ST. LUKE'S INN OF COURT

"Law & Religion Forum"

Volume 1, Apostolate Paper #49

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"A History of the Anglican Church—Part XXXIII:

An Essay on the Role of Christian Lawyers and Judges within the Secular State"©

By

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INTRODUCTION[1]

King James I of England and Scotland was a great English monarch who loved God, country, and the Church of England, but in the end he failed to recognize the shifting socioeconomic and political forces which the Protestant Reformation had created and that were destined to pulverize the remnants of the Medieval world that had formed and shaped his ideals, especially his ideas on "the Divine Right of Kings." Those socioeconomic and political forces were comprised of a joint and powerful movement of Puritans and English merchants, whose lawyers formulated newer, secular theories of political sovereignty that threatened the older Medieval regime of Church and State in England. These newer, secular theories of constitutional law and political sovereignty were difficult to implement in seventeenth-century England, because the institutions of the English monarchy and of the Church of England were centuries-old and deeply entrenched.

However, the prospects of a British colony in the New World as a testing ground for new political, social, and economic ideals proved to be very enticing. Unlike Portugal and Spain, England saw the New World as an opportunity to plant colonies where its excess population might relocate, start new lives, draw new circles, and experiment with new forms of self-government. At the same time, North America presented a magnificent opportunity to spread the Christian faith to the so-called "heathen" Indian tribes of North America. There, also, in North America, the freedom of religion (or, at least, an experiment of pan-Christian self-government) might be possible. King James I believed in a divine investiture of monarchial rule, but he wanted the British Empire to expand and, for this reason, he was willing to make concessions to Puritans and to Catholics alike, in exchange for their allegiance to the British crown. However, King James I, as well as each

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[1] This paper is dedicated to Kenneth Talbot, President of the Whitefield College and Theological Seminary in Lakeland, Florida. Dr Talbot is an ordained minister in the Reformed Presbyterian Church and a life-long student of Calvinist or Reformed-Church covenant theology, and Church-State theory, philosophy, and jurisprudence. I am honored to study with Dr. Talbot as a post-doctoral fellow at the Whitefield Theological Seminary.

of the Stuart monarchs who followed him, lacked a real and genuine concern for the Christian application of the "law of Christ"[2] to the plight of the working classes; or a genuine concern to apply the "law of Christ" to land negotiations and treaty relations with Native American Indians; or to apply the "law of Christ" to policies and justifications used for transporting enslaved Africans into the New World. Nor were the Stuart monarchs known for their administration of *true justice* throughout the English realm. [3] The Stuart kings were instead preoccupied with the Age of Discovery, international trade, and colonial expansion— and all of this at the expense of Christian ethics, morality, and the Church of England. St. Augustine of Hippo's *The City of God* might have sounded the alarm of stern warning, and perhaps the Puritans of England and colonial New England listened.[4] But the downfall of the Stuart monarchies of the seventeenth-century was inevitable—the Stuart kings (i.e., Kings James I, Charles I, Charles II, and James II) tended to believe that England and its colonies existed to serve and benefit the monarchy, and not the other way around.[5] See, e.g., Table 1 "The House of Stuart in England (and British North America), 1603-1714." During the years 1603 to 1625, it was Sir Edward Coke who as Lord Chief Justice of England and Wales, in defense of the English Common Law and the "fundamental moral law," stood courageously against King James I and his theory of "divine right of kings." Coke's legacy would later influence the founding fathers of the American Revolution (1775-1783), but throughout the entire seventeenth century, King James I's theory of "divine right of kings" cast a long and powerful shadow over the British Empire.

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[2] The Law of Christ is to "love ye one another" (John 15:12); to do justice and judgement (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).

[3] "Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on. If, by the admittance of abandoned men, this evil increases to such a degree that it holds places, fixes abodes, takes possession of cities, and subdues peoples, it assumes the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity. Indeed, that was an apt and true reply which was given to Alexander the Great by a private who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, 'What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet are styled emperor." St. Augustine, *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 112-113.

[4] Ibid.

[5] Ibid.

The House of Stuart[6] in England (and British North America), 1603 - 1714

King James I, 1603-1625	*Colonial British North America founded; Virginia colony founded in 1607; Massachusetts Bay Colony founded in 1620.
King Charles I, 1625-1649	*[The English Civil Wars, 1642-1651; Reign of Oliver Cromwell as Lord Protector, 1653-1658; the rise of the Puritans and Parliament]
King Charles II, 1660-1685	*Prince Charles returned from exile; crowned King Charles II. *The Church of England restored and the Anglican episcopacy reestablished. Act of Uniformity reestablished.
King James II, 1685- 1688	*James II abdicated the throne in 1688; Glorious Revolution of 1688; Protestants William and Mary ascend the throne of England
Queen Mary II, 1689-1694	*Roman Catholicism outlawed in 1688; No future English monarch could be a Roman

[6] "The **House of Stuart**, originally **Stewart**, was a royal house of Scotland, England, Ireland and later Great Britain, with historical connections to Brittany. The family name itself comes from the office of High Steward of Scotland, which had been held by the family scion Walter fitz Alan (c. 1150). The name "Stewart" and variations had become established as a family name by the time of his grandson, Walter Stewart. The first monarch of the Stewart line was Robert II whose descendants were kings and queens of Scotland from 1371 until the union with England in 1707. Mary, Queen of Scots was brought up in France where she adopted the French spelling of the name, *Stuart*. In 1503, James IV married Margaret Tudor, thus linking the royal houses of Scotland and England. Elizabeth I of England died without issue in 1603, and James IV's great-grandson James VI of Scotland succeeded to the thrones of England and Ireland as James I in the Union of the Crowns. The Stuarts were monarchs of Britain and Ireland and its growing empire until the death of Queen Anne in 1714, except for the period of the Commonwealth between 1649 and 1660. In total, nine Stewart/Stuart monarchs ruled Scotland alone from 1371 until 1603, the last of which was James VI, before his accession in England. Two Stuart queens ruled the isles following the Glorious Revolution in 1688: Mary II and Anne. Both were the Protestant daughters of James VII and II by his first wife Anne Hyde and the great-grandchildren of James VI and I. Their father had converted to Catholicism and his new wife gave birth to a son in 1688, who was brought up a Roman Catholic and preceded his half-sisters; so James was deposed by Parliament in 1689, in favour of his daughters. But neither had any children who survived to adulthood, so the crown passed to the House of Hanover on the death of Queen Anne in 1714 under the terms of the Act of Settlement 1701 and the Act of Security 1704." https://en.wikipedia.org/wiki/House_of_Stuart

	Catholic; "Divine Right of Kings" theory defeated; Constitutional monarchy firmly established in England; English Bill of Rights of 1689.
Queen Anne, 1702-1714	England, Wales, Ireland, and Scotland become the United Kingdom of Great Britain in 1707

Had King James I, and the Stuart monarchs who succeeded him, attained and maintained a heart for establishing meaningful and true justice for all socioeconomic classes—as did James I's immediate predecessor Queen Elizabeth I— then these Stuart monarchs would have also left a very great Christian legacy of balancing the levers of Church and State to achieve *true justice for all socioeconomic classes throughout England and the British Empire*. See, e.g., Appendix A, "St Augustine on the Rise and Fall of the Roman Empire: A Theory of Western Constitutional Law."[7] As St. Augustine of Hippo had made crystal

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[7] St. Augustine does not use the words "natural law" but nevertheless defines the substance of natural law as follows: "All natures, then, inasmuch as they are, and have therefore a rank and species of their own, and a kind of internal harmony, are certainly good. And when they are in the places assigned to them by the order of their nature, they preserve such being as they have received. And those things which have not received everlasting being, are altered for better or for worse, *so as to suit the wants and motions of those things to which the Creator's law has made them subservient*; and thus they tend in the divine providence to that end which is embraced in the general scheme of the government of the universe." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 384. And, again, in another place, St. Augustine described **"nature"** as **"peace";** and **"natural law"** as the **"law of peace."** According this view, "inequality" is inherent in nature, even though all beings are equal in worth, importance, and dignity. Inequality is necessary to balance out the forces of nature and to establish the peace, tranquility (e.g., health and prosperity), and concord within every aspect of creation, including human political organizations, families, and nations. "The peace of all things is the tranquility of order," wrote St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 690-693. "**Order is the distribution which allots things equal and unequal**, each to its own place…. God, then, the most wise Creator **and most just Ordainer of all natures**, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace…. But as this divine Master inculcates two precepts—the love of God and the love of our neighbor—and as in these precepts a man finds three things he has to love—God; himself, and his neighbor—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, **since he is ordered to love his neighbor as himself. He ought to make this endeavor in behalf of his wife, his children, his household, all within his reach, even as he would wish his neighbor to do the same for him if he needed it; and consequently he will be at peace, or in well-ordered concord, with all men, as far as in him lies. And this is the order of this concord that a man, in the first place, injure no one, and, in the second, do good to every one he can reach.** Primarily, therefore, his own household are his care, for **the law of nature** and **of society** gives him readier access to them and greater opportunity of serving them. And hence the apostle says, 'Now, if any provide not for his own, and specially for those of his own house, he hath denied the faith, and is worse than an infidel.' **This is the origin of domestic peace, or the well-ordered concord of those in the family who rule and those who obey. For they who care for the rest rule—husband the wife, the parents the children, the masters the servants; and they who are cared for obey—the women their husbands, the children their parents, the servants their masters. But in the family of the just man who lies by faith and is as yet a pilgrim journeying on to the celestial city, even those who rule**

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clear in *The City of God*, the Lord God is the foundation and source of "true justice," and that no nation which ignores due homage and worship to that one, true God, can morally instruct or discipline its citizenry so as to inspire it to live virtuous lives or to establish true justice. In *The City of God*, St. Augustine writes:

> But if we discard this definition of a people, and, assuming another, say that a people is an assemblage of reasonable beings bound together by a common agreement as to the objects of their love, then, in order to discover the character of any people, we have only to observe what they love…. According to this definition of ours, the Roman people is a people, and its weal is without doubt a commonwealth or republic. But what its tastes were in its early and subsequent days, and how it declined into sanguinary seditions and then to social and civil wars, and so burst asunder or rotted of the bond of concord in which the health of a people consists, history shows, and in the preceding books I have related at large. And yet I would not on this account say either that it was not a people, or that its administration was not a republic, so long as there remains an assemblage of reasonable beings bound together by a common agreement as to the objects of love. **But what I say of this people [i.e., the ancient Romans] and of this republic I must be understood to think and say of the Athenians or any Greek state, of the Egyptians, of the early Assyrian Babylon, and of every other nation, great or small, which had a public government. For, in general, the city of the ungodly, which did not obey the command of God that it should offer no sacrifice save to Him alone, and which, therefore, could not give the soul its proper command over the body, nor to the reason its just authority over the vices, is void of true justice**.[8]

But James I, and the Stuart monarchs who succeeded him, seemed to deprecate the idea that a monarch who abuses or violates fundamental moral law may be deposed by the people whom that monarch serves and governs— for that this was the true essence of constitutional monarchy in England, at least since King Richard II was deposed in 1399.

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serve those whom they seem to command; for they rule not from a love of power, but from a sense of the duty they owe to others—not because they are proud of authority, but because they love mercy."
[8] Ibid., p. 706.

King James I and his Stuart successors believed that a monarch must rule as God's vice-regent, but these Stuart monarchs did not believe that a monarch could be held accountable to those whom he governed. And all of this disbelief in monarchial accountability led, during the seventeenth century, to the English Civil War (1641-1652), the Glorious Revolution of 1688, and the English Bill of Rights of 1689. Here we see plainly in the constitutional history of both seventeenth-century England and North America a great moral, spiritual, and political struggle to codify fundamental "moral" law into, and within, Anglo-American constitutional law—indeed, this struggle occurred on both sides of the Atlantic Ocean and it continued up through the American Revolutionary War (1775-1783).

But in fairness, King James I was as each of us a flawed human being who nevertheless became, if nothing else, a great servant to various important causes of the ancient, universal Christian faith and to the Church of England. Perhaps this is why he was greatly mourned throughout England when he died in 1625. James I had commissioned the great Authorized (King James) Bible of 1611; he had championed Dr. Richard Hooker's Anglican political theory, theology, and philosophy; and he had placed God at the head of British government and empire. Even his controversial "divine right" theory of monarchy was deeply-rooted in the Sacred Scriptures, making the monarch a governing part of the ordained clergy (i.e., as "Defender of the Faith"), and as a sacred minister over the secular state. For this reason, King James I was "medieval" in his worldview. His viewpoint on the Christian foundations of law and government was a noble one, if only he knew how to govern with wisdom, honesty, and even-handed justice. But neither James I or any of his Stuart successors understood governance or the idea of government for the benefit of the people. The Stuart monarchs were self-interested at heart. For this reason, the British Empire expanded in colonial British North America and in the West Indies under their watch at the expense of socioeconomic injustice, greed of gold, and the transatlantic slave trade.

SUMMARY

King James IV (1566-1625), King of Scots, ascended the throne of England following the death of Queen Elizabeth I in 1603. By every account, he wished to establish his reign upon the administrative success and policies of Queen Elizabeth I, but he lacked her political savvy and genuine love for true justice. Instead, King James I set in motion a policy of strict allegiance to his economic policy of expansion, founded upon his doctrine of "divine right of kings." King James I and his Stuart successors believed that a monarch must rule as God's vice-regent, but they did not believe that a monarch must be accountable to those who are

governed. For this reason, the monarchial rule of the Stuart monarchs of the seventeenth century did not meet the high theological and constitutional standards as set forth in St. Augustine of Hippo's *The City of God*,-- high theological and constitutional standards which the Lutherans, Calvinists, English Puritans, Baptists, Independents, and Presbyterians readily embraced. And all of this unbelief and infidelity to "the law of Christ"[9] amongst the seventeenth-century Stuart kings led to the English Civil War (1641-1652), the Glorious Revolution of 1688, and the English Bill of Rights of 1689. Hence, the constitutional history of both England and North America exemplify a great struggle within the universal human spirit—a great struggle to codify fundamental "moral" law (i.e., the "law of Christ") within the fundamental constitutional law of the British Empire.

Part XXXIII. Anglican Church: "King James I (1566-1625) and 'The Divine Right of Kings'"

King James I loved the Sacred Scriptures and the Church of England but his idea of the "divine right of kings" and desire for imperial expansion at almost all costs were unbiblical and fundamentally unjust. These historical problems set in motion a series of historical events that led directly to struggle for the establishment of a fundamental moral law (i.e., the "law of Christ")[10] in England and throughout the British Empire, resulting or culminating in the English Civil War (1642-1651); the Glorious Revolution of 1688; and the English Bill of Rights of 1689.

I.   A Biography of King James I (1566-1625)

James Charles Stuart was born on June 19, 1566. He was the son of Mary Queen of Scots, the godson of Queen Elizabeth I, and the great-great grandson of King Henry VII. His father, Henry Stuart, Lord Darnley, was accused of having male lovers and was, perhaps, murdered in 1567 connection with an adulterous homosexual affair with another man. James' mother, Mary Queen of Scots, was arrested and detained in 1567 and, later, tried and executed in 1587 upon the order of Queen Elizabeth I, in connection with Queen Mary's involvement in a plot to overthrow Elizabeth and to reestablish Roman Catholicism in England and Scotland. James grew up without both his mother and father. He was instead entrusted to a regent (i.e., the earl and countess of Mar) and designated heir

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[9] The Law of Christ is to "love ye one another" (John 15:12); to do justice and judgement (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).
[10] Ibid.

apparent to the thrones of Scotland and England, assuming that Elizabeth I might die without a natural heir. He was anointed "King of Scots" in 1567 at only thirteen months old.

The Scots made efforts to ensure that young Prince James would be taught the new Protestant faith that was coming forth from Geneva. George Buchannan was James' senior tutor; he instilled in the young James a love for literature, the arts, and Calvinism—although James never relinquished his appreciate of the Roman Catholic faith. At age 23, in 1589, James was proclaimed an adult monarch. Having taken little interest in women, James was also praised for his chastity, preferring mostly male friendship. But in 1589 he married fourteen-year-old Anne of Denmark, who later gave birth to seven live children, two stillborn children, and would later have three miscarriages. Only three of James' and Anne's children would live to adulthood: Henry Frederick, Prince of Wales; Elizabeth, Queen of Bohemia; and Charles, who would later succeed James I as King of England. Because of James I's loving relationship with his wife Anne, his other alleged illicit homosexual affairs with men, such as Esme Steward (later Duke of Lennox), Robert Carr (later Earl of Somerset), and George Villiers (later Duke of Buckingham), remain a matter of historical ambiguity. Needless to say, many of James I's contemporaries believed that he had engaged in illicit sexual affairs with young men. For example, "[c]ontemporary Huguenot poet Theophile de Viau observed that 'it is well known that the king of England / fucks the Duke of Buckingham.' Buckingham himself provides evidence that he slept in the same bed as the king, writing to James many years later that he had pondered 'whether you loved me now ... better than at the time which I shall never forget at Farnham, where the bed's head could not be found between the master and his dog.'"[11] The influence of these and similar rumors of James I's illicit sexual promiscuity might have fueled the dissatisfaction of the Puritans with his lordship's moral fitness to lead.

In any event, James VI, King of Scots, ascended to the throne of England in 1603, following the death of Queen Elizabeth I. He became James I of England and encountered many of the same challenges as were faced by Elizabeth I: the Catholics, the Puritans, and the Independents were continuing to challenge various aspects of the ecclesiology and theology of the established Church of England, and Parliament was positioned to exert more influenced against the new monarch. James I, however, kept most of Elizabeth I's Privy Council and aimed to press the same Elizabethan policies. In fact, the Elizabethan cultural renaissance that had

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[11] "James I of England," https://en.wikipedia.org/wiki/James_VI_and_I.

produced the plays of William Shakespeare was continued under the reign of James I. For it must be remembered her, that James I was himself a writer, poet, and patron of the arts, as he had promoted literature and learning in Scotland since the 1580s and 90s. James I had been broadly and liberally educated as a Protestant, but he also understood the "catholic" foundation of the monarchy and, therefore, favored episcopacy and high-church Anglicanism. Thus, James I had a keen understanding of the ferocious political and religious forces impacting England and Scotland: Medieval Catholicism, Anglicanism, Puritanism, Calvinism, and Scottish Presbyterianism. These political and religious forces were manifest as early as 1603, when at least two plots (i.e., the Bye Plot and the Main Plot) against James I's life were discovered and quashed.

At the same time, the Puritans began to force James I to consider dismantling many Catholic liturgical rites that were still being practiced within the Church of England. They drafted the Millenery Petition of 1603 and presented it to James I, who rejected it outright, contending "no bishops, no king," meaning that he could not accept a Presbyterian form of ecclesiastical government. In 1604, at the Hampton Court Conference, the Puritans were at least able to extract from James I one very important concession: the Authorized (King James) Version of the Bible was commissioned, and later completed in 1611. But James I insisted upon episcopacy, high-church Anglicanism, and the "divine right" of kings.

In 1605, another assassination attempt against James I was made, this time by the Roman Catholics, in what became known as the Gunpowder Plot. Immediately, thereafter, James I imposed measures to suppress the Catholics in England. James I's relationship with the English Catholics was tempered by his global positioning of England in the international trade with the New World. Catholic Spain wielded significant influence, and, much to the chagrin of the English Puritans, James I considered marrying his son, Charles, to a Spanish princess. For this reason, James I was willing to tolerate crypto-Catholicism in England, meaning that for so long as the English Catholics swore an oath of allegiance and displayed loyalty, that he would let them alone. James I was concerned more with global expansion of empire and avoiding another war with Spain.

Under James I of England (1603-1625), great trading companies and commercial enterprises were commissioned and chartered, as the Age of Discovery had been underway in the New World since the late fifteenth-century. See, e.g., Table 1, "The Anglican Church and the Rise of Secular Materialism."

Table 1, The Anglican Church and the Rise of Secular Materialism

MAJOR TIME PERIOD	MAJOR CONFLICT
Prior to the Sixteenth Century (Late Middle Ages)	Church ←--------→ State
After the Sixteenth Century (Early Modern Period)	Church ←--------→ State ←-------→ Capitalism

During the time of James I of England, the Puritans and the capitalists were two distinct constituencies who were both directing their arrows at the same target: the Church of England and the Monarchy. When this Reformation finally prevailed, the commercial interests of these financiers and merchants finally succeeded in overthrowing the Church of England's monopoly over economic ethics and morals;[12] but then again these same commercial interests soon turned against the high ideals of Puritanism. John Calvin and his early Protestant disciples would have been appalled by the collapse of commercial ethics and social morals that developed during the seventeenth and eighteenth centuries. Under the reign of James I, it must be remembered that a third major force, "capitalism," began to assert itself in British national and international politics, as follows:

Church— promoted religion/ economic ethics and morals

State— promoted social policy/ economic ethics and morals

Capitalism— promoted private property interests but "resented the restraints on individual self-interest imposed in the name of religion or of social policy"[13]

But the interests of all three—Church, State, and Capital—often converged, and lines were blurred. Commercial interests in England were extraordinarily important during Queen Elizabeth I's reign (1558-1603) and became predominant during the reign of her predecessor James I (1603-1625). Already, by the beginning of the reign of King James I (1603-1625), the social, political, and economic stratification of modern-day English society began to take shape. This economic stratification was not as well-defined during the reign of James I, but

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[12] R.H. Tawney, *Religion and the Rise of Capitalism,* pp. 189-210.

[13] R.H. Tawney, *Religion and the Rise of Capitalism*, p. 193.

during the entire reign of the House of Stuart in England (1603-1724), this economic stratification deepened and became well-defined and predominant. Eventually, during the one-hundred year reign of the Stuarts, two great political parties would emerge—the Tories and the Whigs. See, e.g., Table 2, "The Tories and the Whigs."

Table 2, "The Tories and the Whigs Political Party Emerge during the 1600s- 1700s."

Tories	Whigs
British Monarchy (i.e., Divine Right of Kings; Royal Prerogative)	Parliament (i.e., the supremacy of Common Law; Parliamentary Supremacy.
Church of England (i.e., traditional Anglican Catholic theology; rule of bishops)	Religious liberty for Protestant Dissenters (i.e., Reformed Anglican theology; Puritanism, Presbyterianism; other independent Protestant sects).
Traditional landed British Nobility (Dukes; Earls; Knights; country gentry, etc.)	
	Non-traditional New Nobility (i.e., British merchants and businessmen)
Anglican Clergymen	
	Commercial and industrial development

The Whig Party thus became the party of the Puritans during the l7th century. The Whigs developed in order to organize increasing dissenting opinion within and without the Church of England. They were religious and non-religious; they were Puritans and non-believers; they were conservative clergymen and agnostic merchants. "They were later called Whigs, a nickname once given to covenanted Scotsmen who murdered bishops."[14]   As commerce and industry

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[14] Ibid., p. 361.

began to revolutionize English society during the late seventeenth century, the economic interests of the British nobility, clergy, and merchant-business-capitalist classes often overlapped. This was especially true in the case of English nationalism and international trade. As England's commerce expanded, so did its appetite for colonial expansion and for super profits.

During the seventeenth century, England established several of its most important business enterprises, including the East India Company, the Virginia Company, the Massachusetts Bay Company, the Hudson Bay Company, and the Royal African Company.

The East India Company: this company was established during the year 1600. Its objective was to carry on trade between England and the subcontinent of India and Asia.

The Virginia Company: this company was established during the year 1606. Its objective was to establish an English outpost or colony of settlers in North America. The primary objective was to seek opportunities for investment and trade.

The Massachusetts Bay Company: this company was established during the year 1629. Unlike the other companies previously mentioned, its board of governors did not sit in London but rather came to North America. Its primary objective was to establish a religious colony based upon the Puritan-Anglican belief system.

The Royal African Company: this company was established during the year 1660. Its objective was to carry on the slave trade between West Africa, the Caribbean islands, North America, and England.

The Hudson Bay Company: this company was established during the year 1670. Its objective was to establish a fur trade with Native Americans in North America.

English companies thus became of paramount importance during the late-sixteenth and seventeenth centuries. English merchants became world-wise and sophisticated; they now gave gifts to, and made demands from, the English government; and the English government, in turn, granted the merchants favorable

trade laws, such as the Navigation Act of 1651. The English government and the merchants thus forged unified commercial and financial interests.

The growing expansion of overseas territories and more intense trade among England and its colonies required an activity from the Crown to support the merchants and have a good outlook as far as the commercial development is concerned. Consequently, since 1620's committees within the Privy Council were established to provide the king with advice in such matters. In 1675 the Lords of Trade was created as a governmental body which was later on replaced by the Board of Trade in 1696. Its purpose was to give advice to Parliament and the Crown in legal affairs of regarding international commerce, and also to supervise the relation to the colonies. It had sixteen members in total, eight of them were appointed commissioners with regular salary with the aim of "promoting the trade of our Kingdom and for inspecting and improving our plantations in America and elsewhere." The remaining eight positions were unpaid, as the members were chosen from the Privy Council, whose members did not traditionally receive any money for their service to the Crown.[15]

In summary, the trade in early modern England represented a crucial element of the state economy. Thus, the Crown had to make every effort to support it in various ways. Due to the fact that traders needed protection, England maintained a Navy and altered its foreign policy so that it did not destroy its commercial interests and international relations between fellow European nations and indigenous peoples of India, West Africa, and North America. Multinational antagonism was omnipresent. It was therefore undoubtedly the Crown's interest to support the maritime navigation, the building of a powerful British Navy, and colonization in foreign lands. Indeed, colonization opened up the ingenious possibilities to export and import goods, to initiate new trading opportunities and to discover more raw commodities to trade and manufacture finished goods. As a result, England expanded its commercial power all over the world and created a starting point for becoming a world superpower of the modern age.[16]

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[15] Ibid.
[16] Ibid.

The sixteenth- and seventeenth-century Puritans sprang out from, to a large degree, "a new nobility and a new middle class,"[17] whose "economic strength was immense"[18] and who led the chartered trading companies and dominated the councils of government which protected commercial interests. The new nobility came out from the English upper classes, but they were largely the "second sons," who through tradition would have sought careers in the church, the military, or law, but who now often looked to the new careers that were opening up in business enterprise. English tradition, however, held firm, and there was during the fifteenth and sixteenth centuries great prejudice among the nobility against engaging in trade, commerce, and usurious money-making. But by the early seventeenth century, when James I ruled England, such prejudices began to fade away, as European nations began to readily define their glory, honor and power in terms of global economic dominance. Colonial expansion thus became a matter of life and death in seventeenth and early eighteenth century England. And somehow the Puritan and Calvinist world-views appealed to the very class of English noblemen who were looking to take advantage of world trade.

During the reign of James I of England, the Thirty Year's War (1618-1648) broke out in continental Europe as part of a global struggle between Protestants and Roman Catholics in central Europe. During this period, James I's daughter, Queen Elizabeth of Bohemia (Germany) had been married to Prince and Elector of Palatine Frederick V of Bohemia, who was deposed by the Spanish Holy Roman Emperor Ferdinand II in 1620. Already, at home in England, Sir Edward Coke and other Puritan politicians in Parliament urged King James I to enter the Thirty Year's War by declaring war on Spain. Parliament also urged James I to forbid his son, Prince Charles, from marrying a Roman Catholic. These Englishmen urged that Prince Charles be married to a Protestant. But James I disagreed with Lord Coke and Parliament; and, while invoking his royal prerogative and "divine right" of monarchy, James I peremptorily dissolved the Parliament. By doing so, James I avoided war with Spain and becoming entangled in the Thirty Year's War. However, the rift between Parliament and King James I would carry over into the reign of Charles I of England (1625-1649), which ended in Charles I's tragic defeat and execution at the hands of the Puritan Parliament during the English Civil War (1642-1651). Perhaps the doctrine of "divine right of kings" was the most troubling and tragic legacy which James I had left for his son King Charles I.

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[17] Goldwin Smith, *A History of England* (New York, N.Y.: Charles Scribner's Sons, 1957), p. 284.
[18] Ibid.

Nobody refuted the power and sovereignty of God, but some men were beginning to question the divine nature of kings and queens and to insist upon the fundamental rights of all human beings. In 1625, King James I died.

II. Divine Right of Kings: King James I's Treatise on *The True Law of Free Monarchies (1598)*

King James I of England (1602-1625) was credited with institutionalizing the political doctrine "divine right of kings" in England. To be sure, James I was not the first English monarch to embrace the idea of absolutism, and he was certainly not the last English monarch to be accused of absolutist abuse (e.g., the American colonists in the Declaration of Independence (1776) would later accuse King George III of England of perpetuating absolutist abuses). But James I was the first English monarch to vindicate royal authority as being absolute and has having divine sanction from both natural law and the Sacred Scriptures.

During the year 1598, while known as James VI, King of Scots, and five years prior to becoming King James I of England, James wrote a treatise called *The True Law of Free Monarchies*, in which he considered the king to be the "father" and the body politic to be "the family." In other words, the king was considered to be the father of the family, with full authority to rule over the family. "The king towards his people is rightly compared to a father of children," wrote King James I, "and to a head of a body composed of divers members. For as fathers the good princes and magistrates of the people of God acknowledged themselves to their subjects. And for all other well-ruled commonwealths, the style of *Pater patriae* (father of his country) was ever and is commonly used to kings."[19] Thus considered and so compared to the father of the home, King James I then extrapolates further and concludes that no son can lawfully rise up against and overthrow or replace the father of the home; nor can sons lawfully choose between a father or a replacement for their father; or to rebel against the father for capricious reasons— for such a rebellion, wrote James I, would be unnatural and unlawful.[20] King James I insisted that it must be "thought monstrous and unnatural for [a king's] sons to rise up against him, to control him at their appetite, and when they think good to slay him, or to cut him off, and adopt to themselves any other they please in his room."[21] Therefore, according to King James I, the laws of nature (i.e., the laws of reason and of God) established the king as the natural head of the nation (as the father is the natural head of the household).

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[19] James I of England, *The True Law of Free Monarchies*.
[20] Ibid.
[21] Ibid.

Perhaps, though, James I's most radical analysis of the relationship between monarchy and body-politic was his comparing the monarchy to being the human "head" of a human "body." As the human "body" is subject to the commands and functions of the human "head," James I reasoned that all subordinate members of a nation-state must be subordinate to the monarch.[22] This idea, wrote James I in *The True Law of Free Monarchies* was a law of nature.[23] And as such, the head of the body politic (i.e., the king) must make final decisions for the lower-level member of the body politic— that head must compels and command; it nourish and heal; and it cuts off the sick and decaying members of the body politic. This was the law of nature, as James I of England understood the law of nature to exist in England.[24] Similarly, as King James I concluded, the head of the human body is absolutely essential and superior, but the subordinate members of that body were important and essential, but not equal to the head. For this reason, James I concluded that no revolutionary right of resistance to the king could be justifiable in law of nature. As a matter of natural law, then, the lower members of the human body must give way to the lawful commands of human head, in order for the body to function properly. Appeal may be taken to God, but James I did not believe that the subordinate members of a nation-state had the right to depose, to cut off, and (or) to replace their king.[25] Hence, the law of nature, together with the high-church Anglican interpretation of the Sacred Scriptures, created a "divine right" in the monarchy to rule in England.[26]

One of the chief sources of the "divine right" theory of monarchial rule was taken from Romans 13:1-10:

> Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God.
>
> **2** Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation.

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[22] Ibid.

[23] Ibid.

[24] Ibid.

[25] Ibid.

[26] "The divine right of kings is a Christian-flavored version of ancient pagan attitudes toward kings and emperors. In its most well-known form during the sixteenth and seventeenth centuries, the divine right of kings claimed monarchs are ordained to their position by God, placing them beyond criticism and making rebellion against them a sin. The theory is based on an extreme interpretation of Romans chapter 13, combined with statements made in the Old Testament. The divine right of kings was controversial when first claimed by kings like James I, and it is generally rejected by theologians today." https://www.gotquestions.org/divine-right-of-kings.html

3 For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same:

4 For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil.

5 Wherefore ye must needs be subject, not only for wrath, but also for conscience sake.

6 For for this cause pay ye tribute also: for they are God's ministers, attending continually upon this very thing.

7 Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour.

8 Owe no man any thing, but to love one another: for he that loveth another hath fulfilled the law.

9 For this, Thou shalt not commit adultery, Thou shalt not kill, Thou shalt not steal, Thou shalt not bear false witness, Thou shalt not covet; and if there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbour as thyself.

10 Love worketh no ill to his neighbour: therefore love is the fulfilling of the law….

13 Let us walk honestly, as in the day; not in rioting and drunkenness, not in chambering and wantonness, not in strife and envying.

14 But put ye on the Lord Jesus Christ, and make not provision for the flesh, to fulfil the lusts thereof.

Hence, the monarchs, bishops, and the high-church Anglicans argued from the Sacred Scriptures that the monarchy in England was "ordained by God."[27] The British monarch, then, was "a higher power" that was "ordained by God," and thus any political resistance to monarchial rule was also political resistance to "the ordinance of God."[28] The high-church Anglicans of early seventeenth-century England, led by Archbishop William Laud (1573 – 1645), next argued that to resist

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[27] See, e.g., Romans 13:1.
[28] See, e.g., Romans 13:2.

the King of England was tantamount to resisting God Himself, and thereby such resisters "shall receive to themselves damnation."[29]

It must be noted here, that when St. Paul wrote these words, that he was not limiting "the higher powers" to Christian monarchs or kingdoms, but rather to pagan monarchs and powers as well, presumably the non-Christian Roman emperors of his time. In other words, according to St. Paul, even Christians must subject themselves to the "higher powers" of non-Christian or secular rulers. "For such rulers are not a terror to good words, but to the evil."[30] And so rulers, as such, are "the minister of God to thee for good"[31] and "for they are God's ministers, attending continually upon this very thing."[32] As such, even Christians must be subject to earthly rulers "not only for wrath, but also for conscience sake."[33] The Christian's only duty, then, was to love[34]; for, as St. Paul admonished, "Love worketh no ill to his neighbor: therefore love is the fulfilling of the law."[35] Finally, the Christian must seek to live holy: "Let us walk honestly, as in the day: not in rioting and drunkenness, not in chambering and wantonness, not in strife and envying. But put ye on the Lord Jesus Christ, and make not provision for the flesh, to fulfill the lust thereof."[36]

The problem that frequently confronted England, several centuries before the time of James I, was *evil and incompetent popes, bishops, and monarchs who failed or refused to govern in accordance with God's moral law*.[37] But King James I and the high-church Anglicans pointed to 1 Samuel 24:1-15, and argued that no matter how wicked or incompetent the monarch may be, a subordinate subject or citizen should not seek to harm or kill the monarch. The monarchy, no matter how evil, was believed to be accountable to God alone, and thus to rebel against the monarch was to rebel against God. The example of David in the Old Testament was often cited: "The LORD forbid that I should do this thing unto my master, the

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[29] Ibid.

[30] Romans 13:3.

[31] Ibid.

[32] Romans 13:5.

[33] Ibid.

[34] Romans 13:8.

[35] Romans 13:10.

[36] Romans 13:14.

[37] The great tradition of critiquing church-state relations in England began, perhaps, with **William of Ockham (1285 – 1347)** and **John Wyclife (1320s – 1384)**. And it continued with the ascendency of church doctor and theologian **Richard Hooker (1554 – 1600)**, who greatly influenced philosopher and theologian **John Locke (1632 – 1704),** and later with the great seventeenth-century Puritan Divines, such as **Rev. Richard Baxter (1615 – 1691).**

LORD's anointed, to stretch forth mine hand against him, seeing he is the anointed of the LORD."[38]

But the Puritans and most of England were beginning to read much more into the Sacred Scriptures. For there were also, in addition to God's anointed kings, the Hebrew prophets in the Old Testament who were also warning Pharaohs, emperors, and kings *to do what is right and to establish justice*, or else face the wrath of God who would ultimately take revenge against them by removing evil rulers from their positions of power and authority. And, in the Old Testament Book of I Samuel, the prophet Samuel thus forewarned ancient Israel against instituting a monarchy, *rather than a constitutional system based upon the rule of moral fundamental law (i.e., the law of Christ)[39] administered by judges*:

> **7** And the LORD said unto Samuel, Hearken unto the voice of the people in all that they say unto thee: for they have not rejected thee, but they have rejected me, that I should not reign over them.
>
> **8** According to all the works which they have done since the day that I brought them up out of Egypt even unto this day, wherewith they have forsaken me, and served other gods, so do they also unto thee.
>
> **9** Now therefore hearken unto their voice: howbeit yet protest solemnly unto them, and shew them the manner of the king that shall reign over them.
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> **10** And Samuel told all the words of the LORD unto the people that asked of him a king.
>
> **11** And he said, This will be the manner of the king that shall reign over you: He will take your sons, and appoint them for himself, for his chariots, and to be his horsemen; and some shall run before his chariots.
>
> **12** And he will appoint him captains over thousands, and captains over fifties; and will set them to ear his ground, and to reap his harvest, and to make his instruments of war, and instruments of his chariots.
>
> **13** And he will take your daughters to be confectionaries, and to be cooks, and to be bakers.

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[38] 1 Samuel 24:6.

[39] In the English common law system (both law and equity), the secular jurisprudence reflected the central message of Jesus of Nazareth to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

¹⁴ And he will take your fields, and your vineyards, and your oliveyards, even the best of them, and give them to his servants.

¹⁵ And he will take the tenth of your seed, and of your vineyards, and give to his officers, and to his servants.

¹⁶ And he will take your menservants, and your maidservants, and your goodliest young men, and your asses, and put them to his work.

¹⁷ He will take the tenth of your sheep: and ye shall be his servants.

¹⁸ And ye shall cry out in that day because of your king which ye shall have chosen you; and the LORD will not hear you in that day.

¹⁹ Nevertheless the people refused to obey the voice of Samuel; and they said, Nay; but we will have a king over us….

Indeed, in most of the Old Testament books, from the Book of 1 Samuel through the Book of Malachi, there are prophetic critiques of the kings and emperors of ancient Judah, Israel, and pagan rulers. These prophetic books contain not only moral lessons from the prophets, but also many concrete examples of kings and rulers who either obeyed or disobeyed God's fundamental moral laws, as follows:

King A-sa
"A-sa his son reigned in his stead. In his days the land was quiet ten years. And A-sa did that which was good and right in the eyes of the LORD his God….[40] The LORD is with you, while ye be with him; and if ye seek him, he will be found of you; but if ye forsake him, he will forsake you. Now for a long season Israel hath been without the true God, and without a teaching priest, and without law."[41]

King Jo-ash
"Jo'ash was seven years old when he began to reign, and he reigned forty years in Jerusalem. His mother's name also was Zib-i-ah of Be-er-she-ba. And Jo-ash did that which was right in the sight of he LORD all the days of Je-hoi-a-da the priest."[42]

King Am-a-zi'-ah
"Am-a-zi-ah was twenty and five years old when he began to reign, and he reigned twenty and nine years in Jerusalem. And his mother's name was Je-ho-ad-

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[40] 2 Chronicles 14:1-2.
[41] 2 Chronicles 15:2-3.
[42] 2 Chronicles 24:1-2.

dan of Jerusalem. And he did that which was right in the sight of the LORD, but not with a perfect heart."[43]

King Uz-zi'-ah

"Sixteen years old was Uz-zi'-ah when he began to reign, and he reigned fifty and two years in Jerusalem…. And he did that which was right in the sight of the LORD, according to all that his father Am-a-zi'-ah did."[44]

King Jo'-tham

"Jo'-tham was twenty and five years old when he began to reign, and he reigned sixteen years in Jerusalem…. And he did that which was right in the sight of the LORD, according to all that his father Uz-zi'-ah did: howbeit he entered not into the temple of the LORD. And the people did yet corruptly."[45]

King Ahaz

"Ahaz was twenty years old when he began to reign, and he reigned sixteen years in Jerusalem: but he did not that which was right in the sight of the LORD, like David his father…."[46]

Just as the Old Testament had assessed the integrity and moral quality of ancient Israelite kings such as Saul, David, and Solomon, Englishmen had since the fourteenth century up to the seventeenth century, fairly assessed the proper role of Church and State and the validity of the royal and divine authority of the British monarchy,[47] so that by the time of King James I (who reigned from 1603 to 1625),

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[43] 2 Chronicles 25:1-2.

[44] 2 Chronicles 26:3-4.

[45] 2 Chronicles 27:1-2.

[46] 2 Chronicles 28:1.

[47]   For example, the lives, careers and times of **William of Ockham** and **John Wyclife** laid the foundations of modern Anglo-American constitutional law:

William of Ockham (1285- 1347). He was a Franciscan priest. Known as the "invincible doctor," and one of the most important scholastics after Thomas Aquinas, William of Ockham raised serious questions regarding the church's inherent right to disobey an obviously heretical Pope, such as Pope John XXII. William of Ockham "asserted that the Scriptures were the sole source of law. He attacked canon law, the legalism of medieval Christianity, the hierarchy in the church. Canon law, he declared, was valid only as an interpretation of the Scriptures; it was an administrative device, nothing more." This meant that the Church should have no power over the State, but instead should only wield authority within the confinement of the church. Furthermore, William of Ockham also purported that the true Church is really the invisible congregation of all the faithful, and was not confined to the earthly Roman Catholic Church. "William also claimed that the church was really the whole body of Christian people and that the Pope never did possess the authority to speak for all the church." These radical ideas laid the seeds for the Protestant reformation two centuries later.

John Wyclife (1320-1384). He was a professor at Oxford and a priest in the Roman Church of England. Like William of Ockham, Wyclife also questioned papal authority. "[H]e vigorously advanced his theories about the relations of church and state in several pamphlets, most famous of which were two, *On Civil Dominion* and *On*

the Puritan wing within the Church of England began to apply the Sacred Scriptures in a manner that placed the British monarchy underneath the rule of the Common Law of England (i.e., the "fundamental moral law of God").[48] Such a constitutional ideal had been present within English law at least since the ascendency of King Henry IV (1400-1413) to the throne of England, after King Richard II had been deposed in 1399, because he had violated the **"fundamental laws of England"** through adhering to laws **"in his own heart."**[49]

During the mid-sixteenth century, the Church of England also grappled with England's varied economic and social challenges. Economic analysis and social criticism had always remained at the core of the Judea-Christian faith traditions and the moral theology of the Roman Catholic and Anglican churches. Indeed, since ancient times, the Law of Moses had led men naturally to a critical analyses of their fundamental economic and social relations. Key provision within the Ten Commandments naturally mandated that they do this: "I am the Lord thy God… Thou shalt not kill…   Thou shalt not steal… Thou shalt not bear false witness against thy neighbor… and Thou shalt not covet (neighbor's house)(neighbor's wife) (neighbor's servants, animals, or anything else)." And within the prophetic books of the Law of Moses, several of the Hebrew prophets had condemned unjust gains from economic oppression and exploitation of the poor: *Book of Habakkuk* (economic exploitation; bloodthirsty economic gain; and theft)[50]; *Book of Micah* (failure to establish justice; love of evil; economic oppression; and, social disintegration and corruption)[51]; *Book of Obadiah* (God will punish evil)[52]; *Book of Amos* (economic crimes (i.e., oppression of the poor and the needy); indifference of the wealthy toward the economic oppression of the poor and the needy; lack of justice; p erversion of judgment and justice; and, religious

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Divine Dominion. In all of his writings Wycliffe exalted the state at the expense of the church. Kings, he held, ruled by divine right. Both priestly power and royal power came from divine appointment; the church and state should cooperate with each other. Christ was the head of the church, not the Pope…. He declared that the main source of spiritual authority was the Scriptures, not the Pope." Wycliff's ideas were suppressed, and by 1400 the English crown and the Roman Church had banished or executed all of Wycliff's supporters. However, Wycliff's ideas would continue to spread throughout England and the European continent through men such as John Huss (1369-1415), who, "in turn, influenced Martin Luther" and the Protestant Reformation.

[48] In the English common law system (both law and equity), the secular jurisprudence reflected the central message of Jesus of Nazareth to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

[49] Goldwin Smith, *A History of England*, infra., p. 145.

[50] Habakkuk 1:4, 2:6, 9-12; 3:8-14; 1:14; 1:13-17; 2:18-20; 1:5 and 2:4.

[51] Micah 3:11; 2:11; 3;4; 1:7; 5:12-13; 2:6; 7:3; 3:2; 3:9; 6;12; 2;1-3; 3:2-3.

[52] Obadiah 1:12; 1:15; and 1:1-12.

indifference toward the economic oppression of the poor and the needy)[53]; *Book of Hosea* (economic crime, oppression and deceit)[54]; *Book of Ezekiel* (oppression of the poor, needy, strangers. Unjust economic gain)[55]; *Book of Jeremiah* (genuine disinterest in justice; genuine love of covetousness, deceitfulness, unrighteousness and injustice; exploitation and unjust riches)[56]; and the *Book of Isaiah* (shedding innocent blood; Speaking lies and perverseness; refusing or failing to establish justice; disregarding truth; unjust gains from oppression; bribery; and oppression of the poor, needy, and innocent)[57].

When James VI of Scotland ascended the throne of England and became King James I of England and Scotland in 1603, English jurists, such as Sir Edward Coke, had then the distinct advantage of looking back at the over five hundred years of English history, from the time of William the Conqueror (i.e., William I of England) up through the reign of Elizabeth I (1558 – 1603). See, e.g., Table 3, "A Summary and Listing of English Monarchs, 1066 to 1603, A.D.). Hence, during the seventeenth century, many factions within England's Parliament looked back upon England's constitutional history and concluded that, which was lead by Puritan parliamentarians, together with leading common law jurists, such as Sir Edward Coke, vehemently challenged King James I's conception of the divine right of monarchial rule. King James I's interpretation of the English Common Law or of England's unwritten constitution was flagrantly inaccurate. English monarchs were never given absolute prerogative or power; they had all been subject to the rule of law, as directed in the Old Testament, and as exemplified by the fall of King Richard II in 1399 because he had adhered to a law **"in his own heart,"**[58]rather than to the fundamental "moral" law of God**.** Sir Edward Coke and the Puritans, therefore, sought to restrain King James I's arbitrariness, because of English constitutional

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[53] Amos 1:3-15; 2:1-3; 3;1-2; 3:9; 4:1; 5:12; 5:11; 6:1-6; 6:8; 5:7; 6:12; 5:10; 5:21-24; and 5:4,14.

[54] Hosea 1:2; 8:1; 8:12; 3:20; 1:2; 3:13; 3:17; 6:9; 6:6; 4:1; 4:6; 7:7; 4:2; 12:6; 4:7-8; 4:11-12; 12:6-7; 14: 1-5 and 14:9.

[55] Ezekiel 37:1-28; 20:24; 2:3; 20:19; 5:9; 6:11; 16:1-2; 6:9; 14:3-4; 16:15-16; 16:27-43; 23:1-49; 23:3; 23:7; 23:11; 23:19; 23:37; 23:43-45; 7:11; 7:23; 8:17; 9:9; 11:6; 12:19; 22:1-6; 24:6; 24:8; 22:13; 18:12; 22:7; 22:12; 22:29; 22:27; 22:25-26; 20:24; 27:13; 34:23; 37:24-28; 18:18-23; and 19:30-32.

[56] Jeremiah 1:5; 4:1-2; 1:10-11; 2:1-3; 5:23-24; 9:13-14; 17:9-10; 4:4; 6:10; 7:23; 11:8; 13:10; 14:14; 16:12; 18:12; 22:17; 2:19; 31:33; 5:23-24; 8:8-9; 5:1; 5:28; 22:3-4; 7:5-7; 5:4; 8:6; 5:4;5:12-14; 44:9-10; 4:22; 2:32; 3:20; 4:22; 6:13; 9:4-6; 5:28; 17:11; 22:13-14; 5:8; 5:7; 23:10; 23:14; 13:27; 2:8; 23:26-27; 10:21; 5:31; 23:11; 23:30-32; 14:14; 18:15; 18:7-9; 10:10-12; 25:13-14; 4:1-2; 10:7; 16:19-21; 23:2; 33:15; and 9:25-26.

[57] Isaiah 54:5; 2:2-4; 24:5-6; 14:24-27; 45:18-19; 14:1; 14:5-6; 14:12-14; 58:3-10; 1:11-15; 18:18-19; 5:7-9; 1:21-23; 10:1-2; 5:20-23; 59:3; 59:7; 59:3; 59:13; 59:4; 59:14; 59:13; 33:15; 32:7; 10:1-2; 59:15; 33:15; 9:6-7; 11:1-10; 9:6-7; 42:1-4; 1:26-27; 37:5; 37:2; 37:6; 37:17-20; and 37:35-36.

[58] Goldwin Smith, *A History of England*, infra., p. 145.

history, tradition, and legal precedent—in England, the rule of the Common Law was superior to the royal prerogative, not the other way around.

Table 3, "A Summary and Listing of English Monarchs, 1066 to 1603, A.D.)

See, e.g., this series, "A History of the Anglican Church," Parts III through V
A. King William I (1028-1087) * Roman Civil Law introduced to England
B. King William II (1087-1100)
C. King Henry I (1100- 1135)
D. King Henry II (1154-1189) * English Royal Law and Jury Systems instituted

See, e.g., this series, "A History of the Anglican Church," Part VI
E. King Richard I (1189 – 1199 A.D.
F. King John I (1199 to 1216 A.D.) * Magna Carta instituted in 1215
G. King Henry III (1216 – 1272 A.D.) * Articles of Complaint (Against Monarchial Abuses)
H. King Edward I (1272- 1307 A.D.) * English Jurisprudence Systemized & Modernized
I. King Edward II (1307-1327 A.D.)
J. King Edward III (1327 to 1377 A.D.) * Hundred Year's War with France begins
K. King Richard II (1377- 1400 A.D.) * Great Schism; Church-State theory; Peasant's Revolt

See, e.g., this series, "A History of the Anglican Church," Part VIII
L. King Henry IV (1400 – 1413) * Constitutional Monarchy imposed by Laws of Parliament
M. King Henry V (1413 – 1422)
N. King Henry VI (1422-1461)
O. King Edward IV (1461- 1483)
P. King Edward V (1483)
Q. King Richard III (1483-1485) * War of Roses; Defeated in Battle by Henry Tudor

See, e.g., this series, "A History of the Anglican Church," Parts XIV through XIX
R. King Henry VII (1485- 1509)
S. King Henry VIII (1509 – 1547) * Anglican Church breaks from Rome
T. King Edward VI (1547 – 1553)
U. Queen Mary I (1553-1558)
V. Queen Elizabeth I (1558-1603)

From the ascendency of King James I (1603- 1625) to the throne of England in 1603 to the reign of King George III (1760- 1820), the predominant theme in Anglo-American political theory and constitutional law was whether the British monarchy could reign unchecked by the "fundamental moral law" and the statutes

of England.[59]   During the reign of King James I, the great challenge of English politicians was to reconcile the doctrine of "divine right of kings" to the very English Common Law of which the English jurist Sir Edward Coke had fallen heir as master interpreter and chief judge.   During the years 1603 to 1625, it was Sir Edward Coke who as Lord Chief Justice of England and Wales, in defense of the English Common Law and the "fundamental moral law," stood courageously against King James I and the theory of "divine right of kings." In the Parliament, the Puritans and Presbyterians sought to impose Magna Carta and other constitutional restrictions upon King James I. This history would become the build-up to the English Civil War (1641-1652).

CONCLUSION

From the period 1603 up to the time of the American Revolutionary War (1775 to 1781), the political philosophy of "divine right of kings" was a potent force in Anglo-American political philosophy and constitutional law. King James I of England (1603-1625) is credited with giving this philosophy its currency and popularity. For it had deep roots in Medieval philosophy, but it ran counter to both the history of England up to that time, as well as the plain language of the Sacred Scriptures, which admonished kings and emperors to do judgment and justice (i.e., to follow the "law of Christ")[60] or else suffer the fate of former fallen empires. King James I and his immediate Stuart successors to the throne of England failed to conceptualize a monarchy that should be held accountable to God's fundamental moral law. And, as a result, they failed to comprehend that if, when, or where a monarch commits injustice through the exercise of the prerogative of "divine right," *then God himself would intervene to depose that wicked monarch, as he had done so in the Sacred Scriptures*. But who would be anointed, ordained, and utilized as God's instruments in deposing such wicked monarchs? The Puritans and the Reformers answered this question by asserting that *all lower-level government officials and magistrates* had been duly authorized to depose unjust, wicked monarchs, and *to establish the rule of constitutional law as an expression of the fundamental "moral" law of God*. Indeed, the history of the seventeenth and eighteenth centuries is the history of the codification of the fundamental moral law

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[59] In the English common law system (both law and equity), the secular jurisprudence reflected the central message of Jesus of Nazareth to love ye one another (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21:1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

[60] The Law of Christ 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).

into written constitutional, beginning with the various written constitutions of colonial British North American and English Bill of Rights of 1689.

THE END

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APPENDIX A: "St Augustine on the Rise and Fall of the Roman Empire: A Theory of Western Constitutional Law"

by

Roderick O. Ford, Litt. D.

The Church of England was a constituent part of the Western Church, with deep roots in the Roman Catholic Church. Therefore, when Henry VIII and Elizabeth I brought the Church of England into existence during the hey-day of the Protestant Reformation, it contained many elements of the Protestant Faith: Anglicanism, Puritanism, Baptist theology, Independent theological doctrines, etc. Regardless, all Anglicans uniformly accepted certain fundamental aspects of the Western Church's established Creeds, such as the Nicene Creed; and certain theological doctrines of the Western Church's Fathers, particularly those voluminous writings of St. Augustine of Hippo. When the Protestant Reformation was being launched, a humanist revival was also being created through the rediscovery of Aristotle and the Greco-Roman classics. But instead of using the rediscovered pagan classics to undermine the Christian faith, most of the humanists looked to men like St. Augustine of Hippo and St. Thomas Aquinas for guidance with synthesizing these Greco-Roman classics into their catholic Christian identities. Significantly, the rediscovery of the Greco-Roman pagan classics created "Christian humanists"—not secular humanists. The Italian Renaisance was thus scientific, secular, and catholic Christian. In essence, the pagan worlds and the Christian worlds collided and formed a new synthesis of culture, law and theology. The result was the Protestant Reformation . And, above all, St. Augustine of Hippo's writings and philosophy, which Proteste Reformers Martin Luther and John Calvin heavily relied upon, reigned supreme.   Hence, it is safe to conclude that St. Augustine was a founding father of the Protestant Reformation.   For, as Professor Mark Vessy's "Introduction" to St. Augustine's *Confessions* states:

> Augustine was renowned in the Latin-speaking world as a founding father of Christian theology, but his influence proceeds far beyond that. In the Confessions, Augustine broke ground by exploring his chosen topic—faith in God—using a tool that had little precedent in prior scholarship: his own life. Equally important, Augustine found room in the young Christian religion for the highly evolved thought of the so-called pagan philosophers, particularly Plato. This may seem simple enough on its face, but, without exaggeration, Augustine was centuries ahead of his time. The personal nature of the *Confessions* gave everyday relevance to the more abstract elements of Platonic thought and Christian theology, *bringing the rival philosophies into harmony and delivering them to millions of readers*. **Weaving together introspection, classical learning, and faith, Augustine outlined the underpinnings of the Renaissance in Europe, two centuries that followed the Middle Ages and were marked by a 'rebirth' of classical values and humanism, the belief in the dignity of each member of the human race**. **The Renaissance, according to many scholars, began on the spring day in 1336 when a young poet named Petrarch opened a copy of the *Confessions* and found in it a justification for scanning his own consciousness rather than searching the world for answers to the great questions of life. In some ways, the Renaissance never ended, as the innovations made during**

that period in art, science, commerce, and politics laid the basis for the world as recognize today. In many fundamental ways, in the *Confessions* Augustine articulated the soul of modern man…. [61]

The *Confessions* stands in a unique relationship to the Western idea of the literary classic. Augustine's most famous work challenges one of the supreme classics of ancient Latin literature, Virgil's *Aeneid*, the epic of Rome's imperial destiny. It contends against the sacred Roman model in an idiom derived from the Jewish and Christian scriptures, texts with their own strong claim to normative status in cultures of the ancient, medieval, and modern worlds. In the *Confessions* we witness the collision of two mighty traditions of storytelling, alike devoted to the long-term dealing of god(s) with human beings and societies. …

In the time of Augustus Caesar, the first Roman emperor, the poet Virgil devised a prophetic storyline in which the Trojan refugee Aeneas, making his way to Italy under the gods' direction to found the future nation of Rome, was hospitably received at Carthage by Queen Dido. Aeneas' tale of the fall of Troy, told to Dido and her entourage in books 2 and 3 of the Aeneid, is the leading first-person narrative in Roman literature. Augustine, who composed mock speeches based on episodes in the Aeneid as a schoolboy and taught the poem to his own students for years afterward, would have known it by heart….

When T.S. Eliot was asked to give a lecture on Virgil in wartime London— another city lit by fire—he made his subject the question 'What Is a Classic?' (1944). He answered it by claiming Virgil as the universal classic of European literature, and the Aeneid as the poem par excellence of European civilization. For Eliot, the Roman destiny of Aeneas already prefigured the Christian destiny of the Western nations after Rome. The idea was not altogether original; like others who appealed to Virgil as guardian spirit of 'the West' during the dark years of the mid-twentieth century. Eliot was deeply indebted to Dante, the Christian poet who, in the *Commedia* (Divine Comedy) had taken the pagan Virgil as guide for part of his journey…. Augustine, not Virgil, created the plot of the 'divine comedy' onto which Eliot and other post-Romantic readers of Dante would one day graft their personal histories of the West….

Cicero was their exemplar of Latin eloquence, Virgil their poet of Rome's civilizing mission… Ever since the foundation of the Empire under Augustus four centuries earlier, the Romans had maintained a strong conviction of their own manifest destiny. Even if the Greeks were the original masters of the finer arts of humanity, fate had decreed that the Romans would impose the rule of law—by force if necessary—and pacify the nations of the earth. That was the vision proclaimed by Virgil's Aeneid and famously illustrated by the scenes on Aeneaus' divinely forged shield in book 8 of the poem….

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[61] *Confessions*, p. 293.

For centuries the *Aeneid* defined what it meant to be Roman. Augustine's *Confessions* is the first work to strike directly at the mythical foundations of that collective sense of identity…. [62]

If St. Augustine's *Confessions* struck at the cultural and literary core of the ancient Roman world, then his landmark work *The City of God* struck at the political philosophy, public-policies, public laws, and constitutional foundations of the Roman Empire. Both the *Confessions* and *The City of God* unambiguously establish the supremacy of the Christian faith over and above ancient Roman culture: Roman paganism, Roman philosophy, Roman religion, and Roman jurisprudence.

For St. Augustine, as he forcefully argued in *The City of God*, the Roman Empire had arisen and fallen under the weight of its own viciousness, immorality, and licentiousness. At the same time, he argued in *The City of God*, "that the Christian religion is health-giving."[63] The fall of the Roman Empire was for St. Augustine and the Church much similar to the deluge during the time of Noah when God had cleansed the world of demonism and spiritual rot and filth, and saved only a few people who resided inside of an ark, which prefigured the body of Christ. The rise of the Christian Church in the West was seen as God's covenantal ark for the whole human race, thus replacing imperial Rome. This new belief system, known as the Christian faith, became the foundation of Western constitutional law and jurisprudence; and in England and British North America, that foundation remained firmly entrenced within their respective secular legal systems. This paper therefore, as set forth below, reveals why the Church of England's influence upon Anglo-American constitutional jurisprudence was also thoroughly Augustinian.

I.   St. Augustine (*The City of God*): The Opinion of Rome's Imminent Citizens as to the Condition of the Roman Empire

Perhaps the most important legacy of St. Augustine's *The City of God* is his theological and historical analysis of the rise and fall of the Roman Empire. For St. Augustine, the fall of Rome was similar to the deluge during the time of Noah, when God cleansed the world of sin. For St. Augustine, the various gross deceptions—i.e., the gross deviant lifestyles, immorality, and unholiness-- which captivated the ancient Romans, were none other than "demons"[64] or "false gods," often presented in their various forms of entertainment, such as the gladiator contests and the scenic plays at the theatres, whereby depraved lewdness and immorality were promoted and spread throughout the empire. Thus relying upon writings of ancient Roman historians, poets, and practical statesmen, St. Augustine concluded that immorality, lewdness, lasciviousness, pornography, adulterous living, drunkenness, riotous behaviors, and the like, ruined the Roman Empire, or at least debased the empire to the point at which the barbarian invasions and calamities were made easier.[65] In *The City of God*, he writes:

> Here, then, is this Roman republic, 'which has changed little by little from the fair and virtuous city it was, and **has become utterly wicked and dissolute**.' It is not

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[62] St. Augustine, *Confessions* (New York, N.Y.: Barnes & Noble Books, 2007), pp. xv- xlii.
[63] St. Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), pp. 71-73.
[64] Ibid., pp. 70-75.
[65] Ibid.

I who am the first to say this, but their own authors, from whom we learned it for a fee, and who wrote it long before the coming of Christ….[66]

Let them read our commandments in the Prophets, Gospels, Acts of the Apostles, or Epistles; let them peruse the large number of precepts against avarice and luxury which are everywhere read to the congregations that meet for this purpose, and which strike the ear, not with the uncertain sound of a philosophical discussion, but with the thunder of God's own oracle pealing from the clouds…[67]

But if our adversaries do not care **how foully and disgracefully the Roman republic be stained by corrupt practices**, so long only as it holds together and continues in being….[68] We have been forced to bring forward these facts, because **their authors have not scrupled to say and to write that the Roman republic had already been ruined by the depraved moral habits of the citizens**, and had ceased to exist before the advent of our Lord Jesus Christ. Now this ruin they do not impute to their own gods, though they impute to our Christ the evils of this life, which cannot ruin good men, be they alive or dead. And this they do, though our Christ has issued so many precepts inculcating virtue and restraining vice; while their own gods have done nothing whatever to preserve that republic that served them, and to restrain it from ruin by such precepts, but have rather hastened its destruction, by corrupting its morality through their pestilent example. No one, I fancy, will now be bold enough to say that the republic was then ruined because of the departure of the gods 'from each fane, each sacred shrine,' as if they were the friends of virtue, and were offended by the vices of men. No, there are too many presages from entrails, auguries, soothsayings, whereby they boastingly proclaimed themselves prescient of future events and controllers of the fortune of war—all of which prove them to have been present. And had they been indeed absent, the Romans would never in these civil wars have been so far transported by their own passions as they by the instigations of these gods….

Seeing that this is so—seeing that the filthy and cruel deeds, the disgraceful and criminal actions of the gods, whether real or feigned, were at their own request published, and were consecrated, and dedicated in their honor as sacred and stated solemnities; seeing they vowed vengeance on those who refused to exhibit them to the eyes of all, that they might be proposed as deeds worthy of imitation, why is it that these same demons, who, by taking pleasure in such obscenities, acknowledge themselves to be unclean spirits, and by delighting in their own villanies and iniquities, real or imaginary, and by requesting from the immodest, and extorting from the modes, the celebration of these licentious acts, proclaim themselves instigators to a criminal and lewd life; -- why, I ask, are they represented as giving some good moral precepts to a few of their own elect,

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[66] Ibid., p. 58.
[67] Ibid.
[68] Ibid., p. 60.

initiated in the secrecy of their shrines?[69] If it be so, this very thing only serves further to demonstrate the malicious craft of these pestilent spirits. For so great is the influence of probity and chastity, that all men, or almost all men, are moved by the praise of these virtues; nor is any man so depraved by vice, but he hath some feeling of honor left in him….[70]

Furthermore, St. Augustine pointed out that the Roman Pontiff Scipio Nascia,[71] elected by the Roman Senate, and whom St. Augustine described as "your chief pontiff, your best man in the judgment of the whole senate." [72] This same Scipio had refused to consent to the destruction of Carthage during the Punic Wars, because:

"[h]e feared security, that enemy of weeks minds, and he perceived that a wholesome fear would be a fit guardian for citizens. And he was not mistaken: the event proved how wisely he had spoken. **For when Carthage was destroyed, and the Roman republic delivered from its great cause of anxiety, a crowd of disastrous evils forthwith resulted from the prosperous condition of things**. First concord was weakened, and destroyed by **fierce and bloody seditions**; then followed, by a concatenation of baleful causes, **civil wars**, which brought in their train such massacres, **such bloodshed, such lawless and cruel proscription and plunder**, that those Romans who, in the days of their enemies, now that their virtue was lost, **suffered greater cruelties at the hands of their fellow-citizens**. The lust of rule, which with other vices existed among the Romans in more unmitigated intensity than among any other people, after it had taken possession of the more powerful few, subdued under its yoke the rest, worn and wearied.[73]

Rome's moral decay, says St. Augustine, was due to cultural influences such as the "scenic entertainments" in which "exhibitions of shameless folly and licence,"[74] and pestilential and wicked spirits[75] reigned without censure or limitation. "Besides," says Augustine, "though the pestilence was stayed, this was not because the voluptuous madness of stage-plays had taken possession of a warlike people… these astute and wicked spirits… took occasion to infect, not the bodies, but the morals of their worshippers, with a far more serious disease."[76] But perhaps the most serious disease of all were the "corrupt practices" that inhibited justice throughout the Roman Republic; even up to the time of the birth of Christ Jesus, when Caesar Augustus reigned, and when Cicero was assassinated for advocating for a more just and human republic. For in *The City of God*, St. Augustine says that this same Cicero confessed that within the Roman empire, "'[m]orality has perished through poverty of great men; a poverty for which we must not only assign a reason, but for the guilt of which we must answer as criminals charged with a capital crime. For it is through our vices, and not by any mishap, that we retain only the name of a

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[69] Ibid., p 69.
[70] Ibid., p. 68-69.
[71] Ibid., p. 35.
[72] Ibid., p. 35.
[73] Ibid., p. 35.
[74] Ibid., p. 36.
[75] Ibid., p. 37.
[76] Ibid.

republic, and have long since lost the reality.'"[77] To this, St. Augustine added that the fall of the Roman empire was due in large measure to "the decay of morality" which "involved the republic in such disastrous ruin, that though the houses and walls remained standing, the leading writers do not scruple to say that the republic was destroyed."[78]

St. Augustine thus described the prevailing Roman political philosophy and logic, and the "corrupt practices" that had been allowed to prevail throughout the Roman Empire of his time,**"so long only as it holds together and continues in being"**[79]:

> Only let [the republic] remain undefeated, they say, only let it flourish and abound in resources; let it be glorious by its victories, or still better, secure in peace; and what matters it to us?
>
> This is our concern, that every man be able to increase his wealth so as to supply his daily prodigalities, and so that the powerful may subject the weak for their own purposes.
>
> Let the poor court the rich for a living, and that under their protection they may enjoy a sluggish tranquility; and let the rich abuse the poor as their dependants, to minister to their pride.
>
> Let the people applaud not those who protect their interests, but those who provide them with pleasure.
>
> Let no severe duty be commanded, no impurity forbidden.
>
> Let kings estimate their prosperity, not by the righteousness, but by the servility of their subjects.
>
> Let the provinces stand loyal to the kings, not as moral guides, but as lords of their possessions and purveyors of their pleasures; not with a hearty reverence, but a crooked and servile fear.
>
> Let the laws take cognizance rather of the injury done to another man's property, than of that done to one's own person.
>
> If a man be a nuisance to his neighbor, or injure his property, family, or person, let him be actionable; but in his own affairs let every one with impunity do what he will in company with his own family, and with those who willingly join him.
>
> Let there be a plentiful supply of public prostitutes for every one who wishes to use them, but specially for those who are too poor to keep one for their private use.

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[77] Ibid., p. 62.
[78] Ibid., p. 64.
[79] Ibid. p. 60.

Let there be erected houses of the largest and most ornate description: in these let there be provided the most sumptuous banquets, where every one who pleases may, by day or night, play, drink, vomit, dissipate.

Let there be everywhere heard the rustling of dancers, the loud, immodest laughter of the theatre; et a succession of the most cruel and the most voluptouous pleasures maintain a perpetual excitement.

If such happiness is distasteful to any, let him be branded as a public enemy; and if any attempt to modify or put an end to it, let him be silenced, banished, put an end to.

Let these be reckoned the true gods, who procure for the people this condition of things, and preserve it when once possessed.[80]

Within this Roman scheme of things, the new Christian religion emerged, stood out conspicuously, and eventually reigned supreme within the hearts and minds of men and women who longed for a more just and humane world. For example, the Christians had begun to introduce to the Roman legions a humane law of war, such as "clemency," so as to curtail the senseless Roman "slaughter, plundering, burning, and misery" amongst their conquered victims.[81] St. Augustine pointed out that just as the barbarians sacked the western half of the Roman empire, the saintly Christians not only survived, but they thrived![82] The ancient bishops attained their supremacy of the western half of the Roman empire because the great wartime distress, including captivity by the barbarians, rendered these ancient Christians most suitable for worldly leadership, even among the barbarians.[83] St. Augustine compared these ancient Christians to the "three youths" including "Daniel" who were captive in ancient Babylon in the Old Testament— simply put, the civilizing effect of the Christian faith arose supreme from the ashes of Rome's wicked fall.[84]

II.   St. Augustine (*The City of God*): A Summation of the History of the City-State of Rome

In *The City of God*, St. Augustine relies upon the Roman historian Varro, "a very learned heathen,"[85] for assistance with reconstructing the history of the ancient city-state of Rome. Firstly, Augustine proves that the "fabulous" or "mythical" history of the founding of Rome was utterly false. According to the historian Varro, "many of the religions and sacred legends should be feigned in a community in which it was judged profitable for the citizens that lies should be told even about the gods themselves."[86] Among such lies was the belief in the divine origins of Julius Caesar, and the blief that he had descended from the goddess Venus. As this ancient

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[80] Ibid., pp. 59-60.
[81] Ibid., p. 9.
[82] Ibid., pp. 10-12.
[83] Ibid.
[84] Ibid.
[85] Ibid., p. 76.
[86] Ibid., p. 77.

history goes: ancient Troy fell to the ancient Greeks in the Trojan war, perhaps as recounted and memorialized in Homer's *Illiad*. And then the Romans defeated the Greeks, and the city of Rome was founded by two brothers: Romulus and Remus. But Romulus in an act of fratricide murdered his brother Remus and took kingship over the City of Rome.[87] *Romulus* was then deified, and the city-state of Rome was founded.[88] The second king of Rome was *Julius Prochulus*, and he commanded the Romulus be worshipped "as a god; and that in this way the people, who were beginning to resent the action of the senate, were quieted and pacified."[89] *Tullus Hostilius* became the third king of Rome; St. Augustine recounts that Hostilius "all his house" was "consumed by lightning."[90] Next, *Piscus Tarquinius* became the fourth king, and he was himself assassinated by the sons of Servius *Tullius*, who succeeded him as the fifth king.[91] Servius was then himself murdered by his own son-in-law, *Tarquinius Superbus* ("Tarquin"), who had become the sixth king of the city-state of Rome.[92] St. Augustine concludes, then, that up to the year 243 B.C., six kings had governed the city-state of ancient Rome, and that each of them had either attained the throne through violence:

A. *Romulus*, the founder of the city-state of Rome, had murdered his brother Remus;

B. *Julius Prochulus* may have been given the throne by the Senate, after it had secretly plotted to assassinate Romulus, the city's founder;[93]

C. *Tullus Hostilius* was no saint, and he and his entire house was mysteriously consumed by lightening, which means that they may have been executed or murdered;

D. *Piscus Tarquinius* was assassinated by his successor Servius Tullius's sons; and,

E. *Servius Tullius* was assassinated by his own son-in-law Tarquinius Superbus, who became the sixth and last king of the city-state of Rome.

Of this period, Augustine writes: "[s]uch was the life of the Romans under the kings during the much-praised epoch of the state which extends to the expulsion of Tarquinius Superbus in the 243d year, during which all those victories, which were bought with so much blood and such disasters…."[94] According to St. Augusting, just as Cain had killed his brother Abel, as recounted in the *Book of Genesis*, the foundation of the city-state of Rome was founded upon a fratricide, when Romulus killed his brother Remus; and the ensuing plots, murders, and assassinations perpertuated this lust for glory and power that is the exemplification of the "City of Man" which is opposite to the "City of God."

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[87] Ibid., p. 86.
[88] Ibid.
[89] Ibid., pp. 87-88.
[90] Ibid., p. 88-89.
[91] Ibid., p. 89.
[92] Ibid.
[93] Ibid., p.. 87.
[94] Ibid., p. 90.

III. St. Augustine (*The City of God*): Summation of the History of the first Roman Emperors, 243 B.C. to 33 A.D.

Augustine next turns his attention to the period of the expansion of the city-state of Rome into what emerged as the ancient Roman Empire. That period began after the death of King Tarquinius Superbus in 243 B.C., when the Roman senate established the consulship, and there were initially two consuls: Collatinus and Brutus.[95] "[C]onsuls were first created, when the kingly power was abolished."[96] St. Augustine succinctly described the Roman Empire as "an empire acquired by wars,"[97] and by robbery ("[b]ut to make war on your neighbours, and thence to proceed to others, and through mere lust of dominion to crush and subdue people who do you no harm, what else is this to be called than great robbery?"]"[98] Moreover, under the Roman consulship, the Roman leadership intentionally deceived the Roman people, inculcating gods and myths which they knew to be false,[99] and largely for the purpose of empire-building.

Thus, under this same consulship, the Roman Empire expanded; there was "constant wars"[100]and to pay for these wars, the Roman patricians began to lord over their own people through taxation and usury.[101] "'Frequent mobs, seditions, and at last civil wars, became common, while a few leading men on whom the masses were dependent, affected supreme power under the seemly pretence of seeking the good of senate and people; citizens were judged good or bad, without reference to their loyalty to the republic (for all were equally corrupt); but the wealthy and dangerously powerful were esteemed good citizens, because they maintained the existing state of things.'"[102] "Nay, during this plague they introduced a new pestilence of scenic entertainments, which spread its more fatal contagion, not to the bodies, but the morals of the Romans… the poisonings imputed to an incredible number of noble Roman matrons… Or when, at one time, the Lucanians, Brutinians, Samnites, Tuscans, and Senonian Gauls conspired against Rome, and first slew her ambassadors, then overthrew an army under the praetor, putting to the sword 13,000 men, besides the commander and seven tribunes?"[103] "Or when both consuls at the head of the army were beset the Samnites in the Caudine Forks, and forced to strike a shameful treaty, 600 Roman knights being kept as hostages; while the troops, having laid down their arms, and being stripped of every thing, were made to pass under the yoke with one garment each?"[104] At the same time, mortal humans were assigned "quasi-divine authority," and, induced by "the evil spirits" and inspirited by the fictitious myths of the false Greco-Roman gods, the Roman consuls and people were often incited "to wicked actions."[105] And so, even long before the barbarian invasions of the Roman Empire during the fifth century A.D., "the Roman republic had already been ruined by the depraved moral habits of the citizens."[106] Next, in addition to this

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[95] Ibid., pp. 90-91.
[96] Ibid., p. 90.
[97] Ibid., p. 111-112.
[98] Ibid., p. 114.
[99] Ibid., pp. 138, 140.
[100] Ibid., p. 91.
[101] Ibid., p. 91-92.
[102] Ibid., p. 92.
[103] Ibid., p. 93.
[104] Ibid., p. 93.
[105] Ibid., p. 68-69.
[106] Ibid., p. 69.

general decline in morals, the Romans were vexed with inexplicable health-care crisis and the spread of terrible diseases,[107] the widespread death of women during childbirth,[108] the widespread death of farm animals,[109] the constant conscription of young men into the Roman army—"so many wars were everywhere engaged in."[110]

Amongst these taxing, vexing, and terrible military campaigns were the three Punic Wars (264 B.C. to 146 B.C.)[111], of which St. Augustine writes: "[i]n the Punic wars, again, when victory hung so long in the balance between the two kingdoms, when two powerful nations were straining every nerve and using all their resources against one another, how many smaller kingdoms were crushed, how many large and flourishing cities were demolished, how many states were overwhelmed and ruined, how many districts and lands far and near were desolated! How often were the victors on either side vanquished! What multitudes of men, both of those actually in arms and of others, were destroyed! What huge navies, too, were crippled in engagements, or were sunk by every kind of marine disaster! Were we to attempt to recount or mention these calamities, we should become writers of history."[112]

And, in addition to the three Punic wars, were seditions and the outbreak of civil war within the Roman empire. This included the "servile wars" and the "gladiator rebellions." [113] On this point, Augustine writes: "[t]he civil wars originated in the seditions which the Gracchi excited regarding the agrarian laws; for they were minded to divide among the people the lands which were wrongfully possessed by the nobility."[114] "For noble and ignoble were indiscriminately massacred…."[115] Assassins and murders ran rampant, together with the judicial examinations and tortures of thousands of Roman citizens.[116] "The assassin of Gracchus himself sold his head to the consul for its weight in gold, such being the previous agreement. In this massacre, too, Marcus Fulvius, a man of consular rank, with all his children, was put to death."[117] "Then even historians themselves find it difficult to explain how the servile war was begun by a very few, certainly less than seventy gladiators, what numbers of fierce and cruel men attached themselves to these, how many of the Roman generals this band defeated, and how it laid waste many districts and cities. And that was not the only servile war: the province of Macedonia, and subsequently Sicily and the sea-coast, were also depopulated by bands of slaves. And who can adequately describe either the horrible atrocities which the pirates first committed, or the wars they afterwards maintained against Rome?"[118]

Then began, about the year 140 B.C., a series of civil contests and civil wars between Roman consuls and the Roman senate, down to the reign of Caesar Augustus "in whose reign

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[107] Ibid., p. 94.
[108] Ibid.
[109] Ibid.
[110] Ibid.
[111] Ibid., p. 95-103.
[112] Ibid., p. 95.
[113] Ibid., p 102-103.
[114] Ibid., pp. 101-102.
[115] Ibid., p. 102.
[116] Ibid.
[117] Ibid.
[118] Ibid., p. 103.

Christ was born"[119] First: the civil war between two Roman consuls Marius and Sylla. Marius put to death "the foremost men in the state."[120] In fuller description of Marius' violence, Augustine writes:

> As soon as Marius triumphed, and returned from exile, besides the butcheries everywhere perpetuated, the head of the consul Octavius was exposed on the rostrum; Caesar and Fimbria were assistated in their own houses; the two Crassi, father and son were murdered in one another's sight; Bebi and Numitorius were disemboweled by being dragged with hooks; Catulus escaped the hands of his enemies by drinking poison; Merula, the flamen of Jupiter, cut his veins and made a libation of his own blood to his god. Moreover, every one whose salutation Marius did not answer by giving his hand, was at once cut down before his face.[121]

The bloodshed of Marius was next avenged by "the victory of Sylla… but when hostilities were finished, hostility survived, and subsequent peace was bloody as the war."[122]

Second: the civil war between the Roman consuls Sertorius and Catiline ensued, "of whom the one was proscribed, the other brought up by Sylla; from this to the war of Lepidus and Catulus, of whom the one wished to rescinde, the other to defend the acts of Sylla; from this to the war of Pompey and Caesar, of whom Pompey had been a partisan of Sylla, whose power he equaled or even surpassed, while Caesar condemned Pompey's power because it was not his own, and yet exceeded it when Pompey was defeated and slain."[123] Hence, the victory of Sylla over Marius in the first civil war extended down the reign of Julius Caesar various factions, one in favor of Sylla, and others opposed. Julius Caesar "when he had conquered Pompey, though he used his victory with clemency, and granted to men of the opposite faction both life and honours, was suspected of aiming at royalty, and was assassinated in the curia by a party of noble senators, who had conspired to defend the liberty of the republic. His power was then coveted by Antony, a man of very different character, polluted and debased by every kind of vice, who was strenuously resisted by Cicero on the same plea of defending the liberty of the republic."[124]

Thus, upon the death of Julius Caesar, three men contended for power or influence: Augustus, Antony, and Cicero. Indeed, Augustus was "the second Caesar, afterwards called Augustus, and in whose reign Christ was born."[125] Caesar Augustus and Antony contended for the imperial throne. Cicero, who was a defender of Rome's liberty, supported Augustus, and opposed Antony. Cicero favored Augustus "in order that his influence might counteract that of Antony; for he hoped that Caesar would overthrow and blast the power of Anthony, and establish a free state—so blind and unaware of the future was he: for that very young man, whose advancement and influence he was fostering, allowed Cicero to be killed as the seal of an alliance with Antony, and subjected to his own rule the very liberty of the republic in defence of

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119 Ibid., p. 106.
120 Ibid., p. 104.
121 Ibid., p. 104.
122 Ibid., pp 104-105.
123 Ibid., p. 106.
124 Ibid.
125 Ibid., pp. 106-107.

which he had made so many orations."[126] Hence, Caesar Augustus's conspiratorial role in the assassination of Cicero signified, and alliance with Mark Antony, as recounted in the words of St. Augustine, reflected the sadistic state of the Roman Empire during the time of Christ.[127]

IV.   St. Augustine (*The City of God*): Theology that All Secular Power is Ordained by the one, true God

From the historical example of the decline and ultimate fall of the Roman Empire, St. Augustine then extrapolated a catholic theology of church and state. For in *The City of God*, Augustine asked "whether it is quite fitting for good men to rejoice in extended empire."[128] His answer is yes, if the "growth of a kingdom" is extended through "just wars" against the wicked. Conversely, the growth of bad empires or kingdoms through the conquering and subjugation of innocent, just nations is a form of evil. "Therefore, to carry on war and extend a kingdom over wholly subdued nations seems to bad men to be felicity, to good men necessity…. But beyond doubt it is greater felicity to have a good neighbor at peace, than to conquer a bad one by making war."[129] Nevertheless, St. Augustine shows that evil kingdoms and empires cannot sustain their sovereignty without ordination and power from God. According to St. Augustine, such evil kingdoms and empires cannot exist without some form of virtue and value. In the case of the ancient Romans, they valued happiness and honor, or "Virtue and Felicity"[130]—each and all very good things. The ancient Romans elevated "Virtue and Felicity" to the status of goddesses.[131] But St. Augustine believed that these ancient Romans did good by pursuing and promoting "virtue" and "felicity" as noble goals, but that they had seriously erred in not recognizing the fact that "virtue" and "felicity" were not "gods," but rather these things were "a gift of God."[132] In other words, St. Augustine concluded that the ancient Romans has fallen into error, because they worshipped "the divine gifts themselves," rather than the one true God who is the author of those divine gifts. Nevertheless, St. Augustine affirms that even the ancient Romans had enough light in them to know that "felicity to be given by a certain God whom they know not…."[133] So a few leading men amongst the ancient Romans came very close to knowing the one, true God; but they were, nevertheless, still led astray by their lack of moral virtue.

The Roman leadership also intentionally misled and deceived the masses,[134] such that falsehoods were "useful for the common people to know… falsely" regarding the pagan theological myths displayed in "scenic plays."[135] And that Rome's collapse was due in large measure to the widespread deceptions by civic rulers and poets.[136] Had the Romans clung to "Virtue and Felicity"— even though "gifts" of God and not God Himself — they might have maintained the majesty of the Roman Empire, but the ancient Romans fell into deception (i.e.,

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[126] Ibid., p. 106.
[127] Ibid., p. 107.
[128] Ibid., p. 123.
[129] Ibid.
[130] Ibid., p. 128.
[131] Ibid., pp. 128-130.
[132] Ibid., p. 131.
[133] Ibid, p. 132.
[134] Ibid., p. 138.
[135] Ibid.
[136] Ibid., p. 140.

clung to demons) which hastened its decline as result of a lack of moral virtue. Thus, "although not understanding them to be gifts of God," wrote St. Augustine, "they ought at least to have been content with Virtue and Felicity" and to have ordered their laws and customs toward sustaining these ends.[137] But the ancient Romans blindly took a different course, and they refused to be modest or to restrain their passions. On this point, St. Augustine further elaborated, using the following analogy:

> That this may be more easily discerned, let us not come to nought by being carried away with empty boasting, or blunt the edge of our attention by loud-sounding names of things, when we hear of peoples, kingdoms, provinces. But let us suppose a case of two men; for each individual man, like one letter in a language, is as it were the element of a city or kingdom, however far-spreading in its occupation of the earth. Of these two men let us suppose that one is poor, or rather of middling circumstance; the other very rich. But the rich man is anxious with fears, pining with discontent, burning with covetousness, never secure, always uneasy, panting from the perpetual strife of his enemies, adding to his patrimony indeed by these miseries to an immense degree, and by these additions also heaping up most bitter cares. But that other man of moderate wealth is contended with a small and compact estate, most dear to his own family, enjoying the sweetest peace with his kindred neighbours and friends, in piety religious, benignant in mind, healthy in body, in life frugal, in manners chaste, in conscience secure. I know not whether any one can be such a fool, that he dare hesitate which to prefer. As, therefore, in the case of two men, so in the two families, in two nations, in two kingdoms, this test of tranquility holds good; and if we apply it vigilantly and without prejudice, we shall quite easily see where the mere show of happiness dwells, and where real felicity. **Wherefore if the true God is worshipped, and if He is served with genuine rites and true virtue, it is advantageous so much to themselves, as to those over whom they reign.**[138]

The ancient Romans sought the good things, the "good life," the happy life, etc.; but these ancient Romans also elevated those subordinate things to the status of gods and goddess, rather than giving due homage to the one, true God, who is the author of all things.[139] For this reason, the ancient Romans went astray and, like several empires which predated it, fell by the wayside. See, e.g., Table 1. "The Mosaic Life-Death Grid."

Table 1. The Mosaic Life-Death Grid

Law of Moses (Life)	Law of Sin (Death)
Virtue	Vice
Liberty	Slavery

For it is "that God, the author and giver of felicity," writes St. Augustine, Who "alone is the true God," and Who "gives earthly kingdoms both to the good and bad. Neither does He do

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[137]Ibid., pp. 126-128.
[138]Ibid., p. 112.
[139] Ibid., pp. 140-141.

this rashly, and, as it were, fortuitously—because He is God, not fortune—but according to the order of things and times, which is hidden from us, but thoroughly known to Himself; which same order of times, however, He does not serve as subject to it, but Himself rules as lord and appoints as governor."[140] Kingdoms are given by God to both the good and the bad; but God gives true happiness or felicity only to the good, who are both rich and poor alike. **True happiness or felicity are the fruits of moral virtue, righteousness, and holiness—for this precept is both a fundamental Law of Moses and a fundamental Law of Christ**. See, e.g., Table 1, "The Mosaic Life-Death Grid." Therefore, says St. Augustine, the just worshippers of the true God should not covet the riches, splendor or authority of earthly kingdoms. "[T]his is the mystery of the Old Testament, in which the New was hidden, that there even earthly gifts are promised: those who were spiritual understanding even then, although not yet openly declaring, both the eternity which was symbolized by these earthly things, and in what gifts of God true felicity could be found."[141] The fall of kingdoms and empires, much like the fall and decline of individuals, is due in large measure to "enslavement to sin."

The Roman Empire, says St. Augustine, became enslaved to sin, and that this empire declined and collapsed because the Roman people were "[d]epraved by good fortune, and not chastened by adversity,"[142] and not told to heed sound moral doctrine. In a word, says St. Augustine, the ancient Romans became immoral, criminal and licentious; and this moral state of things, without the Church of God to teach and influence it,[143] was the chief cause of the fall of the Roman Empire:

> This is the reason why those divinities quite neglected the lives and morals of the cities and nations who worshipped them, and threw no prohibition in their way to hinder them from becoming utterly corrupt, and to preserve them from those terrible and detestable evils which visit not harvests and vintages, not house and possessions, not the body which is subject to the soul, *but the soul itself,* the spirit that rules the whole man. If there was any such prohibition, let it be produced, let it be proved…. Let them show or name to us the places which were at any time consecrated to assemblages in which, instead of the obscene songs and licentious acting of players, instead of the celebrations of those most filthy and shameless Fugalia (well called Fugalia, since they banish modesty and right feeling), the people were commanded in the name of the gods to restrain avarice, bridle impurity, and conquer ambition; where, in short, they might learn in that school which Persius vehemently lashes them to, when he says: 'Be taught, ye abandoned creatures, and ascertain the causes of things; what we are, and for what end we are born; what is the law of our success in life, and by what are we may turn the goal without making shipwreck; what limit we should put to our wealth, what we may lawfully desire, and what uses filthy lucre serves; how much we should bestow upon our country and our family; learn, in short, what God meant

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[140] Ibid., p. 140.
[141] Ibid.
[142] Ibid., p. 37.
[143] Ibid., p. 45 ("Let them name to us the places where such instructions were wont to be communicated from the gods, and where the people who worshipped them were accustomed to resort to hear them, as we can point to our churches built for this purpose in every land where the Christian religion is received.")

thee to be, and what place He has ordered you to fill.' Let them name to us the places where such instructions were wont to be communicated from the gods, and where the people who worshipped them were accustomed to resort to hear them, as we can point to our churches built for this purpose in every land where the Christian religion is received.[144]

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But let us suppose a case of two men; for each individual man, like one letter in a language, is as it were the element of a city or kingdom, however far-spreading in it occupation of the earth. Of these two men let us suppose that one is poor, or rather of middling circumstances; the other very rich. But the rich man is anxious with fears, pining with discontent, burning with covetousness, never secure, always uneasy, panting from the perpetual strife of his enemies, adding to his patrimony indeed by these miseries to an immense degree, and by these additions also heaping up most bitter cares. But that other man of moderate wealth is contented with a small and compact estate, most dear to his own family, enjoying the sweetest peace with his kindred neighbors and friends, in piety religious, benignant in mind, healthy in body, in life frugal, in manners chaste, in conscience secure. I know not whether any one can be such a fool , that he dare hesitate which to prefer. As, therefore, in the case of two men, so in two families, in two nations, in two kingdoms, this test of tranquility holds good; and if we apply it vigilantly and without prejudice, we shall quite easily see where the mere show of happiness dwells, and where real felicity. Wherefore if the true God is worshipped, and if He is served with genuine rites and true virtue, it is advantageous so much to themselves, as to those over whom they reign.[145]

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We have been forced to bring forward these facts, because their authors have not scrupled to say and to write that that the Roman republic had already been ruined by the depraved moral habits of the citizens, and had ceased to exist before the advent of our Lord Jesus Christ.[146]

The Augustinian view of political science likewise places "virtue" or "holiness" (morality, equity, and justice) at the center of constitutional law. Forms of government are only secondary, for so long as virtue is thoroughly instilled within the customs and everyday practices of the citizenry. See, e.g., Table 2, "Western Political Science and Constitutional Legal Theory (1100 A.D. to 1900 A.D.).

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[144] Ibid., p. 45.
[145] Ibid., p. 112.
[146] Ibid., pp. 68-69.

Table 2.   Western Political Science and Constitutional Legal Theory (1100 A.D. to 1900 A.D.)

Law of Moses (Life)	Law of Sin (Death)
God (Good)	Sin (Evil or Satan)
Virtue	Vice
Liberty	Slavery
Forms of Government (Life) [147]	**Forms of Government (Death)** [148]
Monarchy – (Republican Form- Limited by Principles of Equity and Natural Justice; Rule of Law; Checks and Balances)	*Tyranny* – (Imperial Government Form- Perverted by Absolute Authority; Divine Right Theory; Unchecked Crimes against Nature and Natural Law (i.e., Equity))
Aristocracy – (Republican Form- Limited by Principles of Equity and Natural Justice; Rule of Law; Checks and Balances)	*Oligarchy* – (Imperial Government Form- Perverted by Economic and Political Monopoly; Unchecked Crimes against Nature and Natural Law (i.e., Equity))
Democracy – (Direct Government Form- Limited by Principles of Equity and Natural Justice; Rule of Law; Checks and Balances)	*Anarchy* – (Government perverted by unchecked crimes; governmental conspiracy to perpetuate immorality and crime against Nature and Natural Law (i.e., Equity))

Significantly, the Augustinian view of political science holds that "peace" and "happiness" which the secular world desires is noble and good, but that the God of Israel, who is the God of the whole world, is the source of that "peace" and "happiness." This Augustinian viewpoint likewise holds that this same God of Israel gives kingdoms and empires to both good and bad; and that His Providence controls the actions and destiny of the entire world. But the Augustinian view of the pagan views of "peace," "felicity," "virtue," and the like, is that they have incorrectly elevated these concepts to the status of "gods" and "goddesses," while ignoring and refusing due worship of the one, true God of Israel, who is the Creator of all. Nevertheless,

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[147] "Scipio reverts to the original thread of discourse, and repeats with commendation his own brief definition of a republic, that it is the weal of the people. 'The people' he defines as being not every assemblage or mob, but an assemblage associated by a common acknowledge of law, and by community of interests. Then he shows the use of definition in debate; and from these definitions of his own he gathers that a republic, or 'weal of the people,' then exists only when it is well and justly governed, **whether by a monarch, or an aristocracy, or by the whole people [i.e., democracy].** But when the monarch is unjust, or, as the Greeks say, a tyrant; or the aristocrats are unjust, and form a faction; or the people themselves are unjust, and become, as Scipio for want of a better name calls them, themselves the tyrant, then the republic is not only blemished (as had been proved the day before), but by legitimate deduction from those definitions, it altogether ceases to be. For it could not be the people's weal when a tyrant factiously lorded it over the state; neither would the people be any longer a people if it were unjust, since it would no longer answer the definition of a people—'an assemblage associated by a common acknowledgment of law, and by a community of interests.'" St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), p. 62.

[148] Ibid.

St. Augustine gave credit to the pagan philosophers who endeavored to live virtuous lives and he concluded that pagan "virtue" was close in nature to the "holiness" espoused in Judea-Christian ethical standards. See, e.g., Table 3, "St. Augustine's Catholic View of Virtue and Holiness."

Table 3.   St. Augustine's Catholic View of Virtue and Holiness

Personal or Individual Ethical Standard (Theology of the Human Will and the Will of God)	Cultural or National Source
Virtue (Pagan)	Ancient Egyptians, Greeks, Romans and other nationalities of the ancient world; Philosophy
Holiness (Old Testament)	Ancient Israelites or Jews; Theology
Holiness (New Testament)	The universal (i.e., catholic) Christian Church; Theology and Philosophy

In *The City of God*, Augustine relied upon pagan writers Cicero, Scipio, Varro, and Porphyry, in order to make is point that even the pagans were not completely void of "nature," "natural justice," or the "power of reason"; nor were those ancient pagans completely void of just desires and motives, such as having the desire for "peace" and "happiness." Nevertheless, St. Augustine was crystal clear that God was the foundation and source of "true justice," and that no nation which ignores due homage and worship to that one, true God, cannot morally instruct or discipline its citizenry so as to inspire it to live virtuous lives or to establish true justice. In *The City of God*, St. Augustine writes:

> But if we discard this definition of a people, and, assuming another, say that a people is an assemblage of reasonable beings bound together by a common agreement as to the objects of their love, then, in order to discover the character of any people, we have only to observe what they love…. According to this definition of ours, the Roman people is a people, and its weal is without doubt a commonwealth or republic. But what its tastes were in its early and subsequent days, and how it declined into sanguinary seditions and then to social and civil wars, and so burst asunder or rotted of the bond of concord in which the health of a people consists, history shows, and in the preceding books I have related at large. And yet I would not on this account say either that it was not a people, or that its administration was not a republic, so long as there remains an assemblage of reasonable beings bound together by a common agreement as to the objects of love. **But what I say of this people [i.e., the ancient Romans] and of this republic I must be understood to think and say of the Athenians or any Greek state, of the Egyptians, of the early Assyrian Babylon, and of every other nation, great or small, which had a public government. For, in general, the city of the ungodly, which did not obey the command of God that it should offer no sacrifice save to Him alone, and which, therefore, could not**

give the soul its proper command over the body, nor to the reason its just authority over the vices, is void of true justice.[149]

Thus in the western world, since at least the fourth century, A.D., the "catholic" Christian religion may be rightfully said to have been placed at the foundation of western jurisprudence and constitutional law. It must be fully understood, that the generic name "gentiles" rightfully assigned to all of the non-Jewish/ non-Hebrew races of the world, for whom the true religion was extended, such that the "catholic" Christian faith takes and draws all races, cultures, and religions into one conception of a true, sovereign God whose Divine Providence reigns supreme over all nations. Here, we may place St. Augustine's words into a proper context: "in general, the city of the ungodly, **which did not obey the command of God** that it should offer no sacrifice save to Him alone, and which, therefore, could not give the soul its proper command over the body, nor to the reason its just authority over the vices, **is void of true justice**."[150]

It is upon this theological and constitutional foundation (to wit, that nations must obey God in order to establish justice and just government) that the Protestant Reformers of central and northern Europe and the Calvinist-Puritans of colonial New England built their new Christian nation-states in both Europe and America. The Protestant Reformers (men such as Luther, Calvin, the Presbyterians, and the Puritans) looked to the Bible (i.e., especially the Book of Deuteronomy) for samples and examples of constitutional government. Even ideas of "federalism" and "separation of powers" were originally adopted in the West as Hebraic political ideals found in the Bible. See, e.g., Table 4, "Biblical (Ancient Israel) Origins of Constitutional Monarchy, Federalism, and Separation of Powers."[151]

Table 4.   Biblical (Ancient Israel) Origins of Constitutional Monarchy, Federalism, and Separation of Powers

Doctrine of Federalism	Biblical Sources: See, e.g., "The Ancient Hebrew Polity," *The Presbyterian Quarterly* 12.2 (April 1898): 153-169. http://www.pcahistory.org/HCLibrary/periodicals/tpq/12-2-2.pdf

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[149] Ibid., p. 706.

[150] Ibid.

[151] It may in fairness be said that the Egyptians influenced the ancient Hebrews, the ancient Babylonians, the ancient Greeks, the ancient Romans, etc.; and so many of the Bible's ideas of justice and law may also be found in many other nations and cultures. This convergence between Christians and non-Christians of ideas of justice and law, however, only supports St. Augustine's theological conclusions: the "command of God" and the "mandate to do justice" are timeless and universal. Nevertheless, the Protestant Reformers who ushered in the modern world were deeply religious and adamant in their desires to subjugate their new world order and new nation-states to the sovereignty of God's Divine Providence.

	See, e.g., Daniel Eleazar, Covenant & Polity in Biblical Israel: Biblical Foundations & Jewish Expressions (New York, N.Y.: Routledge, 1998). Daniel J. Eleazar, "Deuteronomy as Israel's Ancient Constitution: Some Preliminary Reflection," Jerusalem Center for Public Affairs, https://www.jcpa.org/dje/articles2/deut-const.htm Peter Barenboim, Biblical Origins of Separation of Powers Doctrine (E-Book, Moscow Florentine Society Site: Letny Sad Moscow 2005).
Doctrine of Separation of Powers	**Biblical Sources:** See, e.g., "The Ancient Hebrew Polity," *The Presbyterian Quarterly* 12.2 (April 1898): 153-169. **http://www.pcahistory.org/HCLibrary/periodicals/tpq/12-2-2.pdf** See, e.g., Daniel Eleazar, Covenant & Polity in Biblical Israel: Biblical Foundations & Jewish Expressions (New York, N.Y.: Routledge, 1998). Daniel J. Eleazar, "Deuteronomy as Israel's Ancient Constitution: Some Preliminary Reflection," Jerusalem Center for Public Affairs, https://www.jcpa.org/dje/articles2/deut-const.htm Peter Barenboim, Biblical Origins of Separation of Powers Doctrine (E-Book, Moscow Florentine Society Site: Letny Sad Moscow 2005).

St. Augustine of Hippo's political theory of justice, as expressed in *The City of God*, which is a *polemic*[152]patterned after the Book of Deuteronomy, in defense of the Christian faith against widespread charges that it had been the *primary cause for the fall of the Roman empire*, most influenced the political thought of Protestant leaders such as Martin Luther, John Calvin, the Puritan founding fathers of colonial New England, and the Founding Fathers of the United States.[153] (With respect to the American Founding Fathers during the 18th century, there were, of course, other important secular influences, such as those of the Enlightenment philosophes, but those other influences pale by comparison to the influence of Anglican-Catholic-Protestant Christianity, which was decisively "Augustinian."[154]) For example, Professor Daniel J. Elazar in his article "Deuteronomy as Israel's Ancient Constitution,"[155] has written:

> Deuteronomy had a similar impact on the Christian world. Whenever Christian theolgians, political philosophers or reformers sought biblical sources for political ideas, they turned to Deuteronomy as a major Scriptural source.[15] **The use of Deuteronomy reached its apogee during the Protestant Reformation in the sixteenth and seventeenth centuries when the founders of the new Swiss, Huguenot, Rhineland, Dutch, Puritan, and Scottish commonwealths rested their polities on Deuteronomic foundations**.[16] The culmination of this trend came at the time of the American

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[152]In the history of constitutional law in the West, the Book of Deuteronomy is a most important text. For example, Daniel J. Elazar has written in his article "Deuteronomy as Israel's Ancient Constitution" that ancient and modern-day Jews continued to look to the Book of Deuteronomy for authority in structuring ecclesiastical and secular polity. Elazar also writes: "**Deuteronomy had a similar impact on the Christian world. Whenever Christian theologians, political philosophers or reformers sought biblical sources for political ideas, they turned to Deuteronomy as a major Scriptural source. The use of Deuteronomy reached its apogee during the Protestant Reformation in the sixteenth and seventeenth centuries when the founders of the new Swiss, Huguenot, Rhineland, Dutch, Puritan, and Scottish commonwealths rested their polities on Deuteronomic foundations. The culmination of this trend came at the time of the American revolutionary polemical literature between 1765 and 1805. As Donald Lutz has pointed out, Deuteronomy was cited more frequently than all citations of European political philosophers combined, a major source for the myriad political sermons of the period.**"

[153] Ibid.

[154] During the 18th century, the Renaissance morphed into the Enlightenment, but it did not shake the foundation of Augustinian Catholicism's (i.e., mainline Protestantism) or Thomist Catholicism's (i.e., the Roman Catholic Church) influence upon the secular legal system in England, Europe, or North America. Sir Isaac Newton's mathematics, which was perhaps the most profound discovery of the Enlightenment, simply could not be defined as antithetical heresy in violation of the fundamental tenets of the Church of England. Science, inventions, and discovery were, instead, carried forth under the auspices of bishops, theologians, and churchmen. Once Martin Luther had elevated the common man to the status of priest, under the doctrine of the "priesthood of all believers," the commoners of Europe began to insist upon attaining constitutional rights and economic justice. As they re-read the Sacred Scriptures, which had only recently been interpreted into their native languages (i.e., German, English, Dutch, French, etc.), they began to firmly rely upon the "Word of God" as their firm authority for requesting ecclesiastical, social, economic, and political change. The Bible was, in essence, the de facto constitution of Europe, England, and North America—the source of the canon law, the civil law, the common law, and the written compacts (i.e., social contracts or constitutions). **But perhaps the most important Biblical text was the Book of Deuteronomy.** For example, Daniel J. Elazar has written in his article "Deuteronomy as Israel's Ancient Constitution" that ancient and modern-day Jews continued to look to the Book of Deuteronomy for authority in structuring ecclesiastical and secular polity. Elazar also writes: "Deuteronomy had a similar impact on the Christian world. Whenever Christian theolgians, political philosophers or reformers sought biblical sources for political ideas, they turned to Deuteronomy as a major Scriptural source. **The use of Deuteronomy reached its apogee during the Protestant Reformation in the sixteenth and seventeenth centuries when the founders of the new Swiss, Huguenot, Rhineland, Dutch, Puritan, and Scottish commonwealths rested their polities on Deuteronomic**

revolutionary polemical **literature between 1765 and 1805**. As Donald Lutz has pointed out, Deuteronomy was cited more frequently than all citations of European political philosophers combined, a major source for the myriad political sermons of the period.

In fact, in "Deuteronomy as Israel's Ancient Constitution," Professor Elazar describes the Book of Deutronomy as ancient Israel's "constitution," whereby Moses summarized the fundamental law of God and set forth the basic concepts of ecclesiastical and civil government. Importantly, Professor Elazar explains "ancient constitutions" as being "distinguished from modern ones by devoting as much or more attention to the moral and socio-economic bases of the polity as to the frame of government."[156] "The whole document [i.e., the Book of Deuteronomy]," writes Professor Elazar, "is presented as a covenant in the spirit and format of Israelite constitutions."[157] Although the Book of Deuteronomy does not require a particular form of government, it does explicitly restrict a monarchial form of government to that of the "constitutional monarch," citing Deuteronomy 17: 16-20: "That his heart be not lifted up above his brethren, and that he turn not aside from the commandment, to the right hand, or to the left: to the end that he may prolong his days in his kingdom, he, and his children, in the midst of Israel."[158]

In his article, "Biblical Origins of the Separation of Powers Doctrine," Professor Peter Barenboim concluded that the Law of Moses published the first "Bill of Rights," to wit: Deuteronomy 1: 16, 27; 7:11; 16: 18, 19; 11: 19; 17; 20; 25: 1-3; and Exodus. 20:13; 21: 12-14; 22:28.[159] Furthermore, Prof. Barenboim argues that the Old Testament also established the idea that the "divine king" should only rule subject to a "divine fundamental law," which in turn would be interpreted by an independent judge—whether priest, prophet, or judge. "All Israeli kings or aristocrats," writes Professor Barenboim, "were subject to" the rule of divine fundamental law.[160] "A famous Anglo-American commentary states that Moses' father-in-law advised him to delegate his judiciary powers, which led to the establishment of a hierarchical structure for conflict resolution," writes Prof. Barenboim. "The Old Testament laid the basis of the separation of church and state, as well as separation of powers, which nearly three thousand years later, in the 18th century, again moved into the foreground of history."[161] "[T]he word 'judge' in the Old Testament means what it means today, even though some of them were military leaders and prophets…."[162] According to Prof. Barenboim, the prophet Samuel was

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foundations. The culmination of this trend came at the time of the American revolutionary polemical literature between 1765 and 1805. As Donald Lutz has pointed out, Deuteronomy was cited more frequently than all citations of European political philosophers combined, a major source for the myriad political sermons of the period."
[155] See Table 4 for References Citation.
[156] Ibid.
[157] Ibid.
[158] Ibid.
[159] Ibid.
[160] Ibid.
[161] Ibid.
[162] Ibid.

believed to be the last independent Judge.[163] "Both the Bible and the Constitution," says he, "were binding on political authorities and have served as restraints on power. The king was subject to the Torah… powerful Presidents and powerful Congresses, we know, are subject to the Constitution."[164]

It is my position, then, that St. Augustine's influence upon the American Founding Fathers would have come indirectly through the Church of England, the Puritans of colonial New England, and the English Baptists. The Puritan divines, particularly the more conservative Calvinists, would have relied strictly upon the Bible in crafting constitutional principles for the civil magistrate. And this readily apparent in the first founding documents of colonial New England, to wit:

(1).   Charter of the Virginia Colony, 1606

(2).   Mayflower Compact, 1620

(3).   Massachusetts Bay Charter, 1629

(4).   Massachusetts Body of Liberties, 1641

(5).   Massachusetts General Law and Liberties, 1647

(6).   The Fundamental Orders of Government, 1639 [Connecticut]

(7).   Patent for Providence Plantations, 1643 [Rhode Island]

(8).   Royal Charter of 1663 [Rhode Island]

The fundamental constitutional principles which undergird these colonial documents [e.g., the sovereignty and providence of God; the Christian religion as the true faith; the laws of nature, natural justice, and domestic tranquility; etc.] may also be found in the American Declaration of Independence and the U.S. Constitution. See, e.g., Table 5, "Catholic (Natural Law) Interpretation of the U.S. Constitution."

Table 5.   Catholic (Natural Law) Interpretation of the U.S. Constitution

St. Augustine's *The City of God*	American Constitutional Law
	Declaration of Independence

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163 Ibid.
164 Ibid.

| | "The unanimous Declaration of the thirteen united States of America,

"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, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

"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.–That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, –That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.–Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an |
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	absolute Tyranny over these States."
Nature[165] God[166] Natural Law (Providence)[167] Justice taken away… Robbery[168] Liberty (Man's Nature)[169] Happiness[170] Definition of Republic/ Empire[171]	Nature's God Law's of Nature Entitlement to disserve political bonds which connect a people to another as a result of theft, robbery, abuse, etc.

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[165] St Augustine defines "nature" as "essential." He writes: "Consequently, to that nature which supremely is, and which created all else that exists, no nature is contrary save that which does not exist. For nonentity is the contrary of that which is. And thus there is no being contrary to God, that Supreme Being, and Author of all beings whatsoever…. It is not nature, therefore, but vice, which is contrary to God." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 382. Similarly, in another section of *The City of God*, St. Augustine describes "God Himself," as "the fountain of all justice." Ibid, p. 27.

[166] St. Augustine defines the idea of the "God of Nature" as follows: "In Scripture they are called God's enemies who oppose His rule, not by nature, but by vice; having no power to hurt Him, but only themselves. For they are His enemies, not through their power to hurt, but by their will to oppose Him. For God is unchangeable, and wholly proof against injury. Therefore the vice which makes those who are called His enemies resist Him, is an evil not to God, but to themselves. And to them it is an evil, solely because it corrupts the good of their nature." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 382. And, in another section of *The City of God*, St. Augustine writes: "The spirit of life, therefore, which quickens all things, and is the creator of every body, and of every created spirit, is God Himself, the uncreated spirit. In His supreme will resides the power which acts on the wills of all created spirits, helping the good, judging the evil, controlling all, granting power to some, not granting it to others. For, as He is the creator of all natures, so also is He the betower of all powers, not of all wills; for wiecked wills are not from Him, being contrary to nature, which is from Him…. The cause of things, therefore, which makes but is not made, is God; but all other causes both make and are made." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 155. And, finally, St. Augustine makes no bones about the fact that the "gods" of the pagans are non-existent; that the "God" of the pagans and other non-Christians is none other than the God of Israel. For on this point, St Augustine writes: "Who is this God, or what proof is there that He alone is worthy to

Tranquility; Order[172]	
	Life, Liberty and Pursuit of Happiness, Gov't instituted to secure liberty, natural rights; justice, etc.
	U.S. Constitution ⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯⎯ ***Preamble to the U.S. Constitution:*** "WE THE PEOPLE of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and

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receive sacrifice from the Romans? One must be very blind to be still asking who this god is. He is the God whose prophets predicted the things we see accomplished. He is the God from whom Abraham received the assurance, 'In they seed shall all nations of be blessed.' That this was fulfilled in Christ, who, according to the flesh sprang from that seed, is recognized, whether they will or no, even by those who have continued to be the enemies of this name…. He is the God whom Porphyry, the most learned of the philosophers, though the bitterest enemy of the Christians, confesses to be a great God, even according to the oracles of those whom he esteems gods." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 701.

[167] St. Augustine does not use the words "natural law" but nevertheless defines the substance of natural law as follows: "All natures, then, inasmuch as they are, and have therefore a rank and species of their own, and a kind of internal harmony, are certainly good. And when they are in the places assigned to them by the order of their nature, they preserve such being as they have received. And those things which have not received everlasting being, are altered for better or for worse, *so as to suit the wants and motions of those things to which the Creator's law has made them subservient*; and thus they tend in the divine providence to that end which is embraced in the general scheme of the government of the universe." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 384. And, again, in another place, St. Augustine described **"nature"** as **"peace";** and **"natural law"** as the **"law of peace."** According this view, "inequality" is inherent in nature, even though all beings are equal in worth, importance, and dignity. Inequality is necessary to balance out the forces of nature and to establish the peace, tranquility (e.g., health and prosperity), and concord within every aspect of creation, including human political organizations, families, and nations. "The peace of all things is the tranquility of order," wrote St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 690-693. "**Order is the distribution which allots things equal and unequal**, each to its own place…. God, then, the most wise Creator **and most just Ordainer of all natures**, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace…. But as this divine Master inculcates two precepts—the love of God and the love of our neighbor—and as in these precepts a man finds three things he has to love—God; himself, and his neighbor—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, **since he is ordered to love his neighbor as himself. He ought to make this endeavor in behalf of his wife, his children, his househould, all within his reach, even as he would wish his neighbor to do the same for him if he needed it; and consequently he will be at peace, or in well-ordered concord, with all men, as far as in him lies. And this is the order of this concord that a man, in the first place, injure no one, and, in the second, do good to every one he can reach.** Primarily, therefore, his

	establish this Constitution for the United States of America."
Anglican clergyman <u>Algernon Sidney Crapsey</u>'s *Religion and Politics* comment on The Preamble of U.S. Constitution[173] <u>St. Augustine's *City of God*</u> ——— Justice[174] Tranquility[175] Liberty[176] Common Weal of People/ General Welfare[177] Common Defense ("Just War")[178]	A More Perfect Union Establish justice Domestic tranquility General Welfare Blessing of Liberty Common Defense

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own household are his care, for **the law of nature** and **of society** gives him readier access to them and greater opportunity of serving them. And hence the apostle says, 'Now, if any provide not for his own, and specially for those of his own house, he hath denied the faith, and is worse than an infidel.' **This is the origin of domestic peace, or the well-ordered concord of those in the family who rule and those who obey. For they who care for the rest rule—husband the wife, the parents the children, the masters the servants; and they who are cared for obey—the women their husbands, the children their parents, the servants their masters. But in the family of the just man who lies by faith and is as yet a pilgrim journeying on to the celestial city, even those who rule serve those whom they seem to command; for they rule not from a love of power, but from a sense of the duty they owe to others—not because they are proud of authority, but because they love mercy."**

[168] "Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on. If, by the admittance of abandoned men, this evil increases to such a degree that it holds places, fixes abodes, takes possession of cities, and subdues peoples, it assumes the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity. Indeed, that was an apt and true reply which was given to Alexander the Great by a private who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, 'What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet are styled emperor." St. Augustine, *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 112-113.

[169] "This is prescribed by the order of nature: it is thus that God has created man. For 'let them,' He says, 'have dominion over the fish of the sea, and over the fowl of the air, and over every creeping thing which creepeth on the earth.' He did not intend that His rational creature, who was made in His image, should have dominion over anything but the irrational creation—not man over man, but man over the beasts… for it is with justice, we believe, that the condition of slavery is the result of sin. And this is why we do not find the word 'slave' in any part of

Scripture until righteous Noah branded the sin of his son with this name. It is a name, therefore, introduced by sin and not by nature. The origin of the Latin word for slave is supposed to be found in the circumstances that those who by the law of war were liable to be killed were sometimes preserved by their victors, and were hence called servants. And these circumstances could never have arisen save through sin. For even if we wage a just war, our adversaries must be sinning; and every victory, even though gained by wicked men, is a result of the first judgment of God… But by nature, as God first created us, no one is the slave either of man or of sin. This servitude is, however, penal, and is appointed by that law which enjoins the preservation of the natural order and forbids its disturbance; for if nothing had been done in violation of that law, there would have been nothing to restrain by penal servitude." St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 693-694.

[170] "For to what but to felicity should men consecrate themselves, were felicity a goddess? However, as it is not a goddess, but a gift of God, to what God but the giver of happiness ought we to consecrate ourselves, who piously love eternal life, in which ther is true and full felicity? But I think, from what has been said, no one ought to doubt that none of these gods is the giver of happiness, who are worshipped with such shame, and who, if they are not so worshipped, are more shamefully enraged, and thus confess that they are most foul spiriets. Moreover, how can he give eternal life who cannot give happiness? For we mean by eternal lie that life where there is endless happiness…. So, then, He only who gives true happiness gives eternal life, that is, an endlessly happy life." St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 693-694. Furthermore, St. Augustine goes so far as to say unequivocally that the worship of any gods, or the pursuit from any other source, other than in the name of Christ, cannot merit true happiness: "And since those gods whom this civil theology worships have been proved to be unable to give this happiness, they ought not to be worshipped on account of those temporal and terrestrial things, as we showed in the give former books…." Ibid., pp. 204-205. Finally, St. Augustine declares that "happiness" as the final, eternal end of all true Christians: "Of the happiness of the eternal peace, which constitutes the end or true perfection of the saints…. And thus we may say of peace, as we have said of eternal life, that it is the end of our good; and the rather because the Psalmist says of the city of God, the subject of this laborious work, 'Praise the Lord, O Jerusalem; praise thy God, O Zion: for He hath strengthened the bars of they gates; He hath blessed thy children within thee; who hath made thy borders peace.' For when the bars of her gates shall be strengethened, none shall go in or come out from her; consequently we ought to understand the peace of her borders as that final peace we are wishing to declare." Ibid., p. 696.

[171] In *The City of God*, p. 706, St. Augustine summarized is whole philosophy of "catholic" political science, as follows: "But if we discard this definition of a people, and, assuming another, say that a people is an assemblage of reasonable beings bound together by a common agreement as to the objects of their love, then, in order to discover the character of any people, we have only to observe what they love…. According to this definition of ours, the Roman people is a people, and its weal is without doubt a commonwealth or republic. But what its tastes were in its early and subsequent days, and how it declined into sanguinary seditions and then to social and civil wars, and so burst asunder or rotted of the bond of concord in which the health of a people consists, history shows, and in the preceding books I have related at large. And yet I would not on this account say either that it was not a people, or that its administration was not a republic, so long as there remains an assemblage of reasonable beings bound together by a common agreement as to the objects of love. But what I say of this people and of this republic I must be understood to think and say of the Athenians or any Greek state, of the Egyptians, of the early Assyrian Babylon, and of every other nation, great or small, which had a public government. For, in general, the city of the ungodly, which did not obey the command of God that it should offer no sacrifice save to Him alone, and which, therefore, could not give the soul its proper command over the body, nor to the reason its just authority over the vices, is void of true justice." And in another part of The City of God, St. Augustine writes:

> Scipio reverts to the original thread of discourse, and repeats with commendation his own brief definition of a republic, that it is the weal of the people. 'The people' he defines as being not every assemblage or mob, but an assemblage associated by a common acknowledge of law, and by community of interests. Then he shows the use of definition in debate; and from these definitions of his own he gathers that a republic, or 'weal of the people,' then exists only when it is well and justly governed, whether by a monarch, or an aristocracy, or by the whole people [i.e., democracy]. But when the monarch is unjust, or, as the Greeks say, a tyrant; or the aristocrats are unjust, and form a faction; or the people themselves are unjust, and become, as Scipio for want of a better name calls them, themselves the tyrant, then the republic is not only blemished (as had been proved the day before), but by legitimate deduction from those definitions, it altogether

ceases to be. For it could not be the people's weal when a tyrant factiously lorded it over the state; neither would the people be any longer a people if it were unjust, since it would no longer answer the definition of a people—'an assemblage associated by a common acknowledgment of law, and by a community of interests.'" St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), p. 62.

[172] "The peace of all things is the tranquility of order," wrote St. Augustine. "**Order is the distribution which allots things equal and unequal**, each to its own place…. God, then, the most wise Creator **and most just Ordainer of all natures**, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace…. But as this divine Master inculcates two precepts—the love of God and the love of our neighbor—and as in these precepts a man finds three things he has to love—God; himself, and his neighbor—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, **since he is ordered to love his neighbor as himself."** *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 690-693.

[173] Algernon Sidney Crapsey, *Religion and Politics* (New York, N.Y.: Thomas Whittaker, 1905), pp. 305-306 ("When the Constitutional Convention of 1787 sent forth the Constitution which it devised for the government of the nation it did so in these words: 'We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our children, do ordain and establish this Constitution for the United States of America.' Now can any man write a more perfect description of the Kingdom of God on earth or in the heaven than is to be found in these words? A government resting upon such principles as these is not a godless policy; it is a holy religion…. When the people of the United States decreed by constitutional amendment that the government should never by law establish any religion, they did actually establish the only religion that could comprehend in its membership the whole American people.")

[174] "Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on." The City of God, p. 112.

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CONCLUSION

St. Augustine of Hippo's *The City of God* is perhaps the official position of the Western Church regarding the political theory and constitutional law. This Western Church includes both the Roman Catholic and the Protestant wings of Christendom. This official position holds that a law of morality (i.e., virtue) is necessary in order for a civilization to flourish and that the human body may be subject to the rule of reason within the human soul in order for civil governments to establish true justice. The objective of this moral law is to preserve peace, order, and domestic tranquility; and, even though the civil magistrate has valid authority to mete out civil justice, this valid civil authority is ordained and given by God Himself and governed by His moral law. In *The City of God*, St. Augustine explained to his contemporaries that the Roman Empire had fallen under the weight of its own licentiousness and immorality; and that the Christian religion was "life-giving" because it promoted morality and virtue. For this reason, the Western Church (especially the Roman Catholic Church and the Church of England) have held to the position that any separation of Church from the State must be "procedural" but not "substantive," because there is only one substantive fundamental law which governs both Church and State. The Church is responsible for certain important aspects of human life, whereas the State is responsible for other very important aspects of secular life. In the Anglican worldview (as reflected in the constitutional documents of colonial New England), both the Church and the State must cooperate and act in tandem with each other, as two sides of the same coin.

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[178] St. Augustine acknowledges the idea of "just war" in *The City of God*, where he states: "And, accordingly, they who have waged war in obedience to the divine command, or in conformity with His laws have represented in their persons the public justice or the wisdom of government, and in this capacity have put to death wicked men; such persons have by no means violated the commandment, 'Thou shalt not kill.'" Ibid, p. 27.