

# **CHURCH HISTORY & PURITAN THEOLOGY**



## **BAPTIST POLITY AND THE LIFE OF ROGER WILLIAMS (1603 – 1683)**

# ST. LUKE'S INN OF COURT

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

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

## INTRODUCTION<sup>1</sup>

### The Forethought

Up to the seventeenth century, the English Common Law had evolved naturally, under the tutelage of the Church of England, into the supreme law of the realm. The English Common Law had been known as the law of reason and the law of nature. Chief Justice Edward Coke had ruled that the English Common Law, which was the perfection of artificial reason, was even superior to the constitutional doctrine of “divine rights” of the king.

#### Thomas Woods, *Institutes of the Laws of England* (1720)

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

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

2. Upon the revealed Law of God, Hence it is that our Law punishes Blasphemies,

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<sup>1</sup> This paper is dedicated to the acknowledgment of the first African American Baptists of British North America. In 2017, I had the honor and privilege of attending Christmas Eve services at the **First African Baptist Church of Savannah, Georgia**. Its website calls it the “Oldest Continuous Black Church in North America.” See: <https://firstafricanbc.com/> On Sunday, December 24, 2017 (Christmas Eve), I was welcomed with open arms by the pastor and the congregation, and took plenty of pictures. Founded in 1773 by Rev. George Lelie, this was the first Black Baptist Church that was founded in British North America. And it is the oldest black church in North America. See, e.g., [https://en.wikipedia.org/wiki/First\\_African\\_Baptist\\_Church\\_\(Savannah,\\_Georgia\)](https://en.wikipedia.org/wiki/First_African_Baptist_Church_(Savannah,_Georgia)). The early founders of what became the First African Baptist Church of Savannah were at the cross currents of the American Revolutionary War (1775- 1781); many of them, including Rev. Lelie himself, were given their freedom from the British and transported to other areas throughout the British Empire (e.g., Nova Scotia, London, and Jamaica), where they planted other African Baptist Churches.

Perjuries, & etc. and receives the Canons of the Church [of England] duly made, and supported a spiritual Jurisdiction and Authority in the Church [of England].

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

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

#### *Rules concerning Law*

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

Common Law is common Right.

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

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

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

Significantly, as the law of reason, the English Common Law was the manifestation of the divine *Logos*, or the *Word* of God. For "[i]n the beginning was the Word, and the Word was with God, and the Word was God."<sup>2</sup> Hence, "Reason," "Nature,"<sup>3</sup> and "Logos" became one "fundamental moral law" during first several decades of the seventeenth century. Now, with the doctrines of Martin Luther and John Calvin sweeping across the English Channel, men and women began to re-think the fundamental moral order of things. Why were the Pope and King more divine than the common man? "Hath not God chosen the poor of this world rich in faith, and heirs of the kingdom which he hath promised to them that love him?"<sup>4</sup>

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<sup>2</sup> John 1:1.

<sup>3</sup> St Augustine defines "nature" as "essential." He writes: "Consequently, to that nature which supremely is, and which created all else that exists, no nature is contrary save that which does not exist. For nonentity is the contrary of that which is. And thus there is no being contrary to God, that Supreme Being, and Author of all beings whatsoever.... It is not nature, therefore, but vice, which is contrary to God." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 382. Similarly, in another section of *The City of God*, St. Augustine describes "God Himself," as "the fountain of all justice." *Ibid*, p. 27.

<sup>4</sup> James 2:5.

The natural result of all of this was, among other things, the Baptist theology and polity of Rev. Thomas Helwys (1575-1616) and Rev. Roger Williams (1608-1683). Both of these men had legal and theological training: Rev. Helwys had studied at the Gray's Inn of Court; and Rev. Williams, as the legal secretary of Justice Edward Coke. Together, these men broadened the definition of the true holy, apostolic, and catholic church and made it coterminous with Christ's description of the "Kingdom of Heaven" or the "Kingdom of God," spoken of in several parables, such as the "Wheat and the Tares."<sup>5</sup> The "Kingdom of God (Heaven)," reasoned Baptist theologians, could not be contained or administered by a secular civil magistrate. The State must be separate from the Church; but make no mistake about it: under Baptist theological doctrine, *the "Doctrine of the Separation of Church and State"* did not mean *the "Separation of the Law of Nature or the Law of Reason from the State or from secular jurisprudence."* Nevertheless, the true, holy, apostolic, and universal church could not impose the Christian faith upon non-believers. Instead, both believers and non-believers (including Jews, Muslims, atheists, etc.) must co-exist in civil peace, mediated through the dictates of natural law or the laws of nature (i.e., the law of reason). This natural law or law of reason was re-stated and reinforced in the "Second Table" of the *Decalogue*. It was also reflected in the Golden Rule. Indeed, in 1651, at the conclusion of the English Civil War (1642-1651), Sir Thomas Hobbes had concluded in *Leviathan* that:

The first and fundamental law of nature; which is, to seek peace and follow it. The second, the sum of the right of nature; which is, by all means we can, to defend ourselves."<sup>6</sup> Hobbes does not hesitate in stating that these two natural laws are reflected in the *Golden Rule*, as he put it: "*[t]his is that law of the Gospel: whatsoever you require that others should do to you, that do ye to them.*"<sup>7</sup>

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<sup>5</sup> Matthew 13:24-30

<sup>6</sup> Edwin A. Burtt, *The English Philosophers From Bacon to Mill* (New York, NY: The Modern Library, 1967), p. 160.

<sup>7</sup> *Ibid.*, p. 164; see, also, the **Golden Rule** or the "**law of Christ**," to wit: The Law of Christ is to "love ye one another" (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3)."

The fundamental law in England was the law of reason, or the law of nature, or the “law of Christ.”<sup>8</sup> In essence, Christ as word (Logos) was himself the fundamental law. Thus, according to Baptist polity and theology, this “law of Christ” had to be implemented to allow “freedom of conscience,” “freedom of religion (including assembly),” and the “right of petition.” To be sure, the State must be separate from the Church; but make no mistake about it: under Baptist theological doctrine and polity, the “*doctrine of the Separation of Church and State*” did not mean the “*Separation of the Law of Nature or the Law of Reason from the State or from secular jurisprudence.*” This Baptist theology was a natural outgrowth of the Protestant Reformation and laid the foundation of modern democracy.

### A. Church and State in the Gilded Age (late 19<sup>th</sup>/ early 20<sup>th</sup> Centuries)

American democratic theory has been described as an outgrowth of seventeenth-century Baptist polity and theology, which promoted government by the consent of the governed and the complete separation of the Church from the State. Likewise, the First Amendment’s Establishment Clause (i.e., separation of Church and State); Free Exercise Clause; and other related freedoms, have also been described as the first-fruit of Baptist democratic doctrine and polity. The text of the First Amendment, U.S. Constitution, states:

Congress shall make no law respecting an **establishment of religion**, or **prohibiting the free exercise thereof**; or abridging the **freedom of speech**, or of the **press**; or the right of the people **peaceably to assemble**, and to **petition the Government** for a redress of grievances.

Of course, these constitutional provisions were not Roman Catholic, Anglican, or even Calvinist in design and origin, but the seventeenth-century Baptist wing of the Puritan-Reformed Church movement insisted upon “freedom of religion,” “freedom of conscience,” and the “right of petition”; and its great Puritan legacy, emanating out of the English Civil War (1642-1651), was the First Amendment to the United States Constitution.

By the late 1800s and early 1900s, the doctrine of the separation of Church and State came under grave scrutiny and was subjected to great criticism, as a result of the rise of corporate capitalism and its stranglehold over American

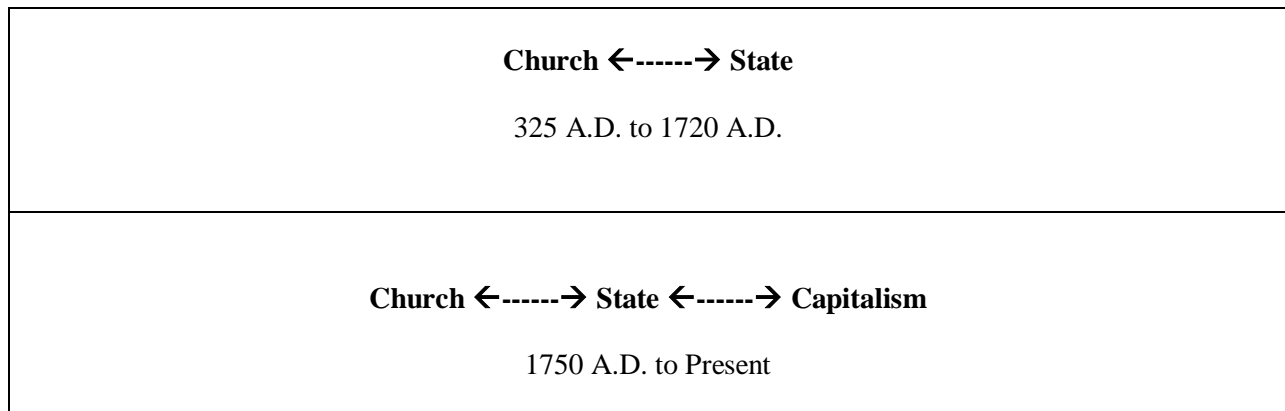
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<sup>8</sup> Ibid.

cultural and economic life. The question of subversion and of whether the First Amendment’s Establishment Clause was practicable had begun to tax the faith of Americans in their cherished ideals of religious freedom. Anglican clergyman Algernon Sidney Crapsey, for instance, surveyed the social, political, and spiritual state of the United States during the early 1900s and excoriated the First Amendment’s Establishment Clause and its supplementary doctrine of “separation of Church and State,” stating that “[t]o speak of the **separation of church and state** is to speak of the **separation of soul and body**. . . . **The present separation of the religious from the civil and political life of the nation is cause for grave apprehension for the future of the American people.**”<sup>9</sup>

Indeed, in the world in which Rev. Crapsey lived, which was the late nineteenth- and early twentieth centuries, it could correctly be stated that “[t]he church and state might be separate worlds, their orbits intersecting only at the Sunday laws, but they were both revolving in the atmosphere of a corrupt commercialism. **This power** which has **silenced the voice of the church** and **paralyzed the Constitution of the state** began to dominate both church and state immediately after the close of the [U.S.] Civil War [(1861-1865)].”<sup>10</sup> In other words, the rise of American capitalism, which has been so eloquently chronicled in the writings of economists such as John Kenneth Galbraith and others, came to rapid dominance over both Church and State during the late nineteenth century. See, e.g., Table 1, “Capitalism, Church and State”

**Table 1. Diagram: “Capitalism, Church and State”**



<sup>9</sup> Algernon Sidney Crapsey, *Religion and Politics* (New York, N.Y.: Thomas Whittaker Press, 1905), pp. 248-249.

<sup>10</sup> *Ibid.*, p. 261.



This was the period of laissez-faire capitalism, known as the Gilded Age, an era of tramps and millionaires. It was known for child labor, wage exploitation, and brutal industrial maiming, bruising, burning and severing of the limbs of American workers who had no social security insurance and no meaningful access to the courts. For it was under these conditions that the Methodist Episcopal Church crafted its “Social Creed of 1908.”<sup>11</sup> Hence, we might safely conclude that when Rev. Roger Williams (1608-1683) preached the “doctrine of separation of Church and State” from the pulpits of Salem and Providence during the early 1600s, that he likely could not have foreseen the dominance of late-19<sup>th</sup> century American capitalism over every sphere of American life, including the total life of the church.<sup>12</sup>

Nor is it likely that the Puritan mind and heart of Rev. Williams would have completely separated the “law of Christ”<sup>13</sup> from secular jurisprudence. Indeed, as this paper will explain below, Rev. Williams’ *The Bloody Tenet* shows that **he did not intend to separate God and morals from the secular government.** But, in

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<sup>11</sup> The **Social Creed of the Methodist Episcopal Church of 1908** stated:

"The Methodist Episcopal Church stands:

"For equal rights and complete justice for all men in all stations of life.

"For the principles of conciliation and arbitration in industrial dissensions.

"For the protection of the worker from dangerous machinery, occupational diseases, injuries and mortality.

"For the abolition of child labor.

"For such regulation of the conditions of labor for women as shall safeguard the physical and moral health of the community.

"For the suppression of the 'sweating system.'

"For the gradual and reasonable reduction of the hours of labor to the lowest practical point, with work for all; and for that degree of leisure for all which is the condition of the highest human life.

"For a release for [from] employment one day in seven.

"For a living wage in every industry.

"For the highest wage that each industry can afford, and for the most equitable division of the products of industry that can ultimately be devised.

"For the recognition of the Golden Rule and the mind of Christ as the supreme law of society and the sure remedy for all social ills.

[When the Federal Council of Churches adopted the social creed in December 1908, they added the following phrase at the end: ]

"To the toilers of America and to those who by organized effort are seeking to lift the crushing burdens of the poor, and to reduce the hardships and uphold the dignity of labor, this Council sends the greeting of human brotherhood and the pledge of sympathy and of help in a cause which belongs to all who follow Christ."

<sup>12</sup> Yet, even if Rev. Williams has foresaw America’s economic development, I do not think that he would have fundamentally changed his theology. Instead, he likely would have insisted upon, and clarified, the Church’s role and duty to chastise the State when it fails to establish civil peace and justice.

<sup>13</sup> The Law of Christ is to “love ye one another” (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

retrospect, the one defective part of Baptist polity and theory is that they *appeared to be strangely silent* as to whether or not “secular human law” must be subordinate to “natural law” or to “fundamental moral law.” Also, Baptist theology and polity *appeared to provide no formal or clear directives or methods for their fellow Baptist churches* to take proactive steps to ensure that the secular State did not collapse into anarchy, oligarchy, and dictatorship; or to ensure that the secular State did not fail to discharge its duty to establish justice, civil peace, and domestic tranquility.<sup>14</sup> Of course, Baptist polity and theory does address issues involving secular law, natural law, fundamental law, and civil government, but the widespread perception of the Baptist Church is that it is an unlettered, provincial, and self-centered scattering of independent churches located in rustic, rural areas of the American South. It is therefore the plain objective of this paper to show that the original Baptist theological doctrine of “separation of Church and State” was never to “separate God and morality from the secular State,” or to “separate the ‘Law of Reason’ or the ‘Law of Nature’ from secular jurisprudence.”<sup>15</sup>

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<sup>14</sup> These particular aspects of Baptist theology were not well-thought out in the seventeenth-century, but they were developed over time during the nineteenth- and twentieth centuries. As a result, the quality of the training of Baptist ministers and pastors has varied between extremely excellent to extremely substandard. Baptist ministers who supported African American slavery in the American South, for instance, were notorious for their heresies and white supremacy which they supported with biblical doctrine. Perhaps this was the fruit of decentralization within the Baptist Congregationalist church structure.

<sup>15</sup> NOTE: this paper emphatically rejects the viewpoint that Rev. Roger Williams placed the secular civil government outside of God’s divine Providence and within a boundless zone of legal positivism, capable of doing whatsoever it wills. See, e.g., Stephen Phillips, “Roger Williams and the Two Tables Theory of the Law” *Journal of Church and State* Vol. 38, No. 3 (SUMMER 1996), pp. 547-568 (“Roger Williams insisted on a thoroughgoing separation of church and state, holding that civil government could not enforce the First Table of the Decalogue. He did, however, envision the enforcement of the Second Table (relationships of men to men) as fully within the *scope of government*. On the other hand, Williams also held that civil government was not actually bound by the Second Table. As Williams himself found out, his answers did not solve all the problems of church-state relations. Indeed, he may have created more conflicts by insisting on separation of not only church and state, but also of god and government.”) This paper takes an opposite viewpoint than what Professor Phillips states here in the above-cited article. Rev. Williams agreed with the Apostle Paul’s position that all civil magistrates as “God’s ministers.” In addition, Rev. Williams’ theology regarding the “*doctrine of the Separation of Church and State*” did not mean the “*Separation of the Law of Nature or the Law of Reason from the State.*” Rev. Williams argued that *secular laws* could not be founded upon the sheer “legal authority” of the judge, legislator, or civil magistrate; but, rather, such civil authorities must be **required to demonstrate the reasonableness of secular laws**—sufficient to satisfy the conscience of those whom these laws govern—in order to be deemed just, reasonable, equitable, or constitutional. In fact, this natural-law conceptualization of law was standard English jurisprudence during the seventeenth century. Chief Judge Edward Coke, whom Rev. Williams had once served as law secretary, had once held that all laws that are repugnant to reason are void. Hence, Rev. Williams certainly did not oppose or reject the “Law of Reason” as a standard “higher law” of secular jurisprudence.

## B. The Rise of the Baptist Movement and Religious Freedom

During the summer of 2012, I discovered Providence, Rhode Island, where I visited the campus of Brown University and one of its campus bookstores. There, I purchased my first copy of Rev. Roger William's influential work *The Bloudy Tenet* (1644). I have been reading this book ever since, with an eye toward better understanding the constitutional foundations of the First Amendment, United States Constitution. And, specifically, I wanted to know more about the historical foundations of the doctrine of the "separation of Church and State," and the theological justifications which a typical Baptist clergyman would have relied upon in justifying such a doctrine. Given the nature of the ecclesiological structure of the Baptist Church, pinning down "Baptist political theory" is not as easy as, say, conducting research on Anglican or Roman Catholic political theory. We might assume, for example, that the Baptists were first and foremost Anglicans or dissenting Puritan members of the Church of England. Hence, we might assume further that Baptist theologians retained whatever theological, liturgical, or ecclesiastical beliefs that existed within the Church of England, that existed amongst Lutherans, Puritans, Congregationalists, Mennonites, etc., and which were not explicitly rejected or opposed to Baptist doctrine. One such "catholic" doctrine which the Baptists retained was St. Augustine of Hippo's political theory of the "two cities" as articulated in *The City of God*. And the other major "catholic" doctrine was St. Thomas Aquinas' legal theory, to wit: Eternal Law ---→ Divine Law ---→ Natural Law ---→ Human Law.<sup>16</sup> For all practical purposes, the general trajectory of Baptist thought, from days of its original founders, John Smyth (1554-1612) and Thomas Helwys (1575- 1616) , through times of Rev. Roger Williams (1608- 1683) and Rev. Dr. Martin Luther King, Jr. (1929- 1968), it is clear that Baptist theology and political theory certainly does embrace Augustinian and Thomism theories of nature and law.<sup>17</sup> Accordingly, this essay analyzes whether

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<sup>16</sup> I do not here state that the Baptists explicitly adopted St. Thomas Aquinas' theology; but, rather, I mean that the Baptists interpreted the writings of the Apostle Paul and reached fundamentally the same theological conclusions regarding the nature and content of secular jurisprudence and the duties of the civil magistrate.

<sup>17</sup> See, e.g., Dr. Martin Luther King, Jr.'s "Letter from the Birmingham City Jail" (1963), where he writes:

One may well ask: 'How can you advocate breaking some laws and obeying others?' The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. **I would agree with St. Augustine that 'an unjust law is no law at all.'**

those same Augustinian and Thomism influences were embedded within Rev. Roger Williams' doctrine of the "separation of Church and State."

The Baptist Church movement began in England in 1611 when Rev. Thomas Helwys brought its denominational doctrine from the Netherlands to London. The movement was a branch of the Puritan movement of the early seventeenth century. The Baptist Church movement was a unique Puritan movement, in that it incorporated some of their theological doctrines from John Calvin; some from Jacobus Arminius; and some from the Anabaptists. The Baptists promoted an independent church structure; adult baptism only; the doctrine of sola scriptura; and only two church offices: pastor and deacon. Its services were typically unstructured and heavily dependent upon the improvisation of the Holy Ghost in order to guide the services. Pastors were expected to preach long, spirit-filled sermons. The Baptists, most significantly, traced their roots directly to John the Baptist. They did not believe in the liturgical or apostolic history and tradition of the Roman Catholic Church or of the Anglican Church. Nor did the Baptists wish for the Church to be entangled with the State—it viewed the secular state as a necessary evil, as worldly and dangerous.<sup>18</sup> Hence, from its earliest days, the Baptist Church disdained the idea of a "state church" and stood for the complete separation of the Church and the State. I have always found this Baptist view of the secular state to be confusing, if not altogether irresponsible. Under this Baptist scheme, how could the Church, being wholly separate, influence the State to do justice?

I grew up attending several Primitive Baptist and Missionary Baptist Churches in rural Northern Florida, but as a political scientist and lawyer, I gravitated toward the Roman Catholic, Anglican, Methodist, and Orthodox churches, because it seemed to me—albeit incorrectly—that the Baptist denominational churches had no manageable organization, organized social creed, or conceptualization of law, the legal system, or constitutional jurisprudence. It

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Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. **To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law.** Any law that uplifts human personality is just. Any law that degrades human personality is unjust.

<sup>18</sup> This was clearly the view of the Anabaptists, but the English Baptists tried to separate themselves from the Anabaptists by insisting that the secular State at least served a minimal godly function of ensuring civil peace.

seemed to me that the Baptists and most other Protestants were simply uninterested in promoting integrity and equity within American jurisprudence; nor did they appear to be genuinely interesting in monitoring the American legal or court system in order to ensure that it comport with “fundamental moral law” or that actually produced justice, equity, and fairness. Instead, the Baptist and other Protestant faithful would simply entrust stewardship over the American legal system to the secular bar associations, lawyers, and judges, with no systematic oversight, counsel, or advice from the church—this, I did not like and found to be problematic.

In law school, I met Jewish or Catholic law students, Jewish or Catholic law professors, and Jewish or Catholic lawyers—but I never met a law student, law professor, or lawyer who connected his or her Baptist faith, Methodist, Presbyterian, or other Protestant faith to the study, teaching, or practice of law. In other words, Baptist culture—much like its fellow Protestant counterparts—seemed to be quite aloof as to secular law, constitutional jurisprudence, and the operation of the American legal system.

For this reason, as a practicing lawyer, I mistakenly found the Baptist Church denomination to be somewhat unappealing—there appeared to be no “eternal law” or “divine law” or “natural law” within Baptist theological discourse.<sup>19</sup> Most disturbing, it seemed to me that Baptist denominational churches would allow the secular government and the secular legal system to operate wholly outside of the parameters of fundamental moral law, natural law, and the Providence of God. But in truth, when the Baptist founding fathers developed their theological ideals, much like Luther and Calvin before them, they could not have foreseen the development of modern economic and political life during the late nineteenth and early twentieth centuries. In any event, it was the Baptist wing of the Puritan movement—led by the Reverend Roger Williams—who bequeathed to the Western world *the concept of religious freedom* and the doctrine of “separation of Church and State.”

### **C. Black Baptists and Civil Rights Movement (1955-1970)**

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<sup>19</sup> Indeed, there is a very strong “natural law” tradition in Baptist theology and philosophy. See, generally, Norman Doe, *Christianity and Natural Law*. Cambridge (U.K.: Cambridge Univ. Press, 2017).

Baptist theology on church and state was not really clarified until the middle part of the twentieth century when a black Baptist preacher from Atlanta, Georgia crafted a unique Christian philosophy of civil disobedience which he relied upon to challenge unjust laws in the American South. Quite honestly, I have always believed that the Black Church in America—from founding of the first Black Baptist Churches in South Carolina and Georgia, to the founding of the first independent black-church denomination, the African Methodist Episcopal Church, in Philadelphia—have always embraced a theology of the God of Moses whose power and authority were far above that of human rulers, governors, and magistrates. Even through the days of abolition, emancipation, reconstruction, and the establishment of juridical freedom, the Black Church operated under the doctrine that the “Word of God” was superior to human law. Indeed, prior to the year 1950, it may be safely said that the Black Church and the Black Pastor constituted the barometer of African American hopes, fears, and aspirations. Their push for civil and human rights was never far from their faith in God and in Christ. The black-led Civil Rights Movement of the 1950s and 60s and its objective to tear down segregation laws were closely connected to the idea of “Higher Law.” Perhaps no other document better reflects this perspective than Dr. Martin Luther King’s *Letter from the Birmingham City Jail* (1963).<sup>20</sup>

But even since 1970, the fundamental doctrines of the Black Baptist Church and the several African Methodist churches have not officially changed, notwithstanding the current liberal political discourse—e.g., abortion rights, LGTB rights, liberalization of sexual ethics leading to unconventional definitions of “family,” etc. – to which justifies itself on grounds of “separation of Church and State” and to which Black America’s churches are often politically juxtaposed and affiliated. In 2020, it is *assumed* that the Black Church in America will *not second-guess or challenge their liberal political allies* who, under the doctrine of “separation of Church and State,” promote social values and political agendas which neither the Black Baptist Church or other Christian churches within the African American community originally bargained for.

For these reasons, I have found the doctrine of “Separation of Church and State” to be anticlimactic to the American Civil Rights Movement, because so

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<sup>20</sup> Ibid.

many of the leaders of that movement were clergymen, especially Baptist and Methodist clergymen who relied upon Catholic and Reformed theology and doctrine to make the case for civil rights for African Americans.<sup>21</sup> I must agree with Anglican clergyman Algernon Sidney Crapsey who wrote in 1905, “[t]o speak of the **separation of church and state** is to speak of the **separation of soul and body**....*The present separation of the religious from the civil and political life of the nation is cause for grave apprehension for the future of the American people.*”<sup>22</sup> Indeed, in the twenty-first century, with all that needs to be achieved in the underprivileged African American community—the plight of the black family structure, the plight of black youth and young adults in education and employment, and the struggle against systematic police brutality, etc. – it seemed unlikely that the African American church would no longer avail itself of the fundamental ideas of eternal law and natural law<sup>23</sup> in its civil rights advocacy and in its perennial quest to establish justice for African Americans and the poor.<sup>24</sup>

#### **D. Natural Law in Puritan, Baptist and Protestant Theology**

Natural law and Thomas Aquinas’ theory of law were never rejected in any of the Protestant sects, and thus these ideas certainly did not remain within the sole possession of the Roman Catholics.<sup>25</sup> The Church of England continued to nourish these “catholic” ideas, even after it broke away from the Roman Catholic Church; and none of the Protestant fathers—e.g., Zwingli, Luther, Calvin, etc.—discovered any theological or other reason to reject the idea of natural law. For one thing, St. Paul, who was the great apostle to the gentiles, explicitly acknowledged the law of nature within his own theology (Romans 2:14-16). Additionally, there were dozens of Old and New Testament scriptures which supported the idea of natural law as an expression of God’s creation, and thus natural law as viewed to be divine

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<sup>21</sup> Ibid.

<sup>22</sup> Algernon Sidney Crapsey, *Religion and Politics* (New York, N.Y.: Thomas Whittaker Press, 1905), pp. 248-249.

<sup>23</sup> Hence, W.E.B. Du Bois has correctly described this law of nature, where he writes: “[f]or it is certain that all human striving must recognize the hard limits of natural law, and that any striving, no matter how intense and earnest, which is against the constitution of the world, is vain.” See, e.g., W.E.B. Du Bois, “The Conservation of Races,” *Writings* (New York, N.Y.: The Library of America, 1986).

<sup>24</sup> In other words, it seems to me that, in general and as a whole, the African American community in the United States, considers the Black pastor and Black church to play a very strategic and important role in the struggle for human and civil rights—and so the “wall” between church and state is not static or permanent.

<sup>25</sup> See, generally, Norman Doe, *Christianity and Natural Law*. Cambridge (U.K.: Cambridge Univ. Press, 2017).

law. So there was no room for the Protestant fathers to reject the concept of natural law.

Secondly, Rev. Roger Williams adopted the Apostle Paul’s worldview of secular authority and natural law, as expressed in Paul’s *Epistle to the Romans*, chapters two and thirteen.<sup>26</sup> In *Epistle to the Romans*, chapter two, the Apostle Paul had argued that the Gentiles had actually fulfilled the Law of Moses through following, “by *nature*,” their own internal law of “*conscience*.” This passage, to my mind, is the linchpin of Christianity and secular western jurisprudence, because here the Apostle Paul explicitly acknowledges that God is the author of nature, whose laws are imprinted in the human conscience, thus readily available to the Gentiles, or to persons who had no knowledge of the Jewish faith or of the Law of Moses. See, e.g., Table 2, St. Paul, the Epistle to the Romans, and Natural Law.

**Table 2. St. Paul, the Epistle to the Romans, and Natural Law.**

<p><b>Natural Law; Duty of Civil Governments and Civil Magistrates (Christian or Non-Christian)</b></p>	<p><b>St. Paul of Tarsus’ <i>Epistle to the Romans</i></b></p>
<p><b>Natural Law and the <i>Epistle to the Romans</i></b></p> <p>According to the Pauline doctrine, God had issued the <i>Decalogue</i> to Moses and the ancient Israelites, but He had also communicated the “natural law” to all of the Gentiles.</p> <p>Pauline theology interpreted the “natural law” as being contained in the <i>Decalogue</i>.</p> <p>The Apostle Paul, who was a Roman citizen, adopted “natural law” as a law for the Church. This “natural law” was the same “law of</p>	<p><b>Romans 2:13-16</b></p> <p>“(For not the hearers of the law are just before God, but the doers of the law shall be justified. For when the <b>Gentiles, which have not the law, do by nature the things contained in the law, these having not the law, are a law unto themselves:</b> which shew the work of the law written in their hearts, their conscience also bearing witness, and their thoughts the meanwhile accusing or else excusing one another;) in the day when God shall judge the secrets of men by Jesus Christ according to my gospel.”</p>

<sup>26</sup> Just as the Apostle Paul had rejected a Jewish-centered worldview, through including the Gentiles within the circle of God’s loving fraternity; so did Rev. Williams reject a Eurocentric worldview, through including Native Americans, Africans, Jews, Muslims, and non-believers within the circle of God’s loving fraternity.



nature” that was the law of the Roman Empire, and had been the basis of law in many nations throughout the Gentile world.

See, e.g., the Roman Senator Cicero, *De Re Publica*:

“There is indeed a law, **right reason**, which is in accordance with **nature**; **existing in all, unchangeable, eternal**. Commanding us to do what is right, forbidding us to do what is wrong. It has dominion over good men, but possesses no influence over bad ones. **No other law can be substituted for it, no part of it can be taken away**, nor can it be abrogated altogether. Neither the people or the senate can absolve from it. **It is not one thing at Rome, and another thing at Athens : one thing to-day, and another thing to-morrow ; but it is eternal and immutable for all nations and for all time.**”

By adopting “natural law” into the theology and canon of the Church, the Apostle Paul essentially made the Church “universal” or “catholic” in scope.

The Catholic Church thus co-existed in many nation-states and under many different forms of secular government, and under the premise that the laws of nature (e.g., the *Golden Rule*) was the standard of universal law, which allows for local cultural variations.<sup>27</sup>

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<sup>27</sup> **Romans 13:5-10** (“Wherefore ye must needs be subject, not only for wrath, but also for conscience sake. For for this cause pay ye tribute also: for they are God’s ministers, attending continually upon this very thing. **Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour. Owe no man any thing, but to love one another; for he that loveth another hath fulfilled the law....** Love worketh no ill to his neighbor; therefore love is the fulfilling of the law.”) See, also, **St. Augustine’s Confessions**, (New York, N.Y.: Barnes & Nobles Classics, 2007), pp. 35-36 (“[A]ll those things that god had commanded were gathered, in a far more excellent and sublime way, into **one moral order**; and it did not vary in any essential respect, though it did not in varying times prescribe all things at once but, rather, distributed and prescribed what was proper for each.... **Can it ever, at any time or place, be unrighteous for a man to love god with all his heart, with all his soul, and with all his mind; and his neighbor as himself?** Similarly, **offenses against nature are everywhere and at all times to be held in detestation and should be punished....** But...**offenses against customary morality** are to be avoided according to the variety of such customs. Thus, what is agreed upon by convention, and confirmed by custom or the law of any city or nation, may not be violated at the

See, e.g., **St. Augustine of Hippo**, *Confessions*, to wit:

“[A]ll those things that god had commanded were gathered, in a far more excellent and sublime way, into **one moral order; and it did not vary in any essential respect**, though it did not in varying times prescribe all things at once but, rather, distributed and prescribed what was proper for each.... **Can it ever, at any time or place, be unrighteous for a man to love god with all his heart, with all his soul, and with all his mind; and his neighbor as himself?** Similarly, **offenses against nature are everywhere and at all times to be held in detestation and should be punished....**”<sup>28</sup>

### **The Relationship of Non-Christian Magistrates to the Early Church**

The Apostle Paul legitimized the power and authority of Non-Christian magistrates, governors, kings, and emperors.

NOTE: there were no “Christian” rulers or kingdoms in the world when Paul wrote these words. Hence, through deduction we should conclude that the Apostle Paul considered Non-Christian magistrates to be “ordained of God” and to be “ministers[s] of God to thee for good.”

### **Romans 13: 1-4**

“Let every soul be subject unto **the higher powers**. For **there is no power but of God**; the powers that be are **ordained of God**. **Whosoever therefore resisteth the power, resiseth the ordinance of God**: and they that resist shall receive to themselves damnation. For **rulers are not a terror to good works, but to the evil**. Wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same: **for he is the minister of God to thee for good**. But if thou do that which is evil, be afraid; for he **beareth not the sword in vain: for he is the minister of God**, a revenger to execute wrath upon him

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lawless pleasure of any, whether citizen or stranger.... Nevertheless, **when god commands anything contrary to the customs or compacts of any nation, even though it were never done by them before, it is to be done; and if it has been interrupted, it is to be restored; and if it has never been established, it is to be established....** And if it cannot be held to be inimical to the public interest to obey [the king, or civil magistrate]—and, in truth, **it would be inimical if he were not obeyed, since obedience to princes is a general compact of human society**—how much more, then, ought we unhesitatingly to obey god, the governor of all his creatures! For, just as among the authorities in human society, the greater authority is obeyed before the lesser, so also must god be above all.”

<sup>28</sup> St. Augustine’s *Confessions*, (New York, N.Y.: Barnes & Nobles Classics, 2007), pp. 35-36.

Through Paul’s influence, it must be understood and concluded, then, that “natural law” or the “law of reason” became the “higher law,” “the fundamental moral law,” or the “fundamental law” of the secular civil government, especially in western jurisprudence and, more specifically, in Anglo-American constitutional jurisprudence. (Indeed, England’s **Chief Justice Edward Coke** had written in a court opinion that “reason is the life of the law, nay the common law itself is nothing else but reason....”)

This “natural law” was the same law of reason that was described by the Roman Senator Cicero in *De Re Publica*, supra.

In standard western jurisprudence, the civil magistrate who administers the civil government in accordance with “natural law” thus enforces the ordinance of God to do equity, judgment and justice.

In standard Judea-Christian religious teaching, the objective of the Old Testament prophets was to chastise pagan rulers (e.g., the Egyptians, Babylonians, Persians, etc.) to do equity, judgment and justice—including allowing “religious freedom” for the Jews.

See, also, **St. Augustine of Hippo**, *Confessions*, to wit:

“And if it cannot be held to be inimical to the public interest to obey [the king, or civil magistrate]—and, in truth, **it would be inimical if he were not obeyed, since obedience to princes is a general compact of human society**—how much more, then, ought we unhesitatingly to obey god, the governor of all his creatures! For, just as among the authorities in human society, the greater

that doeth evil.”

authority is obeyed before the lesser, so also must god be above all.”<sup>29</sup>

For this reason, **Rev. Roger Williams**, founder of Rhode Island, concluded that the **“separation of Church and State,”** whereby the secular civil magistrate (whether Christian or Non-Christian), would administer laws in accordance with the “consent of the whole” or for the “good of the whole.”

In *The Bloody Tenet*, Rev. Williams further explains the Apostle Paul’s political theory and theology, where he writes:

“Truth. All reason and religion would now expect **more submission thereof, in matters concerning Christ, to a Christian magistrate, than to a pagan or anti-christian ruler!** But, dear Peace, the day will discover, the fire will try, 1 Cor. Iii [13,] what is but wood, hay, and stubble, though built, in men’s upright intention, on that foundation, Jesus Christ.

“But, to wind up all, **as it is most true that magistracy in general is of God, Rom. Xiii., for the preservation of mankind in civil order and peace**—the world otherwise would be like the sea, wherein men, like fishes, would hunt and devour each other, and the greater devour the less:-  
- so also it is true, that magistracy in special for the several kinds of it is of man, 1 Pet. Ii, 13.

“Now what kind of magistrate soever the people shall agree to set up, whether he receive Christianity before he be set in office, or whether he receive Christianity after, **he receives no more power of magistracy than a magistrate that hath received more than the commonweal, the body of people and civil state, as men, communicate unto them, and betrust them with.**

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<sup>29</sup> St. Augustine’s *Confessions*, (New York, N.Y.: Barnes & Nobles Classics, 2007), pp. 35-36.

**“All lawful magistrates** in the world, both before the coming of Christ Jesus and since, (excepting those unparalleled typical magistrates of the church of Israel) **are but derivatives and agents immediately derived and employed as eyes and hands, serving for the good of the whole:** hence they have and can have no more power than fundamentally lies in the bodies or fountains themselves, which power, might, or authority is not religious, Christian, &c., **but natural, human, and civil.**”<sup>30</sup>

As Table 2 proves, Rev. Roger Williams certainly agreed with the Apostle Paul’s theology in the *Epistle to the Romans*. First off, Rev. Williams expressly placed the “Second Table” of the *Decalogue* at the foundation of civil government. It must be understood here that Rev. Williams believed in natural law as the handmaiden of God’s divine Providence, and that the “Second Table” of the Decalogue was a manifestation of this natural law made binding on all civil governments since the creation of the world. Therefore, all of the world’s civil magistrates, according to Rev. Williams, were ordained by God to administer this “Second Table,” which is to do judgment, justice, equity, and righteousness in governing both Christians and non-Christians, Jew and Gentile, alike. Hence, the State must be completely separate from the Church; but make no mistake about it: under Baptist polity and theology, *the “doctrine of the Separation of Church and State” did not mean the “Separation of the Law of Nature or the Law of Reason from the State or from secular jurisprudence.”*

Thus, Rev. Williams argued that within the so-called Christian commonwealth (such as in England), that the administration of this “Second Table” of the Decalogue does not require religious uniformity or the suppression on non-Christians. Nor does the mere existence of infidels, sinners, non-Christians

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<sup>30</sup> Williams, *The Bloudy Tenet*, pp. 340-341.

and the like within Christian commonwealths cause the hand of God to move against the entire nation-state for tolerating the existence of such sinners.<sup>31</sup>

Relying upon Christ's "Parable of the Sower of Seeds"<sup>32</sup> and the "Parable of the Wheat and the Tares,"<sup>33</sup> Rev. Williams showed how Christ himself would not have desired the brutal suppression of Christian heretics. Instead, Rev. Williams argued that what Christ required is simply "civil peace" and freedom of choice as to religious faith. Therefore, argued Rev. Williams, where the civil magistrate, who was himself ordained by God, establishes civil justice and civil peace, he honors both God and Christ.<sup>34</sup>

Thus, Rev. Williams' political and legal philosophy regarding the separation of Church and State was firmly founded upon Puritan principles<sup>35</sup> or "catholic"

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<sup>31</sup> For example, Rev. Williams set forth similar argument in favor of the non-European pagans who had never heard of Christ. Rev. Williams argued that even though many of the world's human beings had not embraced the Christian faith, there were many non-Christian rulers, governors, and kings—through natural law—who administered true natural justice, and thus maintained legitimate civil authority in the eyes of God. Hence, Rev. Williams concluded that Christ himself had mandated that Christians love them and treat non-Christian pagans with dignity and respect. He insisted that Native Americans receive compensation for their lands, and that no Native American lands be confiscated without a law purchase. And when Rev. Williams, who was an early Abolitionist, helped to found the new colony of Rhode Island, he insisted that it be free of African slavery. More specifically, Rev. Williams concluded that diverse populations (religious dissenters, Native Americans, etc.) should be afforded human rights by European kings and governors. The Englishmen specifically had a duty, Rev. Williams argued, to treat non-Christians with at least the same minimal amount of respect as the pagan emperors of the Bible treated the ancient Hebrews. He pointed out that such pagan emperors as Darius the Great and Artaxerxes had granted religious freedom and autonomy to the Jews (who then constituted God's church), and so Christian kingdoms had a moral duty to provide the same level of religious freedom and autonomy to non-Christians, even though they might be infidels and antichrists. But Rev. Williams reasoned that this theological interpretation of the duty of the magistrate was an exemplification the "law of Christ" made more perfect.

<sup>32</sup> Matthew 13:1-23.

<sup>33</sup> Matthew 13:24-30.

<sup>34</sup> Significantly, notwithstanding Rev. Williams' liberal views on freedom of conscience and religion, he nevertheless believed that the "Second Table" of the Decalogue represented the "fundamental moral law of God"; and that any civil magistrate or secular civil government that violated this "moral law of God" may be rightfully censured, inhibited, or restrained. Thus, Rev. Williams' political theory of the Separation of Church and State did not authorize the secular civil government to act beyond the scope of moral order of God's fundamental laws (i.e., natural law and natural justice). In other words, according to Rev. Williams, the laws enacted by the secular government must be "just" in order to be legitimate. Rev. Williams also believed that an "unjust law is no law at all," and that "reason," serving as the ultimate guide of conscience, must serve the fundamental basis for assessing whether any law is just or legitimate.

<sup>35</sup> For example, the "Parable of the Sower of Seeds" and the "Parable of the Wheat and the Tares" in Matthew, chapter thirteen.

orthodoxy.<sup>36</sup> What Rev. Williams had hoped to achieve by advocating for the “separation of the Church and State” was for a mutual understanding amongst religious dissenters and the establish church and for the civil magistrate to ensure religious freedom for non-believers, dissenters, sinners and everyone else within the body politic. But his whole system of thought rested upon the foundation of Pauline theology (i.e., Romans, Chaps. II, XIII), the “Two-Tables” theory of the *Decalogue*, and natural law. Thus, if the roots of the First Amendment’s Establishment Clause (together with its corollary doctrine of “separation of Church and State”) are found in the theology and political philosophy of Rev. Roger Williams and the Rhode Island experiment, then we must conclude the First Amendment was itself rooted biblical principles (e.g., the “Parable of the Sower of Seed” and the “Parable of the Wheat and the Tares”), as well as the doctrine of natural law.

## SUMMARY

Early seventeenth-century Baptist theology, political theory, and legal theory were fundamentally Anglican and Catholic in conception and design, with a great degree of church autonomy and democratic ecclesiology. This denomination was probably founded by English immigrants in Holland around 1609, and then reached London, England through English repatriates from Holland, around 1611. In England, the English Baptist denomination became a distinct branch of the Puritan Independent (Separatists) wing within the Church of England. But this new denomination, which was founded shortly before the English Civil War (1642-1651) was destined for growth, not in England, but rather in British North America, where the Reverend Roger Williams (1608-1683) would become its greatest exponent and representative.

Rev. Williams, who became the founder of the colony of Rhode Island, would become a beacon of freedom of conscience and religion during the early seventeenth century. Of course, Rev. Williams advocated for the complete separation of Church and State. But in doing so, he established a division of labor between the Church and the State with regards to the administration of the natural

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<sup>36</sup> Roger Williams’ view of the “separation of Church and State” was supported by St. Augustine’s theory of the “City of God and the Earthly City of Man”; and his views of Gods “fundamental moral law” also has parallel support in St. Thomas Aquinas’s legal theory, to wit: Eternal Law ---→ Divine Law ---→ Natural Law ---→ Human Law.

law in the *Decalogue*: the State was responsible only for administering the “Second Table” of the *Decalogue*; and while the Church was responsible only for administering the “First Table.” The Church, nevertheless, would retain the duty to chastise the State, in the event that the State violated God’s fundamental moral laws. Simultaneously, Rev. Williams promoted the idea that the secular civil magistrate, who was himself God’s minister, derived his authority from the consent of the governed. He believed that “religious tests,” “loyalty oaths,” and “church membership” were not necessary criteria for magistrates to hold public office. He argued that atheists, Jews, Muslims, and all other religious sects should be allowed full citizenship rights; and when Williams founded Rhode Island, he guaranteed this freedom of religion and conscience for its residents. And I would be remiss if I did not here state that Rev. Williams was an early Abolitionist who opposed African slavery. For Rev. Williams, civil justice and civil peace, as ordered and ordained by God, were the beginning and end of the authority and purpose of the secular civil magistrate. Thus, the Protestant Reformation reached its apogee in theological and political development with the establishment of religious freedom as a fundamental constitutional right.

## **Part XXXVIII. Anglican Church: “Baptist Polity and Theology during the Life and Times of the Rev. Roger Williams (1603-1683)”**

### **I. Rev. Roger Williams (1603-1683): A Biography**

#### **A. Early Life**

Roger Williams was born in London, England to a Welsh family. His father was F. James Williams (1562-1620) and his mother was Alice Pemberton (1564-1635). As a student, Williams “seemed to have a gift for languages and early acquired familiarity with Latin, Hebrew, Greek, Dutch, and French.”<sup>37</sup> Coincidentally, his academic talents reached the attention of England’s greatest jurist, Sir Edward Coke (1552- 1634), who hired Williams as his apprentice in exchange for Coke’s patronage, which allowed Williams to attend the Charterhouse School. Williams was later able to attend Pembroke College,

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<sup>37</sup> [https://en.wikipedia.org/wiki/Roger\\_Williams](https://en.wikipedia.org/wiki/Roger_Williams)



Cambridge where he earned a Bachelor of Arts degree in 1627. During his years at Cambridge, Williams became interested in Reformed politics, became a Puritan, and received holy orders for the priesthood in the Church of England. His first assignment was a chaplain to Sir. William Masham.

In 1629, Rev. Williams proposed to Mary Bernard (1609-1679), whom he married. The couple would have six children. During the meanwhile, Rev. Williams had to deal with his Puritan leanings and his growing disagreements with members of the senior clergy within the Church of England. He had to search the depths of his soul in order to determine which ministry assignments that he could accept within the Church of England. Even before King Charles I elevated William Laud to the archbishopric of Canterbury in 1633, Rev. Williams and other Puritans felt very insecure due to the purges and persecutions of nonconformists. Therefore, in 1630, Rev. Williams and his wife Mary set sail for the young Massachusetts Bay Colony.

## **B. Pilgrimage to North America**

Now the first Pilgrim-Puritans had landed at Plymouth Rock in 1620 on the *Mayflower* ship. This was that first group of Puritans (e.g., the “first wave”) who had come to North America, with their original purpose of heading to the colony of Virginia. Rev. Williams would become a part of the “second wave” of Puritans to head to America during the year 1630. This the same year that Gov. John Winthrop delivered his famous “City on a Hill” sermon, before a group of Puritans getting ready to board the *Arbella* ship. “The *Arbella* was one of eleven ships carrying over a thousand Puritans to Massachusetts that year. It was the largest original venture ever attempted in the English New World. The passengers were determined to be a beacon for the rest of Europe, "A Modell of Christian Charity," in the words of the governor.”<sup>38</sup> Rev. Williams and his wife Mary boarded the ship *Lyon* in late December 1630.

The *Lyons* arrived in Boston in January 1631. There, Rev. Williams found a very conservative church-state ran by conservative Calvinist-Puritan divines. In Boston, there was very little diversity, freedom of thought, or freedom of conscience. This is not what Rev. Williams had hoped to find when he reached

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<sup>38</sup> <https://www.ushistory.org/us/3c.asp>

America. Having left the brutal suppression of the high-church Anglicans in England, he was very disappointed to find the exact same religious uniformity being perpetuated by the Puritans of colonial New England. For this reason, Rev. Williams refused a pastoral post in the Church of Boston, and instead sought a pastoral post in a nearby town, such as Salem or in Plymouth. “These three principles became central to his teachings and writings: separatism, liberty of conscience, and the separation of church and state.”<sup>39</sup>

Rev. Williams early made his feelings known to other clergymen and fellow New Englanders. He believed that the civil magistrate should have no jurisdiction whatsoever over the “First Table” of the Ten Commandments. Instead, the civil magistrate should have jurisdiction over the “Second Table.” See Table 3, The “Two Tables Theory of the Ten Commandments.”

**Table 3. The “Two Tables Theory of the Ten Commandments”**

<p style="text-align: center;"><b><u>TEN COMMANDMENTS</u></b></p> <p style="text-align: center;">(Decalogue)</p>	<p style="text-align: center;"><b><u>NATURAL LAW</u></b></p> <p style="text-align: center;">(The Laws of Nature upon which the Secular Civil Government is founded)</p>
<p style="text-align: center;"><b><u>FIRST TABLE</u></b></p> <p>I am the Lord thy God, which have brought thee out of the land of Egypt, out of the house of bondage. Thou shalt have no other gods before me! Ex. 20:2-3.</p>	<p style="text-align: center;"><b><u>FIRST TABLE (Church)</u></b></p> <p>God’s Divine Providence governs the universe; it is superior to human law.</p> <p><b>Civil Rights/ Human Rights:</b> the Puritans and other Reformed Protestants deduced from this commandment that no civil government can compel an individual person to worship God in a particular way—thus freedom of conscience, assembly, religion are thus natural rights of all human beings.</p>

<sup>39</sup> [https://en.wikipedia.org/wiki/Roger\\_Williams](https://en.wikipedia.org/wiki/Roger_Williams)

<p>Thou shalt not make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the water under the earth. Thou shalt not bow down thyself to them, nor serve them: for I the LORD thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me; and shewing mercy unto thousands of them that love me, and keep my commandments.</p> <p>Ex. 20:4-6</p>	<p>Same as above</p>
<p>Thou shalt not take the name of the LORD thy God in vain; for the LORD will not hold him guiltless that taketh his name in vain.</p> <p>Ex. 20: 7</p>	<p>Same as above</p>
<p>Remember the Sabbath day, to keep it holy. Six days shalt thou labour, and do all thy work: but the seventh day is the Sabbath day of the LORD thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates: for in six days the LORD made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the LORD blessed the Sabbath day, and hallowed it. Ex. 20:8</p>	<p>Same as above</p>
<p style="text-align: center;"><b><u>SECOND TABLE</u></b></p> <p>Honor thy father and thy mother: that thy days may be long upon the land which the LORD thy God giveth thee. Ex. 20:12</p>	<p><b><u>SECOND TABLE (State; Civil Magistrate)</u></b></p> <p>This is a fundamental “law of nature”; domestic government (i.e., the family) is the foundation of the body politic</p>

Thou shalt not kill! Ex. 20:13	This is a fundamental “law of nature”; civil government must protect citizens against the crime of homicide, murder, and genocide.
Thou shalt not commit adultery! Ex. 20: 14	This is a fundamental “law of nature”; civil government must protect the integrity of marriage and the family, since domestic government (i.e., the family) is the foundation of the body politic). Adultery should be proscribed and punished.
Thou shalt not steal! Ex. 20: 15	This is a fundamental “law of nature”; civil government must protect citizens against fraud, theft, conversion, embezzlement, and like crimes and offenses.
Thou shalt not bear false witness against thy neighbor! Ex. 20:16	This is a fundamental “law of nature”; civil government must protect the integrity of the justice system and protect citizens against injustices established through false swearing and false testimony.
Thou shalt not covet thy neighbor’s house, thou shalt not covet thy neighbor’s wife, nor his manservant, nor his maidservant, nor his ox, nor his ass, nor any thing that is thy neighbor’s. Ex. 20: 17	This is a fundamental “law of nature”; civil government must protect the integrity of private property, marriage, the family, employment relations, master-servant relations, contractual relations, etc.

### C. Church of Salem

During the years 1631-32, Rev. Williams accepted a post at the Church of Salem, because the congregation there was more amenable to his separatist

theology and political views on the separation of church and state. Some time during the year 1632, Rev. Williams began to criticize the land titles held by the colonists, arguing that the deeds to these lands had been illegally stolen from the local Native Americans. If Rev. Williams views on the separation of church and state were disturbing to the leaders of the Massachusetts Bay Colony, then his open criticism of King James I and the legality of their title to lands was sheer treason.

#### **D. Summons to Appear in General Court of Boston**

In 1633, Rev. Williams was summoned to appear in a Boston Court to defend his attack on James I's authority to grant titles to Native American lands. Rev. Williams was censored and placed under a "cease-and-desist" order. Meanwhile, Rev. Williams continued to serve as acting pastor of the Church of Salem. His Salem congregation continued to support him, but the leaders and clergymen of Boston detested his views and kept him under constant surveillance.

Then, suddenly, in 1635, an issue arose when the Church of Salem sought permission from the Boston General Court to annex certain adjacent lands near Marblehead Neck. In response to this petition, the General Court demanded that Rev. Williams be removed from pastoral helm of the Church of Salem, in exchange for the authorization to annex the adjacent lands. The people of Salem thought this response of the General Court's to be both illegal and preposterous! Thenceforth, the two communities were at a stalemate! The General Court suddenly issued a summons for Rev. Williams to be arrested for sedition, as a result of his "diverse, new, and dangerous opinions."<sup>40</sup> Williams appeared in court to be tried, and was found guilty of treason and banished from the Massachusetts Bay Colony in October 1635.

#### **E. Banishment from the Massachusetts Bay Colony**

The banishment order was delayed until Spring of 1636, because Rev. Williams was ill and the Winter was fast approaching. The banishment order thus permitted Rev. Williams to remain in Massachusetts, but only for so long as he behaved and ceased teaching or preaching. At some point, secret word from a friend was transmitted to Rev. Williams that the Boston authorities had secretly

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<sup>40</sup> Ibid.

plotted to arrest Rev. Williams and to have him transported back to London, where he would be tried before Archbishop William Laud. Thus, like Martin Luther before him, Rev. Williams thus made a run for it. “He travelled 55 miles through the deep snow, from Salem to Rayham, Massachusetts where the local Wampanoags offered him shelter at their winter camp. Sachem Massasoit hosted Williams there for the three months until spring.”<sup>41</sup> The local Native Americans saved Williams’ life! He would repay them with life-long and genuine friendship, even placing his own life in jeopardy as surety-bond for lasting peace between the native tribes and the colonists.

Between the years 1636 and 1644, Rev. Williams laid the groundwork for a new colony south of the Massachusetts Bay Colony. First, Rev. Williams and twelve others founded the colony of Providence in 1636. In 1637, the settlement of Portsmouth was founded with Williams aid and assistance; and, in 1638, the settlement of Newport was similarly founded. Rev. Williams had hoped to pull these various settlements together to form one colony, but the powerful Massachusetts Bay colony to the north continued to work to undermine Williams’ efforts. This occurred for several years, finally reaching climax in 1643, when Massachusetts, New Haven, Saybrook, and Plymouth formed the United Colonies and declared war on nearby Native American tribes. The United Colony considered Rev Williams and the Providence colony was to be a pestilence and an ally of the Native Americans. Thus having felt threatened, Rev. Williams hastened to London, England in order to secure a charter for a new colony.

#### **F. Return to London, England to Secure Rhode Island Charter**

Rev. Williams arrived in London in 1644, during the middle of the English Civil War (1642-1651). There in London Rev. Williams found opponents from the Massachusetts’ Bay Colony, but he also found an ally in Sir Henry Vane, who helped push Williams’ petition for a colonial charter through the Puritan-led Parliamentary committee. In addition, Rev. Williams carried two manuscripts to a London printer, which changed his life and fortunes, forever. First, Rev. Williams published his book on Native American life and culture titled *A Key into the Language of America*, which became a bestseller and may have turned public sentiment in his favor. His second publication, *The Bloody Tenet of Persecution*

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<sup>41</sup> Ibid.

*for the Cause of Conscience*, whereby he defended his theology and political views against the criticisms of the Massachusetts Bay Colony divines, lawyers, and politicians. *Rev. Williams explained to his London audience that the Puritan divines in Boston were just as repressive and brutal as Archbishop William Laud and the High-Church Anglicans!* Hence, Rev. Williams returned, not to New York, but to Boston, not only with a charter for his new colony (i.e., the Colony of Rhode Island and Providence Plantations) but also with the weight of London’s public opinion on his side.

It would take several years for Rev. Williams to get the scattered settlements of Rhode Island to unit under one government, but that task was finally completed in 1647. This colony was unique to the history of Europe, the Americas, and perhaps the entire world, in that here was the first place where “freedom of conscience” and “freedom of religion” was guaranteed, and where the civil magistrate had no authority to regulate or impose any type of religious belief upon its populace. How Rev. Williams was able to create such a society based upon religious liberty is to be understood, primarily, from Rev. Williams’ theological interpretation of the Christian scriptures and belief that Christ himself would have never imposed the Christian faith or any type of dogma upon non-believers or the civil magistrate.<sup>42</sup>

Finally, it should be noted that Rev. Williams helped to found the first Baptist Church in North America at Providence, Rhode Island, where he served, for several months, as its first pastor.

## **II. Baptist Polity: The Doctrine of The Separation of Church and State**

The “laws of nature” and “natural law” are seldom, if ever, expressly used by the Rev. Roger Williams in his treatise *The Bloudy Tenet of Persecution for the Cause of Conscience*, but he nevertheless embraces, within his idea of the separation of church and state, the idea that there is a God who governs all nations and peoples through a moral law, and that this same “moral law” is reflected in the “Second Table” of the Ten Commandments. Rev. Williams believed that the

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<sup>42</sup> In the *Bloudy Tenet*, Rev. Williams writes: “[t]herefore, lastly, according to Christ Jesus’ command, magistrates are bound not to persecute, and to see that none of their subjects be persecuted and oppressed for their conscience and worship, being otherwise subject and peaceable in civil obedience.” *Publication: Williams, Roger. The Bloudy Tenet of Persecution* (Miami, FL.: HardPress, 2019). p. P. 158.

secular civil state or magistrate was responsible for administering the secular, civil law.

### A. Universal Moral Law and the Law of Nature

It must thus be understood that within Rev. Williams' fundamental theology, there is the "fundamental moral law of God" that was universal and binding upon all human beings. It was certainly based upon the Apostle Paul's theology of natural law, as stated in Romans 2:14-16<sup>43</sup>, which reflects the view of Cicero, an ancient Roman Senator. "To Cicero, 'law in the proper sense is right reason in harmony with nature.' These laws are not in constant flux or evolution. Cicero stated emphatically that 'there will not be one such law in Rome and another in Athens, one now and another in the future, but all peoples at all times will be embraced by a single and eternal unchangeable law.'"<sup>44</sup> In *De Re Publica*, Cicero wrote:

There is indeed a law, **right reason**, which is in accordance with **nature; existing in all, unchangeable, eternal**. Commanding us to do **what is right**, forbidding us to do **what is wrong**. It has **dominion over good men**, but possesses no influence over bad ones.

**No other law can be substituted for it, no part of it can be taken away**, nor can it be abrogated altogether. Neither the people or the senate can absolve from it. **It is not one thing at Rome, and another thing at Athens : one thing to-day, and another thing to-morrow ; but it is eternal and immutable for all nations and for all time.**

Here we see the potential for common cause between the Roman Senator Cicero, and others like him, and the new Christian faith that was emerging during the first and second centuries. By the time of Thomas Aquinas (1225-1274), "Christ and Caesar" were conceptually merged in one common theme: *natural law*, or the *law of reason*.

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<sup>43</sup> Romans 2:14-16: "For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: Which shew the work of the law written in their hearts, the conscience also bearing witness, and their thoughts the mean while accusing or else excusing one another...."

<sup>44</sup> <https://www.libertarianism.org/columns/ciceros-natural-law-political-philosophy>



Rev. Williams’ view of civil law and natural justice was essentially the same “law of reason” as that described in Cicero’s *De Re Publica*, as quoted above. This view of law was universal and could be found in the legal systems of the ancient Egyptians (e.g., the goddess “**Ma’at**”), which found order and balance within systems of justice and in Greco-Roman concept of equity (i.e. the goddess “**Aequitas**”), which was a system of natural law and natural justice.<sup>45</sup> And so, regarding pagan magistrates and governors, this same Apostle Paul wrote: “**For rulers are not a terror to good works, but to the evil, Wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same: for he is the minister of God to thee for good. But if thou do that which is evil, be afraid: for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil.**”<sup>46</sup> Hence, it must here be concluded, that Rev. Williams believed that the “Second Table” of the *Decalogue* constituted a universal moral law or a fundamental law, that every civil magistrate in the world, whether Christian or Non-Christian, had a duty to administer and enforce.

Thus, for Rev. Williams, the “Second Table” of the *Decalogue* was both secular and sacred; and it was both Christian and non-Christian, at the same time. Whether the civil magistrate be Christian or non-Christian, or whether or not the tribunal be ecclesiastical or temporal, Rev. Williams held that the same duty and authority under the “Second Table” of the Decalogue” was precisely the same. For this reason, according to Rev. Williams, all of the world’s governments (i.e., magistrates) were bound by this same universal law. See, e.g., Table 4, below.

**Table 4. Rev. Roger Williams’ “Baptist Theology on Separation of Church and State”**

<b>CHURCH</b>	<b>STATE</b>
<b>First Table (Ten Commandments)</b>  I am the Lord thy God, which have brought	<b>Second Table (Ten Commandments)</b>  Honor thy father and thy mother: that thy days

<sup>45</sup> Within Roman Catholic jurisprudence, which the Church of England inherited, the Ten Commandments (i.e., the cornerstone to the Law of Moses) was a fundamental and written restatement of natural law and natural justice.

<sup>46</sup> Romans 13:3-4.

<p>thee out of the land of Egypt, out of the house of bondage. Thou shalt have no other gods before me! Ex. 20:2-3.</p> <p>Thou shalt not make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the water under the earth. Thou shalt not bow down thyself to them, nor serve them: for I the LORD thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me; and shewing mercy unto thousands of them that love me, and keep my commandments. Ex. 20:4-6</p> <p>Thou shalt not take the name of the LORD thy God in vain; for the LORD will not hold him guiltless that taketh his name in vain. Ex. 20: 7</p> <p>Remember the Sabbath day, to keep it holy. Six days shalt thou labour, and do all thy work: but the seventh day is the Sabbath day of the LORD thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates: for in six days the LORD made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the LORD blessed the Sabbath day, and hallowed it. Ex. 20:8</p>	<p>may be long upon the land which the LORD thy God giveth thee. Ex. 20:12</p> <p>Thou shalt not kill! Ex. 20:13</p> <p>Thou shalt not commit adultery! Ex. 20: 14</p> <p>Thou shalt not steal! Ex. 20: 15</p> <p>Thou shalt not bear false witness against thy neighbor! Ex. 20:16</p> <p>Thou shalt not covet thy neighbor's house, thou shalt not covet thy neighbor's wife, nor his manservant, nor his maidservant, nor his ox, nor his ass, nor any thing that is thy neighbor's. Ex. 20: 17</p>
<p><b>Eternal Law (Church)</b></p>	<p><b>Natural Law (State)</b></p> <ul style="list-style-type: none"> <li>■ Fundamental Law</li> <li>■ Fundamental Moral Law</li> <li>■ Universal Moral Law</li> <li>■ Natural Law/ Natural Justice</li> <li>■ Equity</li> </ul>

<p><b>Divine Law (Church)</b></p> <ul style="list-style-type: none"> <li>■ <b>Sacred Scriptures</b> (e.g., the Canons of the Old and New Testaments);</li> <li>■ <b>Natural Law</b> (e.g., England’s ecclesiastical laws were implemented by equity; natural law and natural justice);</li> <li>■ <b>Ecclesiastical Canon Law</b> (i.e., Church law); and,</li> <li>■ <b>Human Law</b> (e.g., England’s Ecclesiastical courts with limited jurisdiction, such as family law courts, etc.; there were no Ecclesiastical court in the British North American colonies)</li> </ul>	<p><b>Human Law (State)</b></p>
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## **B. Righteous Pagans and Non-Christian Civil Magistrates**

Rev. Williams’ Baptist theology had many similarities with the Catholic philosophy of Justin Martyr (100- 165 A.D.). Justin Martyr advanced the idea of “righteous pagans.” Martyr had argued that men such as Socrates and Plato had practiced a form of “primitive Christianity” that pre-dated birth of Christ and the establishment of the Christian church. These “righteous pagans” sought after truth and tried to conform to a life of holiness and virtue.<sup>47</sup> Similarly, Rev. Williams had made a similar argument that there were many non-Christians who were nevertheless “righteous” and who could serve as good civil magistrates. Rev. Williams thus had a great deal of faith in virtue, integrity, and the capabilities of non-Christians to serve as civil magistrates and to mete out civil justice and to administer the “Second Table” of the *Decalogue*.

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<sup>47</sup> “Most of his works are lost, but two apologies and a dialogue did survive. The *First Apology*, his most well known text, passionately defends the morality of the Christian life, and provides various ethical and philosophical arguments to convince the Roman emperor, Antoninus, to abandon the persecution of the Church. Further, **he also indicates, as St. Augustine would later regarding the ‘true religion’ that predated Christianity, that the ‘seeds of Christianity’ (manifestations of the *Logos* acting in history) actually predated Christ’s incarnation.** This notion allows him to claim many historical Greek philosophers (including Socrates and Plato), in whose works he was well studied, as unknowing Christians.”  
[https://en.wikipedia.org/wiki/Justin\\_Martyr](https://en.wikipedia.org/wiki/Justin_Martyr)

Moreover, Rev. Williams argued that the duty of all the civil magistrates is to protect freedom of conscience and religious liberty and to establish civil peace among diverse groups of peoples. For this reason, Rev. Williams pointed out in his book, *The Bloody Tenet*, that pagan rulers such as Darius and Artaxerxes were primary examples of just magistrates who were fully capable of meting out natural justice.<sup>48</sup> “[H]ence are magistrates instructed favourably,” writes Rev. Williams, “to permit their subjects in their worships, although themselves be not persuaded to submit to them, as Nebuchadnezzar, Cyrus, Darius, and Artaxerces did.”<sup>49</sup> He insisted that such “righteous pagans” were fully competent, and were indeed ordained by God, to administer the “Second Table” of *Decalogue* in secular human affairs.

### **C. Foundation of Secular Government rest in the “Consent of the Governed”**

Now there is a subtle but radical shift in Rev. Williams’ thinking as to the source of secular governmental authority, and, through inference, the sources of law as well. Other than the “Second Table” of the *Decalogue*, Rev. Williams did not make the text of the Sacred Scriptures (i.e., Divine Law) a legislative or constitutional document for the secular state to follow. Nor does he restrict the right to hold public office to Christians, or the right to vote or otherwise participate in government to Christian citizens. Instead, Rev. Williams insisted that the foundation of secular governmental authority was the “consent of the whole” or the “consent of the governed.” Rev. Williams advanced the idea, at several locations within his work, *The Bloody Tenet*, that the civil magistrate receives its authority from the people who are governed.<sup>50</sup> Rev. Williams writes: “all true civil magistrates, have not the least inch of civil power, but what is measured out to

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<sup>48</sup> See, below, **Appendix D**, “St. Augustine on the Rise and Fall of the Roman Empire,” (“In *The City of God*, Augustine relied upon pagan writers Cicero, Scipio, Varro, and Porphyry, in order to make his point that even the pagans were not completely void of “nature,” “natural justice,” or the “power of reason”; nor were those ancient pagans completely void of just desires and motives, such as having the desire for “peace” and “happiness.” Nevertheless, St. Augustine was crystal clear that God was the foundation and source of “true justice,” and that no nation which ignores due homage and worship to that one, true God, cannot morally instruct or discipline its citizenry so as to inspire it to live virtuous lives or to establish true justice.”)

<sup>49</sup> In the *Bloody Tenet*, Rev. Williams writes: “[t]herefore, lastly, according to Christ Jesus’ command, magistrates are bound not to persecute, and to see that none of their subjects be persecuted and oppressed for their conscience and worship, being otherwise subject and peaceable in civil obedience.” *Publication: Williams, Roger. The Bloody Tenet of Persecution* (Miami, FL.: HardPress, 2019). p. 231.

<sup>50</sup> In other words, it was the Rev. Roger Williams—not Sir. Thomas Hobbes, John Locke, or Thomas Jefferson, or other eighteenth-century Enlightenment philosophers—who advanced the idea that the civil magistrate may rule only with the consent of the governed.

them from **the free consent of the whole**: even as a committee of parliament cannot further act than the power of the house shall arm and enable them.”<sup>51</sup>

The Preamble to the United States Constitution is an exemplification of this same democratic theory regarding constitutional limitations of the power of the civil magistrates by the “free consent of the whole,” to wit:

***Preamble to the U.S. Constitution:***

WE THE PEOPLE of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Here, in the United States Constitution, the civil magistrate is given no more power than what is specifically stated therein; and the superior sovereign is not the chief magistrates, but rather the sovereign is “We the People of the United States.”<sup>52</sup> This constitutional provision was a Puritan ideal (i.e., “priesthood of all believers”) which the Separatists and Baptists stretched to its logical conclusion. Thus, Western democracy, as we know it today, owes its existence to the Gospel’s doctrine on the “Brotherhood of Man and the Fatherhood of God.”<sup>53</sup>

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<sup>51</sup> Williams, *The Bloody Tenent*, p. 315.

<sup>52</sup> Regarding the **Christian character of the Preamble to the United States Constitution**, see Algernon Sidney Crapsey, *Religion and Politics* (New York, N.Y.: Thomas Whittaker, 1905), pp. 305-306 (“When the Constitutional Convention of 1787 sent forth the Constitution which it devised for the government of the nation it did so in these words: ‘We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our children, do ordain and establish this Constitution for the United States of America.’ Now can any man write a more perfect description of the Kingdom of God on earth or in the heaven than is to be found in these words? A government resting upon such principles as these is not a godless policy; it is a holy religion.... **When the people of the United States decreed by constitutional amendment that the government should never by law establish any religion, they did actually establish the only religion that could comprehend in its membership the whole American people.**”)

<sup>53</sup> The very idea that sovereignty should rest in “We the People” could not be possible without a fundamental conceptualization of the dignity, divinity, and inherent equality of the common man (i.e., the “Brotherhood of Man and the Fatherhood of God.”) Theologically, this idea of “We the People” presupposed that every man, regardless of social standing or status, was both a “king” and a “priest” within himself; and that every common man was, or could be, a constituent member of a “priesthood of all believers.” Juristically, this idea of “We the People” presupposed the natural rights of the common man to be free from tyranny, oppression and abuse. None of this would have been possible without the Protestant Reformation, which rested squarely upon the Gospel of Jesus Christ. (For instance, the Christian conceptualization of slavery in the ancient world was that the slave, too, was a brother in Christ, as reflected in the Apostle Paul’s *Epistle to Philemon*, regarding his run-away slave Onesimus. Paul counseled

#### D. All Civil Magistrates are God's Ministers

Significantly, according to Rev. Williams, the God of the “Second Table” of the *Decalogue* (“Law”) was also the God over the entire universe, and over the whole world. The pagan or non-Christian civil magistrate honors Christ by keeping the “Second Table” of the Law, even where the civil sword is used against rebellious members of the church. Rev. Williams writes that “Christ Jesus is honoured when the civil magistrate... punisheth any member or elder of the church with the civil sword, even to the death, for any crime against the civil state, so deserving it; for he bears not the sword in vain.”<sup>54</sup>

Rev. Williams concluded that, whether pagan, non-Christian, Jew or Christian, the civil magistrate is “a ministry indeed, **magistrates are God’s ministers**, Rom. Xiii 4,”<sup>55</sup> whose duty it is to address injustice and oppressions of the weak. “**I see not how,**” wrote Rev. Williams, “**according to the rule of Christ, Rom. Xiii., the magistrate may refuse to hear and help the just complaints of any such petitioners—children, wives, and servants—against oppression, &c.**”<sup>56</sup> Under this Baptist theology, the God of the Christians is the God of justice and also the God of the whole world. Indeed, as the Apostle Paul had concluded, Jehovah God is the God of the Jew as well as the Gentile. “Is he the God of the Jews only?” Paul asked. “Is he not also of the Gentiles? Yes, of the Gentiles also: Seeing it is one God, which shall justify the circumcision by faith, and uncircumcision through

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Philemon to forgive Onesimus and to treat him humanely. In should be noted, too, that Onesimus was not only converted to the Christian faith and emancipated, but he also rose to the rank of bishop). Indeed, it may be fairly concluded that the belief in the life, death, and resurrection of Jesus of Nazareth led to the Protestant Reformation; to democratic government and democratic ideals; and to natural rights of the common man. In closing this note, I would be remiss if I did not state that the Puritans conceptualized the “New Democratic Man” as a “priest” or as a constituent part of a “priesthood of all believers”; they conceptualized the Democratic State as a secularized monastery where men and women would carry out their secular vocations and live a holy or virtuous life. Here, the Puritans of Massachusetts Bay Colony and Geneva imposed moral discipline upon their citizen-members of the body-politic. See, e.g., Max Webber, *The Protestant Work Ethic and the Spirit of Capitalism* (New York, N.Y.: Charles Scribner’s Sons, 1930). In Rhode Island, however, where “religious freedom” was allowed, it is questionable as to whether the moral standards amongst citizens were allowed to slip. It is noteworthy that after Rev. Williams died, Rhode Island violated its own antislavery laws and became one of the largest slave-trading colonies in New England—this does not speak well of complete secularization or morally-irresponsible religious freedom.

<sup>54</sup> Ibid., p. 351.

<sup>55</sup> Ibid., p. 345.

<sup>56</sup> Ibid., p. 332.

faith. Do we then make void the law through faith? God forbid: yea, we establish the law.”<sup>57</sup>

### **E. All Civil Magistrates’ Authority is Limited by Fundamental Law, Natural Law, and the Law of Reason**

The First Amendment, U.S. Constitution’s “**right of petition government for the redress of grievances**” is deeply rooted in Baptist polity. Under the doctrine of the “separation of Church and State,” the Church (and all Christians) retained the duty to chastise the secular civil magistrate who failed or refused to establish justice. Indeed, influenced by the English Civil War (1642-1651), Rev. Williams did not believe that secular civil magistrates should have unlimited and unrestricted authority or power to make laws that are do not square with natural law, fundamental law, the law of reason, higher law, and the like. This was certainly the belief of Rev. Williams’ former employer and patron, Lord Chief Justice Edward Coke, who had written in *Dr. Bonham’s Case* (1610) that, “In many cases, the common law will control Acts of Parliament, and sometimes adjudge them to be utterly void: for when an Act of Parliament is against common right and reason, or repugnant, or impossible to be performed, the common law will control it, and adjudge such Act to be void.” Hence, within Rev. Williams’ scheme for evaluating whether secular laws were just or unjust, was whether the “law of reason” had to been applied. Laws that were “without reason” or “unreasonable,” were simply illegal or unconstitutional, within Rev. Williams’ legal framework. No civil magistrate could rely simply upon his “legal authority” to interpret, make, or promulgate laws. Instead, the civil magistrate must be able to provide clear “reasons” for making such laws or rendering official legal opinions. Otherwise—just as Edward Coke had argued and held in *Dr. Bonham’s Case* (1610)—arbitrary and capricious laws that were enacted without the magistrate’s willingness or ability to present “reasons,” could be rendered null and void. Simultaneously, civil magistrates could not deny to citizens the right to demand that magistrates show reasons for their decrees, rules, statutes and laws. “And therefore it is the duty of the magistrate,” wrote Rev. Williams, “in all laws about indifferent things, **to show the reasons, not only the will [i.e., the authority]**.... For we conceive in laws of

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<sup>57</sup> Romans 3:29-31.

this nature, **it is not the will of the lawgiver only, but the reason of the law which binds.**”<sup>58</sup>

Hence, Rev. Williams insisted that the right of the governed included the right to hold magistrates accountable for the laws which they enact. Rev. Williams argued that subjects or citizens:

are bound to try and examine his commands, and satisfy their own reason, conscience, and judgment before the Lord, and that they shall sin, if they follow the magistrate’s command, **not being persuaded in their own soul and conscience that his commands are according to God:** it will be much more unlawful and heinous in the magistrate **to compel the subjects unto that which, according to their consciences’ persuasion, is simply unlawful,** as unto a falsely constituted church, ministry, worship, administration, and they shall not escape the ditch, by being led blindfold by the magistrate; but through he fall in first, yet they shall [fall] in after him and upon him, to his greater and more dreadful judgment.<sup>59</sup>

For this reason, Rev. Williams argued that both subjects (or citizens) and the churches must “censure” the civil magistrate for any sin against the moral law of God (i.e., a violation of the Second Table), to wit:

**‘Magistrates may be censured for apparent and manifest sin against any moral law of God in their judicial proceedings,** or in the execution of their office. Courts are not sanctuaries for sin; and if for no sin, then not for such especially.

‘First, because sins of magistrates in court are as hateful to God.... God hath nowhere granted such immunity to them... what a brother may do privately in case of private offence, that the church may do publicly in case of public scandal....

‘Lastly, **Civil magistracy doth not exempt any church from faithful watchfulness over any member,** nor deprive a church of her

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<sup>58</sup> Ibid., p. 220.

<sup>59</sup> Ibid., pp. 220-2201.



due power, nor a church member of his due privilege, which is to partake of every ordinance of God, needful and requisite to their winning and salvation, ergo,-- ....’

Truth. These arguments to prove the magistrate subject, even for sin committed in judicial proceeding, I judge, like Mount Zion, immoveable, and every true Christian that is a magistrate will judge so with me....<sup>60</sup>

Significantly, Rev. Williams also asserted that churches have a duty to recover the souls of apostate civil magistrates who are churchmen, for benefit of themselves and the government. “And Christ Jesus,” writes Rev. Williams, “is again most highly honoured, when for apparent sin in the magistrates, being a member of the church, for otherwise they have not to meddle with him, the elders with the church admonish him, and recover his soul: of if obstinate in sin, cast him forth of their spiritual and Christian fellowship; which doubtless they could not do, were the magistrate supreme governor under Christ in ecclesiastical or church causes....”<sup>61</sup> Lastly, and most significantly, Rev. Williams believed that the churches’ role, as well as the right of all subjects and citizens, is not to obey the civil magistrate “in any matter displeasing to God.”<sup>62</sup> Indeed, the State must be separate from the Church; but *the “Doctrine of the Separation of Church and State” did not mean the “Separation of the Law of Nature or the Law of Reason from the State.”*

## **F. Church Autonomy, Freedom of Conscience and Freedom of Religion**

The key to understanding Baptist theology on ecclesiology is to understand Christ’s definition of the “kingdom of God” in the New Testament. This definition of the “kingdom of God,” the Baptists argued, did not square with the very limited and narrow definition of the Church as described by the Roman Catholic and Anglican divines. The Baptists simply did not believe that the true Church of Jesus Christ could be contained within the walls of an organized church with an episcopal hierarchy.<sup>63</sup> In addition, the Baptists looked to the democratic nature of

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<sup>60</sup> Ibid., pp. 348-349.

<sup>61</sup> Ibid., p. 351.

<sup>62</sup> Ibid., p. 322.

<sup>63</sup> And, interestingly, this viewpoint was essentially Augustinian and was certainly supportable with St. Augustine’s *The City of God*.

the Early Church, and they found new similarities with the established orthodox churches of England and Europe. For this reason, the Baptists democratized the Christian faith through allowing for autonomous, independent church congregations and bestowed upon each church congregation the absolute right to elect their own pastors and to appoint their own deacons. In Providence, Rhode Island, Rev. Williams became the first pastor of the first Baptist Church that was founded in North America.

Secondly, the civil magistrate must not, under Rev. William's scheme of government, impose any form of religion upon the body politic. Rev. Williams based this political idea of the "Separation of Church and State" on Matthew 13:24-30 (i.e., the "Parable of the Wheat and Tares"), to wit:

<sup>24</sup> Another parable He put forth to them, saying: "The kingdom of heaven is like a man who sowed good seed in his field;

<sup>25</sup> but while men slept, his enemy came and sowed tares among the wheat and went his way.

<sup>26</sup> But when the grain had sprouted and produced a crop, then the tares also appeared.

<sup>27</sup> So the servants of the owner came and said to him, 'Sir, did you not sow good seed in your field? How then does it have tares?'

<sup>28</sup> He said to them, 'An enemy has done this.' The servants said to him, 'Do you want us then to go and gather them up?'

<sup>29</sup> But he said, 'No, lest while you gather up the tares you also uproot the wheat with them.

<sup>30</sup> Let both grow together until the harvest, and at the time of harvest I will say to the reapers, "First gather together the tares and bind them in bundles to burn them, but gather the wheat into my barn."'"

Rev. Williams thus interpreted this "Parable of the Wheat and the Tares," as follows:

The Lord Jesus, therefore, gives direction concerning these tares, that unto the end of the world, successively in all the sorts and generations of them, they must be (not approved or countenanced, but) let alone, or permitted in the world.

Secondly, he gives to his own good seed this consolation; that those heavenly reapers, the angels, in the harvest, or end of the world, will take an order and course with them, to wit, they shall bind them into bundles, and cast them into the everlasting burnings; and to make the cup of their consolation run over, he adds, ver. 43, Then, then at that time, shall the righteous shine forth as the sun in the kingdom of their Father. These tares... can be no other sort of sinnders but false worshippers, idolaters, and in particular [and] properly, anti-christians.<sup>64</sup>

Based upon these two parables, it was clear to Rev. Williams that both Church governors and Secular governors had no jurisdiction whatsoever over the spiritual state of the souls or consciences of human beings. Other than implementing and administering the “Second Table,” the civil magistrate had no authority, from God or anyone else, to impose any sort or form of particular faith upon other human beings. Hence, to Rev. Williams and others, this right to be free from government-imposed religion became a human right to freedom of conscience.

### **G. Baptist Ecclesiology based upon Augustinian Theology**

Baptist ecclesiology has been described as “unorthodox,” but the first founders of the Baptist doctrine believed that they were, in fact, re-establishing the original orthodox church of the first century, A.D. In other words, the Baptists believed that they were carrying out the original pattern and design for the Church of Jesus Christ, as evidenced in the New Testament by John the Baptist and the first Apostles.

The Baptists defined the “kingdom of God” in such a broad fashion, that no human ecclesiastical organization could rightfully be said to have unquestioned, infallible authority over the entire holy, apostolic, and catholic church. The universal church, which was inherently diverse and consisted of men and women

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<sup>64</sup> Ibid., p. 77.

from every nation on earth, simply could not be neatly contained inside of one man-made episcopal and ecclesiastical organization. Rev. Roger Williams, who was an early Baptist pastor, may also be said to have adopted the catholic theology of St. Augustine of Hippo, who, when describing the fundamental state of human beings, divided them up into the “city of God” and the “city of man,” as follows:

Let these and similar answers (if any fuller and fitter answers can be found) be given to their enemies by the redeemed family of the Lord Christ, and by **the pilgrim city of King Christ**. But let this city bear in mind, **that among her enemies lie hid those who are destined to be fellow-citizens**, that she **may not think it a fruitless labour to bear what they inflict as enemies until they become confessors of the faith**. So, too, as long as she is a stranger in the world, **the city of God has in her communion, and bound to her by the sacraments, some who shall not eternally dwell in the lot of the saints**. Of these, some are not now recognized; **others declare themselves, and do not hesitate to make common cause with our enemies in murmuring against God, whose sacramental badge they wear**. These men you may to-day see thronging the churches with us, to-morrow crowding the theatres with the godless. But we have the less reason to despair of the reclamation even of such persons, if among our most declared enemies there are now some, unknown to themselves, who are destined to become our friends. **In truth, these two cities are entangled together in this world, and intermixed until the last judgment effect their separation**. I now proceed to speak, as God shall help me, of the rise, progress, and end of these two cities; and what I write, I write for the glory of the city of God, that, being placed in comparison with the other, it may shine with a brighter luster.<sup>65</sup>

Thus, while intermixed together, both the “city of God” and the “city of man” seek “peace” but, as St. Augustine writes in *The City of God*:

[E]ach has its own peculiar and widely different aim in using [peace]. The earthly city [i.e., the “city of man”] which does not live by faith, seeks an earthly peace, and the end of it proposes, in the well-ordered

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<sup>65</sup> St. Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 38.

concord of civic obedience and rule, is the combination of men's wills to attain the things which are helpful to this life. The heavenly city, or rather the part of it which sojourns on earth and lives by faith, makes use of this peace only because it must, until this mortal condition which necessitates it shall pass away. Consequently, so long as it lives like a captive and a stranger in the earthly city, though it has already received the promise of redemption, and the gift of the Spirit as the earnest of it, it makes no scruple to obey the laws of the earthly city, whereby the things necessary for the maintenance of this mortal life are administered; and thus, as this life is common to both cities, so there is a harmony between them in regard to what belongs to it....

This heavenly city, then, while it sojourns on earth, *calls citizens out of all nations*, and gathers together *a society of pilgrims of all languages, not scrupling about diversities in the manners, laws, and institutions whereby earthly peace is secured and maintained*, but recognizing that, however various these are, they all tend to one and the same end of earthly peace.<sup>66</sup>

Rev. Roger Williams' *The Bloody Tenet* reached the same conclusions as stated in St. Augustine's *The City of God*, about the nature of the churches and the proper role of the secular government, which was to "civil peace." For instance, regarding "civil peace," Rev. Williams wrote:

[F]or civil peace, what is it but *pax civitatis*, the peace of the city, whether an English city, Scotch, or Irish city, or further abroad, French, Spanish, Turkish city, &c. Thus it is pleased the Father of lights to define it, Jer. Xxix 7, Pray for the peace of the city; which peace of the city, or citizens, so compacted in a civil way of union, may be entire, unbroken, safe, &c....

Hence it is that so many glorious and flourishing cities of the world maintain their civil peace; yea, the very Americans and wildest pagans keep the peace of their towns or cities, though neither in one nor the other can any man prove a true church of God in those places, and

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<sup>66</sup> Ibid., p. 696.

consequently no spiritual and heavenly peace. The peace spiritual, whether true or false, being of a higher and far different nature from the peace of the place or people, being merely and essentially civil and human.<sup>67</sup>

Finally, St. Augustine had described the Church as “*a society of pilgrims of all languages, not scrupling about diversities in the manners, laws, and institutions whereby earthly peace is secured and maintained*,” but recognizing that, however various these are, they all tend to one and the same end of earthly peace.”<sup>68</sup>

Similarly, Rev. Williams called the Church as being “like unto a body or college of physicians in a city—like a corporation, society, or company of... merchants, or any other society or company in London; which companies may hold their courts, keep their records, hold disputations, and in matters concerning their society may dissent, divide, break into schisms and factions, sue and implead each other at the law, yea, wholly break up and dissolve into pieces and nothing, and yet the peace of the city not be in the least measure impaired or disturbed....”<sup>69</sup>

Rev. Williams did not believe that a diversity of views, opinions, and religious beliefs would damage or disturb the “civil peace” of the secular state. “A false religion,” he wrote “will not hurt the church, no more than weeds in the wilderness hurt the enclosed garden.”<sup>70</sup> Similarly, Rev. Williams wrote that a “false religion and worship will not hurt the civil state, in case **the worshippers break no civil law**: and the answerer elsewhere acknowledgeth, that **the civil laws not being broken, civil peace is not broken**: and **this only is the point in question**.”<sup>71</sup> In fact, Rev. Williams went so far as to state that the “law of Christ” requires civil magistrates to protect the diversity of opinions and the freedom of religious viewpoints. “Therefore,” he wrote, “according to Christ Jesus’ command, magistrates are bound not to persecute, and to see that none of their subjects be persecuted and oppressed for their conscience and worship, being otherwise subject and peaceable in civil obedience.”<sup>72</sup> “God’s people, since the coming the King of Israel, the Lord Jesus, have openly and constantly professed, that no civil

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<sup>67</sup> Williams, *The Bloudy Tenet*, pp. 45-46.

<sup>68</sup> St. Augustine, *The City of God*, p. 696.

<sup>69</sup> Williams, *The Bloudy Tenet*, p 46.

<sup>70</sup>Ibid., p 167.

<sup>71</sup> Ibid.,

<sup>72</sup> Ibid., p 158.

magistrate, no king, no Caesar, *have any power over the souls or consciences of their subjects, in the matters of God and the crown of Jesus*; but the civil magistrates themselves, yea, kings and Caesars, are bound to subject their own souls to the ministry and church, the power and government of this Lord Jesus, the King of kings.”<sup>73</sup>

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<sup>73</sup> Ibid., p. 49.

## **H. All Civil Magistrates in the World have No Jurisdiction Over The “First Table” of the *Decalogue***

Baptist theology on the separation of Church and State was also premised upon a political view that religion, religious law, ecclesiastical law, or the law of conscience, are inherently of a “higher” kind of law, over which human or secular governments have no jurisdiction. In Rev. Williams’ view, the Christian faith and the moral law of God were far superior to the civil magistrate and the secular legal system—hence, the Church and the State should be separated on this ground alone, that is, the secular civil government simply has jurisdiction over the ecclesiastical or spiritual government of the human soul and conscience.

Significantly, the Baptists observed in the New Testament accounts, **Jesus’ silence and refusal to answer Pilate. When Jesus refused to answer Pilate, he effectively deprived Pilate of jurisdiction to try him.** As Rev. Algernon Sidney Crapsey has written in his classic *Politics and Religion*, “[s]uch action on the part of a prisoner is a condemnation of the court; it is a declaration on the part of the prisoner that the court has no jurisdiction; it puts the court on its defense. This is what Charles I did when he was brought to trial; what the counsel of Louis XVI did when the King was accused before the convention. In each of these cases the court was compelled to face the question of its right to try the prisoner, and it was that question, and not the guilt or innocence of the prisoner, that was the great question at issue.”<sup>74</sup> **Hence, for Baptist theologians, the question of the separation of Church and State was inherent in the very trial of Jesus of Nazareth himself.** The point which Jesus had made, then, when he was tried by the Roman Prefect Pontius Pilate, was that **the Roman government had no jurisdiction over the Kingdom of God.**<sup>75</sup>

Thus, the execution of Jesus simply for holding his one religious viewpoint and opinion “brought out as in a lime-light the full hideousness of what in those days men called justice. It brings out as in a lime-light the horror of much that in these days is called justice.”<sup>76</sup> For the next three hundred years, up to the time of

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<sup>74</sup> Ibid., p. 53.

<sup>75</sup> Ibid., pp. 53-55.

<sup>76</sup> Ibid., p 55.



the Emperor Constantine, the Christian church thus existed under the threat of this same Roman persecution.

According to Rev. Williams, after the Roman Catholic Church became imperial, and even after the great national Protestant churches broke away from Rome, the Christian Church persecuted dissenters and infidels simply for holding personal views and ideas. This persecution of non-Christians and infidels *solely for the sake of their conscience*, and where there was no evidence of sedition or the breach of civil peace, was, according to Rev. Roger Williams, both ungodly and unchristian.

### **I. Rev. Roger Williams Rejected Calvinist Polity as Practiced in Geneva and the Massachusetts Bay Colony**

Finally, Rev. Williams rejected the idea that secular civil magistrates must be Christians or must be members of the Congregational Church, the Church of England, or any other type of established, state church.<sup>77</sup> He criticized his fellow Puritan brothers in the Massachusetts Bay Colony, because they refused to establish the freedom of Religion. “The compulsion preached and practiced in New England,” wrote Rev. Williams, “is not to the hearing of that ministry sent forth to convert unbelievers....”<sup>78</sup> In defending his position, Rev. Williams rejected the biblical model of ancient Israel for the practical affairs of the secular civil state<sup>79</sup>; and, in doing so, he emphatically rejected the experiment of Geneva as directed by John Calvin himself. “The prayers of God’s people procure the peace of the city where they abide; yet, that Christ’s ordinances and administration of worship are appointed and given by Christ to any civil state, town, or city, as is implied by the instance of Geneva, that I confidently deny.”<sup>80</sup>

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<sup>77</sup> Ibid., p. 354.

<sup>78</sup> Ibid., p. 249.

<sup>79</sup> Ibid., p. 357.

<sup>80</sup> Ibid., p. 192 [citing the following quote: “[u]nder the influence of Calvin the legislation of Geneva was entirely theocratic. Idolatry, adultery, cursing and striking parents, were punishable with death. Imprisonment was inflicted for every immorality at the instance of the church courts. Women were forbidden to wear golden ornaments, and not more than two rights on their fingers. Even their feasts were regulated: but three courses were allowed, and each course to consist of only four dishes. Great efforts were also made, which gave rise to many civil commotions, to remove from office under the state persons excommunicated by the church. Henry’s Das Leben Calvins, p. 173, edit. 1843”].

The Roman Catholics, Anglicans, and Calvinists of Geneva and the Massachusetts Bay Colony had looked to the Church-State of ancient Israel as their model and guide. They had argued that the Law of Moses had not been wholly rescinded through Christ's death on the cross and resurrection; and that just as God had intervened to destroy evil nations and empires in the Old Testament, that He would do the same to evil nations and empires after Christ's resurrection in the present age. They pointed out that God had likewise chastised ancient Israel, sending her into Babylonian captivity, due to its failure to live according to God's laws. Moreover, it may also be argued that St. Augustine's *The City of God* had echoed these same ideas regarding his evaluation of the fall of the Roman Empire.

Nevertheless, Rev. Williams insisted that God had actually punished the evil nations and empires in the Old Testament for their failure to keep the "Second Table" of the *Decalogue*. Rev. Williams argued that none of these ancient empires— whether ancient Egypt or ancient Babylon— was ever punished by God for practicing false religion. Rather, these ancient empires were punished either for *refusing to permit religious freedom* to the ancient Israelites or for *refusing to administer the "Second Table" of the Decalogue*. Rev. Williams pointed out that those pagan emperors and kings which permitted religious freedom, and who established civil peace through keeping the "Second Table" of the *Decalogue*, were accounted just and righteous in the eyes of the ancient Hebrew prophets. The whole trajectory of the Bible, from the *Book of Genesis* to the *Book of Revelation*, seemed to support Rev. Williams' theological assessment of ecclesiastical polity and temporal government.

## CONCLUSION

The Baptist theological conception of the doctrine of the separation of Church and State cannot be discounted as a primary source of American constitutional law. This paper has demonstrated, beyond any reasonable doubt, that the Baptist doctrine of "separation of Church and State" did not imply that the secular government could govern through tyranny or govern without regards to the fundamental moral law of God. Indeed, Rev. Roger Williams and other Puritan Independents and Baptists considered the secular civil magistrate to be a minister of God whose divine mandate included the duty to establish civil justice. "As for

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the civil magistrate, it is a ministry indeed, magistrates are God’s ministers, Rom. Xiii. 4,” wrote Rev. Williams. And, more specifically, Rev. Williams charged that the secular civil government had a mandate to administer the “Second Table”<sup>81</sup> of the *Decalogue*<sup>82</sup>; that the secular civil government was subjected to God’s moral laws<sup>83</sup>; and, significantly, that the church maintained a duty to *chastise* secular civil magistrates and secular civil governments that violate God’s moral laws.<sup>84</sup> Rev. Williams’ theology was therefore “catholic” and Augustinian. He advocated for religious freedom and the freedom of conscience, but he did so within the framework of the natural law, having never rejected the fundamental legal philosophy of St Thomas Aquinas, to wit: Eternal Law ---→ Divine Law ---→ Natural Law (i.e., the “law of reason” ---→ Human Law.<sup>85</sup> For Rev. Williams, the

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<sup>81</sup> Ibid., pp. 304-305 (“The Spirit of God expressly relates the work of the civil magistrate under the gospel, Rom. Xiii., expressly mentioning, as the magistrate’s object, the duties of the second table, concerning the bodies and goods of the subject.”)

<sup>82</sup> Here, it will be helpful to recall the teachings of the Roman Catholic Church on the *Decalogue*:

The Ten Commandments state what is required in the love of God and the love of neighbor....

The Decalogue forms a coherent whole. Each ‘word’ refers to each of the others and to all of them; they reciprocally condition one another....

The Ten Commandments belong to God’s revelation. At the same time they teach us the true humanity of man. They bring to light the essential duties, and therefore, indirectly, the fundamental rights inherent in the nature of the human person. The Decalogue contains a privileged expression of the natural law:

From the beginning, God had implanted in the heart of man the precepts of the natural law. Then he was content to remind him of them. This was the Decalogue.

The commandments of the Decalogue, although accessible to reason alone, have been revealed. To attain a complete and certain understanding of the requirement of the natural law, sinful humanity needed this revelation....

*Catechism of the Catholic Church*, (New York, N.Y.: Doubleday Press, 1997), p. 599.

<sup>83</sup> Roger Williams, *The Bloody Tenent of Persecution for Cause of Conscience Discussed* (Miami, FL.: HardPress, 2019), p. 348 (“Magistrates may be censured for apparent and manifest sin against any moral law of God in their judicial proceedings, or in the execution of their office.”)

<sup>84</sup> Ibid.

<sup>85</sup> There is thus no reason to conclude that, taken together and all things considered<sup>85</sup>, both the *American Declaration of Independence* (1776) and the *U.S. Constitution* (1787) were the direct fruits of Puritan theology, law, and constitutional jurisprudence; and, for these reasons, should be construed as “Christian documents.” For, indeed, as this paper shall set forth, the constitutional doctrine of the “Separation of Church and State” cannot conceivably be believed to have abrogated the fundamental natural-law principles of the *American Declaration of Independence* (1776) or Anglo-American and western jurisprudence in general.

idea of the separation of Church and State did not give the civil magistrate the authority to violate the “fundamental law of God”; nor did it absolve the Church of its solemn responsibility to hold the secular State accountable for violating the “fundamental law of God” or refusing to establish justice.

**THE END**

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## **Appendix A Baptist Founding Fathers: Smyth, Helwys, and Williams By Roderick O. Ford, Litt.D.**

The Baptist denomination has a very rich history with deep roots in the Church of England. For this reason, I believe that it is critically important for modern-day Baptist ministers to recognize the educational and ministerial credentials three of its founding fathers, one of whom (Thomas Helwys) was lawyer and graduate of one of England’s Inns of Court.

<b>BAPTIST FOUNDING FATHERS</b>	<b>MINISTERIAL CREDENTIALS</b>
John Smyth (1554 -1612)	Anglican Priest Fellow, Christ’s College, Cambridge, 1594 Ordained Anglican Priest, 1584
Thomas Helwys (1575- 1616)	Lawyer/ Baptist Minister Gray’s Inn (Inn of Court)
Roger Williams (1608 – 1683)	Anglican Priest Pembroke College, Cambridge, 1627 Ordained Anglican Priest, 1628  <ul style="list-style-type: none"> <li>• Law secretary to Sir Edward Coke, lawyer, jurist, Chief Judge of England, Member of Parliament</li> </ul>

Smyth, Heywys, and Williams were each well educated Puritans. They were upper middle class or well-to-do Englishmen, who were educated at England’s elite institutions.<sup>86</sup>

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<sup>86</sup> This important historical fact, regarding the education of England’s clergy, sheds light on the problem of determining adequate clergy qualifications in modern-day Baptist, independent, and non-denominational churches. In the African American community, especially, there has been a major challenge to ensure that the Black Church was led by qualified, trained clergy. Historically, in the American South, there has been a history of “child preachers.” The author is well acquainted with a Pentecostal preacher, a senior African American bishop in his denomination in Florida, who started preaching at the age of 15. In the Black Church (United States) the problem of adequate education and training among the clergy has been quite acute. See, e.g., C. Erick Lincoln and Lawrence H. Mamiya, *The Black Church in the African American Experience* (Durham, N.C.: Duke Univ. Press, 1990), p. 129 (“While the black clergy overall have kept pace with the general rise in educational levels in the black community, they still lag behind in professional training when compared to other black professionals. It is difficult to imagine a profession, where two-thirds of the professionals have not had any advanced training, and more than 80 percent have not completed professional degrees. However, that is the case with the majority of the black clergy in the 1980s. Most black clergy have learned about pasturing a church through an informal system of apprenticeship which exists

Therefore, it is a mistake to assume that Baptist theology, ecclesiology, and polity were the productions of unlettered, rustic preachers from the rural areas of England, New England, and in the American South. Baptist doctrine drew from orthodox Catholic, Lutheran, and Anglican doctrine, as well as Reformed doctrine. But my argument here is that the Baptist denomination is a child of its mother, the Church of England. And, as such, the Baptist denomination is “Anglican” in conception and worldview as the Church and State, Christian theology, and natural law. More specifically, the early Baptist theologians embraced an idea of Church and State that was theologically rooted in St. Augustine’s *The City of God* and presented a definition of “church” that was truly multinational, multicultural, universal, and drew members from every nation in the world; that was independent and autonomous; and that all of humanity is fundamentally divided between two broad “cities”: the “City of God” and the “earthly city of man.” The Baptists did not believe that the Roman Catholic or the Anglican Church structures correctly reflected this Augustinian theology.

In general, the Baptist church denomination created the theological, constitutional, and legal discourse of modern-day individual rights, civil rights, and juridical freedom. Rev. Roger Williams (1608-1683) had borrowed many legal concepts from his mentor Edward Coke, Chief Judge of England and champion of the English Common Law. And Thomas Helwys (1575-1616), a graduate of the Gray’s Inn of Court and a lawyer-turned-minister, laid the groundwork for Baptist polity, which became the foundation of American democracy. Many of the principles which Rev. Roger Williams brought to America, were already articulated by Helwys. Modern-day Baptist leaders should not ignore or forget the fact that its original founders were Anglicans, very well educated, and embraced an Augustinian theology.

**Below is an excerpt of an article on “Thomas Helwys”:**

[Thomas Helwys was] an Englishman, was one of the joint founders, with John Smyth, of the General Baptist denomination.

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in all black denominations. But the days when pastors could brag about being ‘untrained’ and still build a large church are rapidly passing. Similarly, the time when the minister was looked upon for leadership because he was the best-educated, or among the best-educated people in the black community are also gone. **To win the respect of the new black professionals and college-educated black people, the clergy must also, at a minimum, achieve professional parity.** If the Black Church is to have a viable future the need for professional seminary education appears to be critical. As the results of our survey will show, **educational level has been a key variable in determining a pastor’s awareness of social problems in the surrounding community, cooperation with social agencies, attitude toward politics, and awareness of internal problems in church structures.** In our field interviews with black clergy the churches that sponsor the most creative and innovative programs in the community and in the church usually have well-educated, well-trained pastors. **The educational issue is problematic for most black churches because the historical evangelical background of the Baptists, Methodists, and Pentecostals did not have stringent educational demands but only required evidence of a personal call from God to the ministry.** The anti-intellectual and fundamentalist strains of that tradition have made it difficult for innovative church leaders and bishops to make professional seminary education a requirement for the ministry.”)



In the early seventeenth century, Helwys was principal formulator of demand that the church and the state be kept separate in matters of law, so that individuals might have a freedom of religious conscience.

Thomas Helwys was an advocate of religious liberty at a time when to hold to such views could be dangerous. He died in prison as a consequence of the religious persecution of Protestant dissenters under King James I.<sup>87</sup>

### **Helwys' Famous Quotes:**

"If the Kings people be obedient and true subjects, obeying all humane lawes made by the King, our Lord the King can require no more: for men's religion to God is betwixt God and themselves; the King shall not answer for it, neither may the King be judge between God and man. Let them be heretics, Turks, Jews or whatsoever, it appertains not to the earthly power to punish them in the least measure." — *A Short Declaration of the Mistery of Iniquity*

"If our lord the King by his discerning judgment see that as Queen Mary by her sword of justice had no power over her subjects consciences (for then had she power to make them all Papists, and all that resisted her therein suffered justly as evil doers) neither hath our lord the King by that sword of justice power over his subjects consciences: for all earthly powers are one and the same in their several dominions." — *A Short Declaration of the Mistery of Iniquity*<sup>88</sup>

### **Helwys' Famous Publications:**

Helwys formulated the earliest **Baptist Confession of Faith**. This "confession" became the twenty-seven articles in (1611).

In the next twelve months or so, Helwys wrote three more important works: an argument for Arminianism (*A short and plain proof, by the word and works of God, that God's decree is not the cause of any man's sin or condemnation: and that all men are redeemed by Christ; as also that no infants are condemned*), a polemic explaining his differences with the Mennonites, and, most importantly, *A Short Declaration on the Mystery of Iniquity*.

*The Mystery of Iniquity* was a critique of the failings of Catholicism, state-church Protestantism and Brownism. It was the first ever English book to defend the principle of religious liberty.

For Helwys, religious liberty was a right for everyone, whether Protestants, Catholics, Jews, Muslims or atheists. The book also argued that Separatist leaders

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<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

such as Smyth and Robinson had been wrong to take their churches overseas to escape persecution and that they should return to England.

The historian of Separatism Stephen Tomkins described *The Mystery of Iniquity* as the most radical and outspoken book of the age and 'the most far-reaching declaration of universal religious freedom yet seen in English', but added: 'It is a pity that this most ground-breaking treatise of the Separatist movement should also be its most mean-spirited.'

*The Mystery of Iniquity* ... was delivered to King James I, with a handwritten inscription arguing for liberty of conscience. "The King," Helwys said, "is a mortal man, and not God, therefore he hath no power over the mortal soul of his subjects to make laws and ordinances for them and to set spiritual Lords over them."

Helwys and other Baptists were thrown into Newgate Prison, where they wrote a petition to the King.

Another book, **Persecution for Religion Judg'd and Condemn'd**, was written in Newgate in 1616, either by Helwys or his follower John Murton, and printed.

Helwys died around 1616 at about the age of forty.<sup>89</sup>

Thus, when Rev. Roger Williams immigrated to the Massachusetts Bay Colony in 1631, he brought with him a very firm Baptist theological foundation and precedent.

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<sup>89</sup> Ibid.

## **Appendix B    Rev. Algernon Sidney Crapsey’s Criticism of the Doctrine of “Separation of Church and State” by Roderick O. Ford, Litt.D.**

Baptist polity and theology cannot be correctly interpreted without an understanding of its English Puritan roots within the Church of England. The Baptists never abandoned those roots when they considered the constitutional limitations of the secular civil magistrate. Although the Baptists believed fully in religious freedom and the separation of Church and State, they nevertheless embraced a conception of “fundamental law” which prohibited tyrannical oppression within the secular State. To that end, Baptist theology is very much deeply rooted in the orthodox theology of the Church of England.

Easily one of the most thorough summations of the history of the Western Church, the Anglican Church, and the Protestant churches may be found in Rev. Algernon Sidney Crapsey’s *Religion and Politics* (1905).<sup>90</sup> I find that Rev. Crapsey’s theological conception of history and the church to be expository of the nature of the Protestant Reformation and of the church-state relation established in the United States constitution (i.e., the First Amendment, U.S. Constitution’s “Separation of Church and State”). More to the point, Rev. Crapsey’s *Religion and Politics* provides the perfect foundation for understanding the fundamental contradictions and limitations of the doctrine of the separation of Church and State. His fundamental argument in *Religion and Politics* is that the ***Preamble to the United States Constitution incorporated all of the salient principles of the Christian faith***,<sup>91</sup> including the “law of Christ”<sup>92</sup>; for this reason, the First Amendment to the United States Constitution (i.e., the doctrine of “Separation of Church and State”) cannot conceivably be construed as a secular mandate which separates “God and morality” from the secular American government.<sup>93</sup>

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<sup>90</sup> *Religion and Politics* (1905) came to my attention through the pages of another book, *The Dusk of Dawn* (1940), which was published by W.E.B. Du Bois, who acknowledged his support for Rev. Crapsey’s liberal view of Christianity, law, and government.

<sup>91</sup> Algernon Sidney Crapsey, *Religion and Politics* (New York, N.Y.: Thomas Whittaker, 1905), pp. 305-306 (“When the Constitutional Convention of 1787 sent forth the Constitution which it devised for the government of the nation it did so in these words: ‘We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our children, do ordain and establish this Constitution for the United States of America.’ Now can any man write a more perfect description of the Kingdom of God on earth or in the heaven than is to be found in these words? A government resting upon such principles as these is not a godless policy; it is a holy religion.... When the people of the United States decreed by constitutional amendment that the government should never by law establish any religion, they did actually establish the only religion that could comprehend in its membership the whole American people.”)

<sup>92</sup> The Law of Christ is to “love ye one another” (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

<sup>93</sup> Nor does it appear that Roger Williams’ *The Bloody Tenet* conclude that “God and morality” must be separated from the secular civil government.

According to Rev. Crapsey, the Puritan establishment of the New England colonies was perhaps one of the greatest legacies of Christendom. Rev. Crapsey believed that the peculiar problems of the Massachusetts Bay Colony, which Rev. Roger Williams opposed, were overshadowed by its high ideals of the “church-state.” The conservative Puritan colonial governments of colonial New England certainly had positive qualities:

**It was not the purpose of these founders of the Puritan commonwealth to grant either liberty of thought or liberty of action.** Their conception of the church and of the state forbade their entertaining the notion of what we call religious liberty. In their estimation **it was treason to doubt the plenary inspiration of the Bible, or to question the doctrines of the church.** They endeavored to secure the absolute identity of church and state by limiting political privileges to the members of the church. We cannot in this lecture enter minutely into the history of this Puritan state-church. **It is easy to speak scoffingly of the bigotry and narrowness of the Puritan, to tell lurid stories of the whipping of heresies, the hanging of women, and the burning of witches; but it is not so easy to measure the moral value and the spiritual potency of that conception of the state which looks upon it as the instrument of divine justice; which teaches that officers of the state are the vicegerents of God.** Such a conception is the only one the can make the state other than an merciless machine. If the state is not divine it is brutal.

And when to this conception you join that other pregnant doctrine of which the Puritan was the exponent, **which declares the sacredness and the right of the common man; when you make every man’s destiny an expression of the eternal will of God,**-- then you have a foundation for government which cannot be shaken. **Every man in the Puritan conception is a church-state in himself.** In the man the spiritual power must be supreme. Conscience, not interest, must be the guide of life. Each man is a divinely inspired, divinely guided, political and spiritual power, and the state is simply a federation of these political and spiritual units in a general government.... This union of Teutonism and Hebraism; this marriage of Mosaic theocracy to English democracy, is the contribution of English Puritanism to the political life of the world, **and the modern state is the offspring of this union....**

But, while the Puritan church-state failed as an institution, it endured as an idea. The Puritan influence dominated all other influences in American life from the landing of the Pilgrims down to the close of the Civil War....

**It was the belief of the Puritan that was the motive power of the American Revolution.** It was the stern conviction of the Puritan that not King George, but God, was the rightful sovereign in America, not the Parliament of England, but

the people of the united Colonies, were the sole keepers of the purse and the only source of political power; **and it was this conviction of the Puritan that sustained the people of the country through the long years of the Revolutionary War.**

It may thus be concluded, that once the secular state became liberated by forces of democracy, and was no longer the handmaiden of popes, kings, and the nobility, then the secular state no longer needed to be completely separated from the church.<sup>94</sup> It thus happened that once the theological doctrine of the “priesthood of all believers” elevated the common man to the status of “priest”; and the political doctrine known as the “consent of the governed” elevated the common man to that of “king,” that in essence the Church and the State finally became one and the same; to paraphrase Richard Hooker, the Church and the State are truly “two sides of the

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<sup>94</sup> To a great extent, then, the Protestant Reformation, of which Rev. Roger Williams of Rhode Island played an important part, was a great movement to rectify this spiritual deterioration within the Western Church, and to recapture the spirituality and simplicity of the Early Church. It was out of these ecclesiastical conditions that the Protestant churches of England and Europe emerged. But the Protestant Reformation was, at the first, itself conservative. The Church of England of Henry VIII and Elizabeth I and her sister Protestant churches in northern Europe were elite churches controlled by kings and noblemen. The problem in the Church of England was that the Protestant Reformation had not included every sector of the community (e.g., the Baptists, Quakers, Independents, and the like). Indeed, the Church of England was just as repressive as the Pope had been. In colonial New England, the Puritans perpetuated some of the same abuses against dissenters, and Rev. Roger Williams’ struggle was to expose this irony, that is, the contradictions in Puritan objections to Anglican repressions alongside Puritan repressions of other religious dissenters in the Massachusetts Bay Colony. Rev. Crapsey pointed out the reasons for this, where he writes in *Religion and Politics* that the Protestant Reformation was itself restricted to the national churches and the benefit of kings and the aristocracy, as follows:

Luther was a powerful factor, both in casting down the Papacy, and in setting up the Kings. In fighting the Pope, the reformer was fighting the battle of the Kings. Because of the Reformation, religion was in a manner localized and nationalized. Each ruler became the head of a religion within his own dominions. No one at the Reformation period dreamed of permitting the people to think and choose for themselves. Luther, who exercised the right of private judgment himself, refused that right to all others. By virtue of his genius and of his political alliance with the princes of North Germany he aspired, himself, to the office of infallible teacher of mankind.... Luther was not a champion of free thought; he was, as I have said, the champion of the written as against the oral tradition of Christianity, of the local, against the universal, church.

The immediate result of the Reformation was the establishment of the national churches of northern Europe, in which the Kings and the theological faculties were the Popes and the Cardinals.... The Protestant Reformation was not so much the work of the preachers as it was the work of the princes.... When we calmly consider the history of the Reformation we see that it was not the people at large who profited by that movement, but it was in the main the upper classes, the princes and the nobility, who reaped the benefit. The princes succeeded to the power of the Pope, and the nobility to the wealth of the clergy.” Crapsey, *Religion and Politics*, pp. 219-222.

same coin.” This was the natural result of the steady evolution of the democratic state, concluded Rev. Crapsey.<sup>95</sup>

Rev. Crapsey argued that this is what occurred with the founding of the new United States of America. The “American church-state” was merged through the very essence of the American *Declaration of Independence* (1776) and the preamble to the United States Constitution (1787). Rev. Crapsey opined that the greatest and most important mandates of the Christian faith were incorporated into these constitutional documents:

And the nation, the state, and the city have no other function than to translate righteousness into the definite forms of justice. When the Constitutional Convention of 1787 sent forth the Constitution which it derived for the government of the nation it did so in these words: “We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our children, do ordain and establish this Constitution for the United States of America.’

Now can any man write a more perfect description of the Kingdom of God on earth or in heaven than is to be found in these words? A government resting upon such principles as these is not a godless policy; it is a holy religion; and all the more so because the religion is unconscious, resting in the great eternal laws of justice as surely and serenely as the earth rests in the law of gravitation.<sup>96</sup>

Here we find in Rev. Crapsey’s essential thought that classical natural-law interpretation of the United States Constitution which inspired my juris doctor thesis paper *The American Jurist: A Natural Law Interpretation of the U.S. Constitution, 1787-1910*. See, e.g., Table 1, below:

**Table 1. Catholic (Natural Law) Interpretation of the U.S. Constitution**

St. Augustine’s <i>The City of God</i>	American Constitutional Law
	<p style="text-align: center;"><i>Declaration of Independence</i></p> <hr style="width: 20%; margin: auto;"/> <p>“The unanimous Declaration of the thirteen united States of America,</p>

<sup>95</sup> Crapsey, *Religion and Politics*, p. 283 (“The great salient fact in the present life of the western world is the democratic revolution. This revolution has been in progress for six hundred years, and has proceeded by regular stages.” )

<sup>96</sup> *Ibid.*, pp. 305-306.

	<p>“When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.</p> <p>“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, —That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States.”</p>
<p>Nature<sup>97</sup></p> <p>God<sup>98</sup></p>	<p>Nature’s God</p> <p>Law’s of Nature</p>

<sup>97</sup> St Augustine defines “nature” as “essential.” He writes: “Consequently, to that nature which supremely is, and which created all else that exists, no nature is contrary save that which does not exist. For nonentity is the contrary of that which is. And thus there is no being contrary to God, that Supreme Being, and Author of all beings whatsoever.... It is not nature, therefore, but vice, which is contrary to God.” *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 382. Similarly, in another section of *The City of God*, St. Augustine describes “God Himself,” as “the fountain of all justice.” *Ibid*, p. 27.

<sup>98</sup> St. Augustine defines the idea of the “God of Nature” as follows: “In Scripture they are called God’s enemies who oppose His rule, not by nature, but by vice; having no power to hurt Him, but only themselves. For they are His enemies, not through their power to hurt, but by their will to oppose Him. For God is unchangeable, and wholly proof against injury. Therefore the vice which makes those who are called His enemies resist Him, is an evil not to

Natural Law (Providence)<sup>99</sup>

Entitlement to disserve political bonds which connect a people to another as a result of theft, robbery, abuse, etc.

God, but to themselves. And to them it is an evil, solely because it corrupts the good of their nature.” *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 382. And, in another section of *The City of God*, St. Augustine writes: “The spirit of life, therefore, which quickens all things, and is the creator of every body, and of every created spirit, is God Himself, the uncreated spirit. In His supreme will resides the power which acts on the wills of all created spirits, helping the good, judging the evil, controlling all, granting power to some, not granting it to others. For, as He is the creator of all natures, so also is He the betower of all powers, not of all wills; for wicked wills are not from Him, being contrary to nature, which is from Him.... The cause of things, therefore, which makes but is not made, is God; but all other causes both make and are made.” *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 155. And, finally, St. Augustine makes no bones about the fact that the “gods” of the pagans are non-existent; that the “God” of the pagans and other non-Christians is none other than the God of Israel. For on this point, St. Augustine writes: “Who is this God, or what proof is there that He alone is worthy to receive sacrifice from the Romans? One must be very blind to be still asking who this god is. He is the God whose prophets predicted the things we see accomplished. He is the God from whom Abraham received the assurance, ‘In they seed shall all nations of be blessed.’ That this was fulfilled in Christ, who, according to the flesh sprang from that seed, is recognized, whether they will or no, even by those who have continued to be the enemies of this name.... He is the God whom Porphyry, the most learned of the philosophers, though the bitterest enemy of the Christians, confesses to be a great God, even according to the oracles of those whom he esteems gods.” *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 701.

<sup>99</sup> St. Augustine does not use the words “natural law” but nevertheless defines the substance of natural law as follows: “All natures, then, inasmuch as they are, and have therefore a rank and species of their own, and a kind of internal harmony, are certainly good. And when they are in the places assigned to them by the order of their nature, they preserve such being as they have received. And those things which have not received everlasting being, are altered for better or for worse, *so as to suit the wants and motions of those things to which the Creator’s law has made them subservient*; and thus they tend in the divine providence to that end which is embraced in the general scheme of the government of the universe.” *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 384. And, again, in another place, St. Augustine described “nature” as “peace”; and “natural law” as the “law of peace.” According this view, “inequality” is inherent in nature, even though all beings are equal in worth, importance, and dignity. Inequality is necessary to balance out the forces of nature and to establish the peace, tranquility (e.g., health and prosperity), and concord within every aspect of creation, including human political organizations, families, and nations. “The peace of all things is the tranquility of order,” wrote St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 690-693. “**Order is the distribution which allots things equal and unequal, each to its own place.... God, then, the most wise Creator and most just Ordainer of all natures, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace.... But as this divine Master inculcates two precepts—the love of God and the love of our neighbor—and as in these precepts a man finds three things he has to love—God; himself, and his neighbor—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, since he is ordered to love his neighbor as himself. He ought to make this endeavor in behalf of his wife, his children, his household, all within his reach, even as he would wish his neighbor to do the same for him if he needed it; and consequently he will be at peace, or in well-ordered concord, with all men, as far as in him lies. And this is the order of this concord that a man, in the first place, injure no one, and, in the second, do good to every one he can reach.** Primarily, therefore, his own household are his care, for **the law of nature and of society** gives him readier access to them and greater opportunity of serving them. And hence the apostle says, ‘Now, if any provide not for his own, and specially for those of his own house, he hath denied the faith, and is worse than an infidel.’ **This is the origin of domestic peace, or the well-ordered concord of those in the family who rule and those who obey. For they who care for the rest rule—husband the wife, the parents the children, the masters the servants; and they who are cared for obey—the women their husbands, the children their parents, the servants their masters. But in the family of the just man who lies by faith and is as yet a pilgrim journeying on to the celestial city, even those who rule serve those whom they seem to command; for they rule not from a love of power, but from a sense of the duty they owe to others—not because they are proud of authority, but because they love mercy.**”



Justice taken away... Robbery <sup>100</sup>	
Liberty (Man's Nature) <sup>101</sup>	
Happiness <sup>102</sup>	
Definition of Republic/ Empire <sup>103</sup>	

<sup>100</sup> "Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on. If, by the admittance of abandoned men, this evil increases to such a degree that it holds places, fixes abodes, takes possession of cities, and subdues peoples, it assumes the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity. Indeed, that was an apt and true reply which was given to Alexander the Great by a private who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, 'What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet are styled emperor.'" St. Augustine, *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 112-113.

<sup>101</sup> "This is prescribed by the order of nature: it is thus that God has created man. For 'let them,' He says, 'have dominion over the fish of the sea, and over the fowl of the air, and over every creeping thing which creepeth on the earth.' He did not intend that His rational creature, who was made in His image, should have dominion over anything but the irrational creation—not man over man, but man over the beasts... for it is with justice, we believe, that the condition of slavery is the result of sin. And this is why we do not find the word 'slave' in any part of Scripture until righteous Noah branded the sin of his son with this name. It is a name, therefore, introduced by sin and not by nature. The origin of the Latin word for slave is supposed to be found in the circumstances that those who by the law of war were liable to be killed were sometimes preserved by their victors, and were hence called servants. And these circumstances could never have arisen save through sin. For even if we wage a just war, our adversaries must be sinning; and every victory, even though gained by wicked men, is a result of the first judgment of God... But by nature, as God first created us, no one is the slave either of man or of sin. This servitude is, however, penal, and is appointed by that law which enjoins the preservation of the natural order and forbids its disturbance; for if nothing had been done in violation of that law, there would have been nothing to restrain by penal servitude." St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 693-694.

<sup>102</sup> "For to what but to felicity should men consecrate themselves, were felicity a goddess? However, as it is not a goddess, but a gift of God, to what God but the giver of happiness ought we to consecrate ourselves, who piously love eternal life, in which there is true and full felicity? But I think, from what has been said, no one ought to doubt that none of these gods is the giver of happiness, who are worshipped with such shame, and who, if they are not so worshipped, are more shamefully enraged, and thus confess that they are most foul spirits. Moreover, how can he give eternal life who cannot give happiness? For we mean by eternal life that life where there is endless happiness.... So, then, He only who gives true happiness gives eternal life, that is, an endlessly happy life." St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 693-694. Furthermore, St. Augustine goes so far as to say unequivocally that the worship of any gods, or the pursuit from any other source, other than in the name of Christ, cannot merit true happiness: "And since those gods whom this civil theology worships have been proved to be unable to give this happiness, they ought not to be worshipped on account of those temporal and terrestrial things, as we showed in the give former books...." Ibid., pp. 204-205. Finally, St. Augustine declares that "happiness" as the final, eternal end of all true Christians: "Of the happiness of the eternal peace, which constitutes the end or true perfection of the saints.... And thus we may say of peace, as we have said of eternal life, that it is the end of our good; and the rather because the Psalmist says of the city of God, the subject of this laborious work, 'Praise the Lord, O Jerusalem; praise thy God, O Zion: for He hath strengthened the bars of thy gates; He hath blessed thy children within thee; who hath made thy borders peace.' For when the bars of her gates shall be strengthened, none shall go in or come out from her; consequently we ought to understand the peace of her borders as that final peace we are wishing to declare." Ibid., p. 696.

<sup>103</sup> In *The City of God*, p. 706, St. Augustine summarized the whole philosophy of "catholic" political science, as follows: "But if we discard this definition of a people, and, assuming another, say that a people is an assemblage of reasonable beings bound together by a common agreement as to the objects of their love, then, in order to discover

Tranquility; Order <sup>104</sup>	
	Life, Liberty and Pursuit of Happiness, Gov't instituted to secure liberty, natural rights; justice, etc.
	<p style="text-align: center;"><i>U.S. Constitution</i></p> <hr style="width: 20%; margin: auto;"/> <p style="text-align: center;"><b><i>Preamble to the U.S. Constitution:</i></b></p> <p>“WE THE PEOPLE of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of</p>

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

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

<sup>104</sup> “The peace of all things is the tranquility of order,” wrote St. Augustine. “**Order is the distribution which allots things equal and unequal**, each to its own place.... God, then, the most wise Creator **and most just Ordainer of all natures**, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace.... But as this divine Master inculcates two precepts—the love of God and the love of our neighbor—and as in these precepts a man finds three things he has to love—God; himself, and his neighbor—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, **since he is ordered to love his neighbor as himself.**” *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 690-693.

	liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”
<p>Anglican clergyman <u>Algernon Sidney Crapsey’s</u> <i>Religion and Politics</i> comment on The Preamble of U.S. Constitution<sup>105</sup></p> <p><u>St. Augustine’s</u> <i>City of God</i></p> <hr/> <p>Justice<sup>106</sup></p> <p>Tranquility<sup>107</sup></p> <p>Liberty<sup>108</sup></p>	<p>A More Perfect Union</p> <p>Establish justice</p> <p>Domestic tranquility</p> <p>General Welfare</p> <p>Blessing of Liberty</p> <p>Common Defense</p>

<sup>105</sup> Algernon Sidney Crapsey, *Religion and Politics* (New York, N.Y.: Thomas Whittaker, 1905), pp. 305-306 (“When the Constitutional Convention of 1787 sent forth the Constitution which it devised for the government of the nation it did so in these words: ‘We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our children, do ordain and establish this Constitution for the United States of America.’ Now can any man write a more perfect description of the Kingdom of God on earth or in the heaven than is to be found in these words? A government resting upon such principles as these is not a godless policy; it is a holy religion.... When the people of the United States decreed by constitutional amendment that the government should never by law establish any religion, they did actually establish the only religion that could comprehend in its membership the whole American people.”)

<sup>106</sup> “Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on.” *The City of God*, p. 112.

<sup>107</sup> “The peace of all things is the tranquility of order,” wrote St. Augustine. “**Order is the distribution which allots things equal and unequal**, each to its own place.... God, then, the most wise Creator **and most just Ordainer of all natures**, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace.... But as this divine Master inculcates two precepts—the love of God and the love of our neighbor—and as in these precepts a man finds three things he has to love—God; himself, and his neighbor—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, **since he is ordered to love his neighbor as himself.**” *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 690-693.

<sup>108</sup> “This is prescribed by the order of nature: it is thus that God has created man. For ‘let them,’ He says, ‘have dominion over the fish of the sea, and over the fowl of the air, and over every creeping thing which creepeth on the earth.’ He did not intend that His rational creature, who was made in His image, should have dominion over anything but the irrational creation—not man over man, but man over the beasts... for it is with justice, we believe, that the condition of slavery is the result of sin. And this is why we do not find the word ‘slave’ in any part of Scripture until righteous Noah branded the sin of his son with this name. It is a name, therefore, introduced by sin and not by nature. The origin of the Latin word for slave is supposed to be found in the circumstances that those who by the law of war were liable to be killed were sometimes preserved by their victors, and were hence called servants. And these circumstances could never have arisen save through sin. For even if we wage a just war, our adversaries must be sinning; and every victory, even though gained by wicked men, is a result of the first judgment of God... But by nature, as God first created us, no one is the slave either of man or of sin. This servitude is, however, penal, and is appointed by that law which enjoins the preservation of the natural order and forbids its disturbance; for if

Common Weal of People/ General Welfare <sup>109</sup>	
Common Defense (“Just War”) <sup>110</sup>	

In truth, the democratic, independent, and Protestant churches—the Puritans, the Congregationalists, the Baptists, etc.—ushered in the political idea of government by the consent of the people, where the elected governors are God’s vicegerents. The one theological doctrine which bound the secular state was the doctrine of God’s Providence; and the only constitutional doctrine shared both by Church and State was the idea that God created all men equally through the natural law. Under democratic government, the only true king is Christ; and the only supreme law is *God’s fundamental moral law* (i.e., the “law of Christ”).<sup>111</sup> For this reason, Rev. Crapsey rejected the argument that the doctrine of the “Separation of Church and State,” within a democratic setting such as the United States, led to “the separation of God from morality.” The one thing that such a democratic society simply could not do without, was God’s fundamental moral law, as reflected in the “Second Table” of the Decalogue. The chief problems of seventeenth century England, which led to the English Civil War (1642-1651) was the arbitrary abuse of both king and aristocracy, as to the economic monopoly, taxation without consent of Parliament, and arbitrary executive authority under the disguise of “divine right of kings.”

In Rev. Crapsey’s late nineteenth century and early twentieth century, American financial capitalists had begun to exercise the same arbitrary economic monopolies and political despotisms in the United States, as Charles I had exercised in early seventeenth century

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nothing had been done in violation of that law, there would have been nothing to restrain by penal servitude.” St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 693-694.

<sup>109</sup> “Scipio reverts to the original thread of discourse, and repeats with commendation his own brief definition of a republic, that it is the weal of the people. ‘The people’ he defines as being not every assemblage or mob, but an assemblage associated by a common acknowledge of law, and by community of interests. Then he shows the use of definition in debate; and from these definitions of his own he gathers that a republic, or ‘weal of the people,’ then exists only when it is well and justly governed, whether by a monarch, or an aristocracy, or by the whole people [i.e., democracy]. But when the monarch is unjust, or, as the Greeks say, a tyrant; or the aristocrats are unjust, and form a faction; or the people themselves are unjust, and become, as Scipio for want of a better name calls them, themselves the tyrant, then the republic is not only blemished (as had been proved the day before), but by legitimate deduction from those definitions, it altogether ceases to be. For it could not be the people’s weal when a tyrant factiously lorded it over the state; neither would the people be any longer a people if it were unjust, since it would no longer answer the definition of a people—‘an assemblage associated by a common acknowledgment of law, and by a community of interests.’” St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), p. 62.

<sup>110</sup> St. Augustine acknowledges the idea of “just war” in *The City of God*, where he states: “And, accordingly, they who have waged war in obedience to the divine command, or in conformity with His laws have represented in their persons the public justice or the wisdom of government, and in this capacity have put to death wicked men; such persons have by no means violated the commandment, ‘Thou shalt not kill.’” Ibid, p. 27.

<sup>111</sup> The Law of Christ is to “love ye one another” (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

England.<sup>112</sup> Under such circumstances, Rev. Crapsey made the following observations about the dangers of separating the moral conscience of the Church from the pragmatic affairs of the State:

In all great formative periods it is the spiritual interests that are supreme; in all times of degeneration and decay material concerns have the upper hand. **To speak of the separation of church and state is to speak of the separation of soul and body.** If the state is without a church it is without warrant in the conscience of man; if the church is without a state it is without power in the life of the world. The church without the state is a disembodied spirit; the state without the church is a putrefying corpse. **When the church is true to itself and true to its God it becomes the conscience of the state.** Then the state must be in subjection to the church, or the state must perish. When the church forgets its high calling, and becomes simply a function of the state, then both church and state go down in one common ruin. **The present separation of the religious from the civil and political life of the nation is cause for grave apprehension for the future of the American people.**<sup>113</sup>

For American clergypersons, lawyers and judges today, Rev. Crapsey's indictment of corrupt American commercialism was a major challenge in the late nineteenth- and early twentieth centuries. The doctrine of laissez faire had freed corporate conglomerations and trusts to concentrate vast amounts of wealth in the hands of a few families who, in turn, controlled local and national governments of whole nations. This was the Gilded Age of millionaires and tramps—extreme wealth and extreme poverty! This was the age of child labor, wage exploitation, and triumph of Social Darwinism and eugenics. This was an age of the scramble for colonies in Africa, Asia, and the Islands of the sea, abroad, and the curtailment of civil rights for black citizens at home. Indeed, this was during this era in which Rev. Crapsey published his classic polemic *Religion and Politics* in 1905; and under these conditions, the Methodist Episcopal Church crafted its "Social Creed of 1908."<sup>114</sup>

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<sup>112</sup> Rev. Crapsey writes: "Corrupt commercialism has subsidized the press, centered its control in the counting room, and made its most highly paid functionary the advertising agent. It has taken possession of our streets and made them hideous with poles and wires. It has vulgarized travel, and made the name of America a byword for puerile extravagance on the continent of Europe. It builds churches and gladly listens to the preaching of the gospel and insists on the orthodoxy of its doctrine, but it is careful to keep the minister with his gospel in that closed compartment over the door of which it writes the mystic word 'sacred,' and in which it does not permit the common affairs of every-day life to be so much as mentioned, lest they should disturb the holy quiet of the place." *Religion and Politics*, pp. 273-274.

<sup>113</sup> *Ibid.*, pp. 248-249.

<sup>114</sup> Methodist denominational churches have carried on a common Wesleyan heritage of "social action" that is reflected in the "**Social Creed of 1908**" (Methodist):

"The Methodist Episcopal Church stands:

"For equal rights and complete justice for all men in all stations of life.

"For the principles of conciliation and arbitration in industrial dissensions.

"For the protection of the worker from dangerous machinery, occupational diseases, injuries and mortality.

"For the abolition of child labor.

In conclusion, we might say that when Rev. Roger Williams fought so hard to establish religious freedom, he was unaware of the economic forces that were to emerge some one hundred and fifty years later, and so he was not faced with the modern-day question of the proper role and function of the church in modern life. Interestingly, Rev. Williams was an early abolitionist and he insisted that slavery be outlawed in this new colony of Rhode Island. Nevertheless, shortly after the death of Roger Williams, many Rhode Islanders, who exercised their religious liberty, owned slaves or participated in the transatlantic slave trade.

I imagine that if Rev. Williams had been alive to see what his native Rhode Island had become—that is to say, to see how Rhode Island became a leading participant in the transatlantic slave trade—that he would have condemned this wicked practice on the grounds that the “Two Tables” theory of the separation of Church and State did not mean the separation of God and morality from the secular State. Rev. Williams’ position would likely and naturally have followed the line of thinking of his fellow Puritans and New Englanders who relied upon the fundamental moral law of God to condemn both slavery and the slave trade. And he would have reached the same basic conclusions in Rev. Crapsey’s *Religion and Politics*.

## THE END

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"For such regulation of the conditions of labor for women as shall safeguard the physical and moral health of the community.

"For the suppression of the 'sweating system.'

"For the gradual and reasonable reduction of the hours of labor to the lowest practical point, with work for all; and for that degree of leisure for all which is the condition of the highest human life.

"For a release for [from] employment one day in seven.

"For a living wage in every industry.

"For the highest wage that each industry can afford, and for the most equitable division of the products of industry that can ultimately be devised.

"For the recognition of the Golden Rule and the mind of Christ as the supreme law of society and the sure remedy for all social ills.

[When the Federal Council of Churches adopted the social creed in December 1908, they added the following phrase at the end: ]

"To the toilers of America and to those who by organized effort are seeking to lift the crushing burdens of the poor, and to reduce the hardships and uphold the dignity of labor, this Council sends the greeting of human brotherhood and the pledge of sympathy and of help in a cause which belongs to all who follow Christ."

## APPENDIX C: Ancient Anglican system of Natural Law, Common Law, and Rights

By

Roderick O. Ford, Litt.D.

The English Common Law (which comprises England's full body of laws, including statutory, customary, and constitutional laws) is founded upon the Greco-Roman idea of natural law and natural justice, as supplemented by the Catholic-Anglican-Christian religion. The common law which came from Great Britain to colonial America was unmodified and unbroken, as American lawyers and clergymen were trained in the same institutions and subject to the same discipline as their English counterparts during the seventeenth and eighteenth "Law of Reason" centuries. This fact is particularly significant when interpreting words such as "the Laws of Nature" or "the Laws of ... Nature's God," which are found within the eighteenth-century *Declaration of Independence* (1776). What did this terminology mean, within an eighteenth century context and from the perspective of standard Anglo-American jurisprudence during this period? The *Declaration of Independence* makes reference to "life, liberty, and the pursuit of happiness," as having been given to every human being by "the Laws of Nature and of Nature's God," which appear to be *higher laws* for which "governments are instituted among men," so as "[t]o secure these rights." The American Abolition and Civil Rights Movements to secure those same constitutional rights for African Americans were deeply-rooted in this idea of *higher law*. It thus stands to reason that natural law is a *higher law* upon which the United States Constitution was authorized, "[t]o secure these rights." Indeed, as I have commented throughout this series, St. Thomas Aquinas' legal philosophy of law (Eternal Law----> Divine Law ----> Natural Law --> Human Law) remained predominant throughout England and continental Europe. Natural law was determined to be the "Law of God" or the "Law of Reason," to which all other human laws remained subordinate, including the English common law and statutory law. In fact, the Laws of Nature were coterminous with England's unwritten constitution, and constituted its "fundamental law."

For a clearer explanation of the English legal system, Thomas Woods' classic work, *Institutes of the Laws of England* (1720) provides a detailed analysis of how English law (customary or common law, ecclesiastical law, and natural law) incorporated all of its several component sub-parts and sub-branches that made up the collective law of eighteenth-century Great Britain, as follows:

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

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

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

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

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

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

#### *Rules concerning Law*

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

Common Law is common Right.

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

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

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

From this description of English law, it is quite clear that Natural Law or the Laws of Nature constituted a pivotal and key component of English jurisprudence. And it is clear that the English Common Law, proper, was believed to be a combination of various laws, including the “fundamental law” of the realm, the law of reason, the law of nature, customary law, ecclesiastical law, the law of God, and the “Law of Christ.”<sup>115</sup> In many respects, these various laws simply applied different labels to the exact same concept or understanding of law. But the general idea is that all law is a reflection of both nature and its Creator; and that the laws of nature constitute the laws of the universe. Hence, W.E.B. Du Bois has correctly described this law of nature, where he writes: “[f]or it is certain that all human striving must recognize **the hard limits of natural law**, and that any striving, no matter how intense and earnest, which is against the constitution of the world, is vain.”<sup>116</sup> This idea, which is deeply-rooted in Anglo-American legal tradition, recognized the divine providence of God in nature. Dr. Russell Byrum has stated that the “providence of God may be described as being his preservation of the things

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<sup>115</sup> The fundamental “Law of Christ,” to wit, 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).

<sup>116</sup> See, e.g., W.E.B. Du Bois, “The Conservation of Races,” *Writings* (New York, N.Y.: The Library of America, 1986), p. 815.



he has created and his care for and direction of them to *the accomplishment of the ends of their creation.*”<sup>117</sup> Dr. Byrum further explains that “[b]y natural providence is meant the operation of God according to the laws of nature. There he always works uniformly.”<sup>118</sup>

It should not be forgotten that this theological worldview had a direct impact upon the institution of slavery in the United States. The Christian Church and the American Abolition Movement early and largely relied upon this system of natural law—which had been sewn into the ancient Anglican idea of fundamental law—in their arguments in favor of abolishing slavery and the slave trade. Here, it will be helpful to recall the teachings of the Roman Catholic Church on the Decalogue:

The Ten Commandments state what is required in the love of God and the love of neighbor....

The Decalogue forms a coherent whole. Each ‘word’ refers to each of the others and to all of them; they reciprocally condition one another....

The Ten Commandments belong to God’s revelation. At the same time they teach us the true humanity of man. They bring to light the essential duties, and therefore, indirectly, the fundamental rights inherent in the nature of the human person. The Decalogue contains a privileged expression of the natural law:

From the beginning, God had implanted in the heart of man the precepts of the natural law. Then he was content to remind him of them. This was the Decalogue.

The commandments of the Decalogue, although accessible to reason alone, have been revealed. To attain a complete and certain understanding of the requirement of the natural law, sinful humanity needed this revelation....<sup>119</sup>

Within Western Christendom—both the Roman Catholic and Protestant traditions—the Decalogue, or the natural law, constituted the moral order of God, and was the fundamental or supreme law of the secular body politic. In England, it was understood that even the king could not contravene this fundamental law. Throughout its history, kings had been deposed because they had tried to put themselves above this law. During the seventeenth century, the Stuart monarchy’s ideas of “divine right” ran against Sir Edward Coke’s ideas of the English Common Law and the fundamental law. In colonial America, from the late seventeenth century to the end of the eighteenth century, the idea of a higher law of Nature, as reflected in the Decalogue, remained predominant throughout the period. Thoroughly incorporated within the Anglo-American constitutional and legal heritage was the idea that “[t]he citizen is obliged in conscience **not to follow** the directives of civil authorities when they are contrary to the demands of the moral order, to the fundamental rights of persons or the teachings of the Gospel. Refusing

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<sup>117</sup> Russell R. Byrum, *Christian Theology: A Systematic Statement of Christian Doctrine for the Use of Theological Students* (Anderson, IN: Warner Press, 1976), p. 253.

<sup>118</sup> *Ibid.*, p. 254.

<sup>119</sup> *Catechism of the Catholic Church*, (New York, N.Y.: Doubleday Press, 1997), pp. 557-558.

obedience to civil authorities, when their demands are contrary to those of an upright conscience, finds its justification in the distinction between serving God and serving the political community. ‘Render therefore to Caesar the things that are Caesar’s, and to God the things that are God’s.’”<sup>120</sup>

Thus construing the American slave code (i.e., the entire body of judicial opinions, statutes, and customary practices), most Christian Churches condemned the institution of slavery as a gross violation of both the natural law (i.e., the Decalogue) and the Gospel. The Puritan theologians especially held firm to the belief that the Bible should strictly govern the institution of slavery, but the type of chattel slavery that had been established in the American South and in the British West Indies violated every tenet of the Bible as well as the laws of nature. They believed that slavery should be humane; that Christian slave owner had an obligation to hold their slaves in trust for the benefit of bringing them to Christ; that the slaves maintained inviolable and inherent human or natural rights; and that chattel slavery and men-stealing violated the laws of God and nature. See, e.g., the following table, “The Decalogue, Natural Law, Slavery and Christian Jurisprudence.”

**Table 2. “The Decalogue, Natural Law, Slavery and Christian Jurisprudence”**

<p style="text-align: center;"><b>TEN COMMANDMENTS</b> (Decalogue)</p>	<p style="text-align: center;"><b>NATURAL LAW</b> (The Laws of Nature upon which the Secular Civil Government is founded)</p>
<p style="text-align: center;"><b>FIRST TABLE</b></p> <p>I am the Lord thy God! Thou shalt have no other Gods but me!</p>	<p style="text-align: center;"><b>FIRST TABLE (Church)</b></p> <p>God’s Divine Providence governs the universe; it is superior to human law.</p> <p>(NOTE: Many Puritans and other Christian abolitionists also believed that <b>chattel slavery</b> and the <b>transatlantic slave trade</b> violated this commandment: religious duty, religious liberty, etc. were routinely denied to slaves.)</p>
<p>Thou shalt not take the Name of the Lord thy God in vain!</p>	<p>Same as above</p>

<sup>120</sup> Ibid., p. 599.

Thou shalt keep the Sabbath Day holy!	Same as above
Thou shalt honor father and mother!	<p>Same as above; domestic government (i.e., the family) is the foundation of the body politic</p> <p>(NOTE: Many Puritans and other Christian abolitionists also believed that <b>chattel slavery</b> and the <b>transatlantic slave trade</b> violated this commandment: “Thou shalt honor father and mother!” These institutions removed fathers from families and tore the family structure apart).</p>
<b>SECOND TABLE</b>	<b>SECOND TABLE (State)</b>
Thou shalt not kill!	<p>Civil government must protect citizens against the crime of homicide, murder, and genocide.</p> <p>(NOTE: Many Puritans and other Christian abolitionists also believed that <b>chattel slavery</b> and the <b>transatlantic slave trade</b> violated this commandment: “Thou shalt not kill!”).</p>
Thou shalt not commit adultery!	<p>Civil government must protect the integrity of marriage and the family, since domestic government (i.e., the family) is the foundation of the body politic). Adultery should be proscribed and punished.</p> <p>(NOTE: Many Puritans and other Christian abolitionists also believed that <b>chattel slavery</b> and the <b>transatlantic slave trade</b> violated this commandment: “Thou shalt not commit adultery!”).<sup>121</sup></p>

<sup>121</sup> See, e.g., Dr. Taylor Marshall, “The Sexual Motivation for the European—Muslim Slave Trade,” (“A few days ago I wrote about how Pope Zachary banned the selling of slaves in Rome. The slave trade in Italy was focused on the selling of Europeans to Muslims. People often neglect the fact that this slave trade was sexually and racially motivated. What I am about to write is politically incorrect, but the historical facts bear witness to it: Muslim men

<p>Thou shalt not steal!</p>	<p>Civil government must protect citizens against fraud, theft, conversion, embezzlement, and like crimes and offenses.</p> <p>(NOTE: Many Puritans and other Christian abolitionists also believed that <b>chattel slavery</b> and the <b>transatlantic slave trade</b> violated this commandment: “Thou shalt not steal!”).</p>
<p>Thou shalt not bear false witness against thy neighbor!</p>	<p>Civil government must protect the integrity of the justice system and protect citizens against injustices established through false swearing and false testimony.</p> <p>(NOTE: Many Puritans and other Christian abolitionists also believed that <b>chattel slavery</b> and the <b>transatlantic slave trade</b> violated this commandment: “Thou shalt not bear false witness against thy neighbor!”).</p>
<p>Do not let thyself lust after thy neighbor’s wife!</p>	<p>Civil government must protect the integrity of marriage and the family, since domestic government (i.e., the family) is the foundation of the body politic). Adultery, rape, concubinage, sex slavery, and the like, should be proscribed and punished.</p> <p>(NOTE: Many Puritans and other Christian abolitionists also believed that <b>chattel slavery</b> and the <b>transatlantic slave trade</b> violated this commandment: “Do not let thyself lust after thy neighbor’s wife!”).</p>

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wanted to purchase fair skinned, blonde or redheaded European girls as sex slaves.”)  
<https://taylormarshall.com/2018/01/sexual-motivation-european-muslim-slave-trade.html>.

See, also., **W.E.B. Du Bois**, “**The Souls of Black Folk**,” *Writings* (New York, N.Y.: The Library of America, 1986), p. 368 (“The red stain of bastardy, which two centuries of systematic legal defilement of Negro women had stamped upon his race, meant not only the loss of ancient African chastity, but also the hereditary weight of a mass of corruption from white adulterers, threatening almost the obliteration of the Negro home.”)

<p>Thou shalt not covet thy neighbor's house, nor his farm, nor his cattle, nor anything that is his!</p>	<p>Civil government must establish complete justice and equity between parties or citizens within the body politic.</p> <p>(NOTE: Many Puritans and other Christian abolitionists also believed that <b>chattel slavery</b> and the <b>transatlantic slave trade</b> violated this commandment: "Thou shalt not covet thy neighbor's house, nor his farm, nor his cattle, nor anything that is his!").</p>

Natural law is also deeply rooted in the Pentateuch, and especially in the Book of Genesis, which describes the Creation of the world and the beginning of time. "Creation is the divine act by which all things are caused to exist, but a continuous agency of God is required for the orderly preservation of those things."<sup>122</sup> Natural-law philosophy and jurisprudence next look to the works of nature for instruction and understanding as to the meaning of God's laws of nature. This is called the *teleological argument* which supports the concept of natural law: its fundamental premise is that orderly and harmonious cooperation of many separate parts can be accounted for only by the assumption of an intelligent cause; the world everywhere exhibits orderly and harmonious cooperation of all its parts; therefore, the original and absolute cause of the world is an intelligent cause.<sup>123</sup>

A reasoning from the marks of design to a designer. By design is meant the selection and pursuit of ends. It is the choosing of an end to be attained, the selection of proper means to accomplish it, and the use of the means to attain the end chosen. When we see at the foot of a rocky cliff broken fragments of rock of unequal sizes, irregular and uneven shapes strewn about regardless of their relation to each other, we decide at once that size, shape, and location of them is a result of chance. But when we see hundreds of bricks of equal size, even color, and faces all bearing one imprint, laid in straight, level rows in hard mortar and forming a perpendicular wall with suitable openings for windows and doors, we decide the qualities and arrangement of them are the result of intelligent purpose or design. It is not necessary that one shall have seen the bricks manufactured and laid in the wall to know the wall is the result of design. **The very fact of orderly and useful arrangement therein is abundant proof of contrivance by an intelligent being**.... As in the works of man we reason from marks of design to an intelligent designer, so we may as properly reason from evidence of

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<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

contrivance, or evidences of adaptation of means to ends, in nature, that the author of nature is intelligent. ... Not only in the origin of nature as shown in the First-cause Argument must we recognize the principle of causation, but also in the orderly arrangement of nature as set forth in the Design Argument.

Orderly and useful arrangement in nature is certain. Marks of design are apparent everywhere and are conclusive proof that the author of nature is an intelligent person. All science assumes that nature is rationally constructed. Huxley said, 'Science is the discovery of a rational order that pervades the universe.' Except for the uniformity which shows nature to be a system and a result of design science would be impossible. The results of chance can not be understood by the mind. *But the universe can be understood by the mind, showing clearly that it is the result of a mind.*<sup>124</sup>

Another great analogy, which explains the Christian idea of natural law perfectly, would be to compare the planet earth in the Milky Way Galaxy to a golden wrist watch that is found in a corn field. See, e.g., William Paley's *Natural Theology*, to wit:

If in crossing a field I strike my foot against a stone and ask how it came there, I might reply that it has been there forever. But if later in my walk I find a watch and the question of the origin of the watch be raised, the answer must be very different. A casual observance of its mechanism—of its wheels with cogs exactly fitting into each other, of its springs, of the relation of part to part, and of its exact adjustment so that it exactly measures time—furnishes convincing proof that it is a reliable example of human contrivance, and not the result of chance. And even the discovery in the watch of useless, broken, and deranged parts would not invalidate the reasoning that it was designed by an intelligent mind.<sup>125</sup>

Nor does the doctrine of evolution diminish this teleological argument, because evolution in no way diminishes the evidence of an intelligent creator.

Disagreement between the secular and sacred viewpoints as to the general framework of natural law exists. The latter (i.e., the sacred viewpoint) maintains that natural law is uniform, that the reason for this uniformity is God's guiding hand or providence, and that God may, at any time, intervene supernaturally; whereas the former (i.e., the secular viewpoint) holds that once the uniform laws of nature (i.e., biological laws, physical laws, etc.) were established in the beginning at creation, no other force (divine or otherwise) may be safely relied upon and there is no divine providence, as though God simply created the world and then turned away from his creations and died. The secular humanists then take this argument a step further, stating: even if there was an intelligent creator, he (or she) plays not active part in human affairs! "A theory held by not a few, including all deists, is that God created physical nature with inherent forces such as gravitation, cohesive attraction, chemical affinity, electricity, and magnetism, which are sufficient of themselves for the operation and guidance of nature...."<sup>126</sup>

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<sup>124</sup> Ibid., pp. 57-58.

<sup>125</sup> Ibid., pp. 58-59.

<sup>126</sup> Ibid., p. 255.

The Christian Church has answered the secular humanists with arguments regarding man's moral nature. They hold that the secularists' view, that there is no God who governs human affairs, fails to take "human nature" into account. Man's soul must have a cause, and thus a creator, too. Inanimate matter cannot create human spirit and human soul—only a higher Divine spirit or higher Divine soul can create human spirit and human soul. And since the human soul has a moral nature, so must the Divine creator. For this reason, the laws of human psychology, psychiatry, spirituality, and moral autonomy which account for human development, desires, passions, sins, lawbreaking, altruistic deeds, charity, and the rise and fall of empires and civilizations. The internal substance of the content and quality of the human soul implies the existence of Good (God) and Evil (Sin, Hell, Satan, etc.). See, e.g., the following two scriptures:

Genesis 6:5 "And GOD saw that the wickedness of man was great in the earth, and that every imagination of the thoughts of his heart was only evil continually."

Matthew 15:19-20 "For out of the heart proceed evil thoughts, murders, adulteries, fornications, thefts, false witness, blasphemies: these are what defiles a man...."

The Church thus rejects secular humanism's very restricted idea of natural law, because this restricted idea of natural law renders the Holy Scriptures as useless, unfounded and untrustworthy. The internal struggle between Good and Evil that is within every human soul implies the existence of God and make religion necessary. Moreover, the history of the Church has affirmed that God does play a role in human affairs through its publication of the texts of the Holy Scriptures. Clearly these Holy Scriptures attribute the governance of all creation to God's providence. The Roman Catholic Church, the Church of England, and the Puritans held firm to this belief in God's divine providence.

## CONCLUSION

The idea that God's providence comprised a major element in Anglo-American natural law jurisprudence during the sixteenth, seventeenth, and eighteenth centuries is highly plausible. The presence of the God of the Old Testament within Anglo-American natural-law jurisprudence was taken as axiomatic amongst English judges and barristers. To the sixteenth-, seventeenth-, and eighteenth-century English judges, lawyers, and clergymen, the God of the Old Testament created the laws of nature; but to them, He was also the God of divine providence who controlled human events as well.<sup>127</sup> "If kings or Parliaments violate their trust, the people have a right to resist. 'The freedom and preservation of all men, that is the natural law that is the command of reason.' The voluntary union of independent men should tolerate no interference with law and freedom. 'He who threatens liberty, threatens all.'" <sup>128</sup>

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<sup>127</sup> Deism certainly never became an official belief system within Christianity or Anglicanism, which remained the official religion of the British Empire up through the early twentieth century. Today, the Church of England is the established, official church in England, and its twenty-six most senior bishops sit in Parliament at Lords Spiritual. What this reveals is that in England, the Christian religion has remained predominant within English jurisprudence.

<sup>128</sup> Goldwin Smith, *A History of England* (New York, N.Y.: Charles Scribner's Sons, 1957), p. 383.

It is therefore not unlikely that most of the signers of *The Declaration of Independence* (1776) believed that the God of the Old Testament was the same as the God of Nature (i.e., “Nature’s God”), and that the new United States of America incorporated the ancient Anglican system of natural-law jurisprudence into its own common law and constitutional systems.



## APPENDIX D: “St Augustine on the Rise and Fall of the Roman Empire: A Theory of Western Constitutional Law”

by

Roderick O. Ford, Litt. D.

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

Augustine was renowned in the Latin-speaking world as a founding father of Christian theology, but his influence proceeds far beyond that. In the *Confessions*, Augustine broke ground by exploring his chosen topic—faith in God—using a tool that had little precedent in prior scholarship: his own life. Equally important, Augustine found room in the young Christian religion for the highly evolved thought of the so-called pagan philosophers, particularly Plato. This may seem simple enough on its face, but, without exaggeration, Augustine was centuries ahead of his time. The personal nature of the *Confessions* gave everyday relevance to the more abstract elements of Platonic thought and Christian theology, *bringing the rival philosophies into harmony and delivering them to millions of readers. Weaving together introspection, classical learning, and faith, Augustine outlined the underpinnings of the Renaissance in Europe, two centuries that followed the Middle Ages and were marked by a ‘rebirth’ of classical values and humanism, the belief in the dignity of each member of the human race. The Renaissance, according to many scholars, began on the spring day in 1336 when a young poet named Petrarch opened a copy of the Confessions and found in it a justification for scanning his own consciousness rather than searching the world for answers to the great questions of life. In*

**some ways, the Renaissance never ended, as the innovations made during that period in art, science, commerce, and politics laid the basis for the world as recognize today. In many fundamental ways, in the *Confessions* Augustine articulated the soul of modern man....**<sup>129</sup>

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

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

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

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

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<sup>129</sup> *Confessions*, p. 293.

For centuries the *Aeneid* defined what it meant to be Roman. Augustine's *Confessions* is the first work to strike directly at the mythical foundations of that collective sense of identity....<sup>130</sup>

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

For St. Augustine, as he forcefully argued in *The City of God*, the Roman Empire had arisen and fallen under the weight of its own viciousness, immorality, and licentiousness. At the same time, he argued in *The City of God*, "that the Christian religion is health-giving."<sup>131</sup> The fall of the Roman Empire was for St. Augustine and the Church much similar to the deluge during the time of Noah when God had cleansed the world of demonism and spiritual rot and filth, and saved only a few people who resided inside of an ark, which prefigured the body of Christ. The rise of the Christian Church in the West was seen as God's covenantal ark for the whole human race, thus replacing imperial Rome. This new belief system, known as the Christian faith, became the foundation of Western constitutional law and jurisprudence; and in England and British North America, that foundation remained firmly entrenched within their respective secular legal systems. This paper therefore, as set forth below, reveals why the Church of England's influence upon Anglo-American constitutional jurisprudence was also thoroughly Augustinian.

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

Perhaps the most important legacy of St. Augustine's *The City of God* is his theological and historical analysis of the rise and fall of the Roman Empire. For St. Augustine, the fall of Rome was similar to the deluge during the time of Noah, when God cleansed the world of sin. For St. Augustine, the various gross deceptions—i.e., the gross deviant lifestyles, immorality, and unholiness-- which captivated the ancient Romans, were none other than "demons"<sup>132</sup> or "false gods," often presented in their various forms of entertainment, such as the gladioator contests and the scenic plays at the theatres, whereby depraved lewdness and immorality were promoted and spread throughout the empire. Thus relying upon writings of ancient Roman historians, poets, and practical statesmen, St. Augustine concluded that immorality, lewdness, lasciviousness, pornography, adulterous living, drunkenness, riotous behaviors, and the like, ruined the Roman Empire, or at least debased the empire to the point at which the barbarian invasions and calamities were made easier.<sup>133</sup> In *The City of God*, he writes:

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<sup>130</sup> St. Augustine, *Confessions* (New York, N.Y.: Barnes & Noble Books, 2007), pp. xv- xlii.

<sup>131</sup> St. Augustine, *The City of God* (New York, N.Y.: The Modern Library, 1950), pp. 71-73.

<sup>132</sup> *Ibid.*, pp. 70-75.

<sup>133</sup> *Ibid.*

Here, then, is this Roman republic, ‘which has changed little by little from the fair and virtuous city it was, and **has become utterly wicked and dissolute.**’ It is not I who am the first to say this, but their own authors, from whom we learned it for a fee, and who wrote it long before the coming of Christ....<sup>134</sup>

Let them read our commandments in the Prophets, Gospels, Acts of the Apostles, or Epistles; let them peruse the large number of precepts against avarice and luxury which are everywhere read to the congregations that meet for this purpose, and which strike the ear, not with the uncertain sound of a philosophical discussion, but with the thunder of God’s own oracle pealing from the clouds...<sup>135</sup>

But if our adversaries do not care **how foully and disgracefully the Roman republic be stained by corrupt practices**, so long only as it holds together and continues in being...<sup>136</sup> We have been forced to bring forward these facts, because **their authors have not scrupled to say and to write that the Roman republic had already been ruined by the depraved moral habits of the citizens**, and had ceased to exist before the advent of our Lord Jesus Christ. Now this ruin they do not impute to their own gods, though they impute to our Christ the evils of this life, which cannot ruin good men, be they alive or dead. And this they do, though our Christ has issued so many precepts inculcating virtue and restraining vice; while their own gods have done nothing whatever to preserve that republic that served them, and to restrain it from ruin by such precepts, but have rather hastened its destruction, by corrupting its morality through their pestilent example. No one, I fancy, will now be bold enough to say that the republic was then ruined because of the departure of the gods ‘from each fane, each sacred shrine,’ as if they were the friends of virtue, and were offended by the vices of men. No, there are too many presages from entrails, auguries, soothsayings, whereby they boastingly proclaimed themselves prescient of future events and controllers of the fortune of war—all of which prove them to have been present. And had they been indeed absent, the Romans would never in these civil wars have been so far transported by their own passions as they by the instigations of these gods....

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

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<sup>134</sup> Ibid., p. 58.

<sup>135</sup> Ibid.

<sup>136</sup> Ibid., p. 60.

themselves instigators to a criminal and lewd life; -- why, I ask, are they represented as giving some good moral precepts to a few of their own elect, initiated in the secrecy of their shrines?<sup>137</sup> If it be so, this very thing only serves further to demonstrate the malicious craft of these pestilent spirits. For so great is the influence of probity and chastity, that all men, or almost all men, are moved by the praise of these virtues; nor is any man so depraved by vice, but he hath some feeling of honor left in him....<sup>138</sup>

Furthermore, St. Augustine pointed out that the Roman Pontiff Scipio Nascia,<sup>139</sup> elected by the Roman Senate, and whom St. Augustine described as “your chief pontiff, your best man in the judgment of the whole senate.”<sup>140</sup> This same Scipio had refused to consent to the destruction of Carthage during the Punic Wars, because:

“[h]e feared security, that enemy of weeks minds, and he perceived that a wholesome fear would be a fit guardian for citizens. And he was not mistaken: the event proved how wisely he had spoken. **For when Carthage was destroyed, and the Roman republic delivered from its great cause of anxiety, a crowd of disastrous evils forthwith resulted from the prosperous condition of things.** First concord was weakened, and destroyed by **fierce and bloody seditions**; then followed, by a concatenation of baleful causes, **civil wars**, which brought in their train such massacres, **such bloodshed, such lawless and cruel proscription and plunder**, that those Romans who, in the days of their enemies, now that their virtue was lost, **suffered greater cruelties at the hands of their fellow-citizens.** The lust of rule, which with other vices existed among the Romans in more unmitigated intensity than among any other people, after it had taken possession of the more powerful few, subdued under its yoke the rest, worn and wearied.<sup>141</sup>

Rome’s moral decay, says St. Augustine, was due to cultural influences such as the “scenic entertainments” in which “exhibitions of shameless folly and licence,”<sup>142</sup> and pestilential and wicked spirits<sup>143</sup> reigned without censure or limitation. “Besides,” says Augustine, “though the pestilence was stayed, this was not because the voluptuous madness of stage-plays had taken possession of a warlike people... these astute and wicked spirits... took occasion to infect, not the bodies, but the morals of their worshippers, with a far more serious disease.”<sup>144</sup> But perhaps the most serious disease of all were the “corrupt practices” that inhibited justice throughout the Roman Republic; even up to the time of the birth of Christ Jesus, when Caesar Augustus reigned, and when Cicero was assassinated for advocating for a more just and human republic. For in *The City of God*, St. Augustine says that this same Cicero confessed that within the Roman empire, “[m]orality has perished through poverty of great men; a poverty for which we must not only assign a reason, but for the guilt of which we must answer as criminals charged with a capital

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<sup>137</sup> Ibid., p 69.

<sup>138</sup> Ibid., p. 68-69.

<sup>139</sup> Ibid., p. 35.

<sup>140</sup> Ibid., p. 35.

<sup>141</sup> Ibid., p. 35.

<sup>142</sup> Ibid., p. 36.

<sup>143</sup> Ibid., p. 37.

<sup>144</sup> Ibid.

crime. For it is through our vices, and not by any mishap, that we retain only the name of a republic, and have long since lost the reality.”<sup>145</sup> To this, St. Augustine added that the fall of the Roman empire was due in large measure to “the decay of morality” which “involved the republic in such disastrous ruin, that though the houses and walls remained standing, the leading writers do not scruple to say that the republic was destroyed.”<sup>146</sup>

St. Augustine thus described the prevailing Roman political philosophy and logic, and the “corrupt practices” that had been allowed to prevail throughout the Roman Empire of his time, “**so long only as it holds together and continues in being**”<sup>147</sup>:

Only let [the republic] remain undefeated, they say, only let it flourish and abound in resources; let it be glorious by its victories, or still better, secure in peace; and what matters it to us?

This is our concern, that every man be able to increase his wealth so as to supply his daily prodigalities, and so that the powerful may subject the weak for their own purposes.

Let the poor court the rich for a living, and that under their protection they may enjoy a sluggish tranquility; and let the rich abuse the poor as their dependants, to minister to their pride.

Let the people applaud not those who protect their interests, but those who provide them with pleasure.

Let no severe duty be commanded, no impurity forbidden.

Let kings estimate their prosperity, not by the righteousness, but by the servility of their subjects.

Let the provinces stand loyal to the kings, not as moral guides, but as lords of their possessions and purveyors of their pleasures; not with a hearty reverence, but a crooked and servile fear.

Let the laws take cognizance rather of the injury done to another man’s property, than of that done to one’s own person.

If a man be a nuisance to his neighbor, or injure his property, family, or person, let him be actionable; but in his own affairs let every one with impunity do what he will in company with his own family, and with those who willingly join him.

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<sup>145</sup> Ibid., p. 62.

<sup>146</sup> Ibid., p. 64.

<sup>147</sup> Ibid. p. 60.

Let there be a plentiful supply of public prostitutes for every one who wishes to use them, but specially for those who are too poor to keep one for their private use.

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

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

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

Let these be reckoned the true gods, who procure for the people this condition of things, and preserve it when once possessed.<sup>148</sup>

Within this Roman scheme of things, the new Christian religion emerged, stood out conspicuously, and eventually reigned supreme within the hearts and minds of men and women who longed for a more just and humane world. For example, the Christians had begun to introduce to the Roman legions a humane law of war, such as “clemency,” so as to curtail the senseless Roman “slaughter, plundering, burning, and misery” amongst their conquered victims.<sup>149</sup> St. Augustine pointed out that just as the barbarians sacked the western half of the Roman empire, the saintly Christians not only survived, but they thrived!<sup>150</sup> The ancient bishops attained their supremacy of the western half of the Roman empire because the great wartime distress, including captivity by the barbarians, rendered these ancient Christians most suitable for worldly leadership, even among the barbarians.<sup>151</sup> St. Augustine compared these ancient Christians to the “three youths” including “Daniel” who were captive in ancient Babylon in the Old Testament— simply put, the civilizing effect of the Christian faith arose supreme from the ashes of Rome’s wicked fall.<sup>152</sup>

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

In *The City of God*, St. Augustine relies upon the Roman historian Varro, “a very learned heathen,”<sup>153</sup> for assistance with reconstructing the history of the ancient city-state of Rome. Firstly, Augustine proves that the “fabulous” or “mythical” history of the founding of Rome was utterly false. According to the historian Varro, “many of the religions and sacred legends should

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<sup>148</sup>Ibid., pp. 59-60.

<sup>149</sup>Ibid., p. 9.

<sup>150</sup>Ibid., pp. 10-12.

<sup>151</sup> Ibid.

<sup>152</sup> Ibid.

<sup>153</sup> Ibid., p. 76.

be feigned in a community in which it was judged profitable for the citizens that lies should be told even about the gods themselves.”<sup>154</sup> Among such lies was the belief in the divine origins of Julius Caesar, and the belief that he had descended from the goddess Venus. As this ancient history goes: ancient Troy fell to the ancient Greeks in the Trojan war, perhaps as recounted and memorialized in Homer’s *Illiad*. And then the Romans defeated the Greeks, and the city of Rome was founded by two brothers: Romulus and Remus. But Romulus in an act of fratricide murdered his brother Remus and took kingship over the City of Rome.<sup>155</sup> *Romulus* was then deified, and the city-state of Rome was founded.<sup>156</sup> The second king of Rome was *Julius Prochulus*, and he commanded the Romulus be worshipped “as a god; and that in this way the people, who were beginning to resent the action of the senate, were quieted and pacified.”<sup>157</sup> *Tullus Hostilius* became the third king of Rome; St. Augustine recounts that Hostilius “all his house” was “consumed by lightning.”<sup>158</sup> Next, *Piscus Tarquinius* became the fourth king, and he was himself assassinated by the sons of Servius *Tullius*, who succeeded him as the fifth king.<sup>159</sup> Servius was then himself murdered by his own son-in-law, *Tarquinius Superbus* (“Tarquin”), who had become the sixth king of the city-state of Rome.<sup>160</sup> St. Augustine concludes, then, that up to the year 243 B.C., six kings had governed the city-state of ancient Rome, and that each of them had either attained the throne through violence:

- A. *Romulus*, the founder of the city-state of Rome, had murdered his brother Remus;
- B. *Julius Prochulus* may have been given the throne by the Senate, after it had secretly plotted to assassinate Romulus, the city’s founder;<sup>161</sup>
- C. *Tullus Hostilius* was no saint, and he and his entire house was mysteriously consumed by lightning, which means that they may have been executed or murdered;
- D. *Piscus Tarquinius* was assassinated by his successor Servius Tullius’s sons; and,
- E. *Servius Tullius* was assassinated by his own son-in-law *Tarquinius Superbus*, who became the sixth and last king of the city-state of Rome.

Of this period, Augustine writes: “[s]uch was the life of the Romans under the kings during the much-praised epoch of the state which extends to the expulsion of Tarquinius Superbus in the 243d year, during which all those victories, which were bought with so much blood and such disasters....”<sup>162</sup> According to St. Augusting, just as Cain had killed his brother Abel, as recounted in the *Book of Genesis*, the foundation of the city-state of Rome was founded upon a fratricide, when Romulus killed his brother Remus; and the ensuing plots, murders, and

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<sup>154</sup> Ibid., p. 77.

<sup>155</sup> Ibid., p. 86.

<sup>156</sup> Ibid.

<sup>157</sup> Ibid., pp. 87-88.

<sup>158</sup> Ibid., p. 88-89.

<sup>159</sup> Ibid., p. 89.

<sup>160</sup> Ibid.

<sup>161</sup> Ibid., p. 87.

<sup>162</sup> Ibid., p. 90.



assassinations perpetuated this lust for glory and power that is the exemplification of the “City of Man” which is opposite to the “City of God.”

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

Augustine next turns his attention to the period of the expansion of the city-state of Rome into what emerged as the ancient Roman Empire. That period began after the death of King Tarquinius Superbus in 243 B.C., when the Roman senate established the consulship, and there were initially two consuls: Collatinus and Brutus.<sup>163</sup> “[C]onsuls were first created, when the kingly power was abolished.”<sup>164</sup> St. Augustine succinctly described the Roman Empire as “an empire acquired by wars,”<sup>165</sup> and by robbery (“[b]ut to make war on your neighbours, and thence to proceed to others, and through mere lust of dominion to crush and subdue people who do you no harm, what else is this to be called than great robbery?”)<sup>166</sup> Moreover, under the Roman consulship, the Roman leadership intentionally deceived the Roman people, inculcating gods and myths which they knew to be false,<sup>167</sup> and largely for the purpose of empire-building.

Thus, under this same consulship, the Roman Empire expanded; there was “constant wars”<sup>168</sup> and to pay for these wars, the Roman patricians began to lord over their own people through taxation and usury.<sup>169</sup> “Frequent mobs, seditions, and at last civil wars, became common, while a few leading men on whom the masses were dependent, affected supreme power under the seemly pretence of seeking the good of senate and people; citizens were judged good or bad, without reference to their loyalty to the republic (for all were equally corrupt); but the wealthy and dangerously powerful were esteemed good citizens, because they maintained the existing state of things.”<sup>170</sup> “Nay, during this plague they introduced a new pestilence of scenic entertainments, which spread its more fatal contagion, not to the bodies, but the morals of the Romans... the poisonings imputed to an incredible number of noble Roman matrons... Or when, at one time, the Lucanians, Brutinians, Samnites, Tuscans, and Senonian Gauls conspired against Rome, and first slew her ambassadors, then overthrew an army under the praetor, putting to the sword 13,000 men, besides the commander and seven tribunes?”<sup>171</sup> “Or when both consuls at the head of the army were beset the Samnites in the Caudine Forks, and forced to strike a shameful treaty, 600 Roman knights being kept as hostages; while the troops, having laid down their arms, and being stripped of every thing, were made to pass under the yoke with one garment each?”<sup>172</sup> At the same time, mortal humans were assigned “quasi-divine authority,” and, induced by “the evil spirits” and inspired by the fictitious myths of the false Greco-Roman gods, the Roman

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<sup>163</sup> Ibid., pp. 90-91.

<sup>164</sup> Ibid., p. 90.

<sup>165</sup> Ibid., p. 111-112.

<sup>166</sup> Ibid., p. 114.

<sup>167</sup> Ibid., pp. 138, 140.

<sup>168</sup> Ibid., p. 91.

<sup>169</sup> Ibid., p. 91-92.

<sup>170</sup> Ibid., p. 92.

<sup>171</sup> Ibid., p. 93.

<sup>172</sup> Ibid., p. 93.

consuls and people were often incited “to wicked actions.”<sup>173</sup> And so, even long before the barbarian invasions of the Roman Empire during the fifth century A.D., “the Roman republic had already been ruined by the depraved moral habits of the citizens.”<sup>174</sup> Next, in addition to this general decline in morals, the Romans were vexed with inexplicable health-care crisis and the spread of terrible diseases,<sup>175</sup> the widespread death of women during childbirth,<sup>176</sup> the widespread death of farm animals,<sup>177</sup> the constant conscription of young men into the Roman army—“so many wars were everywhere engaged in.”<sup>178</sup>

Amongst these taxing, vexing, and terrible military campaigns were the three Punic Wars (264 B.C. to 146 B.C.)<sup>179</sup>, of which St. Augustine writes: “[i]n the Punic wars, again, when victory hung so long in the balance between the two kingdoms, when two powerful nations were straining every nerve and using all their resources against one another, how many smaller kingdoms were crushed, how many large and flourishing cities were demolished, how many states were overwhelmed and ruined, how many districts and lands far and near were desolated! How often were the victors on either side vanquished! What multitudes of men, both of those actually in arms and of others, were destroyed! What huge navies, too, were crippled in engagements, or were sunk by every kind of marine disaster! Were we to attempt to recount or mention these calamities, we should become writers of history.”<sup>180</sup>

And, in addition to the three Punic wars, were seditions and the outbreak of civil war within the Roman empire. This included the “servile wars” and the “gladiator rebellions.”<sup>181</sup> On this point, Augustine writes: “[t]he civil wars originated in the seditions which the Gracchi excited regarding the agrarian laws; for they were minded to divide among the people the lands which were wrongfully possessed by the nobility.”<sup>182</sup> “For noble and ignoble were indiscriminately massacred....”<sup>183</sup> Assassins and murders ran rampant, together with the judicial examinations and tortures of thousands of Roman citizens.<sup>184</sup> “The assassin of Gracchus himself sold his head to the consul for its weight in gold, such being the previous agreement. In this massacre, too, Marcus Fulvius, a man of consular rank, with all his children, was put to death.”<sup>185</sup> “Then even historians themselves find it difficult to explain how the servile war was begun by a very few, certainly less than seventy gladiators, what numbers of fierce and cruel men attached themselves to these, how many of the Roman generals this band defeated, and how it laid waste many districts and cities. And that was not the only servile war: the province of Macedonia, and subsequently Sicily and the sea-coast, were also depopulated by bands of slaves.

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<sup>173</sup> Ibid., p. 68-69.

<sup>174</sup> Ibid., p. 69.

<sup>175</sup> Ibid., p. 94.

<sup>176</sup> Ibid.

<sup>177</sup> Ibid.

<sup>178</sup> Ibid.

<sup>179</sup> Ibid., p. 95-103.

<sup>180</sup> Ibid., p. 95.

<sup>181</sup> Ibid., p. 102-103.

<sup>182</sup> Ibid., pp. 101-102.

<sup>183</sup> Ibid., p. 102.

<sup>184</sup> Ibid.

<sup>185</sup> Ibid.

And who can adequately describe either the horrible atrocities which the pirates first committed, or the wars they afterwards maintained against Rome?"<sup>186</sup>

Then began, about the year 140 B.C., a series of civil contests and civil wars between Roman consuls and the Roman senate, down to the reign of Caesar Augustus "in whose reign Christ was born"<sup>187</sup> First: the civil war between two Roman consuls Marius and Sylla. Marius put to death "the foremost men in the state."<sup>188</sup> In fuller description of Marius' violence, Augustine writes:

As soon as Marius triumphed, and returned from exile, besides the butcheries everywhere perpetuated, the head of the consul Octavius was exposed on the rostrum; Caesar and Fimbria were assistanted in their own houses; the two Crassi, father and son were murdered in one another's sight; Bebi and Numitorius were disemboweled by being dragged with hooks; Catulus escaped the hands of his enemies by drinking poison; Merula, the flamen of Jupiter, cut his veins and made a libation of his own blood to his god. Moreover, every one whose salutation Marius did not answer by giving his hand, was at once cut down before his face.<sup>189</sup>

The bloodshed of Marius was next avenged by "the victory of Sylla... but when hostilities were finished, hostility survived, and subsequent peace was as bloody as the war."<sup>190</sup>

Second: the civil war between the Roman consuls Sertorius and Catiline ensued, "of whom the one was proscribed, the other brought up by Sylla; from this to the war of Lepidus and Catulus, of whom the one wished to rescind, the other to defend the acts of Sylla; from this to the war of Pompey and Caesar, of whom Pompey had been a partisan of Sylla, whose power he equaled or even surpassed, while Caesar condemned Pompey's power because it was not his own, and yet exceeded it when Pompey was defeated and slain."<sup>191</sup>

Hence, the victory of Sylla over Marius in the first civil war extended down the reign of Julius Caesar various factions, one in favor of Sylla, and others opposed. Julius Caesar "when he had conquered Pompey, though he used his victory with clemency, and granted to men of the opposite faction both life and honours, was suspected of aiming at royalty, and was assassinated in the curia by a party of noble senators, who had conspired to defend the liberty of the republic. His power was then coveted by Antony, a man of very different character, polluted and debased by every kind of vice, who was strenuously resisted by Cicero on the same plea of defending the liberty of the republic."<sup>192</sup>

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<sup>186</sup> Ibid., p. 103.

<sup>187</sup> Ibid., p. 106.

<sup>188</sup> Ibid., p. 104.

<sup>189</sup> Ibid., p. 104.

<sup>190</sup> Ibid., pp 104-105.

<sup>191</sup> Ibid., p. 106.

<sup>192</sup> Ibid.

Thus, upon the death of Julius Caesar, three men contended for power or influence: Augustus, Antony, and Cicero. Indeed, Augustus was “the second Caesar, afterwards called Augustus, and in whose reign Christ was born.”<sup>193</sup> Caesar Augustus and Antony contended for the imperial throne. Cicero, who was a defender of Rome’s liberty, supported Augustus, and opposed Antony. Cicero favored Augustus “in order that his influence might counteract that of Antony; for he hoped that Caesar would overthrow and blast the power of Anthony, and establish a free state—so blind and unaware of the future was he: for that very young man, whose advancement and influence he was fostering, allowed Cicero to be killed as the seal of an alliance with Antony, and subjected to his own rule the very liberty of the republic in defence of which he had made so many orations.”<sup>194</sup> Hence, Caesar Augustus’s conspiratorial role in the assassination of Cicero signified, and the alliance with Mark Antony, as recounted in the words of St. Augustine, reflected, the sadistic state of the Roman Empire during the time of Christ.<sup>195</sup>

Regarding the trial of Jesus before the Roman prefect Pontius Pilate, I have already discussed in this series, to wit: “Part X. Anglican Church: Christianity, Trial Advocacy, and the Law of Evidence, Proof and Procedure (1300 to early 1600s A.D.)” The only thing that I would add to this section is that, when Jesus remained silent during his trial and refused to answer Pontius Pilate, at that very point, Jesus, in effect, both *denied* to the Roman Empire jurisdiction over the Kingdom of God and *accepted* the title as “king” or as the “son of God.”

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

From the historical example of the decline and ultimate fall of the Roman Empire, St. Augustine then extrapolated a catholic theology of church and state. For in *The City of God*, Augustine asked “whether it is quite fitting for good men to rejoice in extended empire.”<sup>196</sup> His answer is yes, if the “growth of a kingdom” is extended through “just wars” against the wicked. Conversely, the growth of bad empires or kingdoms through the conquering and subjugation of innocent, just nations is a form of evil. “Therefore, to carry on war and extend a kingdom over wholly subdued nations seems to bad men to be felicity, to good men necessity.... But beyond doubt it is greater felicity to have a good neighbor at peace, than to conquer a bad one by making war.”<sup>197</sup> Nevertheless, St. Augustine shows that evil kingdoms and empires cannot sustain their sovereignty without ordination and power from God. According to St. Augustine, such evil kingdoms and empires cannot exist without some form of virtue and value. In the case of the ancient Romans, they valued happiness and honor, or “Virtue and Felicity”<sup>198</sup>—each and all very good things. The ancient Romans elevated “Virtue and Felicity” to the status of goddesses.<sup>199</sup> But St. Augustine believed that these ancient Romans did good by pursuing and promoting “virtue” and “felicity” as noble goals, but that they had seriously erred in not recognizing the fact that “virtue” and “felicity” were not “gods,” but rather these things were “a gift of God.”<sup>200</sup> In

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<sup>193</sup> Ibid., pp. 106-107.

<sup>194</sup> Ibid., p. 106.

<sup>195</sup> Ibid., p. 107.

<sup>196</sup> Ibid., p. 123.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid., p. 128.

<sup>199</sup> Ibid., pp. 128-130.

<sup>200</sup> Ibid., p. 131.

other words, St. Augustine concluded that the ancient Romans has fallen into error, because they worshipped “the divine gifts themselves,” rather than the one true God who is the author of those divine gifts. Nevertheless, St. Augustine affirms that even the ancient Romans had enough light in them to know that “felicity to be given by a certain God whom they know not...”<sup>201</sup> So a few leading men amongst the ancient Romans came very close to knowing the one, true God; but they were, nevertheless, still led astray by their lack of moral virtue.

The Roman leadership also intentionally misled and deceived the masses,<sup>202</sup> such that falsehoods were “useful for the common people to know... falsely” regarding the pagan theological myths displayed in “scenic plays.”<sup>203</sup> And that Rome’s collapse was due in large measure to the widespread deceptions by civic rulers and poets.<sup>204</sup> Had the Romans clung to “Virtue and Felicity”— even though “gifts” of God and not God Himself — they might have maintained the majesty of the Roman Empire, but the ancient Romans fell into deception (i.e., clung to demons) which hastened its decline as result of a lack of moral virtue. Thus, “although not understanding them to be gifts of God,” wrote St. Augustine, “they ought at least to have been content with Virtue and Felicity” and to have ordered their laws and customs toward sustaining these ends.<sup>205</sup> But the ancient Romans blindly took a different course, and they refused to be modest or to restrain their passions. On this point, St. Augustine further elaborated, using the following analogy:

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

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<sup>201</sup> Ibid, p. 132.

<sup>202</sup> Ibid., p. 138.

<sup>203</sup> Ibid.

<sup>204</sup> Ibid., p. 140.

<sup>205</sup> Ibid., pp. 126-128.

**God is worshipped, and if He is served with genuine rites and true virtue, it is advantageous so much to themselves, as to those over whom they reign.<sup>206</sup>**

The ancient Romans sought the good things, the “good life,” the happy life, etc.; but these ancient Romans also elevated those subordinate things to the status of gods and goddess, rather than giving due homage to the one, true God, who is the author of all things.<sup>207</sup> For this reason, the ancient Romans went astray and, like several empires which predated it, fell by the wayside. See, e.g., Table 1. “The Mosaic Life-Death Grid.”

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

<b>Law of Moses (Life)</b>	<b>Law of Sin (Death)</b>
Virtue	Vice
Liberty	Slavery

For it is “that God, the author and giver of felicity,” writes St. Augustine, Who “alone is the true God,” and Who “gives earthly kingdoms both to the good and bad. Neither does He do this rashly, and, as it were, fortuitously—because He is God, not fortune—but according to the order of things and times, which is hidden from us, but thoroughly known to Himself; which same order of times, however, He does not serve as subject to it, but Himself rules as lord and appoints as governor.”<sup>208</sup> Kingdoms are given by God to both the good and the bad; but God gives true happiness or felicity only to the good, who are both rich and poor alike. **True happiness or felicity are the fruits of moral virtue, righteousness, and holiness—for this precept is both a fundamental Law of Moses and a fundamental Law of Christ.** See, e.g., Table 1, “The Mosaic Life-Death Grid.” Therefore, says St. Augustine, the just worshippers of the true God should not covet the riches, splendor or authority of earthly kingdoms. “[T]his is the mystery of the Old Testament, in which the New was hidden, that there even earthly gifts are promised: those who were spiritual understanding even then, although not yet openly declaring, both the eternity which was symbolized by these earthly things, and in what gifts of God true felicity could be found.”<sup>209</sup> The fall of kingdoms and empires, much like the fall and decline of individuals, is due in large measure to “enslavement to sin.”

The Roman Empire, says St. Augustine, became enslaved to sin, and that this empire declined and collapsed because the Roman people were “[d]epraved by good fortune, and not chastened by adversity,”<sup>210</sup> and not told to heed sound moral doctrine. In a word, says St. Augustine, the ancient Romans became immoral, criminal and licentious; and this moral state of things, without the Church of God to teach and influence it,<sup>211</sup> was the chief cause of the fall of the Roman Empire:

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<sup>206</sup>Ibid., p. 112.

<sup>207</sup> Ibid., pp. 140-141.

<sup>208</sup> Ibid., p. 140.

<sup>209</sup> Ibid.

<sup>210</sup> Ibid., p. 37.

<sup>211</sup> Ibid., p. 45 (“Let them name to us the places where such instructions were wont to be communicated from the gods, and where the people who worshipped them were accustomed to resort to hear them, as we can point to our churches built for this purpose in every land where the Christian religion is received.”)

This is the reason why those divinities quite neglected the lives and morals of the cities and nations who worshipped them, and threw no prohibition in their way to hinder them from becoming utterly corrupt, and to preserve them from those terrible and detestable evils which visit not harvests and vintages, not house and possessions, not the body which is subject to the soul, *but the soul itself*, the spirit that rules the whole man. If there was any such prohibition, let it be produced, let it be proved.... Let them show or name to us the places which were at any time consecrated to assemblages in which, instead of the obscene songs and licentious acting of players, instead of the celebrations of those most filthy and shameless Fugalia (well called Fugalia, since they banish modesty and right feeling), the people were commanded in the name of the gods to restrain avarice, bridle impurity, and conquer ambition; where, in short, they might learn in that school which Persius vehemently lashes them to, when he says: 'Be taught, ye abandoned creatures, and ascertain the causes of things; what we are, and for what end we are born; what is the law of our success in life, and by what are we may turn the goal without making shipwreck; what limit we should put to our wealth, what we may lawfully desire, and what uses filthy lucre serves; how much we should bestow upon our country and our family; learn, in short, what God meant thee to be, and what place He has ordered you to fill.' Let them name to us the places where such instructions were wont to be communicated from the gods, and where the people who worshipped them were accustomed to resort to hear them, as we can point to our churches built for this purpose in every land where the Christian religion is received.<sup>212</sup>

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But let us suppose a case of two men; for each individual man, like one letter in a language, is as it were the element of a city or kingdom, however far-spreading in it occupation of the earth. Of these two men let us suppose that one is poor, or rather of middling circumstances; the other very rich. But the rich man is anxious with fears, pining with discontent, burning with covetousness, never secure, always uneasy, panting from the perpetual strife of his enemies, adding to his patrimony indeed by these miseries to an immense degree, and by these additions also heaping up most bitter cares. But that other man of moderate wealth is contented with a small and compact estate, most dear to his own family, enjoying the sweetest peace with his kindred neighbors and friends, in piety religious, benignant in mind, healthy in body, in life frugal, in manners chaste, in conscience secure. I know not whether any one can be such a fool, that he dare hesitate which to prefer. As, therefore, in the case of two men, so in two families, in two nations, in two kingdoms, this test of tranquility holds good; and if we apply it vigilantly and without prejudice, we shall quite easily see where the mere show of happiness dwells, and where real felicity. Wherefore if the true God is worshipped, and if He is served with genuine rites and true virtue, it is advantageous so much to themselves, as to those over whom they reign.<sup>213</sup>

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<sup>212</sup> Ibid., p. 45.

<sup>213</sup> Ibid., p. 112.

We have been forced to bring forward these facts, because their authors have not scrupled to say and to write that that the Roman republic had already been ruined by the depraved moral habits of the citizens, and had ceased to exist before the advent of our Lord Jesus Christ.<sup>214</sup>

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

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

<b>Law of Moses (Life)</b>	<b>Law of Sin (Death)</b>
God (Good)	Sin (Evil or Satan)
Virtue	Vice
Liberty	Slavery
<b>Forms of Government (Life)</b> <sup>215</sup>	<b>Forms of Government (Death)</b> <sup>216</sup>

<sup>214</sup> Ibid., pp. 68-69.

<sup>215</sup> “Scipio reverts to the original thread of discourse, and repeats with commendation his own brief definition of a republic, that it is the weal of the people. ‘The people’ he defines as being not every assemblage or mob, but an assemblage associated by a common acknowledge of law, and by community of interests. Then he shows the use of definition in debate; and from these definitions of his own he gathers that a republic, or ‘weal of the people,’ then exists only when it is well and justly governed, **whether by a monarch, or an aristocracy, or by the whole people [i.e., democracy].** But when the monarch is unjust, or, as the Greeks say, a tyrant; or the aristocrats are unjust, and form a faction; or the people themselves are unjust, and become, as Scipio for want of a better name calls them, themselves the tyrant, then the republic is not only blemished (as had been proved the day before), but by legitimate deduction from those definitions, it altogether ceases to be. For it could not be the people’s weal when a tyrant factiously lorded it over the state; neither would the people be any longer a people if it were unjust, since it would no longer answer the definition of a people—‘an assemblage associated by a common acknowledgment of law, and by a community of interests.’” St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), p. 62.

<sup>216</sup> Ibid.



<i>Monarchy</i> – (Republican Form- Limited by Principles of Equity and Natural Justice; Rule of Law; Checks and Balances)	<i>Tyranny</i> – (Imperial Government Form- Perverted by Absolute Authority; Divine Right Theory; Unchecked Crimes against Nature and Natural Law (i.e., Equity))
<i>Aristocracy</i> – (Republican Form- Limited by Principles of Equity and Natural Justice; Rule of Law; Checks and Balances)	<i>Oligarchy</i> – (Imperial Government Form- Perverted by Economic and Political Monopoly; Unchecked Crimes against Nature and Natural Law (i.e., Equity))
<i>Democracy</i> – (Direct Government Form- Limited by Principles of Equity and Natural Justice; Rule of Law; Checks and Balances)	<i>Anarchy</i> – (Government perverted by unchecked crimes; governmental conspiracy to perpetuate immorality and crime against Nature and Natural Law (i.e., Equity))

Significantly, the Augustinian view of political science holds that “peace” and “happiness” which the secular world desires is noble and good, but that the God of Israel, who is the God of the whole world, is the source of that “peace” and “happiness.” This Augustinian viewpoint likewise holds that this same God of Israel gives kingdoms and empires to both good and bad; and that His Providence controls the actions and destiny of the entire world. But the Augustinian view of the pagan views of “peace,” “felicity,” “virtue,” and the like, is that they have incorrectly elevated these concepts to the status of “gods” and “goddesses,” while ignoring and refusing due worship of the one, true God of Israel, who is the Creator of all. Nevertheless, St. Augustine gave credit to the pagan philosophers who endeavored to live virtuous lives and he concluded that pagan “virtue” was close in nature to the “holiness” espoused in Judea-Christian ethical standards. See, e.g., Table 3, “St. Augustine’s Catholic View of Virtue and Holiness.”

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

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

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

But if we discard this definition of a people, and, assuming another, say that a people is an assemblage of reasonable beings bound together by a common agreement as to the objects of their love, then, in order to discover the character of any people, we have only to observe what they love.... According to this definition of ours, the Roman people is a people, and its weal is without doubt a commonwealth or republic. But what its tastes were in its early and subsequent days, and how it declined into sanguinary seditions and then to social and civil wars, and so burst asunder or rotted of the bond of concord in which the health of a people consists, history shows, and in the preceding books I have related at large. And yet I would not on this account say either that it was not a people, or that its administration was not a republic, so long as there remains an assemblage of reasonable beings bound together by a common agreement as to the objects of love. **But what I say of this people [i.e., the ancient Romans] and of this republic I must be understood to think and say of the Athenians or any Greek state, of the Egyptians, of the early Assyrian Babylon, and of every other nation, great or small, which had a public government. For, in general, the city of the ungodly, which did not obey the command of God that it should offer no sacrifice save to Him alone, and which, therefore, could not give the soul its proper command over the body, nor to the reason its just authority over the vices, is void of true justice.**<sup>217</sup>

Thus in the western world, since at least the fourth century, A.D., the “catholic” Christian religion may be rightfully said to have been placed at the foundation of western jurisprudence and constitutional law. It must be fully understood, that the generic name “gentiles” rightfully assigned to all of the non-Jewish/ non-Hebrew races of the world, for whom the true religion was extended, such that the “catholic” Christian faith takes and draws all races, cultures, and religions into one conception of a true, sovereign God whose Divine Providence reigns supreme over all nations. Here, we may place St. Augustine’s words into a proper context: “in general, the city of the ungodly, **which did not obey the command of God that it should offer no sacrifice save to Him alone, and which, therefore, could not give the soul its proper command over the body, nor to the reason its just authority over the vices, is void of true justice.**”<sup>218</sup>

It is upon this theological and constitutional foundation (to wit, that nations must obey God in order to establish justice and just government) that the Protestant Reformers of central

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<sup>217</sup> Ibid., p. 706.

<sup>218</sup> Ibid.

and northern Europe and the Calvinist-Puritans of colonial New England built their new Christian nation-states in both Europe and America. The Protestant Reformers (men such as Luther, Calvin, the Presbyterians, and the Puritans) looked to the Bible (i.e., especially the Book of Deuteronomy) for samples and examples of constitutional government. Even ideas of “federalism” and “separation of powers” were originally adopted in the West as Hebraic political ideals found in the Bible. See, e.g., Table 4, “Biblical (Ancient Israel) Origins of Constitutional Monarchy, Federalism, and Separation of Powers.”<sup>219</sup>

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

<p><b>Doctrine of Federalism</b></p>	<p><b>Biblical Sources:</b></p> <p>See, e.g., “The Ancient Hebrew Polity,” <i>The Presbyterian Quarterly</i> 12.2 (April 1898): 153-169.  <a href="http://www.pcahistory.org/HCLibrary/periodicals/tpq/12-2-2.pdf">http://www.pcahistory.org/HCLibrary/periodicals/tpq/12-2-2.pdf</a></p> <p>See, e.g., Daniel Eleazar, <i>Covenant &amp; Polity in Biblical Israel: Biblical Foundations &amp; Jewish Expressions</i> (New York, N.Y.: Routledge, 1998).</p> <p>Daniel J. Eleazar, “Deuteronomy as Israel’s Ancient Constitution: Some Preliminary Reflection,” Jerusalem Center for Public Affairs,  <a href="https://www.jcpa.org/dje/articles2/deut-const.htm">https://www.jcpa.org/dje/articles2/deut-const.htm</a></p> <p>Peter Barenboim, <i>Biblical Origins of Separation of Powers Doctrine</i> (E-Book, Moscow Florentine Society Site: Letny Sad Moscow 2005).</p>
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<sup>219</sup> It may in fairness be said that the Egyptians influenced the ancient Hebrews, the ancient Babylonians, the ancient Greeks, the ancient Romans, etc.; and so many of the Bible’s ideas of justice and law may also be found in many other nations and cultures. This convergence between Christians and non-Christians of ideas of justice and law, however, only supports St. Augustine’s theological conclusions: the “command of God” and the “mandate to do justice” are timeless and universal. Nevertheless, the Protestant Reformers who ushered in the modern world were deeply religious and adamant in their desires to subjugate their new world order and new nation-states to the sovereignty of God’s Divine Providence.

<p><b>Doctrine of Separation of Powers</b></p>	<p><b>Biblical Sources:</b></p> <p>See, e.g., “The Ancient Hebrew Polity,” <i>The Presbyterian Quarterly</i> 12.2 (April 1898): 153-169.  <a href="http://www.pcahistory.org/HCLibrary/periodicals/tpq/12-2-2.pdf">http://www.pcahistory.org/HCLibrary/periodicals/tpq/12-2-2.pdf</a></p> <p>See, e.g., Daniel Eleazar, <i>Covenant &amp; Polity in Biblical Israel: Biblical Foundations &amp; Jewish Expressions</i> (New York, N.Y.: Routledge, 1998).</p> <p>Daniel J. Eleazar, “Deuteronomy as Israel’s Ancient Constitution: Some Preliminary Reflection,” Jerusalem Center for Public Affairs,  <a href="https://www.jcpa.org/dje/articles2/deut-const.htm">https://www.jcpa.org/dje/articles2/deut-const.htm</a></p> <p>Peter Barenboim, <i>Biblical Origins of Separation of Powers Doctrine</i> (E-Book, Moscow Florentine Society Site: Letny Sad Moscow 2005).</p>
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St. Augustine of Hippo’s political theory of justice, as expressed in *The City of God*, which is a *polemic*<sup>220</sup> patterned after the Book of Deuteronomy, in defense of the Christian faith against widespread charges that it had been the *primary cause for the fall of the Roman empire*, most influenced the political thought of Protestant leaders such as Martin Luther, John Calvin, the Puritan founding fathers of colonial New England, and the Founding Fathers of the United States.<sup>221</sup> (With respect to the American Founding Fathers during the 18<sup>th</sup> century, there were, of course, other important secular influences, such as those of the Enlightenment philosophes, but those other influences pale by comparison to the influence of Anglican-Catholic-Protestant

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<sup>220</sup>In the history of constitutional law in the West, the Book of Deuteronomy is a most important text. For example, Daniel J. Elazar has written in his article “Deuteronomy as Israel’s Ancient Constitution” that ancient and modern-day Jews continued to look to the Book of Deuteronomy for authority in structuring ecclesiastical and secular polity. Elazar also writes: **“Deuteronomy had a similar impact on the Christian world. Whenever Christian theologians, political philosophers or reformers sought biblical sources for political ideas, they turned to Deuteronomy as a major Scriptural source. The use of Deuteronomy reached its apogee during the Protestant Reformation in the sixteenth and seventeenth centuries when the founders of the new Swiss, Huguenot, Rhineland, Dutch, Puritan, and Scottish commonwealths rested their polities on Deuteronomic foundations. The culmination of this trend came at the time of the American revolutionary polemical literature between 1765 and 1805. As Donald Lutz has pointed out, Deuteronomy was cited more frequently than all citations of European political philosophers combined, a major source for the myriad political sermons of the period.”**

<sup>221</sup> Ibid.

Christianity, which was decisively “Augustinian.”<sup>222</sup>) For example, Professor Daniel J. Elazar in his article “Deuteronomy as Israel’s Ancient Constitution,”<sup>223</sup> has written:

Deuteronomy had a similar impact on the Christian world. Whenever Christian theologians, political philosophers or reformers sought biblical sources for political ideas, they turned to Deuteronomy as a major Scriptural source.<sup>15</sup> **The use of Deuteronomy reached its apogee during the Protestant Reformation in the sixteenth and seventeenth centuries when the founders of the new Swiss, Huguenot, Rhineland, Dutch, Puritan, and Scottish commonwealths rested their polities on Deuteronomic foundations.**<sup>16</sup> The culmination of this trend came at the time of the American revolutionary polemical literature between **1765 and 1805**. As Donald Lutz has pointed out, Deuteronomy was cited more frequently than all citations of European political philosophers combined, a major source for the myriad political sermons of the period.

In fact, in “Deuteronomy as Israel’s Ancient Constitution,” Professor Elazar describes the Book of Deuteronomy as ancient Israel’s “constitution,” whereby Moses summarized the fundamental law of God and set forth the basic concepts of ecclesiastical and civil government. Importantly, Professor Elazar explains “ancient constitutions” as being “distinguished from modern ones by devoting as much or more attention to the moral and socio-economic bases of the polity as to the frame of government.”<sup>224</sup> “The whole document [i.e., the Book of Deuteronomy],” writes Professor Elazar, “is presented as a covenant in the spirit and format of Israelite constitutions.”<sup>225</sup>

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<sup>222</sup> During the 18th century, the Renaissance morphed into the Enlightenment, but it did not shake the foundation of Augustinian Catholicism’s (i.e., mainline Protestantism) or Thomist Catholicism’s (i.e., the Roman Catholic Church) influence upon the secular legal system in England, Europe, or North America. Sir Isaac Newton’s mathematics, which was perhaps the most profound discovery of the Enlightenment, simply could not be defined as antithetical heresy in violation of the fundamental tenets of the Church of England. Science, inventions, and discovery were, instead, carried forth under the auspices of bishops, theologians, and churchmen. Once Martin Luther had elevated the common man to the status of priest, under the doctrine of the “priesthood of all believers,” the commoners of Europe began to insist upon attaining constitutional rights and economic justice. As they re-read the Sacred Scriptures, which had only recently been interpreted into their native languages (i.e., German, English, Dutch, French, etc.), they began to firmly rely upon the “Word of God” as their firm authority for requesting ecclesiastical, social, economic, and political change. The Bible was, in essence, the de facto constitution of Europe, England, and North America—the source of the canon law, the civil law, the common law, and the written compacts (i.e., social contracts or constitutions). **But perhaps the most important Biblical text was the Book of Deuteronomy.** For example, Daniel J. Elazar has written in his article “Deuteronomy as Israel’s Ancient Constitution” that ancient and modern-day Jews continued to look to the Book of Deuteronomy for authority in structuring ecclesiastical and secular polity. Elazar also writes: “Deuteronomy had a similar impact on the Christian world. Whenever Christian theologians, political philosophers or reformers sought biblical sources for political ideas, they turned to Deuteronomy as a major Scriptural source. **The use of Deuteronomy reached its apogee during the Protestant Reformation in the sixteenth and seventeenth centuries when the founders of the new Swiss, Huguenot, Rhineland, Dutch, Puritan, and Scottish commonwealths rested their polities on Deuteronomic foundations. The culmination of this trend came at the time of the American revolutionary polemical literature between 1765 and 1805. As Donald Lutz has pointed out, Deuteronomy was cited more frequently than all citations of European political philosophers combined, a major source for the myriad political sermons of the period.**”

<sup>223</sup> See Table 4 for References Citation.

<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

Although the Book of Deuteronomy does not require a particular form of government, it does explicitly restrict a monarchial form of government to that of the “constitutional monarch,” citing Deuteronomy 17: 16-20: “That his heart be not lifted up above his brethren, and that he turn not aside from the commandment, to the right hand, or to the left: to the end that he may prolong his days in his kingdom, he, and his children, in the midst of Israel.”<sup>226</sup>

In his article, “Biblical Origins of the Separation of Powers Doctrine,” Professor Peter Barenboim concluded that the Law of Moses published the first “Bill of Rights,” to wit: Deuteronomy 1: 16, 27; 7:11; 16: 18, 19; 11: 19; 17; 20; 25: 1-3; and Exodus. 20:13; 21: 12-14; 22:28.<sup>227</sup> Furthermore, Prof. Barenboim argues that the Old Testament also established the idea that the “divine king” should only rule subject to a “divine fundamental law,” which in turn would be interpreted by an independent judge—whether priest, prophet, or judge. “All Israeli kings or aristocrats,” writes Professor Barenboim, “were subject to” the rule of divine fundamental law.<sup>228</sup> “A famous Anglo-American commentary states that Moses’ father-in-law advised him to delegate his judiciary powers, which led to the establishment of a hierarchical structure for conflict resolution,” writes Prof. Barenboim. “The Old Testament laid the basis of the separation of church and state, as well as separation of powers, which nearly three thousand years later, in the 18<sup>th</sup> century, again moved into the foreground of history.”<sup>229</sup> “[T]he word ‘judge’ in the Old Testament means what it means today, even though some of them were military leaders and prophets....”<sup>230</sup> According to Prof. Barenboim, the prophet Samuel was believed to be the last independent Judge.<sup>231</sup> “Both the Bible and the Constitution,” says he, “were binding on political authorities and have served as restraints on power. The king was subject to the Torah... powerful Presidents and powerful Congresses, we know, are subject to the Constitution.”<sup>232</sup>

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

- (1). Charter of the Virginia Colony, 1606
- (2). Mayflower Compact, 1620

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<sup>226</sup> Ibid.

<sup>227</sup> Ibid.

<sup>228</sup> Ibid.

<sup>229</sup> Ibid.

<sup>230</sup> Ibid.

<sup>231</sup> Ibid.

<sup>232</sup> Ibid.

- (3). Massachusetts Bay Charter, 1629
- (4). Massachusetts Body of Liberties, 1641
- (5). Massachusetts General Law and Liberties, 1647
- (6). The Fundamental Orders of Government, 1639 [Connecticut]
- (7). Patent for Providence Plantations, 1643 [Rhode Island]
- (8). Royal Charter of 1663 [Rhode Island]

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

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

<b>St. Augustine’s <i>The City of God</i></b>	<b>American Constitutional Law</b>
	<p style="text-align: center;"><b><i>Declaration of Independence</i></b></p> <hr style="width: 20%; margin: auto;"/> <p>“The unanimous Declaration of the thirteen united States of America,</p> <p>“When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.</p> <p>“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of</p>

	<p>the governed, –That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.–Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States.”</p>
<p>Nature<sup>233</sup>  God<sup>234</sup></p>	<p>Nature’s God  Law’s of Nature</p>

<sup>233</sup> St Augustine defines “nature” as “essential.” He writes: “Consequently, to that nature which supremely is, and which created all else that exists, no nature is contrary save that which does not exist. For nonentity is the contrary of that which is. And thus there is no being contrary to God, that Supreme Being, and Author of all beings whatsoever.... It is not nature, therefore, but vice, which is contrary to God.” *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 382. Similarly, in another section of *The City of God*, St. Augustine describes “God Himself,” as “the fountain of all justice.” *Ibid*, p. 27.

<sup>234</sup> St. Augustine defines the idea of the “God of Nature” as follows: “In Scripture they are called God’s enemies who oppose His rule, not by nature, but by vice; having no power to hurt Him, but only themselves. For they are His enemies, not through their power to hurt, but by their will to oppose Him. For God is unchangeable, and wholly proof against injury. Therefore the vice which makes those who are called His enemies resist Him, is an evil not to God, but to themselves. And to them it is an evil, solely because it corrupts the good of their nature.” *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 382. And, in another section of *The City of God*, St. Augustine writes: “The spirit of life, therefore, which quickens all things, and is the creator of every body, and of every created spirit, is God Himself, the uncreated spirit. In His supreme will resides the power which acts on the wills of all created spirits, helping the good, judging the evil, controlling all, granting power to some, not granting it



Natural Law (Providence)<sup>235</sup>

Justice taken away... Robbery<sup>236</sup>

Entitlement to disserve political bonds which connect a people to another as a result of theft, robbery, abuse, etc.

to others. For, as He is the creator of all natures, so also is He the betower of all powers, not of all wills; for wretched wills are not from Him, being contrary to nature, which is from Him.... The cause of things, therefore, which makes but is not made, is God; but all other causes both make and are made." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 155. And, finally, St. Augustine makes no bones about the fact that the "gods" of the pagans are non-existent; that the "God" of the pagans and other non-Christians is none other than the God of Israel. For on this point, St. Augustine writes: "Who is this God, or what proof is there that He alone is worthy to receive sacrifice from the Romans? One must be very blind to be still asking who this god is. He is the God whose prophets predicted the things we see accomplished. He is the God from whom Abraham received the assurance, 'In they seed shall all nations of be blessed.' That this was fulfilled in Christ, who, according to the flesh sprang from that seed, is recognized, whether they will or no, even by those who have continued to be the enemies of this name.... He is the God whom Porphyry, the most learned of the philosophers, though the bitterest enemy of the Christians, confesses to be a great God, even according to the oracles of those whom he esteems gods." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 701.

<sup>235</sup> St. Augustine does not use the words "natural law" but nevertheless defines the substance of natural law as follows: "All natures, then, inasmuch as they are, and have therefore a rank and species of their own, and a kind of internal harmony, are certainly good. And when they are in the places assigned to them by the order of their nature, they preserve such being as they have received. And those things which have not received everlasting being, are altered for better or for worse, *so as to suit the wants and motions of those things to which the Creator's law has made them subservient*; and thus they tend in the divine providence to that end which is embraced in the general scheme of the government of the universe." *The City of God* (New York, N.Y.: The Modern Library, 1950), p. 384. And, again, in another place, St. Augustine described "nature" as "peace"; and "natural law" as the "law of peace." According this view, "inequality" is inherent in nature, even though all beings are equal in worth, importance, and dignity. Inequality is necessary to balance out the forces of nature and to establish the peace, tranquility (e.g., health and prosperity), and concord within every aspect of creation, including human political organizations, families, and nations. "The peace of all things is the tranquility of order," wrote St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 690-693. "**Order is the distribution which allots things equal and unequal**, each to its own place.... God, then, the most wise Creator **and most just Ordainer of all natures**, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace.... But as this divine Master inculcates two precepts—the love of God and the love of our neighbor—and as in these precepts a man finds three things he has to love—God; himself, and his neighbor—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, **since he is ordered to love his neighbor as himself. He ought to make this endeavor in behalf of his wife, his children, his household, all within his reach, even as he would wish his neighbor to do the same for him if he needed it; and consequently he will be at peace, or in well-ordered concord, with all men, as far as in him lies. And this is the order of this concord that a man, in the first place, injure no one, and, in the second, do good to every one he can reach.** Primarily, therefore, his own household are his care, for **the law of nature and of society** gives him readier access to them and greater opportunity of serving them. And hence the apostle says, 'Now, if any provide not for his own, and specially for those of his own house, he hath denied the faith, and is worse than an infidel.' **This is the origin of domestic peace, or the well-ordered concord of those in the family who rule and those who obey. For they who care for the rest rule—husband the wife, the parents the children, the masters the servants; and they who are cared for obey—the women their husbands, the children their parents, the servants their masters. But in the family of the just man who lies by faith and is as yet a pilgrim journeying on to the celestial city, even those who rule serve those whom they seem to command; for they rule not from a love of power, but from a sense of the duty they owe to others—not because they are proud of authority, but because they love mercy.**"

<sup>236</sup> "Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on. If, by the admittance of abandoned men, this evil increases to such a degree that it holds places, fixes abodes, takes possession of cities, and subdues peoples, it

Liberty (Man's Nature)<sup>237</sup>

Happiness<sup>238</sup>

Definition of Republic/ Empire<sup>239</sup>

assumes the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity. Indeed, that was an apt and true reply which was given to Alexander the Great by a private who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, 'What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet are styled emperor.' St. Augustine, *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 112-113.

<sup>237</sup> "This is prescribed by the order of nature: it is thus that God has created man. For 'let them,' He says, 'have dominion over the fish of the sea, and over the fowl of the air, and over every creeping thing which creepeth on the earth.' He did not intend that His rational creature, who was made in His image, should have dominion over anything but the irrational creation—not man over man, but man over the beasts... for it is with justice, we believe, that the condition of slavery is the result of sin. And this is why we do not find the word 'slave' in any part of Scripture until righteous Noah branded the sin of his son with this name. It is a name, therefore, introduced by sin and not by nature. The origin of the Latin word for slave is supposed to be found in the circumstances that those who by the law of war were liable to be killed were sometimes preserved by their victors, and were hence called servants. And these circumstances could never have arisen save through sin. For even if we wage a just war, our adversaries must be sinning; and every victory, even though gained by wicked men, is a result of the first judgment of God... But by nature, as God first created us, no one is the slave either of man or of sin. This servitude is, however, penal, and is appointed by that law which enjoins the preservation of the natural order and forbids its disturbance; for if nothing had been done in violation of that law, there would have been nothing to restrain by penal servitude." St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 693-694.

<sup>238</sup> "For to what but to felicity should men consecrate themselves, were felicity a goddess? However, as it is not a goddess, but a gift of God, to what God but the giver of happiness ought we to consecrate ourselves, who piously love eternal life, in which there is true and full felicity? But I think, from what has been said, no one ought to doubt that none of these gods is the giver of happiness, who are worshipped with such shame, and who, if they are not so worshipped, are more shamefully enraged, and thus confess that they are most foul spirits. Moreover, how can he give eternal life who cannot give happiness? For we mean by eternal life that life where there is endless happiness... So, then, He only who gives true happiness gives eternal life, that is, an endlessly happy life." St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 693-694. Furthermore, St. Augustine goes so far as to say unequivocally that the worship of any gods, or the pursuit from any other source, other than in the name of Christ, cannot merit true happiness: "And since those gods whom this civil theology worships have been proved to be unable to give this happiness, they ought not to be worshipped on account of those temporal and terrestrial things, as we showed in the give former books..." Ibid., pp. 204-205. Finally, St. Augustine declares that "happiness" as the final, eternal end of all true Christians: "Of the happiness of the eternal peace, which constitutes the end or true perfection of the saints... And thus we may say of peace, as we have said of eternal life, that it is the end of our good; and the rather because the Psalmist says of the city of God, the subject of this laborious work, 'Praise the Lord, O Jerusalem; praise thy God, O Zion: for He hath strengthened the bars of thy gates; He hath blessed thy children within thee; who hath made thy borders peace.' For when the bars of her gates shall be strengthened, none shall go in or come out from her; consequently we ought to understand the peace of her borders as that final peace we are wishing to declare." Ibid., p. 696.

<sup>239</sup> In *The City of God*, p. 706, St. Augustine summarized the whole philosophy of "catholic" political science, as follows: "But if we discard this definition of a people, and, assuming another, say that a people is an assemblage of reasonable beings bound together by a common agreement as to the objects of their love, then, in order to discover the character of any people, we have only to observe what they love... According to this definition of ours, the Roman people is a people, and its weal is without doubt a commonwealth or republic. But what its tastes were in its early and subsequent days, and how it declined into sanguinary seditions and then to social and civil wars, and so burst asunder or rotted of the bond of concord in which the health of a people consists, history shows, and in the

Tranquility; Order <sup>240</sup>	
	Life, Liberty and Pursuit of Happiness, Gov't instituted to secure liberty, natural rights; justice, etc.
	<p style="text-align: center;"><b><i>U.S. Constitution</i></b></p> <hr/> <p style="text-align: center;"><b><i>Preamble to the U.S. Constitution:</i></b></p> <p>“WE THE PEOPLE of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general</p>

preceding books I have related at large. And yet I would not on this account say either that it was not a people, or that its administration was not a republic, so long as there remains an assemblage of reasonable beings bound together by a common agreement as to the objects of love. But what I say of this people and of this republic I must be understood to think and say of the Athenians or any Greek state, of the Egyptians, of the early Assyrian Babylon, and of every other nation, great or small, which had a public government. For, in general, the city of the ungodly, which did not obey the command of God that it should offer no sacrifice save to Him alone, and which, therefore, could not give the soul its proper command over the body, nor to the reason its just authority over the vices, is void of true justice.” And in another part of *The City of God*, St. Augustine writes:

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

<sup>240</sup> “The peace of all things is the tranquility of order,” wrote St. Augustine. “**Order is the distribution which allots things equal and unequal**, each to its own place.... God, then, the most wise Creator **and most just Ordainer of all natures**, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace.... But as this divine Master inculcates two precepts—the love of God and the love of our neighbor—and as in these precepts a man finds three things he has to love—God; himself, and his neighbor—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, **since he is ordered to love his neighbor as himself.**” *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 690-693.

	welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”
<p>Anglican clergyman <u>Algernon Sidney Crapsey’s <i>Religion and Politics</i></u> comment on The Preamble of U.S. Constitution<sup>241</sup></p> <p><u>St. Augustine’s <i>City of God</i></u></p> <hr/> <p>Justice<sup>242</sup></p> <p>Tranquility<sup>243</sup></p> <p>Liberty<sup>244</sup></p>	<p>A More Perfect Union</p> <p>Establish justice</p> <p>Domestic tranquility</p> <p>General Welfare</p> <p>Blessing of Liberty</p> <p>Common Defense</p>

<sup>241</sup> Algernon Sidney Crapsey, *Religion and Politics* (New York, N.Y.: Thomas Whittaker, 1905), pp. 305-306 (“When the Constitutional Convention of 1787 sent forth the Constitution which it devised for the government of the nation it did so in these words: ‘We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our children, do ordain and establish this Constitution for the United States of America.’ Now can any man write a more perfect description of the Kingdom of God on earth or in the heaven than is to be found in these words? A government resting upon such principles as these is not a godless policy; it is a holy religion.... When the people of the United States decreed by constitutional amendment that the government should never by law establish any religion, they did actually establish the only religion that could comprehend in its membership the whole American people.”)

<sup>242</sup> “Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on.” *The City of God*, p. 112.

<sup>243</sup> “The peace of all things is the tranquility of order,” wrote St. Augustine. “**Order is the distribution which allots things equal and unequal**, each to its own place.... God, then, the most wise Creator **and most just Ordainer of all natures**, who placed the human race upon earth as its greatest ornament, imparted to men some good things adapted to this life, to wit, temporal peace, such as we can enjoy in this life from health and safety and human fellowship, and all things needful for the preservation and recovery of this peace.... But as this divine Master inculcates two precepts—the love of God and the love of our neighbor—and as in these precepts a man finds three things he has to love—God; himself, and his neighbor—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, **since he is ordered to love his neighbor as himself.**” *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 690-693.

<sup>244</sup> “This is prescribed by the order of nature: it is thus that God has created man. For ‘let them,’ He says, ‘have dominion over the fish of the sea, and over the fowl of the air, and over every creeping thing which creepeth on the earth.’ He did not intend that His rational creature, who was made in His image, should have dominion over anything but the irrational creation—not man over man, but man over the beasts... for it is with justice, we believe, that the condition of slavery is the result of sin. And this is why we do not find the word ‘slave’ in any part of Scripture until righteous Noah branded the sin of his son with this name. It is a name, therefore, introduced by sin and not by nature. The origin of the Latin word for slave is supposed to be found in the circumstances that those who

Common Weal of People/ General Welfare <sup>245</sup>	
Common Defense (“Just War”) <sup>246</sup>	

## CONCLUSION

St. Augustine of Hippo’s *The City of God* is perhaps the official position of the Western Church regarding the political theory and constitutional law in the West.<sup>247</sup> This official position holds that a law of morality (i.e., *virtue*) is necessary in order for a civilization to flourish; and, furthermore, that with the widespread body politic, there must be a majority of human beings who are subjected to the “law of reason” within their human souls, in order for civil governments to establish true justice. The objective of this moral law (i.e., *virtue*) is to preserve peace, order, and domestic tranquility; and, even though the civil magistrate has valid authority to mete out civil justice, this valid civil authority is ordained and given by God Himself and governed by His moral law. In *The City of God*, St. Augustine explained to his contemporaries that the Roman Empire had fallen under the weight of its own licentiousness and immorality; and that the Christian religion was “life-giving” because it promoted morality and virtue. For this reason, the Western Church (especially the Roman Catholic Church and the Church of England) have held to the position that any separation of Church from the State must be “procedural” but not “substantive,” because there is only one substantive fundamental law which governs both Church and State. The Church is responsible for certain important aspects of human life, whereas the

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by the law of war were liable to be killed were sometimes preserved by their victors, and were hence called servants. And these circumstances could never have arisen save through sin. For even if we wage a just war, our adversaries must be sinning; and every victory, even though gained by wicked men, is a result of the first judgment of God... But by nature, as God first created us, no one is the slave either of man or of sin. This servitude is, however, penal, and is appointed by that law which enjoins the preservation of the natural order and forbids its disturbance; for if nothing had been done in violation of that law, there would have been nothing to restrain by penal servitude.” St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), pp. 693-694.

<sup>245</sup> “Scipio reverts to the original thread of discourse, and repeats with commendation his own brief definition of a republic, that it is the weal of the people. ‘The people’ he defines as being not every assemblage or mob, but an assemblage associated by a common acknowledge of law, and by community of interests. Then he shows the use of definition in debate; and from these definitions of his own he gathers that a republic, or ‘weal of the people,’ then exists only when it is well and justly governed, whether by a monarch, or an aristocracy, or by the whole people [i.e., democracy]. But when the monarch is unjust, or, as the Greeks say, a tyrant; or the aristocrats are unjust, and form a faction; or the people themselves are unjust, and become, as Scipio for want of a better name calls them, themselves the tyrant, then the republic is not only blemished (as had been proved the day before), but by legitimate deduction from those definitions, it altogether ceases to be. For it could not be the people’s weal when a tyrant factiously lorded it over the state; neither would the people be any longer a people if it were unjust, since it would no longer answer the definition of a people—‘an assemblage associated by a common acknowledgment of law, and by a community of interests.’” St. Augustine in *The City of God* (New York, N.Y.: The Library of America, 1950), p. 62.

<sup>246</sup> St. Augustine acknowledges the idea of “just war” in *The City of God*, where he states: “And, accordingly, they who have waged war in obedience to the divine command, or in conformity with His laws have represented in their persons the public justice or the wisdom of government, and in this capacity have put to death wicked men; such persons have by no means violated the commandment, ‘Thou shalt not kill.’” Ibid, p. 27.

<sup>247</sup> This Western Church includes both the Roman Catholic and the Protestant wings of Christendom.

State is responsible for other very important aspects of secular life. In the Anglican worldview (as reflected in the constitutional documents of colonial New England), both the Church and the State must cooperate and act in tandem with each other, as two sides of the same coin. As it turned out, the English Baptists, even though they were strong supporters of the separation of Church and State, did not stray far from this particular Anglican view.

**THE END**