

ST. LUKE’S INN OF COURT

“Law & Religion Forum”

Volume 1, Apostolate Paper #33

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

By

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

TABLE OF CONTENTS

Preface
Introduction
Summary

Part XXII. Anglican Church: The King James Bible (1611 to 1800)

Section I. Origins of the English Bible

Section II. Biblical Sources of English Law (1611 to 1800)

A. Biblical Source: General Scriptural Citations, 1611 to 1800

- 1. Marriage Law**
- 2. Church as a Corporate Body**
- 3. Law of Slavery**
- 4. Divine Right of Kings**
- 5. Usury Laws**
- 6. Witchcraft**
- 7. Forfeiture of Property (Homicide cases)**
- 8. Benefit of Clergy**
- 9. Tithes**
- 10. Two-witness Rule**

11. Criminal Punishment

B. Biblical Source: Lord Edward Coke, 1552- 1634, A.D.

C. Biblical Source: Lord William Blackstone, 1723-1780, A.D.

Section III: Biblical Sources of England's Equity and Constitutional Jurisprudence

Conclusion

The ideas expressed in this Apostolate Paper are wholly those of the author, and subject to modification as a result of on-going research into this subject matter. This paper is currently being revised and edited, but this version is submitted for the purpose of sharing Christian scholarship with clergy, the legal profession, and the general public.

PREFACE

The organized Christian church of the Twenty-First Century is in crisis and at a crossroad. Christianity as a whole is in flux. And I believe that Christian lawyers and judges are on the frontlines of the conflict and changes which are today challenging both the Christian church and the Christian religion. Christian lawyers and judges have the power to influence and shape the social, economic, political, and legal landscape in a way that will allow Christianity and other faith-based institutions to evangelize the world for the betterment of all human beings. I write this essay, and a series of future essays, in an effort to persuade the American legal profession to rethink and reconsider one of its most critical and important jurisprudential foundations: the Christian religion. To this end, I hereby present the thirty-third essay in this series: "A History of the Anglican Church—Part XXII."

INTRODUCTION¹

The King James Bible significantly influenced my approach to secular legal education during the final decade of the twentieth century. In my mind, the secular legal system remained subordinate to the “law of Christ”²; and I believed that the excellent lawyer and advocate had to ensure that the administration of justice functioned in a manner to mete out justice and just judgments.³ Thus influenced by both Christian and non-Christian philosophy and thought, “justice” was in my mind both secular and sacred, such that my underlying religious motivations (i.e., Christian service) for becoming a lawyer, and which propelled me to reach for excellence in the practice of law, *did not need to be disclosed to my clients, fellow lawyers, the bar associations, or the bench*. Nobody needed to know that I considered myself to be a “Christian lawyer”; for, indeed, it was enough, I thought, that they could deduce this fact from my professionalism and example. To my mind, to practice law as a Christian lawyer simply meant to practice law with a special emphasis on helping the poor, the weak, the disenfranchised, and the powerless, without openly evangelizing the legal profession. But today, however, as I reflect back upon my legal career, and upon the emotional and financial dislocations of many lawyers; the lack of collegiality amongst lawyers and judges; the descent into alcoholism and drug use among many lawyers; and the increasing costs of litigation together with the widespread gross miscarriages of justice, I am more and more compelled to reconsider the role of Christian lawyers and judges within the secular state. Fundamentally, this reconsideration of the legal profession has led me to re-think legal education; the on-going professional development of lawyers; and *whether Bible education and knowledge should be encouraged as a worthy supplement to secular legal and professional education*.

¹ This paper on the King James Bible (1611) is dedicated to the local chapter of *The Federalist Society* at the University of Illinois College of Law. I joined *The Federalist Society* as a law student during the 1992-1993 academic term in order to better understand the historical origins of the United States Constitution; American constitutional law and jurisprudence; the doctrine of “original intent” in constitutional interpretation; and the doctrine of States Rights and 10th Amendment jurisprudence. I had at that time a working knowledge of *The Federalist Papers*, written by John Jay, Alexander Hamilton, and James Madison, and I was curious to observe how The Federal Society’s programmes promoted the ideals and ideas which Jay, Hamilton, and Madison set forth in *The Federalist Papers*.

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 *Ibid.*

Indeed, during the early 1990s, the constitutional doctrine of “separation of church and state” had been drilled into the sub-consciousness of American law students and lawyers, so that any mention of the Christian faith was largely a breach of professional etiquette. And then, too, the need to accommodate non-Christian law students, non-Christian law professors, and non-Christian bar members seemed to justify the complete suppression of the Christian faith from the foreground of all legal discourse. But all of this suppression of the Christian faith from the secular law, at least as I construe the matter, has created much of the current constitutional crisis of today, because the Bible has lost its distinction as a valid source of Anglo-American constitutional law, and today the most gifted legal minds no longer study its theology and literature with the degree of seriousness which Bible study deserves. The Christian faith community no longer has the same respect and influence upon the secular legislatures and the courts as it once had, even as recently as the mid-twentieth century. At the same time, the secular legal community no longer has the same level of respect for, or understanding of, religion, the church, and the Bible. Indeed, as this essay will reveal, the Bible has had a profound impact upon Anglo-American common law, statutory law, and constitutional law.

It was through my Roman Catholic studies at St. John’s Catholic Church (the Newman Center) at the University of Illinois that I first began to consider the Bible as a book of law. Through this Catholic influence, the Old Testament became the “Old Law”; the New Testament became the “New Law”; and the Christian religion became a form of “Christian jurisprudence.” The legal philosophy of St. Thomas Aquinas became more clairvoyant; the eternal will of God (i.e., Eternal Law) was God’s Providence, which is essentially beyond the capacity of human understanding; the Bible (Old and New Testament Law) was God’s revealed word (i.e., Divine Law) to mankind; the laws of nature, which are manifest in the planet earth and the galaxies (i.e., Natural Law), reflected God’s order and personality and could be made known to mankind through education and reason; and, lastly, the order whereby mankind can achieve civilization (i.e., Human Law) was a manifestation of the first three higher laws. This Thomist jurisprudence had governed Western legal thinking for several centuries, and it may thus be summarized as follows:

The *Bible* was, of course, first, with the writings of the *Fathers of the Church* second; but *Aristotle*, "The Philosopher," especially as his works were reconciled with Christianity through the writings of St. Thomas Aquinas, was followed with almost equal devotion; and many of the *Latin poets* and *Cicero* served in default of something better. *Virgil* was particularly esteemed, being regarded as almost a forerunner of Christianity; indeed St. Paul was supposed to have shed tears over *Virgil's* tomb in his regret that he had never seen the greatest of the poets in life.⁴

Throughout Christendom, since the days of Emperor Constantine the Great (272-337 A.D.), the Sacred Catholic Scriptures (i.e., the Greek and Latin Bibles) were viewed as God's eternal will, spoken through his Word, the Mediator, the man Christ Jesus. For, as St. Augustine tells us in *The City of God*, the Christian world believed that even the words of the Old Testament prophets, including the words of Moses himself, were actually the words of Christ⁵; and that all of the Sacred Scriptures were the manifestations of the divine *Logos*, which is the incarnate Word, who is Christ.⁶ From this perspective, the Christian world developed its jurisprudence through the understanding that all law (i.e., secular and sacred laws) was the manifestation of the Incarnate Word (i.e., the *Logos*), and that the Sacred Scripture was the highest authority and the supreme law of the land.⁷ For the next fourteen centuries following the reign of Emperor Constantine, this classical Christian jurisprudence, founded upon the Latin Bible, governed Western Christendom.

When I first studied law during the early 1990s, I thus conceptualized modern legal education as comprising the subject matter of constitutional law and theory, philosophy, religion, the natural sciences, and the social sciences as the primary sources of American jurisprudence. This conceptualization of the secular law was, without a doubt, influenced by classical western legal and political

⁴ John Marshall Guest, "The Influence of Biblical Texts Upon English Law" (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), p. 20.

⁵ "This Mediator, having spoken what He judged sufficient, first by the prophets, then by His own lips, and afterwards by the apostles, has besides produced the Scripture which is called canonical, which has paramount authority, and to which we yield assent in all matters of which we ought not to be ignorant, and yet cannot know ourselves." St. Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 347.

⁶ *Ibid.*

⁷ *Ibid.*

theorists. I had spent many years studying Catholic theology, Western political theory, and Anglo-American constitutional law and theory; I had also spent many years studying the English philosophers. As Sir Francis Bacon has once said, “[t]he law of England is not taken out of Amadis de Gaul, nor the Book of Palmerin, but out the Scripture, out the laws of the Romans and Grecians.”⁸ And, as we have seen throughout this series, the church had dominated the compilation, organization, and synthesis of the common law of England since 1066. In fact, the “ecclesiastical courts of England have a longer pedigree than those of the common law; for the Church, of which they formed the judicial branch antedated the Conquest, and through the Church courts the Popes exerted their authority over all Christendom. The canon lawyers compiled a great system of law, only comparable to that of the Roman or civil law, and this law was held by the Church to be superior to the common law of the land, just as the Church claimed superiority over the State, and the Pope over the King.”⁹ However, I discovered that within the American legal academy, the study of the secular law (i.e., “human law”) had virtually excluded the study of “eternal law,” “divine law,” and “natural law.” Equity jurisprudence was never fully explored or emphasized. And I honestly felt that law professors and judges seemed to unduly overemphasize the commercial aspects of secular jurisprudence, without taking into account legal history, equity, religion, and the theological foundations of human and civil rights. All of the classic legal theorists and political philosophers whom I had read and studied in preparation for law school, even writers such as the Frenchmen Rousseau and Montesquieu¹⁰, and Englishman John Stuart Mill, incorporated natural law and the “law of Christ” into their analytical, secular theories. But during the 1990s, all of this classical thinking had fallen into desuetude within the American legal academy. I was quite surprised when, upon entering law school, I learned that the predominant mode of American legal thinking and legal scholarship was a secular brand of legal positivism that had abandoned classical Christian jurisprudence and natural law. Moreover, I was even more surprised to learn that law professors and law students were largely uninterested in exploring the Christian foundations of the common

⁸ John Marshall Guest, “The Influence of Biblical Texts Upon English Law” (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), p. 16.

⁹ *Ibid.*, pp. 18-19.

¹⁰ “Montesquie says (*Esprit des Lois*, Book XX, Chap. 7) of the English that they ‘had progressed the farthest of all peoples of the world in three important things: in piety, in commerce, and in freedom.’” Max Weber, *The Protestant Work Ethic and the Spirit of Capitalism* (New York, N.Y.: Vigeo Press Reprint, 2017), p. 25.

law or Anglo-American constitutional law. I was surprised that it never came up in discussions or lectures on constitutional civil rights and international human rights. And, so far as I could perceive, the African American and Hispanic law professors and students expressed no desire to link the Christian faith and the church to the historic Civil Rights Movements of the past or to civil-rights jurisprudence. Again, the few law students and professors who shared my interest in the interplay between law and religion were Catholic or Jewish, but our collaboration was largely informal and outside the formal structure of the legal academy. My natural instincts, together with my Christian upbringing, led me to the idea that the “law of nature” does not disappear merely because we human beings decide that it is no longer relevant; and so, perhaps against conventional wisdom, I embarked upon my juris doctor research paper, *The American Jurist: A Natural Law Interpretation of the U.S. Constitution, 1787 to 1910*.

Now I suspect that I was not unlike most Christian college and law students in that I kept the King James Bible very near to me, even though I was not able to study it as comprehensively and as in-depth as I had originally wished. This Bible study of mine was a cultural habit that I had inherited from the Bible-Belt of the rural South. The King James Bible had a profound influence upon me, both while I was a child and as a young man, for its beautiful, archaic English language was to my mind synonymous with Christian holiness. The KJV Bible was the one medium through which my parents and grandparents imparted life’s lessons and passed down family traditions and values. At the first, I can recall my family bible, which my mother entrusted to me for safe-keeping; for it contains important dates and events, such as the date of my baptism and the birth of my baby brother. This family Bible is a huge white book, with golden trimming around the pages and the words of Christ in red, and which was published during the early 1970s. I can recall my dear mother laying across her bed on many Saturday afternoons, reading it, and sharing its many lessons with me. The second KJV Bible, perhaps the first which I claimed as my very own, was taken from an Army chapel in Germany; it must have found its way into my father’s Army luggage and crossed the Atlantic upon his return to the United States in 1986. This was a little brown, sturdy book, containing the most beautiful archaic Elizabethan English; this was the KJV Bible which I seriously read, underlined, high-lighted, and studied in

college and law school, from between 1987 and 1995. This was the KJV Bible which supplemented my Catholic *The New Jerusalem Bible*.¹¹ I also still own this little KJV Bible, but, much to my chagrin, I had to retire it from active use, due to its fragility and fragmentations. Years later, I compared my older KJV Bibles (published in the 70's and 80's) to the newer KJV versions today (published in 2010 or later), and I note a very interesting observation: the newer KJV Bible publications have omitted much the traditional archaic but beautiful Elizabethan prose from the original 1611 edition (printed in the KJV Bibles that were published in the 1970s and 80s). In the newer versions, more of the older, archaic words have been changed or modernized for easier reading. But to me, the beautiful language of the 1611 KJV Bible formed and shaped my Christian experience, perhaps even more than the liturgical activities and functions of church services. The language from the sacred text of the KJV Bible thus reflected in my mind the style and rhythm of the Christian faith.

When I was a college student, the KJV Bible remained the most important book in my personal library, and I supplemented it with St. Augustine's *Confessions* and *The City of God*; St. Thomas Aquinas' *Summa Theologica*; the Greek and Roman Classics, including Plato, Aristotle, Cicero, and Virgil; the English, German, and French political philosophers; and the Unitarian writings and poems of Ralph Waldo Emerson. Sometime during my undergraduate college years, I also discovered the Catholic *The New Jerusalem Bible*, and then, for the first time, I began to construe the sacred texts as a "book of law," such that when I entered law school during the Fall of 1991, I had adopted what I now consider to be Anglican-Catholic jurisprudence.

The Bible, and particularly the authorized King James Version, has likewise instructed the natural instincts of many generations of men and women who thought about the secular law and secular government. *I would also argue that, within the Anglo-American constitutional tradition, the authorized KJV Bible of 1611 opened the door to literacy, human development, and democratic government in England and America.* "To thousands of people, who had no literature but the Bible, the reading of God's word was a constant comfort. The effect of Bible study

¹¹ "The New Jerusalem Bible (NJB) is an English-language translation of the Bible published in 1985 by Darton, Longman and Todd and Les Editions du Cerf, edited by the Reverend Henry Wansbrough and approved for use in study and personal devotion by Roman Catholics." https://en.wikipedia.org/wiki/New_Jerusalem_Bible

on the English character cannot be calculated; through three centuries the many-splendored poetry of the Book has been a part of the national life.”¹² The KJV Bible worked in tandem with the *Book of Common Prayer* in order to infuse the Christian faith into the fabric of English law and culture in seventeenth- and eighteenth-century England. So that by the time of the American Revolution of the 1770s, the Christian faith and the Bible were at the epicenter of political revolution. The “law of Christ” served as the basis for asserting the “rights of man” and human freedom. (See Section III, “Biblical Sources of England’s Equity Jurisprudence”).¹³ Evidence of the Bible’s influence upon the American Revolution is readily apparent in historical documents; for, as one historian at American University has observed:

Which political traditions and thinkers shaped the ideas and aspirations of the American founding? Late eighteenth-century Americans were influenced by diverse perspectives, including British constitutionalism, classical and civic republicanism, and Enlightenment liberalism. Among the works frequently said to have influenced the founders are John Locke’s *Two Treatises of Government*, Montesquieu’s *The Spirit of the Laws*, and William Blackstone’s *Commentaries on the Laws of England*.

Another, often overlooked or discounted source of influence is the Bible. Its expansive influence on the political culture of the age should not surprise us because the population was overwhelming Protestant, and it informed significant aspects of public culture, including language, letters, education, and law. No book at the time was more accessible or familiar than the English Bible, specifically the King James Bible. And the people were biblically literate.

¹² Goldwin Smith, *A History of England* (New York, New York: Charles Scribner’s Sons, 1957), p. 290.

¹³ “These medieval canon law formulations of rights and liberties had parallels in later medieval common law and civil law. Particularly notable sources were the thousands of medieval treaties, condordats, charters, and other constitutional texts that were issued by religious and secular authorities.... A familiar example of the latter type of instrument was the Magna Carta (1215), the great charter issued by the English crown at the behest of the church and barons of England. The Magna Carta guaranteed that ‘the Church of England shall be free (libera) and shall have all her whole rights (iura) and liberties (libertates) inviolable’ and that all ‘free-men’ (liberis hominibus) were to enjoy their various ‘liberties’ (libertates).... These charters of rigts, which were common throughout the medieval West, became important prototypes on which early modern Catholic, Protestant, and Enlightenment-based revolutionaries would later call to justify their revolts against tyrannical authorities.” John Witte, Jr. and Frank S. Alexander, *Christianity and Law: An Introduction* (Cambridge, UK: Cambridge Press, 2008), p. 15.

The discourse of the era amply documents the founders' many quotations from and allusions to both familiar and obscure biblical texts, confirming that they knew the Bible from cover to cover. Biblical language and themes liberally seasoned their rhetoric. The phrases and cadences of the King James Bible influenced their written and spoken words. Its ideas shaped their habits of mind and informed their political experiment in republican self-government.

The Bible left its mark on their political culture. Following an extensive survey of American political literature from 1760 to 1805, political scientist Donald S. Lutz reported that the Bible was cited more frequently than any European writer or even any European school of thought, such as Enlightenment liberalism or republicanism. The Bible, he reported, accounted for approximately one-third of the citations in the literature he surveyed. The book of Deuteronomy alone is the most frequently cited work, followed by Montesquieu's *The Spirit of the Laws*. In fact, Deuteronomy is referenced nearly twice as often as Locke's writings, and the Apostle Paul is mentioned about as frequently as Montesquieu.

Many in the founding generation—98% or more of whom were affiliated with Protestant Christianity—regarded the Bible as indispensable to their political experiment in self-government. They valued the Bible not only for its rich literary qualities but also for its insights into human nature, civic virtue, social order, political authority and other concepts essential to the establishment of a political society. The Bible, many believed, provided instruction on the characteristics of a righteous civil magistrate, conceptions of liberty, and the rights and responsibilities of citizens, including the right of resistance to tyrannical rule. There was broad agreement that the Bible was essential for nurturing the civic virtues that give citizens the capacity for self-government. Many founders also saw in the Bible political and legal models—such as republicanism, separation of powers, federalism, and due process of law—they believed enjoyed divine favor and were worthy of emulation in their polities.

The political discourse of the founding, for one example, is replete with appeals to the Hebrew “republic” as a model for their own political experiment. In an influential 1775 Massachusetts election sermon, Samuel Langdon, the president of Harvard College and later a delegate to New Hampshire’s constitution ratifying convention, opined: “The Jewish government, according to the original constitution which was divinely established, ... was a perfect Republic ... The civil Polity of Israel is doubtless an excellent general model ...; at least some principal laws and orders of it may be copied, to great advantage, in more modern establishments.” Most of what the founders knew about the Hebraic republic they learned from the Bible. These Americans were well aware that ideas like republicanism found expression in traditions apart from the Hebrew model, and, indeed, they studied these traditions both ancient and modern. The republican model found in the Hebrew Scriptures, however, reassured pious Americans that republicanism was a political system favored by God.

Focusing on the Bible’s impact on the political culture of the founding is not intended to discount, much less dismiss, other sources of influence that informed the American political experiment. Rather, I contend that casting a light on the often ignored place of the Bible in late eighteenth-century political thought enriches one’s understanding of the ideas that contributed to the founding project.

Does it matter whether the Bible is studied alongside other intellectual influences on the founding? Yes, because biblical language, themes, and principles pervaded eighteenth-century political thought and action. Accordingly, an awareness of the Bible’s contributions to the founding project increases knowledge of the founders’ political experiment and their systems of civil government and law. A study of how the founding generation read and used the Bible helps Americans

understand themselves, their history, and their regime of republican self-government and liberty under law.¹⁴

For this reason, I have in this essay chosen the topic of the “King James Bible” and its impact upon England’s common law, statutory law, and constitutional law. Here we shall find within the Anglo-American tradition a form of Thomist jurisprudence which actually elevated the Bible to the status of constitutional law.

The Bible text was thoroughly woven into English statutory and case law, including courts that adjudicated England’s common law, ecclesiastical law, and chancery law (i.e., equity jurisprudence). “Chief Justice Fortescue, in his book *de Laudibus*, said of the judges, that after court ‘when they have taken their refreshments they spend the rest of the day in the study of laws, reading the Holy Scriptures, and other innocent amusements, at their pleasure.’”¹⁵ England’s leading jurists and legal theorists during the seventeenth and eighteenth centuries, most notably Lord Edward Coke and Lord William Blackstone, did not hesitate to cite Biblical sources in order to bolster their legal arguments and judicial opinions. And it was generally held during the period that Christianity was part and parcel of the English common law.¹⁶ And the American colonies were from the beginning, as subjects of the British Empire, governed by this same English common law.¹⁷ Hence, it is from this backdrop that this paper argues that the “*Bible as a law book* has not received the careful study to which it is entitled. Its theological importance,

¹⁴ Daniel L. Dreisbach, “How the Bible influenced the Founding Fathers,” <https://blog.oup.com/2016/11/bible-influenced-founding-fathers/>.

¹⁵ John Marshall Guest, “The Influence of Biblical Texts Upon English Law” (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), p. 20.

¹⁶ “First, of course, there is the general influence of the Bible through the medium of the Christian religion upon the law. It has often been said, indeed, that Christianity is part of the common law of England, and this is due in great measure to the authority of Sir Matthew Hale (*King v. Taylor*, 1 Vent. 293, 3 Keble 507), Blackstone and other writers, while Lord Mansfield held (*Chamberlain of London v. Evans*, 1767) that the essential principles of revealed religion are part of the common law.” John Marshall Guest, “The Influence of Biblical Texts Upon English Law” (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), p. 17.

¹⁷ This practice continued throughout the 19th century, as the United States continued to incorporate new states and to add them to the American union. For example, “in the autumn of 1829, the territory of Florida adopted the general common and statute laws of England existing on July 4, 1776, as its own. Florida’s territorial legislature had in one stroke given the future state a complete legal system that would soon grow into a new, never-before-seen system of jurisprudence. This system, under which Florida citizens live today, consists of all of the judge-made law ever written in Florida and all of the judge-made law ever written in England until July 4, 1776. We call this Florida common law.”

<https://www4.floridabar.org/DIVCOM/JN/JNJournal01.nsf/Subjects/E9732A870D22810185257250007C9B0B>

and, in later times especially, its literary interest have absorbed the attention of its readers, but there are other aspects from which it should be studied.”¹⁸

SUMMARY

The Christian faith became the foundation of Anglo-American constitutional and common-law jurisprudence through the various agencies of the Church of England. The Authorized King James Bible became one of the most important evangelization tools of the Anglican Church. This book was used to instill a uniformity of Christian values throughout the English body politic. It thus became an important document in English political, social, legal, ecclesiastical, and constitutional history. This King James Bible, together with the *Book of Common Prayer*, moved England toward independence from Rome and the assertion of its own English identity and independence. Through the King James Bible, the Christian religion became mediated through the English language rather than the foreign Latin tongue, which most Englishmen could not read or understand. Hence, after 1611, the year when the KJV Bible was published, scores of English men and women would learn to read only because they wanted to read the word of God. As a result of this widespread thirst of knowledge of the Bible, the KJV Bible of 1611, together with the *Book of Common Prayer*, transformed English society in profound ways. For not only was the Christian faith permanently cemented into England's Christian conscience, but it also shaped nearly every other aspect of English secular life as well. And not even the English common law was shielded from its influence. The Authorized King James Bible, together with the *Book of Common Prayer*, signified that, at the time of the American Revolution of the 1770s, England was a Christian nation.

¹⁸ John Marshall Guest, "The Influence of Biblical Texts Upon English Law" (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), p. 37.

Part XXII. Anglican Church: The King James Bible (1611 to 1800)

Section I. Origins of the English Bible

We often forget that Latin and French dominated the English courts and the Church of England from 1066 to the year 1600. During this long period, the Church of England used primarily the Latin bibles which it had inherited from the Roman Catholic Church. And the Roman Catholic Church, in turn, took charge of England's courts and legal system, giving them a Christian jurisprudence.

We who live in modern times when the State is the supreme and only source of law, and the Church is absolutely deprived of temporal authority, find it hard to realize that for many centuries the Church exercised an authority quite as important as that of the State, that its jurisdiction extended over and regulated the minutest details of the daily life of every man, and that its laws were administered by courts whose sentence of excommunication practically cut off the culprit from all rights and privileges as a member of society. He could not be a juryman, a witness nor a suitor in the civil courts, and if pertinacious could be kept in prison indefinitely. The ecclesiastical courts of England have a longer pedigree than those of the common law; for the Church, of which they formed the judicial branch antedated the Conquest, and through the Church courts the Popes exerted their authority over all Christendom. The canon lawyers compiled a great system of law, only comparable to that of the Roman or civil law, and this law was held by the Church to be superior to the common law of the land, just as the Church claimed superiority over the State, and the Pope over the King. Even after the Reformation, when Henry VIII boldly asserted the royal supremacy, the canon law of the Catholic Church became the King's ecclesiastical law of the Church of England. The Church courts exercised a corrective jurisdiction over the religious beliefs and morals of both the clergy and laity. All matrimonial questions were settled in these courts, they also granted probate of wills and letters of administration, and to a great extent controlled executors and administrators. This law of the Church was founded upon the Holy Scriptures as expanded and interpreted by the

decrees of the Popes and the glosses of commentators. Its influence upon the system of the common law was greater than is generally supposed, and through it the Bible has had much indirect effect.¹⁹

During most of this period, the thought or the effort to translate the Bible into English was seen as heretical attempts to overthrow the magisterial authority of the Roman Catholic Church. Hence, the history of the English Bible is deeply-rooted in political revolution. Beginning with John Wycliff, who lead the effort to translate the New Testament into the English language during the fourteenth century, the Church of England frowned upon and suppressed such efforts to translate the Latin Bible into English, until the early sixteenth century when Henry VIII finally severed the Church of England from the Church of Rome. The English Bibles issued in the English language for the Church of England are as follows:

1388 The Wycliff English New Testament

1535 The Great Bible (Henry VIII)

1568 The Bishop's Bible (Elizabeth I)

1611 The Authorized King James Bible (James I)

But it was the King James Bible (KJV) which ultimately had a lasting impact upon English law, society, and culture. "The translation is noted for its 'majesty of style,' and has been described as one of the most important books in English culture and a driving force in the shaping of the English-speaking world."²⁰ King James "gave the translators instructions intended to ensure that the new version would conform to the ecclesiology and reflect the episcopal structure of the Church of England and its belief in an ordained clergy. The translation was done by 47 scholars, all of whom were members of the Church of England."²¹ "The greatest achievement of the English Reformation was the publication of the King James Bible in 1611. It has been described as 'a masterpiece of English prose, the last great achievement of the perfection of Elizabethan richness.'"²²

¹⁹ I John Marshall Guest, "The Influence of Biblical Texts Upon English Law" (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), pp. 18-19.

²⁰ https://en.wikipedia.org/wiki/King_James_Version

²¹ Ibid.

²² Goldwin Smith, *A History of England* (New York, N.Y.: Charles Scribner's Sons, 1957), pp. 289-290.

The KJV Bible of 1611 grew out of the Hampton Court Conference of 1604, when the Puritans had been clamoring and petitioning for various changes to liturgy within the Church of England. Some of items in their petition (i.e., the “Millenary Petition”) included the following:

- (1). the cessation of the requirement to use the sign of the cross in baptism and the wearing of the surplice;
- (2). the cessation of requiring churchmen to declare a belief in the absolute truth of the *Book of Common Prayer*;
- (3). stricter observance of the Sabbath as a holy day of prayer and rest;
- (4). the use of sermons and a greater emphasis on effective preaching;
- (5). the implementation of a Presbyterian form of church government; and,
- (6). the publication and issuance of an English translation of the entire Bible, to be used in all of the churches in England.

“Thus the Millenary Petition was almost wholly denied by James I. One request he approved. He appointed a commission to make a new translation of the Bible. The Authorized Version, as it is called, was published in 1611.”²³

The project to publish the KJV Bible was begun in 1604 and completed in 1611.²⁴ When completed, the books of the King James Version included:

- (a) The 39 books of the Old Testament,
- (b). An intertestamental section containing 14 books of the Apocrypha (most of which correspond to books in the Vulgate Deuterocanon adhered to by Roman Catholics and Eastern Christians),
- (c). 27 books of the New Testament.²⁵

Since 1611, the KJV Bible has had a profound influence upon the development of England’s legal systems. Its sacred texts were thoroughly and

²³ Ibid., p. 289.

²⁴ Ibid.

²⁵ Ibid.

comprehensively sewn into English statutory law and judicial opinions on the English common law. John Marshall Guest in his lecture titled “The Influence of Biblical Texts Upon English Law,” given before the Phi Beta Kappa and Sigma Xi societies at the University of Pennsylvania, opined that the Bible became part and parcel of English jurisprudence. Professor Guest writes: “[s]o just as our English language has sprung from Anglo Saxon, Teutonic, French, Latin and Greek roots, our English common law with its unsurpassed powers of assimilation, elimination and expansion, has its origins in old local customs, the civil law, the canon law of the Church, the writings of philosophers and texts of Scripture, interwoven with the accumulation of a thousand years of statutes and judicial decisions.”²⁶

In seventeenth-century England, knowledge of the Bible was necessary for knowing and understanding English common law. For it was assumed that ignorance of the law was not an excuse; and that every Englishman was supposed to know the law, and to know the law, it was understood that knowledge of the Bible was *sine quo non*. Professor Guest thus writes: “[n]ow every man is presumed to know the law.... Nevertheless, you are all supposed to know the law, and likewise you are all supposed to know the Bible. What I am to say, therefore, about a certain connection between the law and the Bible is theoretically supposed to be entirely familiar to you, and indeed to say that the Bible in many ways has exerted a mighty influence on our law is a platitude so profound that I can scarcely hope to be excused for having uttered it.”²⁷ The result is that Christianity was also thoroughly incorporated into the English common law. “It has been often said, indeed, that Christianity is part of the common law of England, and this is due in great measure to the authority of Sir Matthew Hale (*King v. Taylor*, 1 Vent. 293, 3 Keble 507), Blackstone and other writers, while Lord Mansfield held (*Chamberlain of London v. Evans*, 1767) that the essential principles of revealed religion are part of the common law.”²⁸ Moreover, “Christianity supplied, as it were, the atmosphere of public opinion which surrounded the English people, the

²⁶ John Marshall Guest, “The Influence of Biblical Texts Upon English Law” (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), p. 16.

²⁷ *Ibid.* p. 17.

²⁸ *Ibid.*, p. 17.

legislature and the courts, but its precise effect would be an almost impossible task to determine.”²⁹

Section II. Biblical Sources of English Law (1611 to 1800)

A. Biblical Source: General Scriptural Citations, 1611 to 1800

The English common law, as reflected in judicial opinions, incorporated to a significant degree, Bible references and texts in support of its rulings and holdings. Likewise, England’s ecclesiastical and chancery courts thoroughly incorporated Bible texts within their jurisprudence as well, as I have discussed below:

1. Marriage Law

In English common law, the Bible’s textual references and authority was foundational. “That husband and wife are in law one person was an axiom of the common law....”³⁰ “And they shall be one flesh,” Gen. 2:23. “The law of the Church followed these texts, and, by emphasizing the sacramental character of the marriage relation, produced a result which harmonized well with the feudal system.”³¹

The Christian law of divorce also followed the New Testament. “Another text which had great importance in the law of marriage was that in Matthew 19:6-9, Mark 10:9, where Christ, after repeating the text from Genesis, added, ‘What therefore God hath joined together let no man put asunder,’ to which he added the rule which is understood to allow divorce only on ground of infidelity. These commands of Christ, given also in the Sermon on the Mount and contained besides in the Gospel of St. Luke, are the foundation of our law of marriage.”³²

2. Church as a Corporate Body

Corporation law originated in the Sacred Scripture. “A body corporate was a phrase which instantly suggested or was, perhaps, suggested by the language of St. Paul in speaking of the Church as Christ’s body—‘We being many are one body in

²⁹ Ibid., pp. 17-18.

³⁰ Ibid., p. 20.

³¹ Ibid., p. 21.

³² Ibid.

Christ,' Romans 12:4, 5; 'Now ye are the body of Christ and members in particular,' I Corinthians 12:27. Indeed the whole of that chapter is based upon the comparison, and St. Paul in other of his epistles refers to the same idea, which is reflected in the theory that a corporation is an artificial body composed of divers constituent members, but without a full and independent personality."³³ Indeed, the first corporations were "ecclesiastical... but the idea was naturally extended to civil corporations..."³⁴

3. Law of Slavery

For reasons that are beyond the scope of this individual paper, it is important to understand that the true, authentic Christian faith³⁵ (as distinguished from the European merchants and investors who operated in the New World within the purview of the Roman Catholic, Anglican, and other Reformed churches)³⁶ did

³³ Ibid., p. 21.

³⁴ Ibid., p. 22.

³⁵ This premise regarding the "true, authentic Christian faith" is based largely upon the historical assessment of the Church of England as presented in the work *Africa and America: Addresses and Discourses* (Springfield, MA: Wiley & Co., 1891), by Rev. Alexander Crummell, an 1854 graduate of Cambridge University, an ordained Anglican Priest, and Pan-Africanist who later influenced W.E.B. DuBois and many others. In his "Eulogium on the Life and Character of Thomas Clarkson, Esq. of England," Rev. Crummell, states: "[a]t the commencement of the sixteenth century, after the slavery of Africans had been allowed in the Spanish settlements, we find one Cardinal Ximenes, then holding the reigns of government, (previous to the accession of Charles the Fifth,) refusing his permission for the establishment of a regular system of commerce, in the persons of Native Africans. When Charles [V] came to power, he acted contrary to the course of the Cardinal. But by a good Providence he was afterward brought to see his error and to repent of it. In the year 1542, he made a code of laws, prohibiting the slave trade and emancipating all slaves in his dominions. About the same time, Leo 10th, the Pope of Rome, denounced the whole system, declaring, 'That not only the Christian religion, but that nature herself cried out against a state of slavery.' In England, in 1562, we find Queen Elizabeth anxious, lest the evils of the slave trade should be entailed upon Africa by any of her subjects, declaring that if any of them were carried off without her consent, 'It would be detestable, and call down the vengeance of Heaven upon the undertakers.' From this time, we find a continual testimony, ever and anon, borne against the system of slavery, by men of every profession and of every rank:-- MILTON; Bishop SANDERSON; Rev. MORGAN GODWYN, an episcopal clergyman, who wrote the first work ever undertaken expressly for this cause; RICHARD BAXTER, the celebrated divine published upon it; STELLE; the Poet THOMPSON; Rev. GRIFFITH HUGHES, another Episcopal clergyman; SHENSTONE, the Essayist and Poet; Dr. HUYTER, Bishop of Norwich; STERNE; Bishop WARBURTON, author of the Divine Legation, who preached a sermon before the Society for the Propagation of the Gospel, in 1766, in which he scouts the idea of man holding property in rational creatures. The DISSENTERS of all names, especially the FRIENDS, distinguished themselves beyond all others, in their early interest in the cause, and their clear, earnest, and explicit disapprobation of it. Latterly, GRANVILLE SHARP, the Father of the more modern Abolitionists, appeared upon the stage. And to him belongs the distinguished honor of having brought about the glorious decision in the case of Somerset, which COWPER has rendered immortal in the noble lines:-- 'Slaves cannot breathe in England: if their lungs receive our air, that moment they are free; they touch our country and their shackles fall.'" *Africa and America*, pp. 218-219.

³⁶ Thomas Clarkston, "Thoughts on the Necessity of Improving the Condition of the Slaves in the British Colonies With a View To Their Ultimate Emancipation; and on the Practicability, the Safety, and the Advantages of the Latter Measure" (1823)(New York, N.Y.: Aeterna Pub., 2010), pp. 8-10.

not invent slavery,³⁷ but instead this true, authentic Christianity simply attempted to regulate and ameliorate this unfortunate human condition,³⁸ with the theological understanding that “slavery” reflected the condition of human sin and should be abolished at the earliest possible convenience, during the meanwhile elevating slaves to the status of Christian brotherhood.³⁹ From the beginning, this policy of elevating slaves to Christian brotherhood and, eventually, preparing them for liberation, was the official Christian canon and policy on slavery as it existed in throughout the ancient Roman world, Medieval Europe, and the early Renaissance period—a policy that had been applied to the slaves of central Europe since about 450 A.D.⁴⁰

Hence, from the beginning of England’s encounter with African slavery and the African slave-trade, the great Christian Queen Elizabeth I (1558-1603) was against these institutions, which did not appear in the English colonies until 1619 during the reign of King James I (1603-1625). Anglican deacon Thomas Clarkson, the great 18th-/ 19th- century English abolitionist, has reported that slavery and the slave-trade were never lawful under English common law or the parameters of the Christian faith, and that when Queen Elizabeth I first learned of attempts by English merchants to engage in the Spanish slave-trade, she early lodged her objections against the practice:

And as the right to slaves, because they were born slaves, cannot be defended either upon the principles of reason or of justice, so this right absolutely falls to pieces, when we come to try it by the touchstone of *the Christian religion*. Every man who is born into the world, whether he be white or whether he be black, is born, according to Christian notions, a free agent and an accountable creature. This is

³⁷ Ibid.

³⁸ Ibid.

³⁹ For John Calvin’s views on slavery, see, generally, the web link: <https://politicaltheology.com/all-things-turned-upside-down-calvin-on-slavery/>.

⁴⁰ Thus commenting on this subject, the great French social theorist Alex De Tocqueville opined that “[a]ntiquity could only have a very imperfect understanding of this effect of slavery on the production of wealth. Then slavery existed throughout the whole civilized world, only some barbarian peoples being without it. **Christianity destroyed slavery by insisting on the slave’s rights; nowadays it can be attacked from the master’s point of view; in this respect interest and morality are in harmony.**” Alexis de Tocqueville, *Democracy in America* (New York, N.Y.: Harper Perennial, 1988), p. 348.

the Scriptural law of his nature as a human being. He is born under this law, and he continues under it during his life....

It has now appeared, if I have reasoned conclusively, that the West Indians have no title to their slaves on the ground of purchase, nor on the plea of the law of birth, nor on that of any natural right, nor on that of reason or justice, and that Christianity absolutely annihilates it. It remains only to show, that they have no title to them on the ground of original grants or permission of Governments, or of Acts of Parliament, or of Charters, or of English law.

With respect to original grants or permissions of Governments, the case is very clear. History informs us, that neither the African slave trade nor the West Indian slavery would have been allowed, had it not been for the misrepresentations and falsehoods of those, who were first concerned in them. The Governments of those times were made to believe, first, that the poor Africans embarked voluntarily on board the ships which took them from their native land; and secondly, that they were conveyed to the Colonies principally for their own benefit, or out of Christian feeling for them, that they might afterwards be converted to Christianity. Take as an instance of the first assertion, the way in which Queen Elizabeth was deceived, in whose reign the execrable slave trade began in England. This great princess seems on the very commencement of the trade to have questioned its lawfulness. She seems to have entertained a religious scruple concerning it, and indeed, to have revolted at the very thoughts of it. She seems to have been aware of the evils to which its continuance might lead, or that, if it were sanctioned, the most unjustifiable means might be made use of to procure the persons of the natives of Africa. And in what light she would have viewed any acts of this kind, had they taken place to her knowledge, we may conjecture from this fact—that when Captain (afterwards Sir John) Hawkins returned from his first voyage to Africa and Hispaniola, whither he had carried slaves, she sent for him, and, as we learn from Hill's Naval History, expressed her concern lest any of the Africans should be carried off without their free consent, declaring, *'that it would be detestable and*

call down the vengeance of Heaven upon the undertakers.' Capt. Hawkins promised to comply with the injunctions of Elizabeth in this respect. But he did not keep his word; for when he went to Africa again, he seized many of the inhabitants and carried them off as slaves, 'Here (says Hill) began the horrid practice of forcing the Africans into slavery, an injustice and barbarity, which, so sure as there is vengeance in Heaven for the worst of crimes, will sometimes be the destruction of all who encourage it.'

Take as an instance of the second what Labat, a Roman missionary, records in his account of the Isles of America. He says, the Louis the Thirteenth was very uneasy, when he was about to issue the edict, by which all Africans coming into his colonies were to be made slaves; and that this uneasiness continued, till he was assured that the introduction of them in this capacity into his foreign dominions was the readiest way of converting them to the principles of the Christian religion. *It was upon these ideas then, namely, that the Africans left their country voluntarily, and that they were to receive the blessings of Christianity, and upon these alone, that the first transportations were allowed, and that the first English grants and Acts of Parliament, and that the first foreign edicts, sanctioned them.*⁴¹

Hence, we now know that Spain (King Charles V), France (King Louis XIII), and England (Queen Elizabeth I) naturally received the idea of African slavery and the slave-trade as revolting to the Christian faith.⁴² Protestant leader and lawyer John

⁴¹ Thomas Clarkson, "Thoughts on the Necessity of Improving the Condition of the Slaves in the British Colonies With a View To Their Ultimate Emancipation; and on the Practicability, the Safety, and the Advantages of the Latter Measure" (1823)(New York, N.Y.: Aeterna Pub., 2010), pp. 8-10.

⁴² According to the great English Abolitionist Thomas Clarkson, the European powers initially engaged upon the African slave-trade and slavery upon receiving receiving false and deceitful information from European merchants and investors. Mr. Clarkson writes, "[t]ake as an instance of the second what Labat, a Roman missionary, records in his account of the Isles of America. He says, that Louis the Thirteenth was very uneasy, when he was about to issue the edict, by which all Africans coming into his colonies were to be made slaves; and that this uneasiness continued, till he was assured that the introduction of them in this capacity into his foreign dominions was the readiest way of converting them to the principles of the Christian religion. It was upon these ideas then, namely, that the Africans left their own country voluntarily, and that they were to receive the blessings of Christianity, and upon these alone, that the first transportations were allowed, and that the first English grants and Acts of Parliament, and that the first foreign edicts, sanctioned them. We have therefore the fact well authenticated, as it relates to original Government grants and permissions, that the owners of many of the Creole slaves in our colonies have no better title to them as property, than as being the descendants of persons forced away from their

Calvin's biblical interpretations and views on slavery, as it existed in the bible and as it then existed in the sixteenth-century Spanish Empire, certainly reflected the conventional Christian perspective throughout Europe that slavery was unnatural and un-Christian.⁴³

But the marked shift in Europe's general official policy on African slavery occurred during the late sixteenth and early seventeenth centuries. Anglican priest Alexander Crummell and Anglican deacon Thomas Clarkson have both attributed this shift in policy to the powerful European merchants, whose false reports, subterfuge, and political influence compelled European monarchs to consent to congenial African commercial policy that had Christian evangelization as a primary objective. But in reality, the merchants' programmes were a subterfuge for slavery and the cruelty of the African slave trade. According to Clarkson, the European and English merchants deceived European Christendom with materialism, greed of gold, and profit. Beginning in the mid-1500s, this subversion of Christian principle and doctrine became established economic policy for three hundred years, until such time as Christian abolitionists, such as William Wilberforce, John Wesley, Thomas Clarkson, and Frederick Douglass were able to re-establish the Christian foundations of the secular law.⁴⁴ What those "Christian foundations" of Europe's and England's secular laws entailed, was deeply rooted in Thomist legal doctrine and theory, as was, perhaps, best expressed by Rev. John Wesley in his tract, "Thoughts Upon Slavery" (1792), where he said:

The grand plea is, '[Slavery and the transatlantic slave-trade] are authorized by law.' But can law, Human Law, change the nature of things? Can it turn darkness into light, or evil into

country and brought thither by a traffic, which had its allowed origin in fraud and falsehood." Thomas Clarkson, "Thoughts on the Necessity of Improving the Condition of the Slaves in the British Colonies" <http://www.bookrags.com/ebooks/10386/14.html#gsc.tab=0>.

⁴³ See, generally, the web link "Calvin on Slavery": <https://politicaltheology.com/all-things-turned-upside-down-calvin-on-slavery/>.

⁴⁴ Rev. Alexander Crummell said of both Thomas Clarkson and the British Abolition movement: "This moral effort establishes the principle, to use the words of Mr. Clarkson, 'That commerce itself shall have its moral boundaries.' This result is of the last importance. Too long has religion been abstracted from the lives and business pursuits of men. Too long has Christianity been isolated, yea almost localized to the Minister, the Cathedral, the Cloister or the Church! That day is past, and the usages therewith connected, are numbered with the things that were. Christianity henceforth permeates all the relations of life, and sits in judgment upon all its moral concernments." *Africa and America: Addresses and Discourses* (Springfield, MA: Wiley & Co., 1891), p. 246.

good? By no means. Notwithstanding ten thousand laws, right is right, and wrong is wrong still. There must still remain an essential difference between justice and injustice, cruelty and mercy. So that I still ask, who can reconcile this treatment of the negroes, first and last, with either mercy or justice?⁴⁵

Hence, Christian Europe's initial impression of African slavery reflected the "law of Christ" and was of widespread disapproval. Indeed, the "law of Christ," had been sewn into the legal codes of England and Europe through the Roman Catholic Church.⁴⁶ From the very beginning, the Bible did not seem to support

⁴⁵ John Wesley, *Thoughts Upon Slavery* (London, England: G. Paramore, 1792), p. 14. See www.forgottenbooks.com.

⁴⁶ Perhaps most representative of the viewpoint on Slavery of most Christians who lived during the early sixteenth century was that of John Calvin's. See, generally, **John Calvin (1509-1564) On Slavery: I.** "...but they were slaves, of the kind that are still used in some countries, in that after a man was bought the latter would spend his entire life in subjection, to the extent that he might be treated most roughly and harshly: something which cannot be done amidst the humanity which we keep amongst ourselves. Now it is true that we must praise God for having banished such a very cruel brand of servitude." Calvin, Sermon XLVI on 1 Timothy 6:1-2. II. "For each human being is a reasonable creature. And this derived from sin, one evil triggers another, until things descend into utter confusion. But if we examine the rights which masters had, we shall conclude every time that this is something which is contrary to the whole order of nature. For we are all fashioned after the image of God, and it was thus altogether too exorbitant that a reasonable creature upon whom God has stamped his mark should be put to such insulting condition. But such are the fruits of the disobedience and sin of our first father Adam: it has resulted in all things being turned upside down." Sermon, Ephesians 6:5-9, also cit Kayayan. III. "Soon after the deluge it happened that most of the human race lost the freedom that was by nature common to everyone. Now, whether the first enslaved humans had been crushed by the conquest or compelled by poverty, the natural order had certainly been corrupted by violence; for human beings had been created to have and sustain society to their mutual advantage. And although it is necessary for some to have stewardship over the others, we ought rather to maintain equality among brethren." OT Commentaries (Harmony of the Law), op. cit. Genesis 12:5. IV. "The same punishment [death] is here deservedly denounced against man-stealers as against murderers; for, so wretched was the condition of slaves, that liberty was more than half of life; and hence to deprive a man of such a great blessing, was almost to destroy him. Besides, it is not man-stealing only which is here condemned, but the accompanying evils of cruelty and fraud, i.e., if he, who had stolen a man, had likewise sold him." Commentary Deuteronomy 24:7. V. "Paul therefore reminds Philemon that he ought not to be so greatly offended at the flight of his slave, for it was the cause of a benefit not to be regretted. So long as Onesimus was at heart a runaway, Philemon, though he had him in his house, did not actually enjoy him as his property; for he was wicked and unfaithful, and could not be of real advantage. He says, therefore, that he was a wanderer for a little time, that, by changing his place, he might be converted and become a new man. He next brings forward another advantage of the flight, that Onesimus has not only been corrected by means of it, so as to become a useful slave, but that he has become the "brother" of his master... Hence (Paul) infers that Philemon is much more closely related to him, because both of them had the same relationship in the Lord according to the Spirit, but, according to the flesh, Onesimus is a member of his family. Here we behold the uncommon modesty of Paul, who bestows on a worthless

fifteenth and sixteenth-century African slavery and the slave trade. As Professor Guest has noted “[t]he Old Testament form of [slavery] was particularly mild and humane. In theory, at least, a slave was a member of his master’s household...”⁴⁷ By the time of Christ, the early church was admonished to preach a doctrine of equity, justice, and love, which extended even to slaves. The implication was that, as Ralph Waldo Emerson would later observe in his famous speech, “The Fugitive Slave Law,” the “law of Christ” could not sanction the brutal injustice of the African slave trade and slavery which the English and Americans perpetuated in the Western hemisphere. Professor Guest writes:

[I]n Deuteronomy, 23:15, a fugitive slave was to be protected when he fled from his master. St. Paul, on the other hand, sent back Onesimus to his master Philemon, though with an injunction to treat him kindly, and in his Epistle to the Ephesians exhorted slaves to be obedient to their masters. Yet in numerous passages he speaks of the distinction between slave and freeman as having no meaning in their relationship to God. He himself was a bond to Christ. The condition of slavery in other words was only external, having no existence in the spiritual life ‘where there is neither Greek nor Jew, bond or free, but Christ is all and in all.’... The early Fathers and the Church down to modern times recognized slavery in the same way. St. Gregory repeated the theory inherited from the Greek philosophy that all men are by nature equal, and reconciled it with the institution of slavery by holding the latter to be a concession to necessary conditions of human life and one of the consequences of servant sin. He who commits sin is the servant of sin. In the bitter controversies over slavery and the Fugitive Slave Laws which preceded our Civil War, no authority was quoted with greater confidence than was St. Paul, and he who argued against the injustice

slave the title of a brother, and even calls him a dearly beloved brother to himself. And, indeed, it would be excessive pride, if we should be ashamed of acknowledging as our brother those whom God accounts to be his sons.” Commentary, Philemon, 15-17. It thus appears quite ironic that during the seventeenth century, certain New England Puritans who subscribed to Calvinist theology and theocracy, readily participated in the African slave-trade. But from the beginning, the original Calvinist position on slavery and the slave-trade was that these institutions were un-Christian and should be forbidden.

⁴⁷ John Marshall Guest, “The Influence of Biblical Texts Upon English Law” (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), p. 22.

of slavery was held to be an opponent of the revealed will of God; while on the other hand *Emerson in his speech on the Fugitive Slave Law unhesitatingly affirmed that an immoral law was void and appealed for support to the Bible, which he said was a part of every technical law library.*⁴⁸

The viewpoint of Emerson that Christianity could not support the institution of American slavery had been the original theological position of the Church of England, and that position was lucidly set forth in the writings and sermons of the Anglican priests John Wesley, Alexander Crummell, and many other Anglican dissenters as to the practice of slavery in America.⁴⁹ During the mid-1800's, the Reverend William Goodell, who as a staunch abolitionist in the United States, held firmly to the position that English common law and the Christian faith did not, and could not, uphold or validate the institution of American slavery. For Rev.

⁴⁸ Ibid., pp. 22-23.

⁴⁹ This assertion that the Anglican Church's original theological position was against African slavery and the African slave trade is based largely upon the historical assessment of the Church of England as presented in the work *Africa and America: Addresses and Discourses* (Springfield, MA: Wiley & Co., 1891), by Rev. Alexander Crummell, an 1854 graduate of Cambridge University, an ordained Anglican Priest, and Pan-Africanist who later influenced W.E.B. DuBois and many others. In his "Eulogium on the Life and Character of Thomas Clarkson, Esq. of England," Rev. Crummell, states: "[a]t the commencement of the sixteenth century, after the slavery of Africans had been allowed in the Spanish settlements, we find one Cardinal Ximenes, then holding the reigns of government, (previous to the accession of Charles the Fifth,) refusing his permission for the establishment of a regular system of commerce, in the persons of Native Africans. When Charles [V] came to power, he acted contrary to the course of the Cardinal. But by a good Providence he was afterward brought to see his error and to repent of it. In the year 1542, he made a code of laws, prohibiting the slave trade and emancipating all slaves in his dominions. About the same time, Leo 10th, the Pope of Rome, denounced the whole system, declaring, 'That not only the Christian religion, but that nature herself cried out against a state of slavery.' In England, in 1562, we find Queen Elizabeth anxious, lest the evils of the slave trade should be entailed upon Africa by any of her subjects, declaring that if any of them were carried off without her consent, 'It would be detestable, and call down the vengeance of Heaven upon the undertakers.' From this time, we find a continual testimony, ever and anon, borne against the system of slavery, by men of every profession and of every rank:-- MILTON; Bishop SANDERSON; Rev. MORGAN GODWYN, an episcopal clergyman, who wrote the first work ever undertaken expressly for this cause; RICHARD BAXTER, the celebrated divine published upon it; STELLE; the Poet THOMPSON; Rev. GRIFFITH HUGHES, another Episcopal clergyman; SHENSTONE, the Essayist and Poet; Dr. HUYTER, Bishop of Norwich; STERNE; Bishop WARBURTON, author of the Divine Legation, who preached a sermon before the Society for the Propagation of the Gospel, in 1766, in which he scouts the idea of man holding property in rational creatures. The DISSENTERS of all names, especially the FRIENDS, distinguished themselves beyond all others, in their early interest in the cause, and their clear, earnest, and explicit disapprobation of it. Latterly, GRANVILLE SHARP, the Father of the more modern Abolitionists, appeared upon the stage. And to him belongs the distinguished honor of having brought about the glorious decision in the case of Somerset, which COWPER has rendered immortal in the noble lines:-- 'Slaves cannot breathe in England: if their lungs receive our air, that moment they are free; they touch our country and their shackles fall.'" *Africa and America*, pp. 218-219. Rev. Crummell's assessment of the original position of the Church of England on the question of African Slavery is similar to Rev. William Goodell's overall assessment, which he articulated in *The American Slave Code* (New York, N.Y.: American and Foreign Anti-Slavery Society, 1853).

Goodell, the bible did not support American slavery, and neither did the English common law since, according to Rev. Goodell, it was based upon the Christian faith. “Another important circumstance,” wrote Rev. Goodell, “is the colonial charters, which were their constitutions of government, expressly provided **that the Colonies should enact no laws contrary to the common law, the Constitution and the fundamental laws of Great Britain.** But these [legal opinions] (as decided by Lord Mansfield, and as attested by Coke, Fortescue, and Blackstone) are incompatible with the existence of slavery.”⁵⁰ Thus contending that American slavery was illegal from the very beginning of its appearance in the American colonies, Rev. Goodell wrote:

Sir John Hawkins obtained leave of Queen Elizabeth, in the year 1562, to transport Africans into the American colonies with their own free consent, a condition with which he promised to comply. But he forfeited his word, and forced them on board his ships by acts of devastation and slaughter. For this he was denominated a murderer and a robber, even by the historian Edwards, an advocate of the slave-trade. (Vice Clarkson’s History, p. 30); and Edwards’ Hist. W. Indies, vol. 2, pp. 43-4.) This was the beginning of the slave-trade by Englishmen.

By Act of 23 George II, the ‘trade to Africa’ was ‘regulated,’ including a strict prohibition, under penalties, of the taking on board or carrying away any African ‘by force, fraud, or violence,’ (Vide Clarkson, p. 314. See also Spooner’s Unconstitutionality of Slavery.) Under no other legal sanction than this, the forcible and fraudulent seizure and transportation of slaves from Africa to the British-American Colonies was carried on till the West India and North American Colonies were stocked with slaves, and many were introduced into England, held as slaves there, and the tenure accounted legal! But in 1772 it was decided by Lord Mansfield, in the case of James Somerset, a slave, **that the whole process and tenure were illegal; that there was not, and never had been, any legal slavery in England.** This decision was understood by Granville

⁵⁰ William Goodell, *The American Slave Code* (New York, N.Y.: American and Foreign Anti-Slavery Society, 1853), p. 270.

Sharpe, the chief agent in procuring it, to be applicable to the British Colonies, as well as to the mother-country, and undoubtedly it was so. The United States were then Colonies of Great Britain. But the slaves in the Colonies had no Granville Sharpe to bring their cause into the Courts, and the Courts were composed of slaveholders.

In the great struggle, afterwards, in the British Parliament for abolishing the African slave-trade, William Pitt cited the Act of 23 George II., (which we have already mentioned,) and declared that instead of authorizing the slave-trade, as was pretended, it was a direct prohibition of the whole process, as it had actually been carried on by fraud, force, and violence. An elaborate investigation by Parliament sustained the statement; and, after a long struggle, the doctrine prevailed, and the traffic was expressly and solemnly abolished, though it has been secretly carried on to the present day, and is prosecuted still. There is reason to believe that great numbers are still smuggled annually into the United States, as it is known that numerous plantations in the States bordering on the Gulf of Mexico are stocked with slaves, evidently African, and unable to speak English. The whole process is, and has been, illegal, from the beginning to end...⁵¹

Such was the origin, and such are the legal foundations of the 'legal relation of master and slave' in this country; just as 'legal' now, and no more so--- just as 'innocent' now, and no more so, than in the person of John Hawkins, when he first forced a band of naked Africans on board his slave-ship, on the coast of Africa, or when he first offered them for sale in the Colonies; quite as cruel, Heaven-defying, and murderous now as it was then, and involving its present perpetrators in the same condemnation with John Hawkins, at the bar of impartial posterity, **and at the bar of God. 'Where the foundation is weak,' says the common law, 'the structure falls.'** 'What is invalid from the beginning, cannot be make valid by length of time.' (Noyes' Maxims.) 'He that stealeth a man and

⁵¹ Ibid., pp. 258-260.

selles him,' says Moses, 'or if he be found in his hand, he shall surely be put to death.' 'The law was made for men-stealers,' says Paul. 'Stealers of men,' said the Presbyterian General Assembly of 1794, 'are those who abduct, keep, sell, or buy slaves or freemen.' 'To hold a man in a state of slavery,' said Dr. Jonathan Edwards, 'is to be, every day, guilty of robbing him of his liberty, or of man-stealing.' 'Men-buyers,' said John Wesley, 'are exactly on a level with men-stealers.' We might quote similar language from Dr. Porteus, Bishop of London, Bishop Warburton, Macknight, Abraham Booth, and other eminent writers.⁵²

However, as we shall observe within several succeeding essays within this series, scores of English merchants and a host of opportunistic Anglican chaplains and theologians stood ready to sacrifice the "law of Christ" upon the altar of greed, gold, and treasure. Simultaneously, we shall also observe that true, authentic Christianity, operating within and alongside the Church of England, laid the groundwork for the abolition of African slavery and the slave-trade, during the seventeenth and eighteenth centuries.

4. The Divine Right of Kings

In England, the monarchy turned to the Bible for support of its position that the throne of England was ordained by God alone. Anglican bishops looked to St. Paul's epistles for their support of the legal theory known as the Divine Right of Kings. As Professor Guest has observed: "[s]o St. Paul said, 'Let every soul be in subjection to the higher powers: the powers that be are ordained of God.' 'Fear God, honour the King.' These and similar texts in later times became the ground of the formal theory of the Divine Right, which made so much mischief in the history of our constitutional law. But in other well-known passages St. Paul holds that the end of civil government is to be the avenger for wrath to him who doeth evil; its divine institution was for that purpose and only so far as that purpose was fulfilled did government retain its sacred character. In short, the Bible contains an arsenal of texts, from which the advocates of the Divine Right on one side, and the

⁵² Ibid., pp. 270-271.

defenders of human freedom and equality on the other, freely selected their weapons.”⁵³

5. Usury Laws

England relied upon Biblical texts such as Exodus 22:25; Leviticus 25:36; Deuteronomy 23:19. Luke 6:34 to proscribe certain financial and lending practices. “Money lending, therefore, was left to the Jews, who being without the pale of the Church were not regarded as subject to its laws...,”⁵⁴ writes Professor Guest. “There could be no question as to the iniquity of a practice forbidden by both Aristotle and the Bible, so all through the Middle Ages and long afterwards, usury was regarded with peculiar abhorrence as a mortal sin, although avarice, triumphant over piety, continually evaded the law by ingenious devices.”⁵⁵ “The practical wisdom of Elizabeth’s Parliament repealed the earlier acts in 13 Elizabeth 8, and avoided all contracts for interest over 10%.”⁵⁶

6. Witchcraft

The sixteenth and seventeenth century English endured their share of religious superstition, which was inevitable given the easy propensity to misquote and misinterpret the ancient texts of the Bible. They believed, for instance, in witches and sorcerers and thus English law proscribed these practices. “Blackstone IV, 60, says..., ‘To deny the possible, nay the actual existence of witchcraft and sorcery is at once flatly to contradict the revealed word of God in various passages both of the Old and New Testament.’”⁵⁷ “The curious and horrible history of witchcraft in England Old and New, is due to the misapplication of the well-known text in Exodus 22:18, ‘Thou shalt not suffer a witch to live.’ This injunction was reinforced by the references in Deut. 18:9 to sorcerers, charmers, and consulters with familiar spirits, and in Levit. 20:27 such offenders were doomed to be stoned.”⁵⁸ “Sir Matthew Hale was one of the brightest ornaments of the English bench, yet it was he who presided in 1665 at the trial of witches in Bury St.

⁵³ John Marshall Guest, “The Influence of Biblical Texts Upon English Law” (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), p. 23.

⁵⁴ Ibid., p. 24.

⁵⁵ Ibid.

⁵⁶ Ibid., pp. 24-25.

⁵⁷ Ibid., p. 26.

⁵⁸ Ibid., p. 25.

Edmunds, where Sir Thomas Browne, the author of the *Religio Medici*, gave his expert testimony against the defendants. Bacon, Raleigh, Selden and other famous and brilliant men were all infected with the same terrible error, and in fact the Acts were not repealed until 1736.”⁵⁹

In New England, the belief in witches and witchcraft was transplanted from England, and the Bible was used to vindicate the practice of suppressing both witchcraft and sorcery.⁶⁰

7. Forfeiture of Property in Cases of Homicide

In English common law, there was an ancient rule that required person to forfeit to the crown any object that caused the death of another human being. For example, if a cart ran over and killed a child, then the cart would need to be turned over to the crown. “This rule is very ancient and most likely antedated the time when the Bible had any very great influence in shaping the law, but Lord Coke, followed by Blackstone, grounds it expressly upon the law of God as stated in Exodus 21:28: ‘If an ox gore a man or a woman that they die, then the ox shall be surely stoned and his flesh shall not be eaten.’ It is a strange example of the persistence of ancient law that deodands were not abolished in England by statute until 1846. (9 and 10 Vict. C. 62).”⁶¹

8. The Benefit of Clergy

In previous essays within this series, we have looked at the problems of “church and state” with respect to the independence of the church and its clergy from the jurisdiction of the royal or secular authority. This independence allowed clergymen to claim exemption from criminal prosecution in the secular courts. “Benefit of Clergy was one of the most important heads of medieval criminal law, and meant briefly that an ordained clerk or clergyman who committed any of the graver crimes known as felonies could only be tried by an ecclesiastical court, and only be punished by such punishment, that is, penance, as such court might decree.... Benefit of Clergy was not formally abolished until 1827, 7 and 8 George IV, c.

⁵⁹ Ibid., p. 26.

⁶⁰ Ibid.

⁶¹ Ibid., p. 27.

28.”⁶² According to Blackstone, the Benefit of Clergy was “founded upon the text, ‘Touch not mine anointed and do my prophets no harm.’ (4 Blacks. 365, Keilwey 181).”⁶³

9. Tithes

Both King and Pope argued over the collection of tithes. “[I]t seems quite clear that this important right of the Church was established in direct imitation of the Hebrew law.”⁶⁴ Common law lawyers and ecclesiastical lawyers argued over who had the divine right to collect the tithes.⁶⁵

10. Two-Witness Rule

The famous rule within Anglo-American jurisprudence that a person could not be convicted of a capital offense without the witness of at least two persons was grounded in the Bible. “[I]t is reasonably clear that that [‘two-witness’ rule was] derived from Biblical authority. In Numbers 35:30 it is said, ‘One witness shall not testify against any person to cause him to die.’ In Deut. 17:6, ‘At the mouth of two witnesses or three witnesses shall he that is worthy of death be put to death, but at the mouth of one witness he shall not be put to death.’ In Deut. 19:15, ‘At the mouth of two witnesses or at the mouth of three witnesses shall the matter be established.’ And in St. John, 8:17, Christ said: ‘It is also written in your law that the testimony of two men is true.’ The same rule, ‘In the mouth of two or three witnesses every word may be established,’ is also quoted by Christ in St. Matthew 18:16, and by St. Paul in II Corinthians 13:1, and I Timothy 5:19. By the time of the Emperor Constantine the rule that a single witness was insufficient in law had been adopted by the Roman law, and was further developed by the Canon law of the Church.”⁶⁶

The legacy of the “two-witness” rule remains quite significant within English common-law countries such as the United States. “The common law of England never adopted it as a systematic rule, but as the Church courts had jurisdiction over wills, they required two witnesses for *probate*, on the ground that

⁶² Ibid, pp. 28-29.

⁶³ Ibid., p. 28.

⁶⁴ Ibid., p. 30.

⁶⁵ Ibid.

⁶⁶ Ibid., pp. 30-31.

this was agreeable to the law of God, and this rule has become a part of our *law of wills*. The general principle that two witnesses are necessary to prove a legal fact was adopted also by the Court of Chancery and produced there very important results in *equity practice* and *pleading* which affect our law to this day... and we also owe to it the rule that requires two witnesses to convict a defendant of perjury, and the provision in the Constitution of the United States, Art. 3, Sec. 3, that ‘no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court.’⁶⁷

11. Criminal Punishment

The command in Exodus 21:23 that “And if any mischief follow, then thou shalt give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe” was never adopted in English common law, perhaps because “Christ in His Sermon on the Mount, Matthew 5:38, expressed His disapproval of the principle....”⁶⁸

B. Biblical Source: Lord Edward Coke, 1552- 1634, A.D.

As a further illustration as to the significance of the influence of the Bible upon English law, Mr. Guest, in his article “The Influence of Biblical Texts Upon English Law,” relies upon the writings and citations from the distinguished English jurist Lord Edward Coke, Chief Justice of the court of common pleas, and the famous author of the comprehensive *Institutes*. Lord Coke was an expert on the English common law and, together with Lord William Blackstone, “probably exerted more influence upon our law than any others.”⁶⁹ Trained in the English common law tradition, Lord Coke no doubt considered the Bible to be a source, if not the very foundation, of English constitutional and common law, and he did not hesitate to point out the Biblical references as the primary or secondary authority for various English common or statutory laws.

Regarding England’s law on “Lepers,” Lord Coke cited Leviticus 13:44 and Numbers 5:1; regarding the common law on “Twelve Jurors,” he cited the number

⁶⁷ Ibid., p. 31.

⁶⁸ Ibid., p. 32.

⁶⁹ Ibid., p. 34.

twelve “is much respected in Holy Writ, as twelve apostles, twelve stones taken by Joshua from the midst of Jordan, twelve tribes, etc.”⁷⁰; regarding the law on “partition by lot,” he cited Numbers 26:55 and 33:54; regarding the law on “bribery,” he cited Deuteronomy 16:19; regarding the “law against dueling,” he cited Matthew 26:52 and Deuteronomy 32:35; regarding English “humanitarian law for the protection of refugees,” he cited Deuteronomy 23:15; regarding the common and statutory laws on “buildings,” he cited Deuteronomy 22:8; regarding the common law “right of cross examination,” he cited John 7:51; regarding the law for the “exemption from jury service,” he cited Psalms 90:10; regarding the “circuits of the judges,” he cited 1 Samuel 7:16; regarding Chapter 25 of *Magna Carta*, he cited Deuteronomy 25:13; and, finally, regarding England’s laws against slander against the king and royal ministers, and against seditious speech, he cited Exodus 22:28.⁷¹ Interestingly, Mr. Guest writes, “[t]hese examples [of Biblical authority for English law] from Lord Coke might be multiplied indefinitely....”⁷²

C. **Biblical Source: Lord William Blackstone, 1723-1780, A.D.**

This English tradition of relying upon Biblical texts in order to bolster legal authority within England’s court decisions continued well into the eighteenth century, as is exemplified in the judicial opinions and writings of the renowned jurist Lord William Blackstone. In 1765, Lord Blackstone published his famous *Commentaries on the Laws of England*. “In the United States, the *Commentaries* influenced Alexander Hamilton, John Marshall, James Wilson, John Jay, John Adams, James Kent and Abraham Lincoln, and remain frequently cited in Supreme Court decisions.”⁷³ Mr. Guest notes that Lord Blackstone’s “uses of Scripture texts” within his legal writings and judicial opinions were similar to that of Lord Coke’s, “although not to same extent.”⁷⁴ Regarding the English law on the “property rights,” Lord Blackstone cited Genesis 1:28; regarding the “law of inheritance,” he cited Numbers 27; regarding the uses of “sealed documents,” he cited the Book of Jeremiah; regarding the “[l]ivery of seisin,” he cited Ruth 4:7; and regarding the “law of wills,” he cited Genesis 48:22.

⁷⁰ Ibid., p. 34.

⁷¹ Ibid., pp. 34-35.

⁷² Ibid., p. 35.

⁷³ https://en.wikipedia.org/wiki/William_Blackstone

⁷⁴ John Marshall Guest, “The Influence of Biblical Texts Upon English Law” (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910)(pages 15-34), p. 16.

Section III: Biblical Sources of England’s Constitutional and Equity Jurisprudence

The primary source of England’s equity jurisprudence was the canon law of the Church of England, which after 1611 was derived from the King James Bible. It was understood that Jesus Christ was the “Word” and the “Logos,” i.e., the governing voice of reason which permeated the whole world. This “voice of reason” was believed to constitute the very essence of natural law and the law of nations, from which England’s equity jurisprudence was derived.⁷⁵ The Greco-Roman idea of “logos” or “aequitas” was thus translated as “Christ” or “equity” within the Christian world; and, through the Roman Catholic Church and the Church of England, Roman law and jurisprudence was Christianized.⁷⁶ Equity was developed from principles of natural law, natural justice, and divine law (i.e., the “law of Christ”); and the Lord Chancellor, and other courts of chancery, were free to fashion equitable remedies and to correct the injustices within the common law as they pleased.⁷⁷ This system lasted until the early 18th century, when *established equitable principles* began to replace the arbitrary decision-making of the chancellors with established equitable principles that acted much like common-law court precedents.⁷⁸ However, the chancellors remained free in their application of these equitable principles to new and novel sets of circumstances.⁷⁹ Even today, as Professor John Norton Pomeroy reminds us in his classic treatise, modern-day Anglo-American system of equity jurisprudence is based upon “Divine morality” and retains “an inherent vitality and capacity of expansion, so as ever to meet the wants of a progressive civilization.”⁸⁰

England’s equity jurisprudence, in turn, thus filtered through various types of courts, including ecclesiastical courts, chancery courts, and office of the Lord Chancellor. And the “law of Christ”⁸¹ was from the very first the mother of England’s equity and chancery jurisprudence. “The Law of Christ” ultimately functioned as the executive arm of the Lord Chancellor, who wielded the power of equity as the royal prerogative of the king and as the king’s Christian conscience.

⁷⁵ See, e.g., Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL: Xlibris Pub., 2015).

⁷⁶ See, e.g., *Pomeroy’s Equity Jurisprudence* (Fifth Edition), Volume 1.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid., pp. 77-80.

⁸¹ 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).

Thus, the chancery courts were established in England to ensure that justice was done. The Lord Chancellor, who was a Bishop in the Church of England, also acted as a sort of appellate judge over the common law courts as well; he maintained the royal prerogative to reverse and overturn unconscionable injustices that stemmed from judicial decisions within the common law courts.

In essence, the Lord Chancellor was primarily responsible for ensuring that the “law of Christ” reigned supreme throughout all of England. This was true even after the Reformation of 1534. “Unlike other Protestant lands, England did not pass comprehensive new reformations that reflected and implemented its new Protestant faith. Armed with the conservative legal synthesis of Richard Hooker (1553-1600) and others, England chose to maintain a good deal of its traditional medieval common law and canon law, which was only gradually reformed over the centuries by piecemeal parliamentary statutes and judicial precedents.”⁸² This meant that in seventeenth and eighteenth century England, the English common law remained subordinate to the law of equity, which was in essence the “law of Christ,” to wit: 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). England’s ecclesiastical and chancery courts still borrowed heavily from the Roman Catholic canon law in order to formulate England’s equity jurisprudence. “[T]he church’s canon law was the true source of Christian equity—the ‘mother of exceptions,’ ‘the epitome of the law of love,’ and ‘the mother of justice,’ as they variously called it. As the mother of exceptions, canon law was flexible, reasonable, and fair, capable of bending the rigor of a rule in an individual case through dispensations and injunctions, or punctiliously insisting on the letter of an agreement through orders of specific performance or reformation of documents. As the epitome of love, canon law afforded special care the disadvantaged—widows, orphans, the poor, the handicapped, abused wives, neglected children, maltreated servants, and the like.... As the mother of justice, canon law provided a method whereby the individual believer could be reconciled to God, neighbor, and self at once.”⁸³

Interestingly, England’s canon law and equity jurisprudence also established the foundation for the “fundamental law of England,” which became the heritage of the Anglo-American constitutional and common law systems. “These medieval canon law formulations of rights and liberties had parallels in later medieval

⁸² John Witte, Jr. and Frank S. Alexander, *Christianity and Law: An Introduction* (Cambridge, UK: Cambridge Press, 2008), p. 20.

⁸³ *Ibid.*, pp. 11-12.

common law and civil law. Particularly notable sources were the thousands of medieval treaties, condordats, charters, and other constitutional texts that were issued by religious and secular authorities.... A familiar example of the latter type of instrument was the Magna Carta (1215), the great charter issued by the English crown at the behest of the church and barons of England. The Magna Carta guaranteed that ‘the Church of England shall be free (libera) and shall have all her whole rights (iura) and liberties (libertates) inviolable’ and that all ‘free-men’ (liberis hominibus) were to enjoy their various ‘liberties’ (libertates).... These charters of rights, which were common throughout the medieval West, became important prototypes on which early modern Catholic, Protestant, and Enlightenment-based revolutionaries would later call to justify their revolts against tyrannical authorities.”⁸⁴ Again, the principles of equity, which instilled the duty to do justice and judgment, to do unto others as one would others do unto himself, and to respect the dignity and worth of the individual human soul, regardless of social status, social standing, or wealth, laid the foundations for what would later become the American Bill of Rights of 1789, and many similar charters, protocols, and constitutions throughout the world.

CONCLUSION

The Authorized King James Bible of 1611 influenced England’s legal system for the same reasons that the old Latin Vulgate had influenced it prior to 1534 when Henry VIII separated the Church of England from Rome: the legal theory of St. Thomas Aquinas was largely incorporated into the English legal system, whereby human law remained subordinate to the law of God and the law of Christ (i.e., Eternal Law --→ Divine Law --→ Natural Law --→ Human Law). Under the new regime, the King James Bible simply replaced the Latin Bible and served as the fundamental legal reference for the English legal system. The Church of England and the English legal system worked in tandem with each other in order to ensure that English law, society and culture reflected the ordered balance of justice and the “law of Christ.” They viewed the Authorized King James Bible as a “book of law,” and not simply as a book of religion. The King James Bible was thus elevated to the status of official law in England. English jurists and lawyers were expected to study the Bible as well as the law; English men and women were expected to know the Bible and also to know the law. Sixteenth, seventeenth, and eighteenth century English judges readily and frequently merged Biblical texts

⁸⁴ Ibid., p. 15.

within their judicial opinions. For it was well settled that if a matter could be supported with Biblical references, then it was beyond legal dispute in the secular courts, for a “higher law of God” governed the matter. Hence, by the time of the American Revolution during the 1770s, the Christian faith remained through the Church of England the predominant source of English jurisprudence.

THE END

Bibliography:

Guest, John Marshall. "The Influence of Biblical Texts Upon English Law" (An address delivered before the Phi Beta Kappa and Sigma Xi Societies of the University of Pennsylvania on June 14, 1910, pp. 15-34).

Witte, John, Jr. and Frank S. Alexander. *Christianity and Law: An Introduction*. Cambridge, UK: Cambridge Press, 2008.

References:

Aquinas, Thomas (Saint). *Summa Theologica*. New York, NY: The Catholic Primer (2005).

Augustine, Aurelius (Saint). *The City of God*. New York, NY: The Modern Library (1950).

Bode, Carl. *The Portable Emerson*. New York, NY: Penguin Books (1981).

Burt, Edwin A. *The English Philosophers From Bacon To Mill*. New York, NY: The Modern Library (1967).

Catechism of the Catholic Church (New York, NY: Doubleday, 1997).

Daniell, Timothy Tyndale. *The Lawyers: The Inns of Court: The Home of the Common Law*. New York, N.Y.: Oceana Publications, Inc. (1976).

Ford, Roderick. *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity*. Tampa, Fl.: Xlibris Pub. (2015).

Russell, Bertrand. *A History of Western Philosophy*. New York, NY: Touchstone, 2007.

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

The Federalist Papers. Nashville, TN: Thomas Nelson, Inc. 2014.

Woods, Thomas E. *How The Catholic Church Built Western Civilization*.

Washington, D.C.: Regnery Publishing, Inc., 2005.