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

INTRODUCTION¹

¹ This essay is written in honor of Mr. Douglas Wells (B.A., M.A. Florida State University) who introduced me to courses in Contemporary History (American Politics) and Western Civilization at Suwannee High School during school year 1985-86. Mr. Wells introduced me to the conflict between King Henry II and Archbishop of Canterbury Thomas Becket, during an assignment which required our entire class to watch the 1964 classic movie “Becket,” featuring Peter O’Toole as King Henry II. This movie fascinated and awakened me to the struggles between religion and law, and between church and state.

Up to this point, I have surveyed the ideas of individual Christian theologians and philosophers within the Roman Empire, Medieval Europe, and England—St. Augustine of Hippo, St. Thomas Aquinas, Thomas Hobbes, John Locke, George Berkeley, David Hume. With this essay, and borrowing from the systematic theology of St. Augustine of Hippo, I would like to shift my focus to the “City of God” within the secular history of England and Great Britain since the fall of the Roman Empire.²

As St. Augustine has defined it, this “City of God” is a mystery, but its outward manifestation may be seen in the development and history of the institutional church. This essay thus focuses on the “City of God” as it has been reflected in the institutional churches of Rome, England, the European continent, and the early American colonies prior to the founding of the United States.³

For many years, from between 1991 up to the present, I have grappled with the question of whether natural law, the English common law, and the American constitution are fundamentally “Christian” in nature. For the American legal profession, this question is a critical one, thus considering the broad range of legal and constitutional issues which the Christian Sacred Scriptures deal with, such as

² I have never felt that the history of England was foreign history, for it has always felt native and natural to my spirit and being. This is true, although I am an African American who has always looked to ancient Egypt, Ethiopia, and West Africa with pride of African heritage. The history of Eastern Europe, France, Germany, Scandinavia, and other European nations and peoples, for instance, have never felt as natural to my spiritual disposition and natural curiosity as that of England. It may very well be that I have natural ancestral lineage among the Welsh in British Isles. I have never felt comfortable with openly acknowledging this Welsh heritage, because of the racial discrimination against African Americans in the United States. To pause to reflect upon the blood line of my mulatto great-grandfather has always appeared taboo and dangerous! But I have always known that such an approach to learning was unscientific and unnatural. On the other hand, I have also realized that the psychological damage that has created an inferiority complex in African Americans is still very great. My Christian sensibilities have led me to subordinate my Welsh heritage to that of my African heritage, and to self-identify as a person of African descent, out of respect for the struggle of the African peoples against the transatlantic slave trade, institution of African slavery, and European colonialism. Simultaneously, as a constitutional lawyer and a Christian, I have often felt compelled to break out of my African-race provincialism in order to dwell inside of the celestial realm that is “The City of God,” and to reflect upon, and reach toward, universal Truth. It is in this capacity, and with this spirit of universal brotherhood, that I now turn toward the history of the English church, with a view to studying an important chapter of the Christian religion and secular jurisprudence.

³ It is this “spiritual” history within secular human affairs that has characterized and inspired nearly all my writings and publications, including *Labor Matters: the African American Labor Crisis, 1861 to the Present* (2011, 2015); *Bishop Edwards: A Gospel for African American Workers in the Age of Obama* (2001, 2009, 2015); and *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (2015). This “spiritual history” caused me to interpret all of my secular history and political science courses through a Christian lens, and as an American law student, this “spiritual” history led me to the exploration of the Christian foundations of Anglo-American common law and American constitutional law. Along the way, during my undergraduate years in college, I had written several papers and researched several pertinent topics, which set the stage for me to write my Juris Doctor thesis, *The American Jurist: A Natural Law Interpretation of the U.S. Constitution, 1787 to 1910* (unpublished manuscript)(180 pages). It also set the stage for my historical fiction, *Bishop Edwards: A Gospel For African American Workers During the Age of Obama* (2015), which was first originally published in 2001.

marriage, divorce, homosexuality, gender relations, the status of women, slavery, etc. My curiosity regarding this question began with the Bible stories which my mother introduced to me as a child during the 1970s, in the rural, turpentine forests of Northern Florida.⁴ These Bible stories contained exciting conflicts between kings and prophets! Within these Bible stories which my mother taught me, I also saw the eternal struggle between Good and Evil. The Good usually took on several symbolical forms, such as the power of Moses' staff; and the Evil was often represented in a variety of wicked personalities, such as King Ahab and Queen Jezebel. Most importantly, these Bible stories contained the "Law of God." St. Augustine of Hippo's writings taught me how to extract this "Law of God" not only from the Sacred Scriptures but also from the pages of secular human history as well.

According to St. Augustine's theory in the "City of God," the whole of humankind dwells within the "City of Man," but inside of this "City of Man" is another celestial city, to wit, the "City of God." These two cities co-exist; sometimes they exit together in harmony; but other times in conflict. The founder of the "City of Man" being Cain, who slew his brother Abel, founder of the "City of God," is reflected time and again in the secular history of humankind leading up to the present time. The spiritual essence of these two cities ran throughout several of my philosophy, political science, political economy, and history courses,-- the "City of Man" and the "City of God."

Secondly, my curiosity of the Christian nature and source of American constitutional law also came from my superb high-school studies in the classics and the humanities at Suwannee High School during the 1980s. Suwannee High had during the early and mid-1980s, an extraordinary gathering of committed administrators and classroom teachers: in Ms. Cynthia Crawford's English class, I wrote a biography on "Martin Luther and the Protestant Reformation"; in Mr. Randy Law's Humanities courses, I studied Edith Hamilton's classic works on the Greek Classics and Medieval and Renaissance history and culture; in Ms. Mary Mill's class I studied the Shakespeare classics *Julius Caesar*, *Hamlet*, and *Romeo*

⁴ These Bible stories were taught to, first by my dear mother, and, second, at Sunday school in the local Baptist and Methodist churches of northern Florida. However, I would be remiss if I did not mention how important the Jehovah's Witnesses were in the development of my Christian theology during these early 1980s. For unlike the Baptists and Methodists, the Jehovah Witnesses published literature, such as the *Watchtower* magazine, which not only described many of these Biblical stories in great detail, but also analogized these Biblical stories to current events. I gained from the Jehovah's witnesses a tendency to look for the application of God's law in current affairs and events. The Jehovah's witnesses are expressly anti-Christendom and anti-Catholic. They held that mainstream Christianity had become too intertwined with worldly governments and institutions in order to effectively carry out Jehovah's will on earth. Although I did not agree with all of their teachings, I found their systematic approach to theology and the Bible to be quite interesting and useful.

and Juliet; and in Mr. Douglas Well's western civilization course, I was introduced to the conflict between King Henry II and Archbishop of Canterbury Thomas Becket. All of this set the stage for my life-long study of history, theology, and philosophy, beginning especially with St. Augustine's *The City of God* and St. Thomas Aquinas' *Summa Theologica* in college.

Importantly, I was also a serious Christian as a child, even before I turned thirteen! Feeling God's call and spirit, I voluntarily requested baptism at age twelve, and I was given a traditional baptism, in a wooded area, at the Blue Pond near McAlpin, Florida, in 1981, through the Bethlehem A.M.E. Church.

In the seventh grade, I was elected to serve as the class chaplain; and I read bible verses to the class each morning. That class was my seventh-grade "home room" class, presided over by Mrs. Dorothy Depass, a spiritual African American science teacher.

It is from this deeply religious influence, and deeply-religious reinforcements and surroundings, that I received my strong gravitation towards Church history as reflected in Medieval European history, culture and philosophy.

Whether rightly or wrongly, I saw the Roman Catholic Church, the Pope, the Bishops, and the Priests representing the "City of God" in human history, just as Abraham, Isaac, Jacob, Joseph, Moses, David, and Solomon had represented that celestial city in the Bible. (To be sure, I understood the significance of the Protestant Reformation and the existence of corruption within the Roman Church, but my focus was always on God's eternal law and purpose for the church, rather than on human failures and shortcomings within the church).

St. Augustine's classic work, "The City of God" stated, in essence, that human history began with the murder by Cain of his brother Abel; and with a series of births and deaths, the sage of Good and Evil persists since the beginning of time. I saw this, for instance, in Mr. Douglas Well's western civilization course, where, as previously mentioned, I was introduced to the conflict between King Henry II and Archbishop of Canterbury Thomas Becket; a conflict that ended with the murder of Thomas Becket through the hands of co-conspirators moved by King Henry's jealous rage and unrighteous indignation towards his brother Thomas Becket. The conflict between the "City of God," as reflected in the Pope, bishops, priests or other righteous persons have repeatedly clashed with the "City of Man," as reflected in kings, and the powerful, the unjust personalities in human history.

I was fortunate to have had very able and knowledgeable high school teachers who recognized my talent and encouraged me to read, to research, and to write. As I previously, Mrs. Depass was one of those teachers; Mr. Wells, Ms. Crawford, Mr. Law and others may be added to that group. As I recall, there were three very pivotal events in my high school experience that cemented my curiosity in the subject matter of “religion and law,” or Church and State.

First, as previously mentioned, I decided to write a research paper on “Martin Luther and the Protestant Reformation” in Ms. Crawford’s English class; my guess is that I was a senior in high school at that time.

Second, I took a course in “western civilization,” taught by Mr. Wells, during which he assigned the entire class to watch the 1964 Classic *Becket*, starring Peter O’Toole. As previously stated, this movie masterfully captured the drama of the conflict between King Henry II and Archbishop of Canterbury Thomas Becket. I never forgot this dramatic struggle, as I would later think about Constitutional law, the First Amendment, and law in general, as a law student and an attorney.

The final major event in high school was actually a series of history and humanities courses taught by Mr. Randy Law, a devout Catholic. Mr. Law, as I recall, gave superb lectures on the Greco-Roman classics, western civilization, and world and American history that are easily equivalent to the best lectures which I have sat through in courses taught by professors with doctorates from schools such as Yale, Harvard and Standard.⁵

As I have previously mentioned in the very first essay in this series, Mr. Law’s humanities courses opened up the doors whereby I easily entered into the Greco-Roman world of St. Augustine of Hippo’s *The City of God*, during my undergraduate years.

When I left high school, the one phenomenon of the European Middle Ages that intrigued me the most was the struggles between the Pope and the Kings of Europe.

While the Middle Ages went on, many new challenges arose for many different reasons. However, the biggest challenge came from the head of the Catholic Church, the Pope, and those who held the position of

⁵ As I recall, Ms. Crawford, Mr. Wells, and Mr. Law held masters degrees from Florida State University. Ms. Mills held bachelor and masters degrees from the University of Florida.

the King. What these two powerful men were fighting for, was oddly enough, power. Each position wanted to hold supreme power over the other and control the entire Kingdom.

The Pope had all the religious power necessary during the Middle Ages. It was the Pope's duty to teach his followers how to live and pray. He was able to decide what the church would teach and more importantly during this time he was able to determine who was an enemy of the church. If the Pope deemed someone as a foe of the church, he was able to Excommunicate those who opposed his teachings. With these changes, the Pope was able to gain a vast amount of political power as well as fame and fortune, due to his followers, and ultimately challenge the King for supreme power throughout the land.

The King had different ideas. He believed that he had the power to not only choose his own bishops, heads of churches throughout a King's kingdom and his countries, but also more power than the Christian Church. However, one important incident occurred while the King was instituting his own will and a Pope was instituting his as well.⁶

Politics, intrigue, war, martyrdom, freedom, and struggle—these themes kept recurring throughout several of my high school courses. But the struggle between Becket and Henry II remained with me in college and law school; the struggles between Church and State remained with me.

To paraphrase Dr. W.E.B. Du Bois, I have always felt a “two-ness” in this regards; that is to say, being both a Christian and a lawyer is like having two warring ideas inside of one's body, mind and soul;-- two warring ideas whose dogged strength alone molds them together and keeps them from being torn asunder. The struggle between Henry II and Becket reflects the struggle within the soul of the American legal profession.

For this reason, in order to compartmentalize my duty as a Christian and my role as a lawyer, I have repeatedly returned to the library for guidance, continuing research, and understanding.

⁶ https://en.wikipedia.org/wiki/Catholic_Church_in_England_and_Wales.

For instance, sometime around the year 2012, I had the privilege of visiting Brown University in Providence, Rhode Island, where I happened to visit a local bookstore and found several books commemorating the Reverend Roger Williams, an Anglican priest turned Baptist clergyman and founder of the colony of Rhode Island. I purchased several of these books; one of which was Rev. Williams' classic work, *The Bloody Tenet of Persecution for the Cause of Conscience* (1644). Somehow I knew that this book contained nearly a 1000 years of frustration and grievance against the established state churches of England and Europe,-- frustrations and grievances that would eventually become the foundations of the "Establishment Clause" to the First Amendment to the United States Constitution.⁷

This essay on the Church of England, together with the next several essays on the same topic, is designed to set forth the historical and theological foundations of the "Establishment Clause" of the First Amendment, U.S. Constitution;⁸ to show how the Christian religion has shaped Anglo-American jurisprudence; and to provide recommendations for the current and future roles which the Christian lawyers and judges may have in ameliorating social and legal problems in the United States and throughout the world.

⁷ Rev. Williams' book also contained the same Christian theology that had been developed by St. Paul, St. Augustine of Hippo, and St. Thomas Aquinas throughout the centuries, and this theology played a decisive role in formulating the Protestant conception of constitutional law in the United States.

⁸ The American idea of the separation of Church and State is a complicated constitutional theory which cannot be adequately explained or placed into a proper context without understanding the history of Church of England. The objective of this essay is to provide in brief outline the salient aspects of Anglican- church history that eventually shaped or tangentially influenced upon the fundamental idea which led to the official separation of Church and State in the United States Constitution.

SUMMARY

The institutional church is a reflection of the “City of God” on earth, but it is only an imperfect reflection because, as human history reveals, the institutional church is susceptible to corruption and sin. Nevertheless, the “City of God” achieves its mission of establishing the “Law of God” on earth through this imperfect, institutional church; and, notwithstanding all of its imperfections, the results have been of great benefit to humankind: e.g., the mediators of peace during times of war; the establishment of humanitarian mission, hospitals and schools; the establishment of constitutional democracies; the abolition of slavery; and the establishment of the dignity and rights of the common man.

In addition, the institutional church, through its jurisdiction over the bodies and souls of its membership, has played a decisive role in instilling critical moral values, including but not limited to values such as found in:

1. The Ten Commandments
2. The Seven Sacraments: baptism, confirmation, the holy Eucharist, penance, anointing the sick, holy orders, and matrimony.
3. The Three Theological Virtues: faith, hope, charity.
4. The Four Cardinal Virtues: prudence, justice, fortitude, and temperance.
5. The Twelve Fruits of the Holy Spirit: charity, joy, peace, patience, benignity, goodness, longanimity, mildness, faith, modesty, continency chastity.
6. The Seven Corporal Works of Mercy: to counsel the doubtful; to instruct the ignorant; to admonish sinners; to comfort the afflicted; to forgive offenses; to bear wrongs patiently; to pray for the living and the dead.
7. The Seven Capital Sins: pride, covetousness, lust, anger, gluttony, envy sloth.
8. The Opposite Virtues: humility, liberality, chastity, meekness, temperance, brotherly love, diligence.

Other important church teachings include the Rule of St. Benedict for monasteries; the Six Chief Commandments of the Church, Days of Penance, and the Church’s laws on marriage. These rules, moral codes, ecclesiastical protocols and regulations have taught humankind a “law of holiness” that formed strong morals and character. The institutional church, through its ecclesiastical jurisdiction and courts, thus played a pivotal role in establishing the “Law of God” on earth for several centuries in Europe and the British Isles.

The history of the Church of England, as the history of all other churches, is thus an imperfect reflection of this “City of God” on earth. It originated inside of the Roman Empire. The Roman Empire brought civilization to the British Isles, along with the primitive Christian religion and church.

Roman law and the Christian religion thus served as the primary unifying forces which supplanted the tribal gods of the Celtic, Jutes, Franks, Angles and Saxons. This process took from between three to four hundred years to complete, from the First through the Sixth Centuries, A.D. (C.E.).

Christianity gained a foothold in the Roman Empire beginning on 313 A.D., when Emperor Constantine lifted the ban on Christianity. A similar process occurred with the English kings, beginning in the Sixth Century; like Constantine, they converted to Christianity and donated land and wealth to the church.

In about 597, King Ethelbert converted to Christianity, in response to the mission sent from Pope Gregory the Great. King Ethelbert donated land in Canterbury to the church.

Soon thereafter, Augustine was consecrated as Archbishop of Canterbury (note: this Augustine was not the same St. Augustine of Hippo). For the next five hundred years, the Roman Church of England developed along the social lines of hierarchical Anglo-Saxon culture.

For this reason, the Anglo-Saxon nobility dominated Church leadership. In addition, as a consequence of this Christian leadership, the Roman Church of England early and largely developed as the epicenter of culture and political and economic power.

As the Roman Church of England grew in power and wealth, it began to encroach upon the temporal domain of the English monarchy. Hence, the seeds of the conflict between Church and State began to take shape during the Sixth Century and continue to dominate English governance for the next millennium.

This was a natural development, because church natural leadership role required that it influence three constituencies: the upper, middle and lower classes.

Authentic Christian leadership, thus relying upon the “Law of God,” naturally elevates all classes within the social order.

And, in thus doing so, Christian leadership influences the secular law and government. And when this occurs, as secular human history will attest, the “City of God” enters into conflict with the “City of Man” on earth.

Part I. Church and State in England, 50 B.C. (B.C.E.) – 1066 A.D. (C.E.)

If we think of a major department of the United States government, such as the Department of Education, Department of Labor, or the Department of State, we can get an accurate picture of how the Roman Catholic Church in the British Isles functioned within the monarchial governments in England.

The church functioned much like a national government department. The objective of this national department was to instill Christian dogma, moral values, social cohesion and discipline within the body politic and to stabilize an ordered hierarchical society.

This national department’s purpose was to serve the best interests of the monarchy through aligning the monarchy’s interests with the eternal power and will of God. This national department, which was the institutional Roman Church, through its jurisdiction over the bodies and souls of humankind, played a decisive role promulgating and executing the “Law of God” throughout the society, including:

1. The Ten Commandments
2. The Seven Sacraments: baptism, confirmation, the holy Eucharist, penance, anointing the sick, holy orders, and matrimony.
3. The Three Theological Virtues: faith, hope, charity.
4. The Four Cardinal Virtues: prudence, justice, fortitude, and temperance.
5. The Twelve Fruits of the Holy Spirit: charity, joy, peace, patience, benignity, goodness, longanimity, mildness, faith, modesty, continency chastity.
6. The Seven Corporal Works of Mercy: to counsel the doubtful; to instruct the ignorant; to admonish sinners; to comfort the afflicted; to forgive offenses; to bear wrongs patiently; to pray for the living and the dead.
7. The Seven Capital Sins: pride, covetousness, lust, anger, gluttony, envy sloth.
8. The Opposite Virtues: humility, liberality, chastity, meekness, temperance, brotherly love, diligence.

Other important church teachings included the Rule of St. Benedict for monasteries; the Six Chief Commandments of the Church, Days of Penance, and the Church's laws on marriage.

The significance of these church rules and regulations cannot be diminished; for they shaped the character of England and Europe; they displaced paganism and instilled a universal law of God that was common throughout Europe; they elevated barbaric, warring tribes to the advanced stages of civilization that had been achieved by ancient Rome up to that time. They were incorporated into the secular law and government.

The Church of England has always been a "state" church. Its role was to provide a major administrative service and quasi-governmental function.

The Church was able to collect taxes, in the form of tithes, and to legislate, adjudicate, and execute its own ecclesiastical laws, just as a federal department such as the Department of Labor is able to do, within the United States Government.

However, the Church of England's "sovereign" was Christ, who was represented in the person of the Pope. The English monarchy and the Pope often disagreed as to their sovereign boundaries. Meanwhile, the Pope as head of the universal church also represented a universal moral law, that was binding upon all of Europe (Christendom) and wherever the church held jurisdiction.

The Pope and the Catholic Church operated much like a super-government, or as a regional, multinational executive with advisory or legally binding authority, together with tremendous political and economic power.

The Roman Church claimed that the Pope's authority was ultimately far superior to the authority of national monarchies, particularly in matters concerning the church, which had an expansive jurisdiction, performing many functions which local governments perform today within modern nation-states: schools, building projects; works projects; welfare administration; domestic relations courts; small claims, wills and probate courts; general jurisdictional courts over all clergy, etc.

Inevitably and frequently, conflict between the Pope and the kings and queens of Europe erupted, sometime resulting in bloodshed. This is true because as the Roman Church continued to gain property, particularly from donations, gifts, and transfers upon the deaths of donators, the Roman Church took over ever

larger proportions of land, thus granting them larger in rem and subject matter jurisdiction over matters previously controlled by the secular, temporal and royal courts.

The history of this Church-State conflict eventually became a part of the constitutional and religious heritage of the United States of America.

A. The Roman Empire (60 B.C. – 300 A.D.)

The Roman Empire has fascinated me ever since I first learned of the Gospels, the story of Christ, and the apostolic missions of Peter, Paul and others throughout the Roman Empire.

I have heard that the mighty Roman Empire was conquered by, and became the handmaiden of, Christianity.

St. Augustine describes one theory of how this occurred in his landmark work, *The City of God*. According to Augustine, Rome became profligate, immoral, and corrupt; it fell underneath the weight of its own blindness, iniquity, and national sin.

According to Augustine, the Christian religion represented the “true religion,” and it continued to flourish under the circumstances leading to Rome’s decline, because Christianity pointed the way back toward spiritual purity, moral hygiene, social cohesion and discipline.

For it was under these conditions, viz., the decline of Rome and the rise of Christianity that the British Isles emerged onto the world scene. For this Roman Empire had spread throughout Europe, even reaching what is known as the present-day United Kingdom of England, Ireland, Scotland and Wales.

In college, I understood that England’s civilized foundation was the Roman Empire: Roman law, culture, government, military administration, and religion.

It is believed that Julius Caesar, as early as 58 and 50 B.C., crossed the English Channel into the British Isles, and for the next 80 years England became slowly incorporated into the civilized Greco-Roman world.

During this period, the original residents were the Celtic tribes. The Jutes, Angles, and Saxons did not pour into the British Isles until about the fifth century

A.D., when the Roman Empire started to recede from Britain, and the barbarian hordes began to plunder the frontiers of the empire.

“We are not sure when Christianity first reached Britain. Tradition declared that St. Paul and St. Peter had visited the British Isles; that Joseph of Arimathea had brought the Gospel and the Holy Grail to Glastonbury where he planted the sacred thorn from Christ’s crown of thorns. Certainly by the early years of the third century Christianity was gathering momentum in Britain.”⁹ By the year 314 A.D. (C.E.), around the time when the Emperor Constantine issued his Edict of Milan in 313 A.D. (C.E.), Britain had at least three Bishops within the Roman Catholic Church.¹⁰

Like ancient Judea, which was ruled by a Roman governor, Britain was an imperial province ruled by a Roman governor who reported directly to Caesar. England greatly benefited from Roman rule.

“To England the Roman Empire brought law and order, town life, roads; and the road, as the saying is, all led to Rome. For three hundred years England had peace; she was not to have it so completely until the twelfth century.”¹¹

London was like a little city of Rome; the roughly 5,000 miles of imperial highways connected every hamlet of Britain to London, and London to Rome.

When the Romans left the British Isles in the Fourth Century, A.D. they left behind their culture, which included its law and the official state religion, Christianity.

Britain thus came under the ecclesiastical jurisdiction of the Roman Catholic Church since the Fourth Century, even though the imperial Roman government no longer existed.

The Roman church thus became the only central and unifying cultural influence in Britain. The roots of the Church of England were thus planted during this period of change and turmoil during the Fourth Century A.D.

B. Pagan Religion in the British Isles (100 B.C. – 600 A.D.)

⁹ Goldwin Smith, *A History of England* (New York: NY: Charles Scribner’s Sons, 1957), p. 11.

¹⁰ *Ibid.*, p. 11.

¹¹ *Ibid.*, p. 7.

As recounted in the Acts of the Gospels and the Letters of St. Paul, the Christian religion spread among pagan converts to Christianity. This occurred in Asia Minor and Europe; it occurred in India, North Africa, and later the Far East and Sub-Saharan Africa.

Everywhere and in every time since 33 A.D., pagan peoples with weird, unfamiliar beliefs in gods of nature and myth were at once confronted by this “true religion” called Christianity.

The natives on the British Isles were not an exception.

The first native Christians on the British Isles appear to have been the Celtic tribes in Ireland and Wales. These tribes probably greeted the first apostolic missions during the First Century, A.D.

After the Roman Empire receded and left Britain during the Fourth Century, A.D., these Celts developed ancient Christian traditions that were unique and independent from the Roman church.

During the years 350 A.D. through about 550 A.D., non-Christian, pagan tribes poured into Britain: these were the Jutes, the Angles, and the Saxons.

“The Anglo-Saxons were certainly as pagan as in the days of Tacitus. Their religion was a religion of warfare and destruction, with a paradise of alternate wassail and combat. Some of the present days of the week are derived from the names of their nature gods. For example, Wednesday is the day of Woden, god of war. Thursday is the day of Thunor, hammer-god of weather. Friday is the day of Frig, the goddess of fertility. The name Easter comes from the Anglo-Saxon goddess Eostre, who returned in April to greet the spring. The work of modern scholars on English place-names has yielded much information about Anglo-Saxon heathenism. Many modern customs, such as the use of holly and the burning of log at Christmas, have descended from the Anglo-Saxon Yuletide celebrations. When the old gods succumbed to Christianity they left in these things and in fairy tales and legends, the traces of their origin.”¹²

The oldest pagan, English epic, *Beowulf*, was written sometime between the Fifth and Ninth Centuries, A.D.

¹² Ibid., p. 14.

C. Christianity in the British Isles (595 A.D.– 1000 A.D.)

Seven kingdoms arose on the British Isles: Northumbria, Mercia, East Anglia, Essex, Wessex, Kent, and Sussex.

Into these territories came a return of the Roman Church and her missionaries.

The Celtic Christians eventually increased their missionary work, together with the missionaries from the Roman Church. The Sixth and Seventh Centuries, A.D. thus witnessed the Christianization of the Anglo-Saxons through the missionary work of the Celtic and Roman churches.¹³

Why did these kings embrace Christianity? Why did the Roman emperor Constantine embrace Christianity? Why did, in later centuries, some African kings and Asian monarchs embrace Christianity? Conversely, why did others reject it?

In England and the British isles, the Roman Catholic Church offered the barbarian tribes the imperial heritage of Roman administration and law, education, culture, as well as the Christian religion. These extraordinary benefits came with early Christianity to the British Isles. These benefits were great, and the drawbacks few.

In later centuries, when European Christian missionaries went to foreign lands where the people were yellow, brown, red and black, they did not always have the good faith of their sponsoring European powers; and thus they could not offer the same package of culture, legal and administrative benefits to places such as West Africa, China and India. The Church could not curtail the intrigues of greed, colonialism, racism, and exploitation in places outside of Europe.

But throughout Europe, the Catholic Church performed great missionary work. The kings of the British Isles, for example, found a reliable partner in the Roman Pontiff and bishops; the Christian church stood ready to buttress their kingdoms and to elevate their standard of living.

This defined the role of Roman Church in the British Isles. It achieved great works.

¹³ Ibid. pp. 14-15.

D. King Ethelbert and Queen Bertha (560 A.D. – 616 A.D.)

From 560 to 616, King Ethelbert ruled as King of Kent, one of the seven kingdoms in Britain.

He married a Christian, Bertha, who was the daughter of a Christian, Frankish king. Bertha brought several Christian clerics with her to live in Britain.

Through Bertha's influence, King Ethelbert agreed to accept a Christian mission from Pope Gregory the Great in 597.

As a result of this Christian mission, King Ethelbert accepted Christianity and commenced the process of royal patronage of the Roman Church in Britain.

The foundation of the economic and political relationship between the Roman Church and the English monarchy was laid during King Ethelbert's reign.

E. Pope Gregory the Great (595 A.D. – 610 A.D.)

As previously mentioned, Pope Gregory the Great sent a mission to Britain in 597 to convert the Anglo-Saxons to Christianity.

According to tradition, the Pope observed a slave caravan containing blonde-haired Anglo-Saxon slaves and resolved to organize a Christian mission to the British island.

This Christian mission is today called the "Gregorian" mission. It included several influential clerics, including four of whom eventually became Archbishop of Canterbury.

F. Augustine, Archbishop of Canterbury (595 A.D. 610 A.D.)

Pope Gregory assigned his good friend Augustine (note: this is not the same St. Augustine of Hippo) to lead this Gregorian mission to Britain in 597.

Shortly after Augustine's arrival, King Ethelbert accepted Christianity and gave a grant of land in Canterbury to Augustine. Augustine was soon consecrated as the Archbishop of Canterbury.¹⁴

During this time, two churches began to develop on the British Isles: the Celtic Church and the Roman Church in Canterbury.

Problems of church unification began to be apparent.

Nevertheless, the Christian churches became wealthy and powerful, as "the temporal power of the church increased as more wealth passed into its hands. Anglo-Saxon kings and nobles endowed bishoprics and monasteries with land to save their souls; the nobles attached chaplains to their halls, soon to become the parsons of the parish. To the devout Anglo-Saxon, God was ever present, ready to reward and punish; the eternal life of the next world was surely more important than the brief tale of this."¹⁵

G. Social Order and Ancient Law in the British Isles (600 A.D.-1066 A.D.)

The Anglo-Saxon social order was from its inception very hierarchical, along the lines of what eventually comprised the social order of Medieval Europe.¹⁶

"All Anglo-Saxons seem to have been very sensitive to diversities in rank. For example, the institution of slavery was a part of the earliest English law. The Anglo-Saxon freeman was usually a slave owner. In their agrarian routine, and in the principles by which their society was ordered, the Anglo-Saxons never departed from the aristocratic order."¹⁷

The Anglo-Saxon social order was thus divided as follows:

- a. King, Queen, and Royal Family
- b. Nobles;
- c. Freemen;
- d. Partially free men;
- e. Serfs; and
- f. Slaves.

¹⁴ Ibid., p. 16.

¹⁵ Ibid. p. 17.

¹⁶ Ibid., pp. 17-18.

¹⁷ Ibid.

A freeman typically owned about 120 acres of land. And below these freemen were various other classes.

The Anglo-Saxon Christian Church thus early and largely reflected the character of this social order.

“The higher offices in church and state went to men [of the upper or nobility class].”¹⁸

The king “controlled the appointment of many higher officials in the church. Meanwhile the power of strong kings was often increased by the teachings of the clergy; for they brought to the king’s service the concepts of the Roman law regarding the might of the royal prerogative.”¹⁹

The English church was from the beginning a hierarchical church.

H. Archbishop Theodore of Tarsus and Church Unification (600 A.D. – 1066 A.D.)

In 664 A.D., a Synod of Whitby was held to discuss the unification of the Celtic churches with the Roman Catholic Church. A resolution was made that the two churches be merged, and the Pope sent Theodore of Tarsus (a Greek) to the British Isles to lead the new unified church.

“This was the first archbishop whom all the English church obeyed.”²⁰

Archbishop Theodore “increased the number of dioceses, precisely defined the duties of bishops, undertook parish reforms, and generally improved the efficiency and organization of the church.”²¹

From between 700 A.D. and 1066 A.D., the temporal power of the church steadily increased, and more wealth passed into its hands. This was an “Age of Faith,” and Christian churchmen held power in both church and state. The Roman Church of England controlled the entire sphere of education, government, religion, and culture.

¹⁸ Ibid., p. 18.

¹⁹ Ibid., p. 23.

²⁰ Ibid. p. 16.

²¹ Ibid. pp. 16-17.

The learned men of the age were almost all churchmen. With courage and tenacity the churchmen helped to stimulate a national literature; some created a part of it; and many beautiful things, such as the manuscript art of Lindisfarne Gospels and the Book of Kells, came out of their cloistered monasteries. The church developed schools, often giving their students a training equal to the best in Europe. Apart from the palace schools, the church maintained all the schools and libraries in England. Churchmen also took an active part in government and diplomacy. They stimulated commerce and agriculture, industrial crafts and arts. They promoted the development of art and literature. They brought more music to the people and music tightened the bonds of Christianity. They built churches of stone in place of the structures of timber and reeds; squared and chiseled stones were often at hand for building in the shells of Roman villas and towns. ‘The Conversion, more truly than the age of the Renaissance, gave Englishmen a new heaven and a new earth.’²²

For it was, beginning in the late Seventh Century, under Archbishop Theodore of Tarsus’ leadership, that a unified Roman Catholic Church within the British Isles began to dominate English life and culture.

I. King Alfred and the Law (850 A.D.- 880 A.D.)

King Alfred stands out as an “English Charlemagne.” He beat back the invading Danes (i.e. the Vikings) who came from the “land of robbers,” and set the British Isles toward a path of monarchical unification and English cultural development and identity.

Alfred was more than a warrior. He issued his famous dooms, or laws, as a basis for the law and order he wished to see. A man of natural intellectual curiosity, Alfred was also convinced that ‘a life without knowledge or reflection is unworthy of respect.’ He labored steadily for the restoration of learning, so disturbed by years of war. He assembled the best scholars he could find and established a palace school. He aided in the revival of the monasteries. He translated

²² Ibid., p. 17.

several ‘necessary works.’ He encouraged the industrial arts. The Anglo-Saxon Chronicle was probably begun at his command.²³

Hence, it was under King Alfred that the Christian character of English culture, government, and law began to flourish.

J. Anglo-Saxon Common Law and Early Christianity

King Alfred preserved customary Anglo-Saxon law (“dooms”) into a “Domebook,” in which he explicitly acknowledged the Christ’s “Sermon on the Mount,” as the basis for the Anglo-Saxon common law, to wit: “And as ye would that men should do to you, do e also to them likewise.” (Luke 6:31). This Domebook was in later centuries published and titled “The Ancient Laws and Institutes of England.”

Doom Book, Code of Alfred or Legal Code of Ælfred the Great was the code of laws ("dooms," laws or judgments) compiled by Alfred the Great (c. 893 AD) from three prior Saxon codes, to which he prefixed the Ten Commandments of Moses and incorporated rules of life from the Mosaic Code and the Christian code of ethics.

The title "Doom book" (originally "dom-boc" or "dom-boke") comes from *dōm* (pronounced "dome") which is the Anglo-Saxon word meaning "judgment" or "law" — for instance, see Alfred's admonishment: Doom very evenly! Do not doom one doom to the rich; another to the poor! Nor doom one doom to your friend; another to your foe! The following reflects Mosaic Law: "You shall do no injustice in judgment! You shall not be partial to the poor; nor defer to the great! But you are to judge your neighbour fairly!" (Leviticus 19:15).

The law code also contained laws that may seem bizarre by modern standards, such as: 'If a man unintentionally kills another man by letting a tree fall on him, the tree shall be given to the kinsmen of the slain.

²³ Ibid., p. 26.

F. N. Lee extensively documents Alfred the Great's work of collecting the law codes from the three Christian Saxon kingdoms and compiling them into his Doom Book. **Lee details how Alfred incorporated the principles of the Mosaic law into his Code. He then examines how this Code of Alfred became the foundation for the Common Law.** The three previous codes were those of Æthelberht of Kent (c. 602 AD), Ine of Wessex (c. 694 AD) and Offa of Mercia (c. 786 AD).

In his extensive Prologue, Alfred summarized the Mosaic and Christian codes. Michael Treschow reviewed how Alfred laid the foundation for the Spirit of Mercy in his code: Treschow states that the last section of the Prologue not only describes "a tradition of Christian law from which the law code draws but also it grounds secular law upon Scripture, especially upon the principle of mercy".²⁴

After their day the manuscript of the work was brought to light and was published both in Saxon and English by the Record Commissioners of England in the first volume of the books published by them under the title, "The Ancient Laws and Institutes of England". The profound religious spirit which governed King Alfred and his times clearly appears from the fact that the "Liber Judicialis" began with the Ten Commandments, followed by many of the Mosaic precepts, added to which is the express solemn sanction given to them by Christ in the Gospel: "Do not think that I am come to destroy the law, or the prophets; I am not come to destroy but to fulfill." After quoting the canons of the Apostolic Council at Jerusalem, Alfred refers to the Divine commandment, "As ye would that men should do to you, do ye also to them", and then declares, "From this one doom, a man may remember that he judge every one righteously, he need heed no other doombook."

In the days of the Anglo-Saxon kings the courts of justice consisted principally of the county courts. These county courts were presided over by the bishop of the diocese and the ealdorman or sheriff, sitting

²⁴ https://en.wikipedia.org/wiki/Doom_book

en bane and exercising both ecclesiastical and civil jurisdiction. In these courts originated and developed the custom of trial by jury. Prior to the invasion led by William the Norman, the common law of England provided for the descent of lands to all the males without any right of primogeniture. Military service was required in proportion to the area of each free man's land, a system resembling the feudal system but not accompanied by all its hardships. Penalties for crime were moderate; few capital punishments being inflicted and persons convicted of their first offense being allowed to commute it for a fine or weregild; or in default of payment, by surrendering themselves to lifelong bondage. The legal system which thus received form under the direction of the last Saxon King of England, was common to all the realm and was designated as "Jus commune" or Folk-right.²⁵

In those days, the local county courts merged "ecclesiastical" and "secular" matters; and these courts were presided over by the local bishop, earl, and sheriff. Thus given this merger of law and religion in the courts, it seems fair to conclude that the English common has Christian origins; or to conclude that Christianity was merged into the English common law during the Seventh, Eighth, and Ninth Centuries.

K. Dunstan, Archbishop of Canterbury (950 A.D. – 1015 A.D.)

The first of the great clerical statesmen in England was Dunstan, Archbishop of Canterbury.

Dunstan became the abbot of Glastonbury; bishop of Worcester; bishop of London; and in 960 the archbishop of Canterbury.

He brought all of the monasteries of England under the strict order of St. Benedict and arranged for their endowment from nobles and the king. The Roman church in Britain became more wealthy, influential, and powerful.

L. King Canute (1015 A.D. – 1040 A.D.)

King Canute (1016- 1035) continued the same traditions of King Alfred and Archbishop Dunstan.

²⁵ <http://www.catholic.com/encyclopedia/common-law>

“He declared that he would maintain English law, and he published a great code. He became such a friend of the church that the clerical writer of the Anglo-Saxon Chronical referred to Canute as ‘the illustrious king.’... For the first time in many years England had peace and prosperity. Canute gave safety to the common man, security to trading. He was soon fairly certain of the loyalty of his English subjects.”²⁶

M. Stigand, Archbishop of Canterbury (1040 A.D. – 1055 A.D.)

The struggle between the Pope and the British monarchy began in earnest under Chanute’s successor Edward the Confessor (1043- 1053).

Edward the Confessor’s major advisor was Godwin of Wessex, who was influential in having his friend Stigand appointed as the Archbishop of Canterbury, and displacing the presiding Norman Archbishop of Canterbury, without the Pope’s permission.

“The Pope, for his part, refused to recognize Stigand, whom he regarded as a usurper. The Holy See could not get rid of Stigand so long as Earl Godwin supported him.”²⁷

A fundamental question is: why was the bishopric at Canterbury important to the English monarchy during this period? For it is clear that the bishoprics controlled or greatly influenced revenue, governmental legitimacy, civic allegiance, culture, and the learned societies within the kingdom.

The bishoprics helped to glue the entire social order together. But there were two competing sovereigns who vied for the allegiance and patronage of these bishoprics: the Pope and the king. Therein lay the fundamental problem that became the foundation of conflict between Church and State.

From this point forward, the Pope and the English monarchy began to struggle for power over the monasteries, the investiture of bishops, leadership over the hearts and minds of the common people, and the balance of power between Church and State.

²⁶ Goldwin Smith, *A History of England* (New York: NY: Charles Scribner’s Sons, 1957), p. 28.

²⁷ *Ibid.*, pp. 29-30.

N. Fall of the House of Godwin (1050 A.D. – 1066 A.D.)

Godwin, the Earl of Wessex, died on April 15, 1053. His earldom passed to his son, Harold, who became the chief advisor to King Edward the Confessor.

King Edward the Confessor died on January 5, 1066, and with his death came uncertainty regarding who held the lawful right to succeed to the throne of England.

Men through Europe claimed a lawful right to the throne of England.

One of those men was William, Duke of Normandy.

Williams' precise reasons for claiming his right to the throne of England was not really clear. "Whatever the facts may have been, William began to prepare for the invasion of England."²⁸

In September 25, 1066, William of Normandy successfully invaded the British Isles and established himself as the successor to King Edward the Confessor.

²⁸ Ibid., p. 30.

CONCLUSION

The “City of God” on earth is a natural leader. It is like city which is set upon a hill that cannot be hidden.

For this reason, the “City of God” influences all classes of the social order, and it influences secular jurisprudence.

The Roman Church of England, through its monasteries and ecclesiastical courts, was that city set upon a hill that could not be hidden. It was at the epicenter of law, government, culture, and the entire social order of England ever since it became firmly established during the Sixth Century, A.D. (C.E.).

Church jurisdiction and ecclesiastical law became a powerful force. As the Church’s landownership increased, which was estimated to be near a third of all property owned at its zenith, it displaced the temporal jurisdiction of the king’s royal courts. This created the first source of conflict.

The Church was also the center of learning, and it trained all of the ecclesiastical and secular leaders; it developed the political theory that served as the foundation for the monarchy.

The Church provided administrative and legal expertise to the monarchy; and, overall, church theology, political theory, and leadership glued the entire Medieval world together.

Through the influence of the Roman Church in England, Christianity became the foundation of the secular legal system, together with Roman law, as interpreted through the prism of Roman Catholic clerics.

Both the temporal monarchs and the Pope, however, began to vie for power and control through the bishoprics, the appointment of bishops, the attainment of land, and the control over the monasteries. The basis of this struggle was inevitably the power of the bodies and the property of human souls.

In general, the Roman clerics of the English church supported and defended the English monarchy. They were the primary judges and lawyers who helped to define its constitutional and legal existence and boundaries of the temporal powers of the monarchy.

The monarchy, in turn, provided material wealth and support to the church, but usually only so long as the church cooperated with the monarchy.

This was an imperfect marriage, but at least it served a unifying objective.

However, as I shall illustrate in the next few essays, the conflict between Church and State became so violent, that it almost destroyed both the Church and the State, together with the entire Medieval social order.

All of this would later influence the thinking of the Puritans who settled along present-day New England during the Seventeenth Century; the Eighteenth Century Enlightenment thinkers; and the American Founding Fathers, who drafted the United States Constitution.

THE END

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