

# ST. CLEMENT'S INN OF COURT

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

By

Roderick O. Ford, Litt.D., D.D., J.D.

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*“To speak of the separation of church and state is to speak of the separation of soul and body.”*  
-- Rev. Algernon Sidney Crapsey (Anglican Priest)

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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 sixty-third in this series: “A History of the Anglican Church—Part LXVI.”

## INTRODUCTION<sup>1</sup>

Bishop Joseph Butler’s monumental work, *Analogy of Religion, Natural and Revealed, to the Constitution and Course of Nature* (1736), which argued that the revealed law of the Sacred Scriptures is really simply a restatement of natural law and natural theology, lead us back to one of the major questions which I have set before my audience throughout this series on “law and religion,” to wit:

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<sup>1</sup> This paper is dedicated to the memory of Anglican clergyman **Rev. Dr. Thomas Bray** (1656- 1730). “Thomas Bray... was an English clergyman and abolitionist who helped formally establish the Church of England in Maryland, as well as the Society for the Propagation of Christian Knowledge and Society for the Propagation of the Gospel in Foreign Parts.... “Bray took a great interest in colonial missions, **especially among the slaves and Native Americans, writing and preaching vigorously against slavery and the oppression of Indians.**”” [https://en.wikipedia.org/wiki/Thomas\\_Bray](https://en.wikipedia.org/wiki/Thomas_Bray). This paper is also dedicated to **Dr. Michael Joseph Brown**, President of Payne Theological Seminary (Wilberforce, Ohio) and to the future development of African Methodism. .

*Are the American Declaration of Independence (1776) and the United States Constitution (1787) “Christian” documents?*

In our efforts to answer that query throughout this series, I have returned to the origins of western jurisprudence: ancient Rome and the Roman Catholic Church, which is also the “mother church” of the Church of England. At these historic, juridical origins, we re-discovered and re-analyzed, through my own legal research since law school, the synthesis of ancient legal thought, including “ma’at” from ancient Egypt, and “aequitas” from ancient Greece and Rome, along with the Law of Moses (i.e., the Ten Commandments; the Old Testament) and the “law of Christ.”<sup>2</sup> The canon law of the Roman Catholic Church thus integrated all of these legal elements into its ecclesiastical law, and the “natural law” and “equity” of ancient Egypt, Greece, and Rome were translated into the text of the Mosaic Ten Commandments.<sup>3</sup> The “divine law” of the Sacred Scriptures thus reflected, and was not inconsistent with, the “natural law” of ancient jurisprudence. Hence, according to the standard jurisprudence of the Roman Catholic Church, all law—secular and sacred—was interconnected by a “moral law” of the universe, or by a “natural moral law.” The canon law of the Roman Catholic Church states:

The moral law is the work of divine Wisdom. Its biblical meaning can be defined as fatherly instruction, God's pedagogy. It prescribes for man the ways, the rules of conduct that lead to the promised beatitude; it proscribes the ways of evil which turn him away from God and his love. It is at once firm in its precepts and, in its promises, worthy of love....<sup>4</sup>

Law is a rule of conduct enacted by competent authority for the sake of the common good. The moral law presupposes the rational order, established among creatures for their good and to serve their final end, by the power, wisdom, and goodness of the Creator. All law finds its first and ultimate truth in the eternal law. Law is declared and established by reason as a participation in the providence of the living God, Creator and Redeemer of all. "Such an ordinance of reason is what one calls law." [Footnote 2: “Leo XIII, Libertas

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<sup>2</sup> The fundamental “Law of Christ,” to wit, is 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).

<sup>3</sup> See, e.g., Appendix A, Stephan Kuttner, “Natural Law and Canon Law” Natural Law Institute Proceedings

<sup>4</sup> *Catechism of the Catholic Church*, §§ 1950- 1953.

præstantissimum: AAS 20 (1887/88),597; cf. St. Thomas Aquinas, STh I-II,90,1.”]<sup>5</sup>

Alone among all animate beings, man can boast of having been counted worthy to receive a law from God: as an animal endowed with reason, capable of understanding and discernment, he is to govern his conduct by using his freedom and reason, in obedience to the One who has entrusted everything to him. [Footnote 3: “Cf. Tertullian, Adv. Marc, 2,4:PL 2,288-289.”]<sup>6</sup>

There are *different expressions of the moral law*, all of them interrelated: **eternal law** - the source, in God, of all law; **natural law**; **revealed law**, comprising the Old Law and the New Law, or Law of the Gospel; finally, **civil and ecclesiastical laws**.<sup>7</sup>

The **moral law finds its fullness and its unity in Christ**. Jesus Christ is in person the way of perfection. He is the end of the law, for only he teaches and bestows the justice of God: "**For Christ is the end of the law, that every one who has faith may be justified.**" [Footnote 4: “Rom. 10:4”]<sup>8</sup> ....

Man participates in the wisdom and goodness of the Creator who gives him mastery over his acts and the ability to govern himself with a view to the true and the good. The **natural law expresses the original moral sense which enables man to discern by reason the good and the evil, the truth and the lie:**

The **natural law is written and engraved in the soul of each and every man**, because it is human reason ordaining him to do good and forbidding him to sin . . . But this command of human reason would not have the force of law if it were not the voice and interpreter of a higher reason to which our spirit and our freedom must be submitted. [Footnote 5: “Leo XIII, Libertas præstantissimum, 597.”]

The "divine and natural" law shows man the way to follow so as to practice the good and attain his end. [Footnote 6: “GS 89 § 1.”].

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<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

**The natural law states the first and essential precepts which govern the moral life. It hinges upon the desire for God and submission to him, who is the source and judge of all that is good,** as well as upon the sense that the other is one's equal. Its principal precepts are expressed in the Decalogue. This law is called "natural," not in reference to the nature of irrational beings, but **because reason which decrees it properly belongs to human nature:**

Where then are these rules written, if not in the book of that light we call the truth? In it is written every just law; from it the law passes into the heart of the man who does justice, not that it migrates into it, but that it places its imprint on it, like a seal on a ring that passes onto wax, without leaving the ring. [Footnote 7: St. Augustine, *De Trin.* 14,15,21:PL 42,1052.]

**The natural law is nothing other than the light of understanding placed in us by God;** through it we know **what we must do** and **what we must avoid. God has given this light or law at the creation.** [Footnote 8: St. Thomas Aquinas, *Dec. præc. I.*']

The **natural law**, present in the **heart of each man** and **established by reason**, is **universal in its precepts** and its authority extends to all men. It expresses the dignity of the person and determines the basis for his fundamental rights and duties:

For there is a **true law: right reason.** It is **in conformity with nature**, is diffused among all men, and is immutable and eternal; its orders summon to duty; its prohibitions turn away from offense . . . . To replace it with a contrary law is a sacrilege; failure to apply even one of its provisions is forbidden; no one can abrogate it entirely. [Footnote 9: Cicero, *Rep.* III, 22, 33.]....

The **natural law, the Creator's very good work, provides the solid foundation on which man can build the structure of moral rules to guide his choices.** It also provides the indispensable moral foundation for building the human community. Finally, it provides the necessary basis for the civil law with which it is connected, whether by a

reflection that draws conclusions from its principles, or by additions of a positive and juridical nature....

The Old Law is the first stage of revealed Law. Its moral prescriptions are summed up in the **Ten Commandments**. The precepts of the Decalogue lay the foundations for the vocation of man fashioned in the image of God; they prohibit what is contrary to the love of God and neighbor and prescribe what is essential to it. The **Decalogue is a light offered to the conscience of every man to make God's call and ways known to him and to protect him against evil:**

God wrote on the tables of the Law what men did not read in their hearts. [Footnote 13: “St. Augustine, En. in Ps. 57,1:PL 36,673.”]

Now these Roman Catholic teachings on the “moral law” supplemented my Protestant-Christian upbringing and studies in philosophy, political science, and constitutional law during the early 1990s when I was a student at Morgan State University in Baltimore and the University of Illinois College of Law. This “moral law” confronted me, because it then appeared to me that the American constitutoinal “doctrine of Separation of Church and State” misrepresented the actual fact that both the Church and the State share over-lapping jurisdiction over the interpretation of the “moral law.”

My Juris Doctor thesis—*The American Jurist: A Natural Law Interpretation of the U.S. Constitution: 1787 to 1910* – analyzed the scope and meaning of the “natural law,” or the “natural moral law,” with the objective of ascertaining whether the expressed language in the American *Declaration of Independence* (e.g., “...the laws of Nature and of Nature’s God...”) was the same “natural law” spoken of by St. Augustine of Hippo, St. Thomas Aquinas, Sir Thomas Hobbes, John Locke and scores of others—in other words, the “natural law” of the Church of England. In other words, I wanted to know whether the “God of Moses” in the Old Testament is the same “God of Nature” in the American *Declaration of Independence*? And, if so, whether the *Holy Bible* was indeed a “constitutional document” and a valid “source of law” within American constitutional jurisprudence? (And please note, during the early 1990s, when I was a law student at the University of Illinois, I had thoroughly studied the Unitarian minister Ralph Waldo Emerson, who had plainly said, in his famous sermon on the *Fugitive Slave Law*, that:

**I am surprised that lawyers can be so blind as to suffer the principles of Law to be discredited.** A few months ago, in my dismay at hearing that the Higher Law was reckoned a good joke in the courts, I took pains to look into a few law-books. I had often heard that **the Bible constituted a part of every technical law library**, and that it was **a principle in law that immoral laws are void**....<sup>9</sup>

Here was a question of an immoral law; a question agitated for ages, and settled always in the same way by every great jurist, that an immoral law cannot be valid. Cicero, Grotius, Coke, Blackstone, Burlamaqui, Vattel, Burke, Jefferson, do all affirm this, and I cite them, not that they can give evidence to what is indisputable, but because, though lawyers and practical statesmen, the habit of their profession did not hide from them that this truth was the foundation of States. Here was the question, Are you for man and for the good of man; or are you for the hurt and harm of man? It was the question whether man shall be treated as leather? whether the Negro shall be, as the Indians were in Spanish America, a piece of money? Whether this system, which is a kind of mill or factory for converting men into monkeys, shall be upheld and enlarged? ...<sup>10</sup>

You relied on the constitution. It has not the word *slave* in it; and very good argument has shown that it would not warrant the crimes that are done under it.... I fear there is no reliance to be put on any kind or form of covenant, no, not on sacred forms, none on churches, none on bibles. For one would have said that a Christian would not keep slaves;—but the Christians keep slaves. Of course they will not dare to read the Bible? Won't they? They quote the Bible, quote Paul, quote Christ, to justify slavery. If slavery is good, then is lying, theft, arson, homicide, each and all good, and to be maintained by Union societies.<sup>11</sup>

These things show that no forms, neither constitutions, nor laws, nor covenants, nor churches, nor bibles, are of any use in themselves. The Devil nestles comfortably into them all. There is no help but in the head and heart and hamstrings of a man. Covenants are of no use without honest men to keep them; laws

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<sup>9</sup> *The Complete Works of Ralph Waldo Emerson*, (Citation Omitted), p. 190.

<sup>10</sup> *Ibid.*, pp. 228-229.

<sup>11</sup> *Ibid.*, p. 234.

of none but with loyal citizens to obey them. To interpret Christ it needs Christ in the heart. The teachings of the Spirit can be apprehended only by the same spirit that gave them forth. ....<sup>12</sup>

Slavery is disheartening; but Nature is not so helpless but it can rid itself at last of every wrong. But the spasms of Nature are centuries and ages, and will tax the faith of short-lived men. Slowly, slowly the Avenger comes, but comes surely. The proverbs of the nations affirm these delays, but affirm the arrival. They say, "God may consent, but not forever." The delay of the Divine Justice—this was the meaning and soul of the Greek Tragedy; this the soul of their religion....<sup>13</sup>)

Like Emerson, I was, while in law school, quite perplexed over the fact that both American law schools and the American bar and bench gave little, or no credence, to the doctrine of "Higher Law." I had at that time planned a course of study to look at the United States Supreme Court's rulings on major economic and social legislation, during the period 1787 to 1910, applying a natural moral law, in order to ascertain whether this Court's bad rulings—such as the infamous *Dred Scott* (1857) decision<sup>14</sup>—had resulted in negative socioeconomic and political consequences.<sup>15</sup> The idea behind my reasoning was that even the United States Supreme Court may not interpret the text of the United States Constitution in a manner that impugned or violated the "natural moral law" of God, else—as Emerson and Du Bois<sup>16</sup> had suggested—disastrous social consequences would eventually follow. In other words, during my legal research in law school, I had

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<sup>12</sup> Ibid., p. 235.

<sup>13</sup> Ibid., p. 239.

<sup>14</sup> *Dred Scott v. Sandford*, 60 U.S. 393 (1857).

<sup>15</sup> Here, I am referencing the fact that although America's legal and constitutional foundations were fundamentally "Christian," its failure to incorporate a national Church—such as the Church of England—into its system of government, led to a systematic and steady decline in public morals and a steady erosion of the "Christian foundation of the English Common Law" within American jurisprudence. By the early and mid-19<sup>th</sup> century, America's laws—especially in the American South, as evidenced by the rise of the Slave Power—became decisively anti-Christian and amoral. This phenomenon has been described through the text of W.E.B. Du Bois' doctoral dissertation, *The Suppression of the African Slave Trade* (1895). Following the U.S. Civil War (1861 – 1865) the "Gilded Age" merely continued the trend toward economic monopoly, the impoverishment of the working classes, and the corruption of state governments—trends which the English government had been called upon to combat since the days of Queen Elizabeth I. By the mid-19<sup>th</sup> century, the corrosion of the Christian and Roman Catholic foundations of America's equity jurisprudence has also been documented by legal scholar John Norton Pomeroy.

<sup>16</sup> Here, I am referring to the conclusions reached by W.E.B. Du Bois in his doctoral dissertation, *The Suppression of the African Slave Trade*, submitted at Harvard University in 1895, where he wrote: "96. The Lessons for Americans.... No persons would have seen the Civil War with more surprise and horror than the Revolutionists of 1776; yet from the small and apparently dying institution of their day arose the walled and castled Slave Power. From this we may conclude that it behooves nations as well as men to do things at the very moment when they ought to be done." *Du Bois Writings* (New York, N.Y.: The Library of America, 1986), p. 198.



applied to American constitutional law and public policy the following “Mosaic Life/Death Grid,” with the belief that I could ascertain a clear picture of the “hand of God” moving in the secular history of mankind:

**Table 1. The Mosaic Life/Death Grid**

Virtue (Holiness) -----→	Life
Vice (Sin) -----→	Death

This was a bold endeavor. My Juris Doctor thesis paper, *The American Jurist: A Natural Law Interpretation of the U.S. Constitution, 1787 to 1910*, was the result. In it, I reached the same fundamental conclusions held by the sacred teachings of the Roman Catholic Church and of the Church of England; namely, that secular human laws—including the United States Constitution—**should not be interpreted or applied in a manner that violates the moral laws (i.e., the natural laws) of God**, or else disastrous consequences would follow. This had been, as Emerson teaches us, the central message of the Greek tragedies; this had been sacred message of Moses and the prophets in the Old Testament; and this had been the moral teaching of Jesus of Nazareth in the New Testament. In law school, I wished to know if this also been the orthodox thought of early American jurists who sat on the United States Supreme Court.

When I was a law student—thanks in large measure to my colleagues (both students and professors) who were Roman Catholic—I also came to an understanding that the Mosaic Decalogue (i.e., the “Ten Commandments”) were an expression or a restatement of “natural law.” And I learned that “divine law” is a restatement or a republication of “natural law.”

**Table 2. The Decalogue—Both Revealed and Natural Religion**

Divine Law (Revealed Religion)	Natural Law (Natural Religion)
<p><b>THE TEN COMANDMENTS</b></p> <p><u>The First Table</u></p> <p>I. I am the Lord thy God, which have brought thee out of the land of Egypt, out of the house of bondage. Thou</p>	

shalt have no other gods before me! Ex. 20:2-3.

II. Thou shalt not make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the water under the earth. Thou shalt not bow down thyself to them, nor serve them: for I the LORD thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me; and shewing mercy unto thousands of them that love me, and keep my commandments. Ex. 20:4-6

III. Thou shalt not take the name of the LORD thy God in vain; for the LORD will not hold him guiltless that taketh his name in vain. Ex. 20: 7

IV. Remember the Sabbath day, to keep it holy. Six days shalt thou labour, and do all thy work: but the seventh day is the Sabbath day of the LORD thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates: for in six days the LORD made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the LORD blessed the Sabbath day, and hallowed it. Ex. 20:8-11.

#### The Second Table

V. Honor thy father and thy mother: that thy days may be long upon the land which the LORD thy God giveth thee. Ex. 20:12

VI. Thou shalt not kill! Ex. 20:13

VII. Thou shalt not commit adultery! Ex. 20: 14

VIII. Thou shalt not steal! Ex. 20: 15

IX. Thou shalt not bear false witness against thy

neighbor! Ex. 20:16

X. Thou shalt not covet thy neighbor's house, thou shalt not covet thy neighbor's wife, nor his manservant, nor his maidservant, nor his ox, nor his ass, nor any thing that is thy neighbor's. Ex. 20: 17

And since the Decalogue is both revealed law and natural law, we may rightly conclude that American *Declaration of Independence* (1776), which was clearly based upon natural law or natural religion, was also a restatement of the revealed law of the Sacred Scriptures (i.e., the Holy Bible). We can only reach this conclusion by understanding the history of the Church of England and the role which the Christian faith played in shaping Anglo-American law and jurisprudence. See, e.g., Thomas Woods' *Institutes of the Laws of England* (1720), which explains how the law of reason, the law of nature, and the revealed law of God worked in tandem within England's jurisprudence.

**Table 3. Thomas Woods, *Institutes of the Laws of England* (1720)**

“As Law in General is an Art directing to the Knowledge of Justice, and to the well ordering of civil Society, so the Law of England, in particular, is an Art to know what is Justice in England, and to preserve Order in that Kingdom: And this Law is raised upon ... principal Foundations.

1. Upon the **Law of Nature**, though we seldom make Use of the Terms, *The Law of Nature*. But we say, that such a **Thing is reasonable**, or **unreasonable**, or *against the....*

2. Upon the **revealed Law of God**, Hence it is that our Law punishes Blasphemies, Perjuries, & etc. and receives the Canons of the Church [of England] duly made, and supported a spiritual Jurisdiction and Authority in the Church [of England].

3. The third Ground are several general *Customs*, these Customs are properly called the *Common Law*. Wherefore when we say, it is so by **Common Law**, it is as much as to say, by common Right, or of common Justice.

Indeed it is many Times very difficult to know what Cases are grounded on the **Law of Reason**, and what upon the *Custom* of the Kingdom, yet we must

endeavor to understand this, to know the perfect Reason of the Law.

*Rules concerning Law*

The *Common Law* is the **absolute Perfection of Reason**. For nothing that is contrary to Reason is consonant to Law

Common Law is common Right.

The Law is the Subject's best **Birth-right**.

The Law respects the **Order of Nature**....”

Source: Thomas Wood, LL.D., *An Institute of the laws of England: or, the Laws of England in their Natural Order* (London, England: Strahan and Woodall, 1720), pp. 4-5.

By the early 1700s, there was no force within Anglo-American legal or political thought more powerful than the Christian faith, the Holy Bible, and the Church of England. This was true even in colonial New England, where Calvinism ruled. This true even among the powerful Whigs, who supported trade, commerce, and religious freedom. Indeed, the central thought of the period was that “natural law” and “natural religion” were the constitutional foundations of the civil government. During the 18<sup>th</sup>-century, the liberal, Whig viewpoint embraced freedom of religion, but with the clear understanding that the civil government and civil laws were subordinate to the God of the Bible, pursuant to a conceptualization of **natural religion** that reflected the central tenets of the Christian faith as held in the Church of England. Bishop William Warburton (1698 – 1779), for instance, advanced in his *An Alliance of Church and State* (1736) the doctrine of the “**Three Articles of Natural Religion**,” to wit:

1. First, the civil government must acknowledge the being of God;
2. Second, the civil government must acknowledge the Providence of God over human affairs; and,

3. Third, the civil government must acknowledge the “natural essential difference between moral good and evil.”<sup>17</sup>

And it is thus clear that the new *United States Constitution* (1787), when read in light of the *American Declaration of Independence* (1776), echoed these very same fundamental principles of “**natural religion**.”<sup>18</sup>

But does this fact alone, make the *United States Constitution* and the *Declaration of Independence*, “Christian” documents? As we shall observe in this paper, the writings and thoughts of Anglican Bishop Joseph Butler (1692 – 1752), I believe the answer to this question is a resounding “yes.” Both the *American Declaration of Independence* and the *United States Constitution*, particularly when read together, are indeed “Christian” documents. Their first constitutional document, the *Declaration of Independence*, is clearly based upon a “natural law” theory that is both Roman Catholic and Anglican. And the second constitutional document, the *U.S. Constitution*, is clearly based upon New-England covenant theology (i.e., Calvinism).

**Table 4. Christian Foundations of American Constitutional Law**

<p><i>Orthodox Anglican</i> theology on God’s sovereignty, Moral Law, Natural Law, Revealed Law</p>	<p><i>American Declaration of Independence</i> (1776)</p>
<p><i>Calvinist and Presbyterian</i> theology of God’s sovereignty and Ecclesiastical Representative Polity  New England Charters and Compacts; Covenant Theology</p>	<p><i>United States Constitution</i> (1787)</p>

<sup>17</sup> Ibid., p. 36.

<sup>18</sup> See, e.g., Thomas Jefferson, 'A Summary View of the Rights of British America,' stating "Resolved, that it be an instruction to the said deputies, when assembled in general congress with the deputies from the other states of British America, to propose to the said congress that an humble and dutiful address be presented to his majesty.. the united complaints of his majesty's subjects in America; complaints... upon those rights which God and the laws have given equally and independently to all.... The God who gave us life gave us liberty at the same time; the hand of force may destroy, but cannot disjoin them." And see, also, Thomas Jefferson, "The American Declaration of Independence," stating, "When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature’s God entitle them.... We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

Hence, the Anglo-American Protestant Reformation, even despite the powerful influence of the French philosophers and the deists, was latitudinal and Anglican in nature and ended with the final production of the two aforementioned documents—the *Declaration of Independence* (1776) and the *U.S. Constitution* (1787)—that marked the American Revolution. These two documents were, in essence, the culmination of the last leg of the Protestant Reformation that began during the sixteenth century. Neither document, at least prior to 1789, contemplated separating the Church from the State, or the “natural law” from the “civil law.” Neither document conceptualized God as being anything entity or being other than the same God of the Sacred Scriptures, the Protestant Reformation, and of the Church of England. Indeed, the “God of Thomas Jefferson” appeared to be a real sovereign God, who governed the affairs of human beings.

See, e.g., Thomas Jefferson, “A Summary View of the Rights of British America,” stating “Resolved, that it be an instruction to the said deputies, when assembled in general congress with the deputies from the other states of British America, to propose to the said congress that an humble and dutiful address be presented to his majesty.. the united complaints of his majesty's subjects in America; complaints... upon those rights which God and the laws have given equally and independently to all.... The God who gave us life gave us liberty at the same time; the hand of force may destroy, but cannot disjoin them.”<sup>19</sup>

See, also, Thomas Jefferson, “Notes on the State of Virginia,” stating “There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us.... Indeed I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever: that considering numbers, nature and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events: that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest.”<sup>20</sup>

And see, also, Thomas Jefferson, “The American Declaration of Independence,” stating, “When in the Course of human events, it becomes necessary for one people to dissolve the political bands

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<sup>19</sup> *Jefferson Writings* (New York, N.Y.: The Library of America, 1984).

<sup>20</sup> *Ibid.*

which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them.... We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."<sup>21</sup>

It is for this reason, as well as due to the life and legacy of Bishop Joseph Butler (1692 – 1752), that any suggestion or conclusion that the “Age of Reason” or the “God of Deism” had somehow successfully uprooted the Christian faith from American law and jurisprudence during the 18<sup>th</sup> century must be rejected.

### SUMMARY

Bishop Joseph Butler (1692 – 1752) was an Oxford-trained philosopher and theologian in the Church of England. He defended the Christian faith against heresy and attacks from deists and secular philosophers who argued that the Sacred Scriptures were in conflict or contradiction with reason, science and natural philosophy. Bishop Butler was unique in that even before he accepted ordination as a deacon, and while still a student at Oxford, he struggled with various perplexing and disturbing theological and philosophical questions, as he did not wish to make a butchery of his own conscience by preaching a Gospel which he neither fully understood or agreed with. It is for this reason, he set himself to serious academic inquiry into the very same philosophical and theological questions that began to challenge the orthodox Anglican faith during the 18<sup>th</sup>-Century. Bishop Butler was uniquely qualified to become the leading spokesman on behalf of the Church of England. His monumental work, *Analogy of Religion, Natural and Revealed, to the Constitution and Course of Nature* (1736) argued that the revealed law or revealed religion of the Sacred Scriptures are simply the restatement or republications of natural law and natural theology—this had been the stated position of the orthodox Christian faith since the first century, beginning with the theology and writings of St. Paul, and further advanced by the Church Fathers and the subsequent Doctors of the Church, including St. Augustine of Hippo and St. Thomas Aquinas. And Bishop Butler did not retreat from this orthodox position, when defending the Church of England against the 18<sup>th</sup>-century assaults from the secular humanists, French philosophers, and deists. According to Historian Goldwin Smith, Bishop Butler and the Anglican clergy easily won the leading philosophical arguments of their day. “The clergy gave hundreds of

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<sup>21</sup> Ibid.

answers to the deists. So far as logic and argument were concerned the divines won easily. Against such clerical antagonists as Bishop [Joseph] Butler, the deists seemed as children, dabblers in ideas, innocent of speculative ability.”<sup>22</sup> Perhaps it is for this reason that Bishop Butler is considered one of the influential English philosophers in history.

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<sup>22</sup> Ibid., p. 452.



## **Part XLIII. Anglican Church: “The Bishop of Durham, 1692- 1752”**

English philosophy and political theory owe a great debt to the life and legacy of the Bishop of Durham Joseph Butler. We hear often of distinguished English philosophers such as Francis Bacon, Thomas Hobbes, John Locke, and John Stuart Mill, but of erudite English clergymen such as St. Anselm, Bishop Warburton, and Bishop Butler, we too often hear nothing, or next to nothing, of their genius and contributions. This mistake, I believe, has cost the Christian Church its reputation as a society of scholars, thus further contributing to the widespread and mistaken belief that the American constitution was founded, in part, through the inspiration of Science and Deism in a united effort to overthrow the last vestiges from the Dark Ages of Christian dogma—but the life and legacy of Bishop Butler clearly shows that nothing could be further from the truth.

### **A. A Biographical Sketch of Joseph Butler, 1692 - 1752**

During the first half of the 18<sup>th</sup>-century, from 1700 to about 1750, the Church of England and the orthodox Christian faith were viciously attacked and challenged by the secular forces of skepticism which swept across Europe, England, and colonial British North America. This was the “Age of Reason,” and everywhere men and women were beginning to question the validity of “divine right of kings,” church authority, and Sacred Scriptures. Was the Christian religion really a hoax? Could its basic principles withstand the challenge of modern science, modern psychology, and modern philosophy? To these questions, Bishop Butler devoted himself to life-long learning and to the search for theological and philosophical truth—making him one of the most respected philosophers in English history.

#### **Early life and education**

The son of a Presbyterian linen-draper, he was destined for the ministry of that church and, along with future archbishop Thomas Secker, entered Samuel Jones's dissenting academy at Gloucester (later Tewkesbury) for that purpose. While there, he entered into a secret correspondence with the distinguished Anglican theologian and philosopher Samuel Clarke. In 1714, Butler decided to enter the Church of England, and went to Oriel College, Oxford. He received his Bachelor of Arts in 1718 and later [received the degree of] Doctor of Civil Law on 8 December 1733.<sup>23</sup>

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<sup>23</sup> [https://en.wikipedia.org/wiki/Joseph\\_Butler](https://en.wikipedia.org/wiki/Joseph_Butler)

During these years, Butler was not always convinced of the truths of the Christian faith. He was tempted by deism, atheism, philosophy, and science. These other disciplines had posed personal questions which Butler need to answer, before he could conscientiously accept ordination to the priesthood. For as a young man, he had sought answers to various theological and philosophical questions as he sought to resolve the conflict within his conscience, prior to accepting ordination to the Anglican priesthood. Because these questions had been presented to him during his own personal and spiritual challenges as a young scholar at Oxford, Butler would later become most qualified of Anglican clergymen to confront the challenges of the Age of Reason. Like St. Thomas Aquinas (1225 – 1274) before him, Butler thoroughly sought to address and to synthesize the new knowledge of the natural sciences and the philosophical doctrines of the skeptics and atheists. He developed his Christian apologetics, and was fully prepared to argue that the revealed religion of the Sacred Scriptures were fully consistent, or compatible with, natural philosophy. It should be noted here that Bishop Butler was a first-rate philosopher and was very well respected:

Joseph Butler... was an English Anglican bishop, theologian, apologist, and philosopher, born in Wantage in the English county of Berkshire (now Oxfordshire). **He is known for his critique of Deism, Thomas Hobbes's egoism, and John Locke's theory of personal identity. Butler influenced many philosophers and religious thinkers, including David Hume, Thomas Reid, Adam Smith, Henry Sidgwick, John Henry Newman, and C. D. Broad, and is widely considered "as one of the preeminent English moralists."** He played an important, if underappreciated, role in **the development of 18th-century economic discourse**, greatly influencing the Dean of Gloucester and political economist Josiah Tucker.<sup>24</sup>

But Bishop Butler's life's work also exemplified the growing disdain and hatred by many towards the Christian faith as well as the Church of England, as the 18<sup>th</sup>-century British Empire became more global, cosmopolitan, and materialistic. These forces continued to press upon, and to challenge both Christian orthodoxy and the privileged position of the Church of England. And Bishop Butler's defense of the orthodox Christian religion could not have come at a better moment in history. Indeed, during his life-span, there was incredible conflict within the British Empire, and the Church of England stood at the epicenter of this conflict, to wit:

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<sup>24</sup> Ibid.

**Table 5. The Major Competing Interests in the British Empire during the 18<sup>th</sup> Century**

<p><b><u>Major Conflict in the 18<sup>th</sup>-Century British Empire</u></b></p> <p><b>Church ←---→ State ←---→ Capitalism</b></p>
<p><b><u>Subcomponents of the Conflict</u></b></p> <p>Tory Party ←---→ Whig Party</p> <p>Monarchy ←---→ Republicanism</p> <p>American Loyalists (Tories) ←---→ American Patriots (Whigs)</p> <p>Arminianism ←---→ Calvinism</p> <p>British Capitalism ←---→ American Capitalism</p> <p>Arminiansism + British Capitalism ←---→ Calvinism + American Capitalism</p> <p>American + British Capitalism ←---→ French, Dutch, Spanish Capitalism</p>

During this turbulent period, Butler’s church career would span from 1718 to 1752:

Butler was ordained a deacon on 26 October 1718 by William Talbot, Bishop of Salisbury, in his Bishop's Palace, Salisbury, his palace chapel and a priest on 21 December 1718 by Talbot at St James's Church, Piccadilly. After holding various other high positions, he became rector of the rich living of Stanhope, County Durham. In 1736 he was made the head chaplain of George II's wife Caroline, on the advice of Lancelot Blackburne. He was nominated Bishop of Bristol on 19 October 1738 and consecrated a bishop on 3 December 1738 at Lambeth Palace chapel. Remaining Bishop of Bristol, Butler was installed Dean of St Paul's on 24 May 1740; he kept that office until his translation to Durham. He is said (apocryphally) to have

declined an offer to become the archbishop of Canterbury in 1747 but was appointed Clerk of the Closet to the king in 1746 (until 1752). He was translated to Durham by the confirmation of his election to that See in October 1750; he was then enthroned by proxy on 9 November 1750. [He was Bishop of Durham from 1750 to 1752].<sup>25</sup>

During his entire church career, men and women were turning away from the orthodox Christian faith. Along with mercantilism and consumerism came a “doctrine of reason” which was juxtaposed against the Christian religion.<sup>26</sup> The “God of Reason”—whether espoused by St. Augustine, St. Thomas, or the American Revolutionary Thomas Paine—was acceptable. **But the “God of Faith and Miracles” fell out of favor.** “From France came the chants of philosophers enthroning Reason and pulling down Christian faith.”<sup>27</sup> The new magic words were “reason,” “common sense,” “compromise” and “nature” or “nature’s laws.” “All eighteenth century Utopias were therefore the headquarters of Reason.”<sup>28</sup> Skepticism, deism, and atheism were quite prevalent. But this was not all bad for the Christian Church—for it forced Anglican clergymen to defend the major tenets of the Christian faith, and Bishop Butler did so quite cogently.

### **B. *Analogy of Religion, Natural and Revealed (1736)***

In this remarkable work, *Analogy of Religion, Natural and Revealed* (1736), Bishop Butler sets forth several arguments that reveal that the “God of Nature” or the “God of Reason” is the same “God of the Holy Bible.” By analogy, the laws of nature and the Biblical laws of faith are the same. For example, Bishop Butler writes: “[a]s the structure of the world shows *intelligence*, so the mode of distributing pleasure and pain, shows government. That is, God’s natural government, such as a king exercises over his subjects.”<sup>29</sup> He goes on to state further:

We are, now, actually under God’s government, in the strictest sense.

1. Admitting that there is a God, it is not so much a matter of speculation, as of experience, that he governs us.

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<sup>25</sup> Ibid.

<sup>26</sup> Goldwin Smith, *A History of England*, (citation omitted), pp 449-452.

<sup>27</sup> Ibid., p. 452.

<sup>28</sup> Ibid., p. 450.

<sup>29</sup> Chapter III, “The Moral Government of God,” *Analogy of Religion, Natural and Revealed* (1736).

2. The annexing of pleasures and pains to certain actions, and giving notice them, is the very essence of government.
3. Whether by direct acts upon us, or by contriving a general plan, does not affect the argument.
  - 1.) If magistrates could make laws which should execute themselves, their government would be far more perfect than it is.
  - 2.) God’s making fire burn us, is as much an instance of government, as if he directly inflicted the burn, whenever we touched fire.
4. Hence the analogy of nature shows nothing to render incredible the Bible doctrine of God’s rewarding or punishing according to our actions.<sup>30</sup>

Bishop Butler argued that the laws of nature—as spoken of by the Roman stoic Cicero, Thomas Hobbes, and John Locke—show that the universe is *under divine government*. Bishop Butler writes the “laws of nature” which we Christians readily observe—together with the secular philosophers—evince a divine order, which is also spoken of in the Bible, and which shall be carried on as explained in divine prophecy. Hence, the “analogy” between natural law, natural philosophy or science and the Holy Bible is simply this: that the present modes of “punishment and reward” – as presented in the natural law-- shall *be continued* and ultimately reach a *final climax*, i.e., the “Final Judgment” of human history. Bishop Butler thus writes:

It has been proved (ch. ii.) that God *governs*: and it is reasonable to suppose that he would **govern righteously**.

- 1.) Any other rule of government would be harder to account for.
  - 2.) The Bible doctrine that hereafter the good shall be happy, and the wicked miserable, is no more than an expectation that **a method of government, now begun, shall be carried on**.
2. The opposite consequences of prudence and rashness, show a right constitution of nature; and our ability to foresee and control these consequences, shows that we are under moral law.<sup>31</sup>

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<sup>30</sup> Chapter II, “The Government of God by Rewards and Punishment,” *Analogy of Religion, Natural and Revealed* (1736).

This is why the civil magistrate, in general, is ordained by God. Baptist Puritan Roger Williams had concluded that all of the worlds’ governments or civil magistrates—whether Christian or non-Christian—are ordained by God. And in Romans XIII, the Apostle Paul appears to have reached the same conclusion. Hence, the Christian worldview of political science is that all governments of the world are the vice-regents of God, established and ordained to establish justice. On this same point, Bishop Butler writes:

God has so constructed society that **vice**, to a great degree, is actually punished by it.

- 1.) Without this, **society could not exist**.
- 2.) This is **God’s government, through society**; and is as *natural*, as society.
- 3.) Since the course of things is God’s appointment, men are unavoidably accountable for their behaviour....

**Objec.** Society often punishes good actions, and rewards wickedness.  
 Ans. 1. This is not necessary, and consequently not natural....

It follows, that we have in the government of the world, a declaration from God, **for virtue** and **against vice**. So far as a man is true to virtue, is he on the side of the divine administration. Such a man must have a sense of security, and a hope of something better.

Here, Bishop Butler borrows from Mosaic constitutional theology:

**Table 6. The Mosaic Life-Death Grid**

Virtue (Holiness) -----→	Life
Vice (Sin) -----→	Death

Like several of the great English philosophers, including Thomas Hobbes and John Stuart Mill, Bishop Butler concludes essentially that the “Golden Rule” is a “law of nature,” and that the Christian religion is nothing more than a “republication” of the same general principles of natural law or natural religion. Bishop Butler wrote:

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<sup>31</sup> Chapter III, “The Moral Government of God,” *Analogy of Religion, Natural and Revealed* (1736).

[Christianity is] a republication of natural religion.

It gives the moral system of the universe.

1.) Free from corruptions; teaching that

—Jehovah created all things.

—” governs all things.

—Virtue is his law.

—Mankind will be judged according to character.<sup>32</sup>

Here, Bishop Butler argued the general principles of the Christian faith, which Bishop William Warburton (1698 – 1779) had argued in his work, *An Alliance of Church and State* (1736), regarding the doctrine of the “Three Articles of Natural Religion,” to wit:

1. First, the civil government must acknowledge the being of God;
2. Second, the civil government must acknowledge the Providence of God over human affairs; and,
3. Third, the civil government must acknowledge the “natural essential difference between moral good and evil.”<sup>33</sup>

Both of these Anglican bishops had held that the moral law of God was at the very foundation of the civil government. For this reason, Bishop Warburton had argued that the Church and the State had similar interests and should work together in an alliance—but that if the Church and State could not form an alliance, then the Church must separate and regain its superior position over the State. Here, we might conclude that Bishop Warburton believed that the Church was superior to the State, because the Church was the guardian over a superior law (i.e., the “law of Christ” or the “moral law”). On the other hand, Bishop Butler did not argue that the Church must form an alliance with the State. Instead, he simply argued that the “law of the Church” (i.e., “revealed law,” the Decalogue) is the same as the

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<sup>32</sup> Part II, Chapter I “The Importance of Christianity,” *Analogy of Religion, Natural and Revealed* (1736).

<sup>33</sup> *Ibid.*, p. 36.

“law of the State” (“natural law,” the Decalogue). From the perspective of the latitudinal Anglican view, the “natural religion” must be at the foundation of civil polity.

**Table 7. Latitudinal Anglicanism: Civil Polity and Natural Religion**

<p><b>Bishop Joseph Butler (1692 – 1752)</b></p>	<p><i>Analogy of Religion, Natural and Revealed</i> (1736)</p>	<p><u>Argument:</u> The revealed law and revealed religion of the Holy Bible reflects that same natural laws and <b>natural religion</b> that is the foundation of the Civil Polity.</p>
<p><b>Bishop William Warburton (1698 – 1779)</b></p>	<p><i>An Alliance of Church and State</i> (1736)</p>	<p><u>Argument:</u> The Civil Polity must be governed by the fundamental principles of <b>natural religion</b>.</p>

This latitudinal Anglican view of civil polity was adopted by the Whig party in Great Britain, and I believe that it was also adopted by many of the American Patriots (Whigs) in the American colonies, such as Thomas Jefferson, whose *Declaration of Independence* (1776) is a perfect expression of “natural religion.” The fact that the new *United States Constitution* (1787) did not adopt a state-Church or allow for the establishment of any particular church denomination or religion, does not mean that the new United States Government did not have a “natural religion” as its foundation. The *American Declaration of Independence* (1776) was a restatement of the “natural religion” that was espoused by Whig bishops within the Church of England.



## CONCLUSION

The life and legacy of Bishop Joseph Butler (1692 – 1752) are a firm proof that the 18<sup>th</sup>-century Anglican Church did not yield to arguments of deists, secular humanists, French philosophers, or anyone else on the subject matter of natural law or natural religion. Indeed, during the 18<sup>th</sup>-century, the belief that God was the sovereign governor of the universe, that He exercised his sovereignty and providence over human affairs, and that his government and law were just, were never rejected by the Anglo-American world—whether Whig or Tory, Patriot or Loyalist, Calvinist or Arminian, or Protestant or Catholic. The “law of reason” was also believed to be the essence of “natural law” as well as the English Common Law. But within the Church of England, that same “law of reason” and “natural law” was believed to be the essence of the “revealed law” contained in the Decalogue. According to Anglican clergymen such as bishops William Warburton and Joseph Butler, the Church and the State shared the fundamental objectives of promoting morality and natural religion. The 18<sup>th</sup>-century deists, the secular humanists, the philosophers, and the like, never completely or successfully refuted the Church of England’s fundamental orthodox position on the “natural religion” as being a part of unwritten constitutional law for the realm. And what was true in England was also true in colonial British North America. The *American Declaration of Independence* (1776) effectively incorporated the “natural religion” into the new *United States Constitution* (1787). And that “natural religion” was fundamentally orthodox Anglican, Protestant, and Christian.<sup>34</sup>

## THE END

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<sup>34</sup> Unfortunately, there was no strong “Established Church”—such as the Church of England—in the new United States of America after 1787; and thus there was no national institution that was able to serve as the safe-guard over the “moral law” within American law and public policy. The closest national institution in the new United States that could have helped to fill the void of not having an “Established Church” was the United States Supreme Court—and perhaps the American bar and bench. However, as I discovered when writing my Juris Doctor thesis, *The American Jurist: A Natural Law Interpretation of the U.S. Constitution* (1787 – 1910), the American legal profession became rapidly secular during the late 19<sup>th</sup>-century, and the state supreme courts and the U.S. Supreme Court became captive to the interests of big business. During the 19<sup>th</sup>-century, most of the U.S. Supreme Court Justices had been lawyers for the railroad, steel, and oil magnates. Hence, the void left open by the absence of having an “Established Church” in the United States was quickly filled by the mammon and material interests of merchants, monopoly capitalists, and, eventually, the American Slave Power. In the new United States of America, Capitalism (together with secularism) would rapidly attain the superior position over both the Church and State:

**Church ←---→ State ←---→ Capitalism**

Harvard Economist John Kenneth Galbraith has documented this fact in his voluminous writings over the span of more than fifty years.

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## **Appendix A**

### Catechism of the Catholic Church

# CATECHISM OF THE CATHOLIC CHURCH

## SECOND EDITION

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### PART THREE LIFE IN CHRIST

#### SECTION ONE MAN'S VOCATION LIFE IN THE SPIRIT

#### CHAPTER THREE GOD'S SALVATION: LAW AND GRACE

##### ARTICLE 1 THE MORAL LAW

**1950** The moral law is the work of divine Wisdom. Its biblical meaning can be defined as fatherly instruction, God's pedagogy. It prescribes for man the ways, the rules of conduct that lead to the promised beatitude; it proscribes the ways of evil which turn him away from God and his love. It is at once firm in its precepts and, in its promises, worthy of love.

**1951** Law is a rule of conduct enacted by competent authority for the sake of the common good. The moral law presupposes the rational order, established among creatures for their good and to serve their final end, by the power, wisdom, and goodness of the Creator. All law finds its first and ultimate truth in the eternal law. Law is declared and established by reason as a participation in the providence of the living God, Creator and Redeemer of all. "Such an ordinance of reason is what one calls law."<sup>2</sup>

Alone among all animate beings, man can boast of having been counted worthy to receive a law from God: as an animal endowed with reason, capable of understanding and discernment, he is to govern his conduct by using his freedom and reason, in obedience to the One who has entrusted everything to him.<sup>3</sup>

**1952** There are different expressions of the moral law, all of them interrelated: eternal law - the source, in God, of all law; natural law; revealed law, comprising the Old Law and the New Law, or Law of the Gospel; finally, civil and ecclesiastical laws.

**1953** The moral law finds its fullness and its unity in Christ. Jesus Christ is in person the way of perfection. He is the end of the law, for only he teaches and bestows the justice of God: "For Christ is the end of the law, that every one who has faith may be justified."<sup>4</sup>

##### I. THE NATURAL MORAL LAW

**1954** Man participates in the wisdom and goodness of the Creator who gives him mastery over his acts and the ability to govern himself with a view to the true and the good. The natural law expresses the original moral sense which enables man to discern by reason the good and the evil, the truth and the lie:

The natural law is written and engraved in the soul of each and every man, because it is human reason ordaining him to do good and forbidding him to sin . . . But this command of human reason would not have the force of law if it were not the voice and interpreter of a higher reason to which our spirit and our freedom must be submitted.<sup>5</sup>

**1955** The "divine and natural" law<sup>6</sup> shows man the way to follow so as to practice the good and attain his end. The natural law states the first and essential precepts which govern the moral life. It hinges upon the desire for God and submission to him, who is the source and judge of all that is good, as well as upon the sense that the other is one's equal. Its principal precepts are expressed in the Decalogue. This law is called "natural," not in reference to the nature of irrational beings, but because reason which decrees it properly belongs to human nature:

Where then are these rules written, if not in the book of that light we call the truth? In it is written every just law; from it the law passes into the heart of the man who does justice, not that it migrates into it, but that it places its imprint on it, like a seal on a ring that passes onto wax, without leaving the ring.<sup>7</sup> The natural law is nothing other than the light of understanding placed in us by God; through it we know what we must do and what we must avoid. God has given this light or law at the creation.<sup>8</sup>

**1956** The natural law, present in the heart of each man and established by reason, is universal in its precepts and its authority extends to all men. It expresses the dignity of the person and determines the basis for his fundamental rights and duties:

For there is a true law: right reason. It is in conformity with nature, is diffused among all men, and is immutable and eternal; its orders summon to duty; its prohibitions turn away from offense . . . . To replace it with a contrary law is a sacrilege; failure to apply even one of its provisions is forbidden; no one can abrogate it entirely.<sup>9</sup>

**1957** Application of the natural law varies greatly; it can demand reflection that takes account of various conditions of life according to places, times, and circumstances. Nevertheless, in the diversity of cultures, the natural law remains as a rule that binds men among themselves and imposes on them, beyond the inevitable differences, common principles.

**1958** The natural law is *immutable* and permanent throughout the variations of history;<sup>10</sup> it subsists under the flux of ideas and customs and supports their progress. The rules that express it remain substantially valid. Even when it is rejected in its very principles, it cannot be destroyed or removed from the heart of man. It always rises again in the life of individuals and societies:

Theft is surely punished by your law, O Lord, and by the law that is written in the human heart, the law that iniquity itself does not efface.<sup>11</sup>

**1959** The natural law, the Creator's very good work, provides the solid foundation on which man can build the structure of moral rules to guide his choices. It also provides the indispensable moral foundation for building the human community. Finally, it provides the necessary basis for the civil law with which it is connected, whether by a reflection that draws conclusions from its principles, or by additions of a positive and juridical nature.

**1960** The precepts of natural law are not perceived by everyone clearly and immediately. In the present situation sinful man needs grace and revelation so moral and religious truths may be known "by everyone with facility, with firm certainty and with no admixture of error."<sup>12</sup> The natural law provides revealed law and grace with a foundation prepared by God and in accordance with the work of the Spirit.

## **II. THE OLD LAW**

**1961** God, our Creator and Redeemer, chose Israel for himself to be his people and revealed his Law to them, thus preparing for the coming of Christ. The Law of Moses expresses many truths naturally accessible to reason. These are stated and authenticated within the covenant of salvation.

**1962** The Old Law is the first stage of revealed Law. Its moral prescriptions are summed up in the Ten Commandments. The precepts of the Decalogue lay the foundations for the vocation of man fashioned in the image of God; they prohibit what is contrary to the love of God and neighbor and prescribe what is essential to it. The Decalogue is a light offered to the conscience of every man to make God's call and ways known to him and to protect him against evil:

God wrote on the tables of the Law what men did not read in their hearts.<sup>13</sup>

**1963** According to Christian tradition, the Law is holy, spiritual, and good,<sup>14</sup> yet still imperfect. Like a tutor<sup>15</sup> it shows what must be done, but does not of itself give the strength, the grace of the Spirit, to fulfill it. Because of sin, which it cannot remove, it remains a law of bondage. According to St. Paul, its special function is to denounce and *disclose sin*, which constitutes a "law of concupiscence" in the human heart.<sup>16</sup> However, the Law remains the first stage on the way to the kingdom. It prepares and disposes the chosen people and each Christian for conversion and faith in the Savior God. It provides a teaching which endures for ever, like the Word of God.

**1964** The Old Law is a *preparation for the Gospel*. "The Law is a pedagogy and a prophecy of things to come."<sup>17</sup> It prophesies and presages the work of liberation from sin which will be fulfilled in

Christ: it provides the New Testament with images, "types," and symbols for expressing the life according to the Spirit. Finally, the Law is completed by the teaching of the sapiential books and the prophets which set its course toward the New Covenant and the Kingdom of heaven.

There were . . . under the regimen of the Old Covenant, people who possessed the charity and grace of the Holy Spirit and longed above all for the spiritual and eternal promises by which they were associated with the New Law. Conversely, there exist carnal men under the New Covenant still distanced from the perfection of the New Law: the fear of punishment and certain temporal promises have been necessary, even under the New Covenant, to incite them to virtuous works. In any case, even though the Old Law prescribed charity, it did not give the Holy Spirit, through whom "God's charity has been poured into our hearts."<sup>18</sup>

### III. THE NEW LAW OR THE LAW OF THE GOSPEL

**1965** The New Law or the Law of the Gospel is the perfection here on earth of the divine law, natural and revealed. It is the work of Christ and is expressed particularly in the Sermon on the Mount. It is also the work of the Holy Spirit and through him it becomes the interior law of charity: "I will establish a New Covenant with the house of Israel. . . . I will put my laws into their hands, and write them on their hearts, and I will be their God, and they shall be my people."<sup>19</sup>

**1966** The New Law is the *grace of the Holy Spirit* given to the faithful through faith in Christ. It works through charity; it uses the Sermon on the Mount to teach us what must be done and makes use of the sacraments to give us the grace to do it:

If anyone should meditate with devotion and perspicacity on the sermon our Lord gave on the mount, as we read in the Gospel of Saint Matthew, he will doubtless find there . . . the perfect way of the Christian life. . . . This sermon contains . . . all the precepts needed to shape one's life.<sup>20</sup>

**1967** The Law of the Gospel "fulfills," refines, surpasses, and leads the Old Law to its perfection.<sup>21</sup> In the Beatitudes, the New Law *fulfills the divine promises* by elevating and orienting them toward the "kingdom of heaven." It is addressed to those open to accepting this new hope with faith - the poor, the humble, the afflicted, the pure of heart, those persecuted on account of Christ and so marks out the surprising ways of the Kingdom.

**1968** The Law of the Gospel *fulfills the commandments* of the Law. The Lord's Sermon on the Mount, far from abolishing or devaluing the moral prescriptions of the Old Law, releases their hidden potential and has new demands arise from them: it reveals their entire divine and human truth. It does not add new external precepts, but proceeds to reform the heart, the root of human acts, where man chooses between the pure and the impure,<sup>22</sup> where faith, hope, and charity are formed and with them the other virtues. The Gospel thus brings the Law to its fullness through imitation of the perfection of the heavenly Father, through forgiveness of enemies and prayer for persecutors, in emulation of the divine generosity.<sup>23</sup>

**1969** The New Law *practices the acts of religion*: almsgiving, prayer and fasting, directing them to the "Father who sees in secret," in contrast with the desire to "be seen by men."<sup>24</sup> Its prayer is the Our Father.<sup>25</sup>

**1970** The Law of the Gospel requires us to make the decisive choice between "the two ways" and to put into practice the words of the Lord.<sup>26</sup> It is summed up in the *Golden Rule*, "Whatever you wish that men would do to you, do so to them; this is the law and the prophets."<sup>27</sup>

The entire Law of the Gospel is contained in the "*new commandment*" of Jesus, to love one another as he has loved us.<sup>28</sup>

**1971** To the Lord's Sermon on the Mount it is fitting to add the *moral catechesis of the apostolic teachings*, such as *Romans 12-15*, *1 Corinthians 12-13*, *Colossians 3-4*, *Ephesians 4-5*, etc. This doctrine hands on the Lord's teaching with the authority of the apostles, particularly in the presentation of the virtues that flow from faith in Christ and are animated by charity, the principal gift of the Holy Spirit. "Let charity be genuine. . . . Love one another with brotherly affection. . . . Rejoice in your hope, be patient in tribulation, be constant in prayer. Contribute to the needs of the saints, practice hospitality."<sup>29</sup> This catechesis also teaches us to deal with cases of conscience in the light of our relationship to Christ and to the Church.<sup>30</sup>

**1972** The New Law is called a *law of love* because it makes us act out of the love infused by the Holy Spirit, rather than from fear; a *law of grace*, because it confers the strength of grace to act, by means of faith and the sacraments; a *law of freedom*, because it sets us free from the ritual and juridical observances of the Old Law, inclines us to act spontaneously by the prompting of charity and, finally, lets us pass from the condition of a servant who "does not know what his master is doing" to that of a friend of Christ - "For all that I have heard from my Father I have made known to you" - or even to the status of son and heir.<sup>31</sup>

**1973** Besides its precepts, the New Law also includes the *evangelical counsels*. The traditional distinction between God's commandments and the evangelical counsels is drawn in relation to charity, the perfection of Christian life. The precepts are intended to remove whatever is incompatible with charity. The aim of the counsels is to remove whatever might hinder the development of charity, even if it is not contrary to it.<sup>32</sup>

**1974** The evangelical counsels manifest the living fullness of charity, which is never satisfied with not giving more. They attest its vitality and call forth our spiritual readiness. The perfection of the New Law consists essentially in the precepts of love of God and neighbor. The counsels point out the more direct ways, the readier means, and are to be practiced in keeping with the vocation of each:

[God] does not want each person to keep all the counsels, but only those appropriate to the diversity of persons, times, opportunities, and strengths, as charity requires; for it is charity, as queen of all virtues, all commandments, all counsels, and, in short, of all laws and all Christian actions that gives to all of them their rank, order, time, and value.<sup>33</sup>

## **IN BRIEF**

**1975** According to Scripture the Law is a fatherly instruction by God which prescribes for man the ways that lead to the promised beatitude, and proscribes the ways of evil.

**1976** "Law is an ordinance of reason for the common good, promulgated by the one who is in charge of the community" (St. Thomas Aquinas, *STh* I-II, 90, 4).

**1977** Christ is the end of the law (cf. *Rom* 10:4); only he teaches and bestows the justice of God.

**1978** The natural law is a participation in God's wisdom and goodness by man formed in the image of his Creator. It expresses the dignity of the human person and forms the basis of his fundamental rights and duties.

**1979** The natural law is immutable, permanent throughout history. The rules that express it remain substantially valid. It is a necessary foundation for the erection of moral rules and civil law.

**1980** The Old Law is the first stage of revealed law. Its moral prescriptions are summed up in the Ten Commandments.

**1981** The Law of Moses contains many truths naturally accessible to reason. God has revealed them because men did not read them in their hearts.

**1982** The Old Law is a preparation for the Gospel.

**1983** The New Law is the grace of the Holy Spirit received by faith in Christ, operating through charity. It finds expression above all in the Lord's Sermon on the Mount and uses the sacraments to communicate grace to us.

**1984** The Law of the Gospel fulfills and surpasses the Old Law and brings it to perfection: its promises, through the Beatitudes of the Kingdom of heaven; its commandments, by reforming the heart, the root of human acts.

**1985** The New Law is a law of love, a law of grace, a law of freedom.

**1986** Besides its precepts the New Law includes the evangelical counsels. "The Church's holiness is fostered in a special way by the manifold counsels which the Lord proposes to his disciples in the Gospel" (*LG* 42 § 2).

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- 2 Leo XIII, *Libertas præstantissimum*: AAS 20 (1887/88),597; cf. St. Thomas Aquinas, *STh* I-II,90,1.
- 3 Cf. Tertullian, *Adv. Marc.*, 2,4:PL 2,288-289.
- 4 *Rom* 10:4.
- 5 Leo XIII, *Libertas præstantissimum*, 597.
- 6 *GS* 89 § 1.
- 7 St. Augustine, *De Trin.* 14,15,21:PL 42,1052.
- 8 St. Thomas Aquinas, *Dec. præc.* I.
- 9 Cicero, *Rep.* III,22,33.
- 10 Cf. *GS* 10.
- 11 St. Augustine, *Conf.* 2,4,9:PL 32,678.
- 12 Pius XII, *Humani generis*: DS 3876; cf. *Dei Filius* 2: DS 3005.
- 13 St. Augustine, *En. in Ps.* 57,1:PL 36,673.
- 14 Cf. *Rom* 7:12,14,16.
- 15 Cf. *Gal* 3:24.
- 16 Cf. *Rom* 7.
- 17 St. Irenaeus, *Adv. haeres.* 4,15,1:PG 7/1,1012.
- 18 St. Thomas Aquinas, *STh* I-II,107,1 *ad* 2; cf. *Rom* 5:5.
- 19 *Heb* 8:8, 10; cf. *Jer* 31:31-34.
- 20 St. Augustine, *De serm. Dom.* 1,1:PL 34,1229-1230.
- 21 Cf. *Mt* 5:17-19.
- 22 Cf. *Mt* 15:18-19.
- 23 Cf. *Mt* 5:44,48.
- 24 Cf. *Mt* 6:1-6; 16-18.
- 25 Cf. *Mt* 6:9-13; *Lk* 11:2-4.
- 26 Cf. *Mt* 7:13-14,21-27.
- 27 *Mt* 7:12; cf. *Lk* 6:31.
- 28 Cf. *Jn* 15:12; 13:34.
- 29 *Rom* 12:9-13.
- 30 Cf. *Rom* 14; *1 Cor* 5-10.
- 31 *Jn* 15:15; cf. *Jas* 1:25; 2:12; *Gal* 4:1-7,21-31; *Rom* 8:15.
- 32 Cf. St. Thomas Aquinas, *STh* II-II,184,3.
- 33 St. Francis de Sales, *Love of God* 8,6.

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