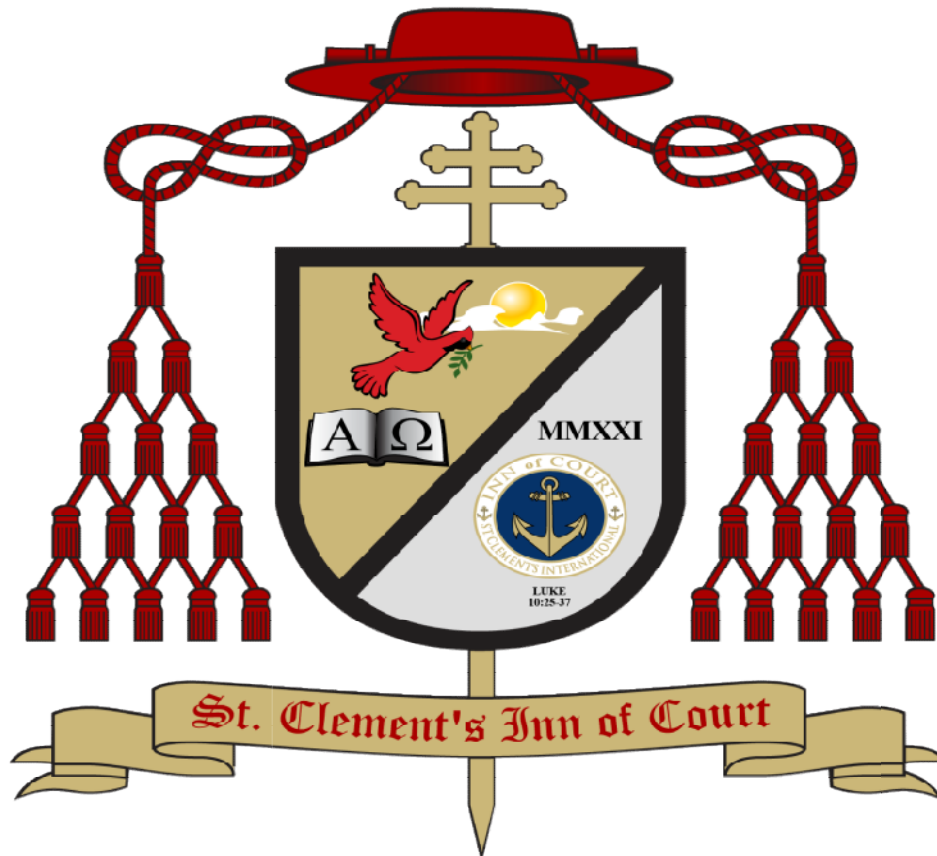


ST. CLEMENT'S INN OF COURT INTERNATIONAL



On the Duty of Christian Lawyers and Judges

By

Roderick O. Ford, Litt.D.

ON THE DUTY OF CHRISTIAN LAWYERS AND JUDGES

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† **To the President of St. Clements University, St. Clements University, and to its Faculty and Staff; to my fellow American Clergymen; to my fellow Members of the American Bar; to our new friends within the American Inns of Court:**

Greetings to you on this Christmas Day!

INTRODUCTION

I am sending to you this special Christmas Day epistle as my formal introduction of the St. Clement's INN of COURT International's general philosophy of law.

¹ Roderick O Ford is an American lawyer. He holds the Doctor of Letters degree (Christian Theology—Law and Religion, '16) from St. Clements University.

Our Inn of Court is deeply-rooted in the Christian faith and the history of the Western Church, particularly as that Christian faith has evolved from ancient Rome, the Church of England, and the various Protestant sects which grew out from the Church of England.

We are committed to creating a networking platform for lawyers and judges from around the world. What we hope to accomplish is the *improvement* of the moral and ethical character of lawyers and judges and the *transformation* of the legal profession from being overly self-interested, overly fixated upon representing the rich and the powerful, and overly self-centered upon social status and standing, into being a mission-oriented profession that is overly-concerned about social justice, charity, and commitment to excellence in law practice and government administration.

A.

It is our fundamental understanding that the English common law and, indeed, Anglo-American constitutional law, have deep foundations in both the Christian faith and the Church of England, which served as the incubator and nurturing mother of the secular legal profession, beginning with training in canon law of the Roman Catholic Church at Oxford and Cambridge and training in the common law at the various English Inns of Court. The St. Clement's Inn of Court was founded to create a forum and platform for Christian lawyers and judges who seek both to preserve and to build upon that heritage.

But first, I think that it is important here to say a word or two as to the nature of law itself, and why we believe the St. Clement's Inn of Court is both timely and necessary. Traditionally and historically, within legal systems in the West, Jesus of Nazareth, as the Son of God, was believed to be the essence of "Reason" or "the Word," which is the divine "Logos." See, e.g., John 1:1-3. See, also, "Aquinas on Law," <https://people.wku.edu/jan.garrett/302/aquinlaw.htm> (where Saint Thomas Aquinas describes law as "'a certain rule and measure of acts whereby man is induced to act or is restrained from acting.'"... Because the rule and measure of human actions is reason, law has an essential relation to reason; in the first place to divine reason; in the second place to human reason, when it acts correctly, i.e., in accordance with the purpose or final cause implanted in it by God.") See, also, Sir Edward Coke (1552-1634), former Chief Justice of England and Wales, who says that "[r]eason is the life of the law; nay, the common law itself is nothing else but reason... The law, which is perfection of reason."

We believe that “self-interest” or “reason influenced by selfish lusts” is what corrupts law and the administration of justice, and that no legal system—no society or no civilization—can long last without the cultivation of moral habits and moral sentiments through training and education in theology, ethics, and professional standards. The days when purely secular law—wholly outside of any religious or moral restraints—is seen as a tool whereby the well-born, the crafty, and the strong take advantage of, and exploit, the innocent, the powerless, and the despised, have reached a climatic stage in the United States and, indeed, the entire world.

Accredited legal education at the world’s most prestigious universities today no longer acknowledge the Christian or moral foundations of secular jurisprudence, and the implications of these trends are exemplified in the collapse of the traditional family, the legalization of financial schemes that are tantamount to larceny and theft, and even the near-legalization of homicide and murder, under certain circumstances (such as “stand-your-ground” laws and unscrupulous police practices in the United States). Perhaps even more ominous, is the growing litigation expense of civil and criminal litigation, which makes the constitutional right access to court nearly impossible for moderate- and low-income persons, thus leading to gross miscarriages of justice in our courts of law. This problem carries grave human rights implications: if the poor, the despised, and the innocent cannot gain meaningful access to courts of law, or to basic legal services, then what shall prevent the rich-and-powerful from reducing them to outright slavery?

To the Christian world and to the Christian mind, the “Law of Christ”² (i.e., “truth” or “the Spirit of truth”) must be made manifest in the search for truth³; in the assessment of evidence at trial or on appeal; and in the rendering of just judgments within both ecclesiastical and secular courts. Thus, to the Christian legal mind, “truth” served a dual purpose: to establish justice on earth between human

² 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).”

³ “Your law is truth and you are truth.” Saint Augustine, *Confessions*, New York, N.Y.: Barnes & Noble Books (2007), p. 48. “For by consulting the Gospel we learn that Christ is Truth.” Saint Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 645.

beings and to serve God. Every human activity and endeavor, whether secular or sacred, had to be subordinated to God. As St. Augustine put it: “justice, whose office it is to render to every man his due, whereby there is in man himself a certain just order of nature, so that the soul is subjected to God, and the flesh to the soul, and consequently both soul and flesh to God....”⁴

Figure 1. Merger of Christianity with Greco-Roman Law

Christian (i.e., Catholic) Theology	Greco-Roman Law
Jesus Christ ---→	Truth ⁵
God ---→	Justice ⁶

Figure 2. A System of Christian (i.e., Catholic) Jurisprudence

Christ---→ Truth ←--- God---→ Justice

Jesus Christ	Christ is Truth
God	Truth is God
Justice	God is Justice

For St. Thomas, the “truth” in legal proceedings had to be established with scientific precision, based upon all of the information available, because this was a Christian mandate. As a result of his influence, the Catholic Church approached evidentiary principles as a distinct branch of “moral theology.” Particularly Thomas, in his *Summa Theologiae*, explained that the rules of proof and procedure were designed to implement God’s command to do equity, justice, and righteous judgment. This great Christian legacy is contained within Rule 102 of the modern Federal Rules of Evidence (United States), to wit: “[t]hese rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of **ascertaining the truth and securing a just determination.**”

⁴ “God Himself, the fountain of all justice....” *The City of God*, p. 27. “Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms?” *The City of God*, p. 112. “And justice, whose office it is to render every man his due, whereby there is in man himself a certain just order of nature, so that the soul is subjected to God, and the flesh to the soul, and consequently both soul and flesh to God—does not this virtue demonstrate that it is as yet rather laboring towards its end than resting in its finished work?” *The City of God*, p. 678. “[A] republic cannot administered without justice.” *The City of God*, p. 699. “For by consulting the Gospel we learn that Christ is Truth.” *The City of God*, p. 645. “That the last judgment, then, shall be administered by Jesus Christ in the manner predicted in the sacred writings is denied or doubted by no one....” *The City of God*, p. 762.

⁵ Ibid.

⁶ Ibid.

For this reason, we believe that it is the duty of Christian lawyers and judges around the world to summon the genius of the bar and the bench around the common cause and goals of the *universal moral law*—which is to establish true Justice through the promotion of the dignity and inherent worth of the individual human being, regardless of social status. The St. Clement’s Inn of Court holds that this carries with it an awesome responsibility: first, it carries with it the duty to cultivate a working knowledge of the *Holy Bible*; second, it carries with it a genuine commitment to conform the inner person and the outer person to the commands of the *Holy Bible*; and, third, it carries with it a genuine commitment to applying the moral commandments within the *Decalogue* to field of civil and human rights and to a general policy of human development. We at St. Clement’s Inn of Court believe that this objective should not simply be an empty word or platitude, but that it must become a way of professional life within the legal profession.

B.

St. Clement’s Inn of Court shall be guided by the rich example of the Church of England and by the philosophy and example of one of its greatest pastors, the Reverend Richard Baxter (1615 -1691). Rev. Baxter was a rare, self-taught genius who made his mark upon English ecclesiastical history by becoming the “Chief of the Puritan Schoolmen” and “the most prominent English churchman of the 1600s.”⁷ Baxter’s influence upon Anglican Christianity and the Protestant Reformation cannot be adequately measured, but we do know that Rev. Baxter’s Christianity was not subordinate to secularism, materialism, or state government. Indeed, it was his understanding that God’s government and Providence governed the secular affairs of everyday secular life and state government.

Rev. Baxter’s Christianity conceptualized human government as a subordinate, subcomponent of God’s eternal, divine government. This view of law and government was certainly “orthodox” and exemplified the dogma of traditional Tory doctrine: Church and State were inextricably bound together as two sides of the same coin. The “law of Christ”⁸ was deemed the fundamental law of England; it had been sewn into the Common Law of England; and it had pervaded the general framework of the entire English legal structure. See, e.g., Table 1, Thomas Woods, *Institutes of the Laws of England* (1720).

⁷<https://www.christianitytoday.com/history/people/pastorsandpreachers/richard-baxter.html>

⁸ 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).”

Table 1. Thomas Woods, *Institutes of the Laws of England* (1720)

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

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

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

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

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

Rules concerning Law

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

Common Law is common Right.

The Law is the Subject’s best Birth-right.

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

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

Significantly, as the law of reason, the English Common Law was the manifestation of the divine *Logos*, or the *Word* of God. For “[i]n the beginning was the Word, and the Word was with God, and the Word was God.”⁹ Hence, “Reason,” “Nature,”¹⁰ and “Logos” became one “fundamental moral law” during

⁹ John 1:1.

¹⁰ 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

first several decades of the seventeenth century. For this reason, Rev. Baxter held to the opinion that human laws (i.e., the laws of the secular, civil government) were subordinate to natural law, divine or ecclesiastical law, and to the eternal laws of God. This view of law certainly reflected traditional theology of the Roman Catholics, particular of St. Thomas Aquinas. And it is largely upon this foundation that Rev. Baxter was able to render advice to English lawyers and judges. He did not conceptualize their professional, legal, constitutional or traditional functions as being anything other than the godly duty to establish justice. Hence, lawyers and judges were, in Baxter's view, very important ministers of God. In Rev. Baxter's view, any other conception of the duties and obligations of lawyers and judges was based upon a fundamental misunderstanding of law or of what law was created for and designed to accomplish. Many of the problems plaguing seventeenth-century English life, including the downfall of the reputation of the English legal profession, was due in large measure to the fact that English lawyers and judges were using the law simply to gain social status and money, and not justice. In Rev. Baxter's view, such short-sighted selfishness was a "sin" against both God and the secular body politic. And this selfishness was certainly both unchristian and unpatriotic. We therefore turn to a more careful examination of Rev. Baxter's advice to Christian lawyers and judges.

A SUMMARY OF RICHARD BAXTER'S ADVICE TO CHRISTIAN LAWYERS AND JUDGES

In his monumental work *A Christian Directory* (1665),¹¹ Rev. Baxter had much to say to England's lawyers as he admonished them to utilize their legal talents to serve God. He wrote:

Gentlemen, you need not meet these directions with the usual censures or suspicions, that divines are busying themselves with the matters of your calling, which belong not to them, and which they do not understand; you shall see that I will as much forbear such matters as you can well desire. **If your calling be not to be sanctified by serving God in it, and regulating it by his law, it is then neither honourable nor desirable.** But if it be, permit me very briefly so far to direct you.

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.

¹¹ Rev. Richard Baxter (1615 – 1691), "Directions To Lawyers About Their Duty to God," Chapter IV, *Christian Directory* (Part 4)(1665).

To some degree, Rev. Baxter seemed to be telling legal profession as a whole, that if it does not serve God (i.e., Justice and Truth), then it is really and truly only engaged in dishonorable service. This significant conclusion is not simply theological, but it is also a professional self-assessment of right and wrong, and ethical obligation and duty.

I. “Put the Laws of God in their Proper Perspective and Relation to the Laws of Man.”

There was no separation of Christian theology from law and government in seventeenth-century England, and so Rev. Baxter could inform English lawyers and judges of their obligation to search the Scriptures for knowledge as to God’s laws and government first, before taking into account the objectives and goals of secular human laws. Their understanding was that the later was derived from the former, as Rev. Baxter explained:

Direction I. Take the whole frame of polity together, and study each part in its proper place.... Therefore **let the government and laws of God have the first and chiefest place in your studies**, and in all your observation and regard.

1. Because it is **the ground of human government**, and the fountain of man’s power and laws.
2. Because **the divine polity** is also the **end of human policy**; man’s laws being ultimately to promote our obedience to the laws of God, and the honour of his government.
3. Because **God’s laws are the measure and bound of human laws**; against which no man can have power...¹²

Hence, traditionally, within the Anglo-American legal heritage, the Christian faith was at the heart of the legal profession; the Christian faith was its foundation; the “law of Christ”¹³ was its “fundamental law,” and ultimate objective, goal, and purpose; and, indeed, that “law of Christ” was the final measure with which all other secular laws were to be judged.

¹² Ibid.

¹³ 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).”

II. “Be not Affixed to Money-Making at the Expense of Justice”

With Christianity at the foundation of English law, Rev. Baxter reasoned that Christian moral and social philosophy ought to also be at the foundation of the English legal profession. This meant that higher aims and higher goals, other than social-climbing and money-getting, should characterize the highest aims of the English legal profession. For these reasons, Rev. Baxter opined:

Direction II. Be sure that you **make not the getting of money to be your principal end in the exercise of your function**; but the **promoting of justice**, for the **righting of the just**, and the **public good**; and therein **the pleasing of the most righteous God**.

For your work can be to you no better than your end. A **base end doth debase your work**....

The question is not, Whether you seek to live by your calling; for so may the best; nor yet, Whether you intend the promoting of justice; for so may the worst (in some degree). But the question is, **Which of these you prefer? And which you first and principally intend? ...** And if you say that **you look for no reward but riches, you must look for a punishment worse than poverty**; for the neglecting of God and your ultimate end, is a sin that deserveth the privation of all which you neglect; and leaveth not your actions in a state of innocent indifferency.¹⁴

Here, Rev. Baxter presents to the English legal profession the choice between Good and Evil, much similar to Moses’ presentation of the same choice between Good and Evil to ancient Israel in the *Book of Deuteronomy*. Indeed, Rev. Baxter asks, “which do you prefer,” so as to say, “what is in your heart’s desire?” thus echoing Jesus of Nazareth, who said, “no man can serve ... God and mammon.”¹⁵

¹⁴ Ibid.

¹⁵ Matthew 6:24.

III. “Be Advocates for God, Justice, Truth, and the Innocent”

Next, it is critically important to note one of God’s important manifestations and attributes is “justice.” For Rev. Baxter, this meant that to establish “justice” is to establish God; but to oppose “justice” is to be in rebellion and opposition against God. And there is no separating “justice” from its divine source. Hence, another reason for lawyers and judges to study the *Holy Bible* is because God is himself the fountain of all justice. Rev. Baxter thus wrote in *A Christian Directory*:¹⁶

Direction III. Be not counselors or advocates against God, that is, against justice, truth, or innocency. A bad cause would have no patrons, if there were no bad or ignorant lawyers. It is a dear-bought fee, which is got by sinning; especially by such a willful, aggravated sin, as the deliberate pleading for iniquity, or opposing of the truth... [A]s St. James saith to them that he calleth to weep and howl for their approaching misery, ‘Your riches are corrupted, and your garments moth-eaten, your gold and silver is cankered, and the rust of them shall be a witness against you, and shall eat your flesh as it were fire: ye have heaped treasure together for the last days.’

Whatever you say or do against truth, innocency, and justice, you do it against God himself. And is it not a sad case that among professed Christians, there is no cause so bad but can find an advocate for a fee?

I speak not against you for pleading against excessive penalties or damages; for so far your cause is good, though the main cause of your client was bad; but he that speaketh or counselleth another for the defence of sin, or the wronging of the innocent, or the defrauding another of his right, and will open his mouth to the injury or the just, for a little money, or for a friend, must try whether that money or friend will save him from the vengeance of the universal Judge (unless faith and true repentance, which will cause confession and restitution, do prevent it).

The Romans called them thieves, that by fraud, or plea, or judgment got unlawful gain, and deprived others of their right...¹⁷

¹⁶ Rev. Richard Baxter (1615 – 1691), “Directions To Lawyers About Their Duty to God,” Chapter IV, *Christian Directory* (Part 4)(1665).

¹⁷ *Ibid.*

Stated differently, and what Rev. Baxter seems to be asking, is this: without the spirit of Christ leading the legal profession, and without Justice as its ultimate objective, what can the legal profession be or truly become, in its fundamental essence, other than a grouping of organized bandits and thieves, committed to committing larceny upon the body politic? That is the fundamental question which the organized bar associations and individual lawyers and judges in the United States and around the world must grapple with, and confront, today more than ever.

IV. “Take-Up the Cause of the Oppressed and the Innocent”

In the Gospel of St. Luke, a lawyer asked Jesus of Nazareth to define the term “neighbor,” to which Jesus responded with his “Parable of the Good Samaritan.”¹⁸ Rev. Baxter similarly admonished Christian lawyers and judges to act accordingly, to serve and not forget the oppressed and the weak:

Direction IV. Make the cause of the innocent as it were your own; and suffer it not to miscarry through your slothfulness and neglect. He is a lover of money more than justice, that will sweat in the cause of the rich that pay him well, and will slubber over and starve the cause of the poor, because he getteth little by them. Whatever your place obligeth you to do, let it be done diligently and with your might; both in your getting abilities, and in using them.¹⁹

It is significant here that Rev. Baxter pinpoints the very fleshly problem amongst lawyers and judges to choose rich clients and the cause of the rich-and-powerful above those of the poor-and-innocent. This is true not simply of individual lawyers and judges, who make individual career choices and professional preferences, but it also it is true of legal institutions, bar associations, law schools, and legal education in general. The general trend in American law is away from the sectarian, altruism, and uplift of the less-fortunate persons within society. Here, St. Clement’s Inn of Court shall provide a forum and platform for like-minded lawyers and judges from around the globe, who want not only to improve the legal profession but also to transform and ameliorate the entire world.

¹⁸ Luke 10: 25-37.

¹⁹ Rev. Richard Baxter (1615 – 1691), “Directions To Lawyers About Their Duty to God,” Chapter IV, Christian Directory (Part 4)(1665).

V. “Resist Worldly Temptation”

Finally, Rev. Baxter reminded lawyers and judges to take heed and to resist worldly temptations:

Direction V. ...But especially remember who hath said, ‘**What shall it profit a man to win all the world, and lose his soul?**’ And that temptations surprise you not, be deliberate and take time, and be not too hasty in owning or opposing a cause or person, till you are well informed....

Indeed, Rev. Baxter felt that without the spirit and the law of Christ as the guide, the tendency within the legal profession is preference for social status and affiliation with the rich and powerful, and to get about or exclude the plight of the poor—ungodly and unchristian instincts which the legal profession should guard against.

Conclusion

As we open our first session in calendar year 2021, we extend the advice of the Reverend Richard Baxter to the members of our St. Clement’s Inn of Court, as the ultimate standard upon which each of them must aspire to live up to and be judged.

Yours Faithfully,

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[This is a draft copy. Therefore, please excuse any grammatical errors.]



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