humility he taught. Then after his Passion, before his Apostles were dispersed throughout all the earth, teaching, and while they were yet together, many heathen nations they turned to God. When they were all assembled, they sent messengers to Antioch and to Syria, to teach the law of Christ. But when they understood that it speeded them not, then sent they a letter unto them. Now this is the letter which all the Apostles sent to Antioch, and to Syria, and to Cilicia, which now from heathen nations are turned to Christ.

‘ The Apostles and the elder brethren wish you health: and we make known unto you, that we have heard that some of our fellows have come to you with our words, and have commanded you to observe a heavier rule than we commanded them, and have too much misled you with manifold commands, and have subverted more of your souls than they have directed. Then we assembled ourselves concerning that; and it then seemed good to us all that we should send Paul and Barnabas, men who desire to give their souls for the name of the Lord. With them we have sent Judas and Silas, that they might say the same to you.

It seemed to the Holy Ghost and to us, that we should set no burthen upon you above that which it was needful for you to bear: now that is, that ye forbear from worshipping idols, and from tasting blood or things strangled, and from fornications: and that which ye will that other men do not unto you, do ye not that to other men.

From this one doom a man may remember that he judge every one righteously; he need heed no other doom-book. Let him remember that he adjudge to no man that which he would not that he should adjudge to him, if he sought judgment against him....”

After this, then happened it that many nations received the faith of Christ; then were many synods assembled throughout all the earth, and also among the English race, after they had received the faith of Christ, of holy bishops, and also of other exalted ‘ witan.’

They then ordained, out of that mercy which Christ had taught, that secular lords, with their leave, might, without sin, take for almost every misdeed, for the first offence, the money-‘b6t’ which they then ordained; except in cases of treason against a lord, to which they dared not assign any mercy, because God Almighty adjudged none to them who despised him, nor did Christ the son of God adjudge any to him who sold him to death: and he commanded that a lord should beloved as one’s self.

They then in many synods ordained a ‘ b6t’ for many human misdeeds; and in many synod books they wrote, at one place one doom, at another another.

**I, then, Alfred, king,** gathered these together, and commanded many of those to be written which our forefathers held, those which to me seemed good....”

A careful review of King Alfred’s law reveals that its jurisprudence was based upon the Law of Moses and the Ten Commandments. All of the remaining “secular” subjects were thus governed by the letter and spirit of the “Law of Moses.”

King Alfred’s law also makes repeated references to God, Jesus Christ (the Lord), and the Apostles.

We may thus surmise that King Alfred must have accepted the Pope and the bishops as having held through the doctrine of apostolic succession the authority and power of Christ on earth, because he appears to view himself as the church’s agent and as God’s regent on earth, 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).

Anglo-Saxon jurisprudence from 600 A.D. up to the arrival of William of Normandy in 1066 A.D. was a merger of Christianity into customary Anglo-Saxon law.

The Roman Church in England, the Archbishop of Canterbury, bishops, and priests dominated English jurisprudence and shaped every aspect of the English common law up to 1066 A.D.

During this period, the foundation of the English common law was:  
***“Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets.”*** (Matthew 7:12).

There is no aspect of the English common law that is not governed by this supreme Law of Christ.

## **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.

The “City of God,” as reflected in the Roman Church in England (its Archbishop, bishops, priests, deacons and trained clerks), early and largely took control over Anglo-Saxon customary law and formulated a type of Christian jurisprudence which became the English common law.

For this reason, the great gift of the “City of God” to secular Anglo-American jurisprudence is the English common law. The English common law represents 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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