

**LAW AND THE BIBLICAL TRADITION:
SELECT BIBLIOGRAPHY FOR CHRISTIAN LAW STUDENTS**

**INSTITUTE FOR CHRISTIAN LEGAL STUDIES
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Michael P. Schutt**

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** Associate Professor, Regent University School of Law, and Director, Institute for Christian Legal Studies, a joint ministry of the Christian Legal Society and Regent University School of Law. J.D., University of Texas School of Law. Email: michsch@regent.edu. This bibliography is in many ways a result of my own education at the hands of my colleagues and students at Regent Law School. I want to especially thank my colleagues Craig Stern, Scott Pryor, Jeff Brauch, David Wagner, Mike Hernandez, Lynne Marie Kohm, Alice Curtis, Doug Cook, Sam Menefee, and Jennifer Franklin for their insight and encouragement on this project and for their helpful suggestions on the sources to be included. I am also grateful for the hard work of Mary Bunch and Amy Clark. I am also indebted to the insight of Herbert W. Titus, a pioneer in the area of biblical integration, Sam Casey, Charlie Emmerich, and Professor David M. Smolin. Sincere thanks also to Robert F. Cochran, Teresa Stanton Collett, the late David O. Coolidge, Michael Scaperlanda, Bill Brewbaker, Patrick Quirk, Christopher Wolfe, and Greg Jones for their helpful comments on earlier editions. Finally, Regent University School of Law, Dean Jeffrey A. Brauch, and Provost George Selig have made this project possible by their generosity and patience.

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INTRODUCTION

I. PURPOSE

The civil law, although imperfectly administered by man, is a gift from God that flows from his nature and reflects his character. Not just its roots, then, but its trunk, branches, and leaves, are in a real sense “Christian.” It is increasingly difficult, of course, to discern God’s character in modern law and legal scholarship, and it is more important than ever that lawyers understand the nature and purpose of law as flowing from the law-giver. While I was in law school, I had difficulty applying this out-of-vogue worldview to the substance of many of my classes. Although I knew the Bible, I didn’t have any idea of the breadth of the theological and historical treasures that were available to me.

This bibliography is an introduction for the law student who wants to tap into those treasures. Most of the traditional sources, especially those informed by a biblical view of the world, have lost their influence in today’s legal academy. The Christian legal scholar who desires to integrate the study of law with his or her Christian faith needs instruction and encouragement from those who have dedicated careers and lives to the pursuit of God’s law. Believers from Augustine to Blackstone to contemporary scholars can provide that instruction and encouragement. The work of the saints gives today’s Spirit-led law student the tools for the difficult task of evaluating our legal system and institutions from a biblical perspective.

This bibliography seeks, first, simply to remind you of the important foundational material that you may have missed in law school and college. Second, with the time constraints of the law student in mind, it will direct you to books and articles that build on or explain the theology of law and, in particular, the Anglo-American legal system. It will emphasize works that are manageable for the novice. In short, this bibliography is only a beginning.¹

¹ This bibliography is by no means exhaustive. Even given its limited purpose, it is a mere scratch on the surface of the deep body of work relevant to the study of law and scripture. Theological journals, law reviews, popular magazines, and sermon collections are filled with God’s wisdom on complicated and important issues to the Christian lawyer. Use this list to dig deeper into the vast resources of the body of Christ.

II. SELECTION

The listed materials have been selected with a view to the needs and desires of the typical law student. Again, the goal of this short list is to help the busy law student study law from a biblical perspective. With that goal in mind, works were selected on the basis of one criterion: Will this work help a Christian law student integrate God's truth with the study of law? This overarching criterion involves two questions. First, how helpful is the work to applying scripture and its perspective to legal study? Second, will a law student actually be able to use it, given the typical time and energy constraints of law school?

The first question excludes many excellent and important works that would otherwise be of interest to Christian legal scholars. Most works on moral philosophy and the law, law and religion, and church/state issues are important to the Christian lawyer, and, in fact, provide an important avenue of discussion with mainstream legal theorists. These topics, however, do not generally provide the specific biblical or Christian foundations that this bibliography seeks. I have tried to include only those works specifically helpful to the Christian lawyer who desires to inform the study of law with the scriptures and orthodox Christianity. In addition, some works, while flowing from a biblical worldview, are too general in their application of that worldview to be included.

The second question limits the list even further. The typical law student has more than enough to read and review, and a typical reading list of the classics of the common law would be impossible to cover, even in part. Therefore, the list is biased in favor of shorter, focused works that a typical 2L would be willing and able to digest.² In addition, this list leans toward works to which you will not likely be exposed in law school.

Finally, the task of studying law from a biblical perspective is difficult because it is, in fact, a *theological* task. Biblical integration cannot be done well without application of orthodox doctrine and biblical theology. Of course there are vast differences in the Church on these questions, but that fact cannot excuse lawyers' tendency to ignore theology and doctrine.³ Of course, we all agree that lawyers should be "good people" and study the bible. But if we focus only on doctrine on which we are in agreement, our biblical integration will be reduced to mere pietism, and we will be unable to solve important substantive questions of tort law, contracts, and civil procedure.⁴ The

² On the categories used in organizing the bibliography by the "typical 2L" standard, see part III of this introduction, "Organization."

³ This tendency of Christian lawyers may be merely a symptom of the broader intellectual problem within the church, or, as Mark Noll puts it, a scandal within evangelicalism "The scandal of the evangelical mind is that there is not much of an evangelical mind. . . . One of the self-defining convictions of modern evangelicalism has been its adherence to the Bible as the revealed Word of God. Most evangelicals also acknowledge that in the Scriptures God stands revealed plainly as the author of nature, as the sustainer of human institutions (family, work, and government), and as the source of harmony, creativity, and beauty. Yet it has been precisely these Bible-believers par excellence who have neglected sober analysis of nature, human society, and the arts." MARK NOLL, *THE SCANDAL OF THE EVANGELICAL MIND* 3-4 (1994).

⁴ For a discussion of the history of Pietism (as a movement), and its slide into pietism (as a trend in Christian education), in the broader context of higher education and individual denominations, see JAMES TUNSTEAD BURTCHAELL, *THE DYING OF THE LIGHT: THE DISENGAGEMENT OF COLLEGES AND*

problem this poses for this work, however, is that once the “big questions” are opened, many more “big questions” arise. When we ask the questions about interpreting scripture and hermeneutics, we soon must raise the question of differing approaches to biblical theology. This, in turn, highlights the differences on the central questions for biblical integration, such as the role of the state, the end of temporal government, and the sources of law. While these questions are difficult, we cannot ignore them. This bibliography does not ignore them, either, and it lists a sampling of sources on all of these issues.⁵

Because biblical integration requires knowledge of the substance of the law in addition to knowledge of the Bible, it is a fairly specialized discipline. As a result, in many instances I have relied on my colleagues who teach specific subjects to choose those books most helpful to integration on those subjects. In those instances where I cannot recommend the work based upon my personal knowledge or general consensus, I note the source of my recommendation and comments from my colleagues.

III. ORGANIZATION

The works are listed by subject and then organized within that subject by their 2L utility factor. The works are categorized as “Most Useful” or “Useful” and then alphabetically within each category. Important works that are not “useful” within the narrow definition of the 2L utility factor due to density or length⁶ are listed alphabetically as “Important Resources.” Finally, works that are helpful, but perhaps more specialized or quirky, are listed as “Other Resources.”

There are many works that defy categorization by law school subject. For example, some works, such as general histories or commentaries, cover almost every law school subject. Others, instead of addressing a particular legal topic, discuss the philosophy of law or legal education, generally. The list is therefore divided into two sections: A) General Resources, containing general theological, historical, and multi-subject treatises; and B) Law School Subjects, listing sources or sections based upon their application to substantive areas of the law. If a more general work is listed in one category, only specific sections of that work will be included under specific law school subjects. In addition, in cases where a general source is listed, but effectively excerpted in another source, the excerpt is often the only reference.

UNIVERSITIES FROM THEIR CHRISTIAN CHURCHES 819-52 (1998). “The pietist view eventually . . . was that religious endeavors on campus should be focused upon the individual life of faith, as distinct from the shared labor of learning. Religion’s move to the academic periphery was not so much the work of godless intellectuals as of pious educators who, since the onset of pietism, had seen religion as embodied so uniquely in the personal profession of faith that it could not be seen to have a stake in social learning.” *Id.* at 842.

⁵ This work merely provides illustrative theological sources, and there are hundreds more available. This bibliography makes no attempt to put together a comprehensive – or even exemplary—list of theological works that will help the legal scholar sort out doctrinal consequences or justifications of legal rules.

⁶ Even some lengthy works, because of their importance to the task of biblical integration, are included in the “Useful” or “Most Useful” categories.

Finally, remember that the most important resource is the Bible, God's Holy Word. Do not neglect it-- or Him-- in your studies. I encourage you to seek the guidance of the Holy Spirit as you undertake the exciting task of searching for truth.

SELECT BIBLIOGRAPHY

I. BOOKS AND ARTICLES

A. GENERAL RESOURCES

1. Multiple Subjects and General Orientation

-Most Useful

THOMAS AQUINAS, *Treatise on Law*, SUMMA THEOLOGICA I-II, 90 – 97. Available in edited form, with explanatory notes: PETER KREEFT, A SUMMA OF THE SUMMA (Ignatius 1990). The *Summa* is also excerpted and discussed in JEFFREY A. BRAUCH, IS HIGHER LAW COMMON LAW? READINGS ON THE INFLUENCE OF CHRISTIAN THOUGHT IN ANGLO-AMERICAN LAW (Fred B. Rothman & Co. 1999). The *Summa* is one of the most important works of western philosophy and Christian theology. The Encyclopedia Britannica notes that Thomas “has done more than any other writer save Augustine to fashion the theological language of the Western Church.” In the *Treatise on Law*, Thomas addresses the nature of God's law and its relation to man, the role of the law, and divine law. There is no theory of natural law that is not indebted to Thomas Aquinas. While relatively short, the *Treatise on Law* is not a quick read. It is written in the scholastic style. He begins with the proposition stated, then addresses contrary arguments, makes an evidentiary statement, and then presents his argument in the form of a refutation of the contrary arguments. I recommend reading the *Treatise on Law* with the help of Kreeft's notes and explanations. There are other editions, including a 1998 paperback from Regnery Publishing (Gateway Editions), with a fine, but short introduction by Professor Ralph McInerny. In addition, there are many good works that discuss Thomistic legal and political theory. See G.K. CHESTERTON, ST. THOMAS AQUINAS (1933), JOHN M. FINNIS, AQUINAS: MORAL, POLITICAL AND LEGAL THEORY (1998) (Foundations of Political Thought Series), A.P. D'ENTREVES, THE MEDIEVAL CONTRIBUTION TO POLITICAL THOUGHT (Humanities Press 1959), and Anto-Hermann Chroust, *The Philosophy of Law of St. Thomas Aquinas: His Fundamental Ideas and Some of His Historical Precursors*, 19 Am. J. Juris. 1(1973).

HAROLD J. BERMAN, LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION (Harvard 1983). Professor Berman, in one of the most important legal histories written this century, “concludes that ‘the history of Western law, and especially of its origins, reveals its rootedness in the deepest beliefs and emotions of a people. Without the fear of purgatory and the hope of the Last Judgment, the Western legal tradition could not have come into being’ (p. 558). This is the challenging thesis of a powerfully argued history and theory of law and jurisprudence. Berman methodically (and repeatedly) takes aim at the prevailing dogmas and Idols of the Theater in

conventional scholarship of every trendy ideological stripe in a synthesis of polemic, analysis, and narrative history presenting a master of his craft at his magisterial best. This is an outstanding book, perhaps a great one.”⁷ It is neither an easy nor a quick read, but it is an important book, well worth the effort. 558 pages, plus notes and index.

LYNN ROBERT BUZZARD, *CHRISTIAN PERSPECTIVES ON LAW AND JUSTICE* (Christian Legal Society 1977). This 15-page monograph is an introduction to the important theoretical issues that will face the Christian law student and lawyer. This work is useful to orient the student for legal study. The chapters include “Religion and the Law,” “Some General Commitments which Inform the Christian Perspective on Law,” and “Some Specific Areas of Christian Concern.”

H. Wayne House, ed., *THE CHRISTIAN AND AMERICAN LAW* (Kregel 1998). This volume contains eleven excellent essays under three headings, “How Christianity Has Influenced American Law,” “How Christians Should Relate to American Law,” and “How Christians May Influence American Law.” Herbert W. Titus, R.C. Sproul, John Eidsmoe, Carl F.H. Henry, and others provide a variety of reformed perspectives on the topics.

Michael Novak, *The Faith of the Founding*, *FIRST THINGS*, April 2003, at 27. This five-page article simply and powerfully demonstrates that the American ideas of religious freedom and individual rights are distinctly Christian. The forerunners of the Bill of Rights, written by Jefferson, Mason, and Madison, “owe their derivation to a Jewish and Christian worldview, and do not spring from any other.”

Herbert W. Titus, *God’s Revelation: Foundation for the Common Law*, 4 *REGENT U. L. REV.* 1 (1994). This relatively short article (37 pages) provides an excellent introduction to the common law and its Christian roots. The article touches on all the fundamental issues for the Christian lawyer: It is an excellent introduction to natural law, the law of property, biblical jurisdiction, and religious freedom. Because it is short and introduces the student to a wide range of important biblical issues, it is a must read.

HERBERT W. TITUS, *GOD, MAN, AND LAW: THE BIBLICAL PRINCIPLES* (Institute in Basic Life Principles 1994). This important book, part casebook (it contains numerous court opinions), part history lesson, and part legal and theological treatise, addresses every important legal theme. It is divided into eight sections (God, Man, Legal Education, and Law; Law: The Biblical Foundations; Jurisdiction; Equality; Fault; Vow; Dominion; Restitution), and each section is followed by a set of study questions with scripture references, designed to lead the reader to the scriptures for answers to the important issues raised in the chapter. The text and interspersed readings do not provide pat answers, but point the reader to issues for deeper reflection and study. Because of this structure and the book’s length (309 pages plus notes, index, and glossary), this book would be excellent for group discussion or as a source book for a bible study. Dean Titus writes in his introduction that his book is “designed to challenge the reader to develop a Biblical understanding of law, with particular focus on law in the United States of America.”

⁷ Ellis Sandoz, *Book Review*, 45 *LA. L. REV.* 1111 (1985).

-Useful

GARY AMOS, *DEFENDING THE DECLARATION: HOW THE BIBLE AND CHRISTIANITY INFLUENCED THE WRITING OF THE DECLARATION OF INDEPENDENCE* (1989). Professor Amos argues that the Bible and Christianity were the most important influences on the framers.

HAROLD J. BERMAN, *FAITH AND ORDER: THE RECONCILIATION OF LAW AND RELIGION* (Emory 1993). Part of the Emory University Studies in Law and Religion Series, this work consists of 22 “chapters,” essays, articles, and speeches written by Professor Berman over a period of fifty years. The book is divided into four parts: Historical Themes; Sociological and Philosophical Themes; Theological, Prophetic, and Educational Themes; and Russian and Soviet Themes. Professor Berman is the foremost authority on religious history and the law. Many of the individual articles are listed below by subject.

Roger Bern, *A Biblical Model for Analysis of Issues of Law and Public Policy: With Illustrative Applications to Contracts, Antitrust, Remedies, and Public Policy Issues*, 6 REGENT U. L. REV. 103 (1995). Bern argues that American law needs “an unapologetic return to the transcendent religiosity giving foundation to the ideals of autonomy and generality in law, and in particular to the law of nature and divine revelation found in the Holy Scriptures.” (p. 107). Professor Bern sets out a “Biblical Model,” to demonstrate how various legal issues should be handled with proper reference to God’s Word and traditional notions of natural law. The Biblical Model has three components:

The first, Requisites for Law and Justice, is foundational to the Model. It sets forth Biblical requisites for substantive law and for its proper administration. It reflects aspects of God's character and sovereignty which are manifested in the perfection of both His law and His administration of justice. . . . One of the requisites identified in the first component is jurisdiction -- the authority to act. Because of the multiplicity of jurisdictions God has established on the earth, it is important to identify which has authority to act in any given situation. With respect to analyzing issues of law and public policy, the authority which Civil Government may exercise is of particular significance. For that reason, the second component, Jurisdictional Considerations, develops in some detail the jurisdiction of Civil Government in the context of the other jurisdictions. The Israel Example is the final component of the Model. Although God's relationship with Israel was unique, founded as it was upon a special covenant and distinct call for that people to be His holy nation, the Bible declares that God revealed His laws and ordinances to Israel as an example to other nations. Therefore, the Biblical account of God's dealings with Israel regarding the administration of justice and indicating the scope of authority He had vested in the Civil Government of

that nation is instructive for the Civil Government of other nations as well.⁸

Bern then applies the Model to various situations. Although the article is long, its demonstration of serious biblical integration will help the law student understand the difficult issues involved in applying scripture to our legal system.

JEFFREY A. BRAUCH, *IS HIGHER LAW COMMON LAW? READINGS ON THE INFLUENCE OF CHRISTIAN THOUGHT IN ANGLO-AMERICAN LAW* (Fred B. Rothman & Co. 1999). This work, prepared as an introduction to basic principles of legal philosophy and legal history for first-year law students, “encourages students to recognize and seek the biblical foundations of law and legal institutions.” The book surveys fundamental ideas in Property, Procedure, Criminal Law, Torts, and Contracts, using excerpts from both prominent and obscure sources to highlight the philosophical issues and disputes running through Anglo-American legal history. In addition, Dean Brauch includes an opening section, “The Nature of Law and the Fundamental Shift in Legal Thinking” that traces the historical development of legal thought from “higher law thinking” to “legal relativism.” He closes the book with four chapters on “Current Thinking on How God’s Law Should Affect Man’s Law,” contrasting views from Christian Reconstruction, Dispensationalism, Reformed theology, and Christian Libertarianism. The comments and questions throughout point the reader to major issues and further study. The readings are edited specifically for 1Ls, so it is well suited to the inquiring novice. Its breadth and depth of inquiry, however, give plenty of fodder to the scholar as well. This is a great introduction to the basic issues in biblical integration and a helpful outline of the history of the common law.

James Gordley, *Law and Religion: An Imaginary Conversation with a Medieval Jurist*, 75 CAL. L. REV. 169 (1987). In this article, an “enlightened” law professor travels back to the “age of faith” to discuss the crucial intersection of law and religion.

Russell Hittinger, *Natural law as “Law”*: *Reflections on the Occasion of Veritatis Splendor*, 39 AM. J. JURIS. 1 (1994). Professor Hittinger begins by defining “natural law” and then proves the centrality of theology, moral ethics, and law to modern discourse on the topic.

JAMES B. JORDAN, *THE LAW OF THE COVENANT: AN EXPOSITION OF EXODUS 21-23* (1984). This Reformed exposition delivers depth and applications rarely found in modern treatments of the Old Testament law.

ROBERT P. KRAYNAK, *CHRISTIAN FAITH AND MODERN DEMOCRACY: GOD AND POLITICS IN THE FALLEN WORLD* (Notre Dame 2001). A thoughtful, broadly philosophical approach to the relationship between Christianity and American democracy. Kraynak

⁸ Roger Bern, *A Biblical Model for Analysis of Issues of Law and Public Policy: With Illustrative Applications to Contracts, Antitrust, Remedies, and Public Policy Issues*, 6 REGENT U. L. REV. 103, 110-11 (1995).

dissects and discerns important principles and movements in philosophical and political history, and he adds his own critique of classical liberalism.

ROUSAS J. RUSHDOONY, *THE INSTITUTES OF BIBLICAL LAW* (Craig Press 1973). In this huge work, Rushdoony, probably the most influential Christian reconstructionist,⁹ evaluates modern cultural, social, and legal practice in light of God's judicial, moral, and ceremonial law set out in the Old Testament and fulfilled in Christ. His approach will be radical to many, as he considers the moral and judicial Old Testament law to be binding on all nations. Nevertheless, his extensive commentary and exhaustive treatment of Old Testament legal texts will give the careful student raw material for further study and reflection. Christian reconstructionism, though theologically flawed in the view of many, is one of the few modern movements that takes seriously God's revealed law in the Old Testament.

-Important References

WILLIAM BLACKSTONE, *COMMENTARIES ON THE LAWS OF ENGLAND* (1765-1769). "The Christian philosophy of law came to full bloom in England with the work of Sir William Blackstone in his monumental *Commentaries on the Laws of England*. In his seminal chapter on 'the Nature of Laws in General,' Blackstone stated his Christian thesis with unmistakable clarity [quotation omitted]. Published in 1765, Blackstone's *Commentaries* quickly became the definitive treatise on the common law both in England and in America."¹⁰

LYNN ROBERT BUZZARD, *LAW AND THEOLOGY: AN ANNOTATED BIBLIOGRAPHY* (Christian Legal Society 1979).¹¹ An expansive and comprehensive list.

JOHN CALVIN, *INSTITUTES OF THE CHRISTIAN RELIGION* (1559). The preferred edition appears to be the Library of Christian Classics edition: John T. McNeill, ed., Ford Lewis Battles, trans., Westminster Press 1960. The 1845 Henry Beveridge translation, published by Eerdmans (1972), is available in paperback. "The Celebrated Treatise . . . holds a place in the short list of books that have notably affected the course of history, molding the beliefs and behavior of generations of mankind. Perhaps no other theological work has so consistently retained for four centuries a place on the reading list of studious Christians. . . . The work was designed both as a compendium of the doctrines of the Christian religion and as a confession offered to a persecuting king in behalf of the author's fellow believers."¹² This is perhaps *the* classic of Protestant

⁹ Christian reconstructionism, flowing from the Reformed tradition, is characterized by Calvinism, Theonomy, Presuppositionalism, Postmillennialism, and Dominionism. See Andrew Sandlin, *The Creed of Christian Reconstruction*, THE CHALCEDON REPORT, August 1995 (Reprinted in JEFFREY A BRAUCH, IS HIGHER LAW COMMON LAW? 362-63 (1999)).

¹⁰ Herbert W. Titus, *God's Revelation: Foundation for the Common Law*, 4 REGENT U. L. REV. 1, 3 (1994).

¹¹ Professor Buzzard's bibliography is slightly outdated, but it is an important and comprehensive work. I was directed to many of the sources cited herein by Professor Buzzard's bibliography.

¹² *INSTITUTES OF THE CHRISTIAN RELIGION*, Editor's Introduction, at xxix, xxxiii (John T. McNeill, ed., Ford Lewis Battles, trans., Westminster Press 1960) (1559).

theology, and, in addition to basic doctrinal themes, it contains many concise discussions of the law, authority, and civil government.

RICHARD HOOKER, *OF THE LAWS OF ECCLESIASTICAL POLITY*. “Richard Hooker deserves close study—in part because the Anglicans or Episcopalians (and the Methodists who in the eighteenth century branched off from Anglicanism) had much to do with the forming of American thought and custom, and in part because his principles retain enduring value in their own right. In the Christian humanist Hooker, the right reason of Thomas Aquinas was joined with the renewing vigor of the Reformation. . . . This is a work of religious philosophy, rather than of theology strictly; its political theories have outlasted the immediate controversies that brought forth the treatise.”¹³ The work is long, and I have been unable to locate an edited version of the political/legal writings of this influential theologian. For a summary of the major themes of his writing, see the continuation of the foregoing discussion in Russell Kirk, *The Roots of American Order* 240-47 (3d ed. 1991). In addition, many scholarly works address the contributions of Hooker’s theology to legal and political theory.¹⁴

JAMES KENT, *COMMENTARIES ON AMERICAN LAW* (1826). Parts of the 1826 edition are available on the Internet: http://www.constitution.org/jk/jk_000.htm. Kent is often called “America’s Blackstone.” Like all early common law scholars, Kent’s scholarship is informed by a biblical worldview. Therefore, reference to any topic in his treatise will find a biblical approach to the substantive issues at hand.

PHILIP B. KURLAND & RALPH LERNER, EDs., *THE FOUNDERS’ CONSTITUTION* (Liberty Fund 2000). This impressive five-volume sourcebook is a “collection of thoughts, opinions, and arguments of the Founders.” It is “an anthology of reasons and of the political arguments that thoughtful men and women drew from, and used to support, those reasons. . . . [T]hose reasons and political arguments have enduring interest and significance for anyone who purports to think about constitutional government in general and the Constitution of the United States in particular.”¹⁵ Volumes 2 through 5 are organized by the text of the Constitution and Amendments. Each section is set out, and is followed by an index of the major thoughts, opinions, and political arguments surrounding that section of the Constitution. The sources are many and varied, and include classics, from Calvin to Blackstone to Kent, as well as more obscure sources, letters, and articles. Volume One contains sources for “Major Themes,” from “the Popular Basis of Political Authority” to “Bicameralism.” A great web-based edition is available: <http://press-pubs.uchicago.edu/founders/>.

MICHAEL MCCONNELL, ANGELA CARMELLA, AND ROBERT COCHRAN, EDs., *CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT* (Yale University Press 2001). “Eminent legal scholars—including Stephen Carter, Thomas Shaffer, Elizabeth Mensch, Gerard Bradley,

¹³ RUSSELL KIRK, *THE ROOTS OF AMERICAN ORDER* 241-42 (3d ed. 1991)

¹⁴ See, e.g., A.P D’ENTREVES, *MEDIEVAL CONTRIBUTIONS TO POLITICAL THOUGHT: THOMAS AQUINAS, MARSILIUS OF PADUA, RICHARD HOOKER* (1959); and ROBERT K. FAULKNER, *RICHARD HOOKER AND THE POLITICS OF A CHRISTIAN ENGLAND* (1981)

¹⁵ PHILIP B. KURLAND & RALPH LERNER, EDs., *THE FOUNDERS’ CONSTITUTION* ix, xi (Liberty Fund 2000).

and Marci Hamilton—describe how various Christian traditions, including the Catholic, Calvinist, Anabaptist, and Lutheran traditions, understand law and justice, society and the state, and human nature and human striving. The book reveals not only the diversity among Christian legal thinkers but also the richness of the Christian tradition as a source for intellectual and ethical approaches to legal inquiry.”¹⁶

JOHN MILTON, *AREOPAGITICA AND OTHER POLITICAL WRITINGS OF JOHN MILTON* (Liberty Fund 1999). Milton’s political works are not as well known as *Paradise Lost*, but they were quite influential. His political writings convey a Puritan perspective on the biblical role of the state, the nature of freedom, and the role of free people. 456 pages.

GARY NORTH, *TOOLS OF DOMINION* (Institute for Christian Economics 1990). “This is a fat book. . . . Thin and medium sized books have their rightful place in initiating social transformations. But to maintain such a transformation, there had better be some fat back-up books on the shelf. ‘What should we do now?’ the initially victorious revolutionaries inescapably ask. Fat books provide the answers.”¹⁷ While the fatness (1216 pages, plus indices) of this book makes it a poor candidate for summer beach reading or tucking into the suitcase for that weekend getaway, it is an interesting resource. Dr. North covers every American cultural hot-button, from slavery to prisons to pollution to oaths to poverty and much more, and discusses each in the light of Old Testament law. His sharp edge will offend many, and his theonomic perspective and Christian Reconstructionism will put off a few more. In the end, however, there are few books that make the effort at taking seriously the case laws and commands of the Old Testament in relation to the modern cultural crisis of law and morals. This fat book makes that effort, though North’s judgments “differ from the common judgment” and may “cause offence to the godly.”¹⁸ The general index and scripture index make it usable as a reference work, despite its radical conclusions.

CATECHISM OF THE CATHOLIC CHURCH. Available online at <http://listserv.american.edu/catholic/church/church.html>.

-Other Resources¹⁹

ANDREW J. BUEHNER, ED., *LAW AND THEOLOGY: ADDRESSES AT THE DEDICATION OF WESEMANN HALL, VALPARAISO UNIVERSITY AND ESSAYS ON THE PROFESSIONAL RESPONSIBILITY OF THE CHRISTIAN LAWYER* (Concordia 1965). These eight addresses, published by the Lutheran Academy for Scholarship, “focus light on the fundamental role of the lawyer under American law.”

HERMAN DOOYEWEERD, *ESSAYS IN LEGAL, SOCIAL, AND POLITICAL PHILOSOPHY* (Edward Mellen Press 2001). Dooyeweerd was a Calvinist law professor and life-long student of

¹⁶ Publishers Note from <http://www.yale.edu/yup/books/087497.htm>.

¹⁷ GARY NORTH, *TOOLS OF DOMINION* 2, 3 (Institute for Christian Economics 1990).

¹⁸ Id. at 24 (quoting RICHARD BAXTER, *A CHRISTIAN DIRECTORY* (1673))

¹⁹ I include the Kelley, O’Donovan, and van Til selections at the suggestion of Regent law professor Scott Pryor.

the law. He dedicated that study to the integration of faith and learning. His works are still difficult to find, and his *Encyclopedia of Legal Science* is often difficult reading (especially now, since much of it has not been translated from the Dutch). John Witte calls Dooyeweerd “a premier Christian polymath who commands the attention of scholars in every discipline who seek to integrate faith and learning.” He was a follower of Kuyperian political philosophy, but he goes beyond Kuyper in the depth of his jurisprudence. You can find excerpts of his work at the Dooyeweerd Centre homepage: <http://www.redeemer.on.ca/Dooyeweerd-Centre/dooyew.htm>.

CAROL FRIEDLEY GRIFFITH, ED., *CHRISTIANITY AND POLITICS: CATHOLIC AND PROTESTANT PERSPECTIVES* (Ethics and Public Policy Center). Available online at http://www.eppc.org/books/xq/ASP/bookID.45/qx/book_viewdetail.htm.

DOUGLAS F. KELLY, *THE EMERGENCE OF LIBERTY IN THE MODERN WORLD: THE INFLUENCE OF CALVIN ON FIVE GOVERNMENTS FROM THE 16TH TO THE 18TH CENTURY* (1992).

RUSSELL KIRK, *THE ROOTS OF AMERICAN ORDER* (3d ed 1991). This is a classic that discusses American democracy and culture in the context of the Christian tradition. A great history lesson, it touches on the major players, classical and modern, that have shaped the American legal system.

ALISTER E. MCGRATH, *A PASSION FOR TRUTH: THE INTELLECTUAL COHERENCE OF EVANGELISM* (1999). This book is designed to equip intellectual Evangelicals to combat postmodernism, “postliberalism,” and various sacred doctrines of religious pluralism. One observer calls it an “intellectual circling of the wagons.”

MARK A. NOLL, *THE SCANDAL OF THE EVANGELICAL MIND* (1994). Dr. Noll, McManis Professor of Christian Thought at Wheaton College, explains:

By an evangelical ‘life of the mind’ I mean more the effort to think like a Christian—to think within a specifically Christian framework—across the whole spectrum of modern learning, including economics, political science, literary criticism and imaginative writing, historical inquiry and philosophical studies, linguistics and the history of science, social theory and the arts. [T]he point is not simply whether evangelicals can learn how to succeed in the modern academy. The much more important matter is what it means to think like a Christian about the nature and workings of the physical world, the character of human social structures like government and the economy, the meaning of the past, the nature of artistic creation, and the circumstances attending our perception of the world outside ourselves. Failure to exercise the mind for Christ in these areas has become acute in the twentieth century. That failure is the scandal of the evangelical mind.²⁰

²⁰ MARK A. NOLL, *THE SCANDAL OF THE EVANGELICAL MIND* 7 (1994).

JOAN LOCKWOOD O'DONOVAN, *THEOLOGY OF LAW AND AUTHORITY IN THE ENGLISH REFORMATION* (Scholar's Press 1991).

HERBERT SCHLOSSBERG, *IDOLS FOR DESTRUCTION: CHRISTIAN FAITH AND ITS CONFRONTATION WITH AMERICAN SOCIETY* (1983).

JAMES SKILLEN, *A COVENANT TO KEEP: MEDITATIONS ON THE BIBLICAL THEME OF JUSTICE* (Center for Public Justice).

L. JOHN VAN TIL, *LIBERTY OF CONSCIENCE: THE HISTORY OF A PURITAN IDEA* (1972).

ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* (Harvey C. Mansfield & Delba Winthrop, eds. and trans., 2000) (1835). Tocqueville's work remains the most important historical study of American democracy. This new translation, with an extensive introduction, has just been released, but there are many good editions of this great classic. It addresses a host of important issues for Christian lawyers, including the role of government, the nature of democracy, the role of religion in society, the place of social institutions, and the nature of the American legal profession. "Tocqueville's work allows us to see that the "culture wars" are not simply a product of 1960s radicalism. They are rooted, rather, in the permanent tension between theory and practice at the heart of American Democracy—a tension that no one has better elucidated than Alexis de Tocqueville."²¹

JOHN WITTE, JR., *RELIGION AND THE AMERICAN CONSTITUTIONAL EXPERIMENT: ESSENTIAL RIGHTS AND LIBERTIES* (Westview 1999).

CHRISTOPHER WOLFE, *ESSAYS ON FAITH AND LIBERAL DEMOCRACY* (University Press of America 1987). This collection includes a discussion of Locke's letter on toleration and Tocqueville's *Democracy in America*.

JOHN C. H. WU, *FOUNTAIN OF JUSTICE: A STUDY IN THE NATURAL LAW* (1959).

Symposium, Christian Perspectives on Law and Legal Scholarship, 47 J. LEG. ED. 1 (1997). Professors Gerard Bradley, David Caudill, David Smolin, and Robert Cochran contribute to this symposium.

Symposium, Law and Christianity, 12 OK. L. REV. 45 (1959).

James A. Pike, *Introduction* 45

Albert Mollegen, *Christ and Law* 48

Wilbur G. Katz, *Christ and Law* 57

Markus Barth, *Christ and Law* 67

Harold J. Berman, *The Influence of Christianity upon the Development of Law* 86

John Mulder and Karl Olsson, *Christian and Lawyer* 113

Jacques Ellul, *Propositions Concerning the Christian Attitude Toward Law* 134

²¹ Daniel J. Mahoney, *Tocqueville's Democracy*, THE WEEKLY STANDARD, October 23, 2000, at 36, 38.

Symposium, *Law and Christianity*, 10 VAND. L. REV. 879 (1957). Includes Samuel E. Stumpf, *Theology and Jurisprudence* (885); William S. Ellis, *The Christian Lawyer as Public Servant* (912), and William G. Stringfellow, *The Christian Lawyer as Churchman* (939), among others.

2. Legal Education

-Most Useful

Roger C. Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247 (1978). Cramton, then Dean of Cornell law school, examined the “value system” implicit in modern legal education and the implications of the value system from a “moral and religious perspective.” He supports the thesis that the value system’s “essential ingredients” include, among other things, “an instrumental approach to law and lawyering” and “faith that man, by the application of his reason and the use of democratic processes, can make the world a better place.”²²

John Paul II, Encyclical Letter on Catholic Universities: *Ex Corde Ecclesiae* (1990). The Pope discusses the nature and objectives of Catholic universities, “born from the heart of the church.” The encyclical includes guidelines on the universities’ mission, purpose, and their relationship to the church. Pope John Paul encourages “cultural dialogue,” evangelization, and “an institutional fidelity to the Christian message.”

HERBERT W. TITUS, *GOD, MAN, AND LAW: THE BIBLICAL PRINCIPLES 1-29* (1994). This section of Dean Titus’s work addresses the history of legal education in America and the impact of social Darwinism and scientific humanism on the law school.

JOHN WARWICK MONTGOMERY, *THE LAW ABOVE THE LAW* (Christian Legal Society 1975).

-Useful

Harold J. Berman, *The Crisis of Legal Education in America*, in *FAITH AND ORDER: THE RECONCILIATION OF LAW AND RELIGION* 333 (1993).

John Brabner-Smith, *Who Will Study Justice?* *Christianity Today*, April 25, 1975 at 9.

Lynn R. Buzzard, *A Christian Law School: Images and Vision*, 78 MARQUETTE L. REV. 267 (1995). Professor Buzzard holds that “there is not just one compelling vision for a Christian law school or university.” Cautioning against “cultural” Christianity, that is committing “oneself to a narrow, culturally conditioned understanding of religion, which is often employed to sanction contemporary prejudice,” he lists ten “Core Commitments,” beginning with “Worldview,” that the Christian law school should aspire to and move toward.

²² Roger C. Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247, 248 (1978).

JOHN ALLEN EIDSMOE, *INTEGRATING THE BIBLICAL REVELATION WITH THE TEACHING OF LAW* (1985) (unpublished D.Min. field project) (on file with Regent University Library).

L. Ricardo Giuliano, *Legal Education: A Historically and Biblically Informed Proposal* (1995) (unpublished M.A. thesis, Regent University) (on file with Regent University Library).

MICHAEL H. HOEFLICH, *THE GLADSOME LIGHT OF JURISPRUDENCE: LEARNING THE LAW IN ENGLAND AND THE UNITED STATES IN THE 18TH AND 19TH CENTURIES* (Greenwood Press 1988).

ARTHUR F. HOLMES, *THE IDEA OF A CHRISTIAN COLLEGE* (1975).

C. Scott Pryor, *Mission Possible: A Paradigm for Analysis of Contractual Impossibility at Regent University*, 74 ST. JOHN'S L. REV. 691 (2000). Professor Pryor sets out a detailed model for accomplishing the one subset of the mission of biblical integration: a “theologically informed historical development of the foundations of the law.” In doing so, he evaluates from many angles every aspect of a theologically-driven mission. In addition, he demonstrates the application of his model to one area of contract law.

Christopher Wolfe, *The Ideal of a (Catholic) Law School*, 78 MARQUETTE L. REV. 487 (1995).

-Important References

DAVID HOFFMAN, *A COURSE OF LEGAL STUDY* (1846). This “textbook” for law students is interesting because of the emphasis it places on character, religion, and God’s Word for success in the study of law. The legal subjects discussed, too, are informed by a biblical view of the world lacking today in most law schools. This work is not useful as a resource on the law, but it is worth looking at for encouragement and direction. The Student’s Prayer (from Samuel Johnson) and the 30 “Student’s Resolutions” (including “To avoid, rigidly, all studies on the Sabbath”) are, at least, worth pondering.

-Other Resources

Harold J. Berman, *Is There Such a Thing—Can There Be Such a Thing—as a Christian Law School?* in *FAITH AND ORDER: THE RECONCILIATION OF LAW AND RELIGION* 341 (1993).

Roger C. Cramton, *Beyond the Ordinary Religion*, 37 J. LEGAL EDUC. 509 (1987). Dean Cramton believes that “larger normative questions” must be place on the law school teaching agenda, because “a university law school has a broader function than a cooking institute, a barber college, or some other trade oriented technical school.” Cramton begins by stating his goal in his *The Ordinary Religion of the Law School Classroom*:²³

²³ See Section A2, above.

My thesis was that '[t]he essential ingredients of the ordinary religion of the American law school classroom are: a skeptical attitude toward generalizations; an instrumental approach to law and lawyering; a 'toughminded' and analytical attitude toward legal tasks and professional roles; and a faith that man, by the application of reason and the use of democratic processes, can make the world a better place.' . . . My earlier article on 'ordinary religion' is a critique of what I believe to be the implicit value system of legal education and American lawyering. Only by implication does the paper address the more constructive questions: What values should one presuppose in teaching, studying, or practicing law? To what extent, and how, should one's basic value commitments be articulated and discussed?

He goes on to articulate those values and commitments, concluding, in part:

I believe that a sense of calling is essential for law teachers and students. The search for truth, with all that implies concerning the meaningfulness of objective reality and the importance of the procedures by which we attempt to describe and talk about it, is a central commitment of the legal scholar. Is there not also a commitment, both for the law teacher and student, to search for the good? A renewed understanding of what it means to be a professional should include a commitment to something other than acquisition and success. If so, law schools have an educational responsibility to deal with the larger normative issues that infuse the application and use of legal technique.

Edward McGlynn Gaffney, Jr., *Biblical Law and the First Year Curriculum of American Legal Education*, 4 J. L. & RELIGION 63 (1986).

WILLIAM MURRAY, EARL OF MANSFIELD, *A TREATISE ON THE STUDY OF LAW* (William S. Hein & Co. 1973) (1797).

3. Basic Theological Issues, Hermeneutics, and the Role of Biblical Law²⁴

-Most Useful

R.C. SPROUL, *KNOWING SCRIPTURE* (Intervarsity 1977). 125 pages.

THOMAS AQUINAS, *Treatise on Law*. See annotation at Section A1, above.

John Paul II, Encyclical Letter *The Splendor of Truth: Veritatis Splendor* (1993). This encyclical is an exposition of Christ's conversation with the rich young man recorded in Matthew 19:16-30. The Pope's purpose is to "reflect on the whole of the Church's moral teaching, with the precise goal of recalling certain fundamental truths of Catholic doctrine which, in the present circumstances, risk being distorted or denied."²⁵ This reflection is in response to "an overall and systematic calling into question of traditional moral doctrine, on the basis of certain anthropological and ethical presuppositions. At the root of these

²⁴ Special thanks to my colleague Scott Pryor for suggesting most of the books in this section.

²⁵ *Veritatis Splendor* ¶4.

presuppositions is the more or less obvious influence of currents of thought which end by detaching human freedom from its essential and constitutive relationship to truth. Thus the traditional doctrine regarding the natural law, and the universality and the permanent validity of its precepts, is rejected”²⁶ In short, the encyclical is a response to growing moral relativism and the claim that there is no absolute truth that should guide our lives, our decisions, and our politics. It is about the “foundations of moral theology.”²⁷ The encyclical has broad implications for law, politics, and ethics, since it addresses the fundamental moral relativism that justifies much of modern legal and political theory. The letter addresses at length, for example, the relationship between God’s law and human freedom (¶¶36-68) and the evils of modern ethics grounded in consequentialism (¶¶74-97). Its scriptural focus and broad relevance give it wide appeal across the evangelical spectrum.

Russell Hittinger notes that today, “there is a deep and ultimately irrational reaction against any depiction, much less any organizing, of the moral life in terms of law.”²⁸ In *Veritatis Splendor*, John Paul II uses the scriptures to demonstrate “that there is a moral law that is indispensable, and that indeed binds authority itself. The Pope points out that all issues of circumstance, culture, place, and time notwithstanding, certain actions can never be made right; no human “law” can make them right. . . . Anyone who sets up an opposition between law and freedom, and then takes the side of freedom, not only underestimates the need for law but also misrepresents the nature of freedom.”²⁹

-Useful

GREG L. BAHNSEN, WALTER C. KAISER, JR., ET AL, FIVE VIEWS ON LAW AND GOSPEL (1993). This book presents five scholarly views on the relevance of Old Testament law to our lives as Christians today. The five views are presented in a very readable format. Each scholar has written one chapter, espousing his view, and, in addition, each has written a brief response to all the other presenters. William A. VanGemeren presents the non-theonomic reformed view, Greg Bahnsen presents a theonomic reformed view, Walter Kaiser, Jr. argues that the “weightier issues of the law of Moses” are binding today, Douglas Moo gives a “modified” Lutheran appraisal, and Wayne Strickland presents the dispensational view. There is a good index and index to scripture references. 416 pages.

DERKE P. BERGSMA, REDEMPTION: THE TRIUMPH OF GOD'S GREAT PLAN (1973). Bergsma describes his purpose: “The guiding objective of this study is to understand each major part of the Bible in its relationship to the grand design of God’s determination to save the world. It presents the ‘big picture,’ focusing especially upon Jesus Christ in whom the entire Scripture finds its unity. It moves from Genesis to Revelation, tracing the unfolding pattern which reveals God’s love for a lost world and His determination to save

²⁶ *Veritatis Splendor* ¶4.

²⁷ *Veritatis Splendor* ¶5.

²⁸ Russell Hittinger, *Natural Law and Catholic Moral Theology*, in MICHAEL CROMARTIE, ED., A PRESERVING GRACE: PROTESTANTS, CATHOLICS, AND NATURAL LAW 16 (1997).

²⁹ *Id.* at 22.

it. It is organized along the lines of Biblical Epochs which are identifiable historical segments of the history of redemption.” At 134 pages, this book is a short introduction to “Biblical Theology,” helping the student to understand God’s Word as “a whole” and leading to deeper study pertaining to law.

GORDON D. FEE & DOUGLAS STUART, *HOW TO READ THE BIBLE FOR ALL ITS WORTH* (2d ed. 1993). 272 pages. This short and indispensable reference gives the lay reader a primer on every subject related to Bible study. From choosing a translation or commentary, to handling Revelation or the Prophets, this introduction to serious Bible reading addresses the big picture in a very readable format.

RUSSELL HITTINGER, *A CRITIQUE OF THE NEW NATURAL LAW THEORY* (1989).

J.I. PACKER, *GOD HAS SPOKEN: REVELATION AND THE BIBLE* (3d ed. 1994). Baker Books. The basics of the doctrine of Scripture.

VERN A. POYTHRESS, *THE SHADOW OF CHRIST IN THE LAW OF MOSES* (1991). As we look to Scripture to guide us in issues facing our legal system, a great place to start, of course, is the law that God gave His people to govern themselves as a nation in the time of Moses. Special issues arise, however, as we seek to apply the lessons (or the specifics) of those laws to our time. Dr. Poythress first explains the Old Testament laws, with special attention to interpreting the law of Moses in light of Christ. In Part II, he discusses the specific penalties of the law, drawing applications for the modern state as well. Although its 400 pages are filled with theological terms and tools, the book is accessible to the layman.

CHRISTOPHER J.H. WRIGHT, *GOD'S PEOPLE IN GOD'S LAND: FAMILY, LAND, AND PROPERTY IN THE OLD TESTAMENT* (Eerdmans 1990).

-Important Reference

JOHN CALVIN, *INSTITUTES OF THE CHRISTIAN RELIGION* (1559). See annotation at Section A1, above.

RICHARD HOOKER, *OF THE LAWS OF ECCLESIASTICAL POLITY*. See annotation at Section A1, above.

JAMES B. JORDAN, *THE LAW OF THE COVENANT: AN EXPOSITION OF EXODUS 21-23* (1984). See annotation at Section A1, above.

ROUSAS J. RUSHDOONY, *INSTITUTES OF BIBLICAL LAW* (Craig Press 1973). See annotation at Section A1, above.

CATECHISM OF THE CATHOLIC CHURCH. Available online at <http://listserv.american.edu/catholic/church/church.html>.

4. The Seminal Questions - The Jurisdiction of the Civil Authority, the Church, and the Family

-Most Useful

JEFFREY A. BRAUCH, *IS HIGHER LAW COMMON LAW? READINGS ON THE INFLUENCE OF CHRISTIAN THOUGHT IN ANGLO-AMERICAN LAW* 347-429 (1999). See annotation, above, at section A1. Part C of this book, “Current Thinking on How God’s Law Should Affect Man’s Law,” excerpts definitive works from major modern movements. The chapter titles in Part C are: Christian Reconstruction, Dispensationalism, Some Middle Ground, Christian Libertarianism, and God’s Law as Moral Influence on Man’s Law. This is a fine introduction to the major modern themes in the state, the church, and the law.

JOHN CALVIN, *INSTITUTES OF THE CHRISTIAN RELIGION, On Civil Government*, IV.XX (John T. McNeill, ed., Ford Lewis Battles, trans., Westminster Press 1960) (1559). See annotation, above, at Section A1.

ABRAHAM KUYPER, *LECTURES ON CALVINISM* 78 – 109 (Eerdmans 1994) (1898). In 1898, Abraham Kuyper, Calvinist theologian, politician, and journalist, delivered six lectures at Princeton University on the topic of Calvinism. Lecture 3, “Calvinism and Politics,” expounds his “sphere theory” of jurisdiction as it relates to the State and to other social institutions, such as the church and family. Due to its clarity and brevity, it will be useful to time-pressed legal scholar. The lecture may also be accessed via the Internet: www.kuyper.org/stone/lecture3.html.

James Madison, et al, *Memorial and Remonstrance Against Religious Assessments* (1785). Excerpted in *THE FOUNDERS CONSTITUTION* (see Section A.1.) and 1 CHARLES S. HYNEMAN AND DONALD S. LUTZ, EDS., *POLITICAL WRITINGS OF THE FOUNDING ERA* 631 (Liberty Fund 1983). This is Madison’s famous, brief, and cogent biblical defense of freedom of religion. It is an easy answer to those who do not understand that “freedom of religion” is a Christian concept.

Craig A. Stern, *Things Not Nice: An Essay on Civil Government*, 8 *REGENT U.L. REV.* 1 (1997). An entertaining and illustrative exposition of the principle of the civil ruler’s limited authority. In twelve pages, Professor Stern explains why the civil government may not punish every wrong, even evils that harm the actor and the community.

-Useful

CHARLES COLSON, *KINGDOMS IN CONFLICT* (1987). Colson discusses the relation of the church and the civil authority.

JOHN EIDSMOE, *GOD AND CAESAR: CHRISTIAN FAITH AND POLITICAL ACTION* (1984). An introduction to the relationship of Christianity and politics from a biblical perspective. At 229 pages, digesting this work is not an overwhelming task.³⁰

³⁰ My thanks to my colleague Professor Alice Curtis for reminding me of this resource.

John XXIII, Encyclical Letter Peace on Earth: *Pacem in Terris* (1963). This encyclical begins by addressing natural rights and duties of human beings: “The natural rights with which We have been dealing are, however, inseparably connected, in the very person who is their subject, with just as many respective duties; and rights as well as duties find their source, their sustenance and their inviolability in the natural law which grants or enjoins them. Therefore, to cite a few examples, the right of every man to life is correlative with the duty to preserve it; his right to a decent standard of living with the duty of living it becomingly; and his right to investigate the truth freely, with the duty of seeking it ever more completely and profoundly.”³¹ It then moves on to discuss the nature of the State and its relation to God, from whom it derives its moral authority. It notes that laws passed contrary to the moral order are not binding on citizens (§51). The major focus, however, is on the relationship between states and their moral duties one to another.

Leo XIII, Encyclical Letter on the Nature of Human Liberty: *Libertas Praestantissimum* (1888). An extended discussion of the sources and nature of human liberty, grounded in the natural law, and therefore the eternal law: “[T]he eternal law of God is the sole standard and rule of human liberty, not only in each individual man, but also in the community and civil society which men constitute when united. Therefore, the true liberty of human society does not consist in every man doing what he pleases, for this would simply end in turmoil and confusion, and bring on the overthrow of the State; but rather in this, that through the injunctions of the civil law all may more easily conform to the prescriptions of the eternal law.”³² Leo criticizes liberal doctrines such as the separation of church and state (§§18-22), freedom of speech and the press (§23), and freedom of conscience, except as it may be said to affirm the individual’s freedom from “an omnipotent state” to obey God and his commands (§§30 and 31). The encyclical addresses the relationship between human freedom and absolute truth.

JOHN COURTNEY MURRAY, WE HOLD THESE TRUTHS: CATHOLIC REFLECTIONS ON THE AMERICAN PROPOSITION (Sheed and Ward 1986).

Paul VI, Declaration on Religious Freedom: *Dignitatis Humanae* (Second Vatican Council, 1965). This declaration, arising out of Vatican II, marks a distinct change in the Church’s view of the coercive power of the state in matters of religious belief and practice. The declaration grounds this new view of religious freedom in the dignity of the person and the Church’s theory of the role of the state.

Jaroslav Pelikan, “*Justitia*” as Justice and “*Justitia*” as Righteousness, in LAW AND THEOLOGY 87-98 (Andrew J. Buehner, ed. 1965). An interesting discussion of Luther’s Commentary on Galatians, implicitly shedding light on the issue of the difference between human “justice” and God’s requirements of “justice.”

³¹ *Pacem in Terris* §§28 – 29.

³² *Libertas* §10.

Pius XI, Encyclical Letter on Reconstruction of the Social Order: *Quadragesimo Anno* (1931). Commemorating the fortieth anniversary of *Rerum Novarum*, this encyclical is most significant for the development of the principle of subsidiarity: "This is a fundamental principle of social philosophy, unshaken and unchangeable. . . Just as it is wrong to withdraw from the individual and commit to a community what private enterprise and industry can accomplish, so too it is an injustice, a grave evil and a disturbance of right order, for a larger and higher association to arrogate to itself functions which can be performed efficiently by smaller and lower societies. Of its very nature the true aim of all social activity should be to help members of the social body, but never to destroy or absorb them."

J.M. PORTER, ED., LUTHER: SELECTED POLITICAL WRITINGS. Porter excerpts important political selections from Luther. The important political works are, of course, available separately, and include: *Temporal Authority, To What Extent Should it be Obeyed?*; *To the Christian Nobility of the German Nation*; and *The Freedom of a Christian*. (Some of these works are also available at <http://www.iclnet.org/pub/resources/text/wittenberg/wittenberg-luther.html>).

David M. Smolin, *A House Divided? Anabaptist and Lutheran Perspectives on the Sword*, 47 J. LEGAL EDUC. 28 (1997).

HERBERT W. TITUS, GOD, MAN, AND LAW: THE BIBLICAL PRINCIPLES 65-97 (1994). See annotation, above, at Section A1.

Christopher Wolfe, *Subsidiarity: The "Other" Ground for Limited Government*, in GRASSO, BRADLEY, AND HUNT, EDS., CATHOLICISM, LIBERALISM, AND COMMUNITARIANISM: ESSAYS ON THE CATHOLIC INTELLECTUAL TRADITION AND THE MORAL FOUNDATIONS OF DEMOCRACY 81-96 (Rowman and Littlefield, 1995).

-Important Reference

AUGUSTINE, CITY OF GOD (Books XIX – XXII). The best edition for our purposes is AUGUSTINE, POLITICAL WRITINGS (Ernest L. Fortin and Douglas Kries, eds., Michael W. Tkacz and Douglas Kries, trans., Hackett 1994). Fortin adds a useful introduction to Augustine's political thought, and each book of the City of God is edited to bite-sized portions.³³

O'DONOVAN & O'DONOVAN, FROM IRENAEUS TO GROTIUS: A SOURCEBOOK IN CHRISTIAN POLITICAL THOUGHT 100 – 1625 (2000). More than sixty authors from the second to seventeenth centuries are represented. The editors also provide introductory essays, placing each author in historical and theoretical context. Some of the excerpts are available only in this resource. Its breadth and depth are remarkable. Scripture Index, 838 pages.

³³ Professor David M. Smolin recently introduced me to the Fortin and Kries edition.

-Other Resources

DOUG BANDOW, *BEYOND GOOD INTENTIONS: A BIBLICAL VIEW OF POLITICS* (Crossway 1988).

MICHAEL CROMARTIE, ED., *CAESAR'S COIN REVISITED: CHRISTIANS AND THE LIMITS OF GOVERNMENT*.

AGNES CUNNINGHAM, ED., *THE EARLY CHURCH AND THE STATE* (Michael Di Maio and Agnes Cunningham, trans., Fortress Press 1982). This short work (117 pages) contains very brief and heavily edited selections from Tertullian, Eusebius, and Ambrose on church-state relations. It is part of the “Sources of Early Christian Thought” series, edited by William G. Rusch.

ROBERT GEORGE AND CHRISTOPHER WOLFE, EDS., *NATURAL LAW AND PUBLIC REASON* (Georgetown University Press 2000) Natural law theorists and liberal political theorists discuss “the definition and validity of the idea of public reason.”

ROBERT P. GEORGE, *MAKING MEN MORAL: CIVIL LIBERTIES AND PUBLIC MORALITY* (Oxford 1995).

DAVID W. HALL, *SAVIOR OR SERVANT? PUTTING GOVERNMENT IN ITS PLACE* (Kuyper Institute 1996).

JAMES B. JORDAN, *THE LAW OF THE COVENANT: AN EXPOSITION OF EXODUS 21-23* (1984).

OLIVER O'DONOVAN, *THE DESIRE OF THE NATIONS: REDISCOVERING THE ROOTS OF POLITICAL THEORY* (1999). O'Donovan attempts a “systematic approach” to Christian political thought. He “combines biblical interpretation, historical discussion of the Western political and theological tradition, theoretical construction and critical engagement with contemporary views.” (Note from the publisher).

David M. Smolin, *The City of God Meets Anabaptist Monasticism: Reflections on the Twenty-fifth Anniversary of Wisconsin v. Yoder*, 25 CAPITAL U. L. REV. 841 (1996).

Christopher Wolfe, *Some Religiously-Devout Justices, Civil Religion, and the Culture War*, 81 MARQUETTE L. REV. 427 (1998).

5. Personal, Devotional, Inspirational, and Basic Apologetics

Joseph A. Allegretti, *A Lawyer's Miscellany: Scriptural Resources for Christian Lawyers*, 26 FORDHAM URB. L. J. 1183 (1999).

THOMAS E. BAKER AND TIMOTHY W. FLOYD, EDS., *CAN A GOOD CHRISTIAN BE A GOOD LAWYER? HOMILIES, WITNESSES, AND REFLECTIONS* (Notre Dame 1998).

J. BUDZISZEWSKI, *WRITTEN ON THE HEART: THE CASE FOR NATURAL LAW* (Intervarsity 1997). A very readable, entertaining, and basic introduction to natural law theory. This is the perfect resource for the busy law student who is willing to take the time to read a relatively easy 228 pages. Despite its accessibility, it is a scholarly primer, with index and numerous notes.

J. BUDZISZEWSKI, *WHAT WE CAN'T NOT KNOW: A GUIDE* (Spence 2003). One of the finest books on “common truth”—the reality of moral *law*. Professor Budziszewski hoped to “achieve two things” through the book: First, “to bolster the confidence of plain people in the rational foundations of their common moral sense.” Second, “to present the explanation in such a way that all of the people who think and write about the common truths can achieve a firmer alliance in their defense.” He achieves both goals, and much more. This is both an introduction to apologetics through common truth and a primer on the cultural possibilities of natural law thinking.

LYNN R. BUZZARD, ED., *WHAT DOES THE LORD REQUIRE OF YOU? DEVOTIONAL READINGS FOR LAWYERS* (Geneva School of Law 1997). Fifty-two short devotionals, written by lawyers and law professors.

G.K. CHESTERTON, *ORTHODOXY* (1908). A classic defense of the historic Christian faith against the attacks of modern materialism and scientism.

Charles J. Emmerich, Recommended Books, CLS/LSM Website. Professor Emmerich’s list includes some classics, his personal favorites, and some wonderful biographies with short annotations. (www.christianlegalsociety.org/)

Charles J. Emmerich, *Knowing God in the Lion’s Den: The Christian in Law School*, Christian Leg. Soc. Website <http://www.christianlegalsociety.org/cgi-bin/pageBuilder.pl?page=381>. A brief and appropriate word of encouragement for law students struggling to keep a vibrant Christian faith while under the gun in law school.

OS GUINNESS, *THE CALL: FINDING AND FULFILLING THE CENTRAL PURPOSE OF YOUR LIFE* (Word 1998). This book is divided into 26 chapters for easy use as a devotional guide.

PHILLIP E. JOHNSON, *REASON IN THE BALANCE: THE CASE AGAINST NATURALISM IN SCIENCE, LAW AND EDUCATION* (1995). Making a compelling case for rejection of the modern view of the law, education, and scientific inquiry, Professor Johnson argues that “there is a moral order independent of what human rulers may from time to time prefer, and law is just to the extent that it comports with that moral order.” (pp. 38-39).

PHILLIP E. JOHNSON, *THE WEDGE OF TRUTH* (2000). Professor Johnson focuses on naturalism, and seeks to “get people to ask the right questions.” Only then will we begin to see the truth. Much easier sledding than *Darwin on Trial* or even *Reason in the Balance* and fewer than 200 pages, this is a book for a general audience.³⁴

C.S. LEWIS, *MERE CHRISTIANITY* (1943).

C.S. LEWIS, *THE ABOLITION OF MAN* (1943).

EDMUND MORGAN, *ROGER WILLIAMS: THE CHURCH AND STATE* (1967).³⁵

J.P. MORELAND, *LOVE YOUR GOD WITH ALL YOUR MIND: THE ROLE OF REASON IN THE LIFE OF THE SOUL* (1997). The best book available on the Christian life of the mind. Moreland argues why the life of the mind is central to the faith, the problems in the church and culture caused by the loss of the concept of the “Christian mind,” and personal and communal solutions.

DAVID A. NOEBEL, *UNDERSTANDING THE TIMES: RELIGIOUS WORLDVIEWS OF OUR DAY AND THE SEARCH FOR TRUTH* (1994). The writing style is simple, and there is a chapter each on law, theology, philosophy, ethics, biology, psychology, politics, history, and economics, covering the difference in worldview for each of those from the Marxist, Secular Humanist, New Age, and Christian perspectives.

Pius IX, Encyclical Letter Condemning Current Errors: *Quanta Cura* (1864) and accompanying Syllabus of Errors (1864). Pope Pius lists most of the philosophical and theological errors of modernity. The syllabus includes, among others, pantheism, naturalism, rationalism, socialism, communism, biblical societies, and a large number of other specific errors concerning the teachings of the church, the role of the state, and questions of civil and ecclesiastical authority.

CHARLES E. RICE, *50 QUESTIONS ON THE NATURAL LAW: WHAT IT IS AND WHY WE NEED IT* (1995). In simple question and answer form, Professor Rice defends and discusses natural law theory and modern misconceptions about it. It is short and accessible to the novice.

RAVI K. ZACHARIAS, *CAN MAN LIVE WITHOUT GOD?* (Word 1996).

Symposium, *Faith and the Law*, 27 TEX. TECH. L. REV. 911 (1996). Lawyers and law professors share how their faiths have influenced their practice and lives in the law.

Symposium, *The Relevance of Religion to a Lawyer’s Work: An Interfaith Conference*, 66 FORDHAM L. REV. (1998).

³⁴ For an even easier read that provides a similar primer for those seeking to expose lies and false premises in naturalistic presuppositions, PHILLIP E. JOHNSON, *DEFEATING DARWINISM BY OPENING MINDS* (1997) is excellent.

³⁵ From Charles Emmerich, *Recommended Books*.

B. SPECIFIC LAW SCHOOL SUBJECTS

1. Arbitration and Mediation

-Most Useful

KEN SANDE, *THE PEACEMAKER: A BIBLICAL GUIDE TO RESOLVING PERSONAL CONFLICT* (2d ed. 1997). 288 pages. Sande applies Biblical principles to dispute resolution, particularly among believers, and has principles transferable to disputes among non-believers.³⁶

-Other Resources

Glenn G. Waddell & Judith M. Keegan, *Christian Conciliation: An Alternative to "Ordinary" ADR*, 29 COLUMB. L. REV. 583 (1998-99)

2. Civil Procedure

JEFFREY A. BRAUCH, *IS HIGHER LAW COMMON LAW? READINGS ON THE INFLUENCE OF CHRISTIAN THOUGHT IN ANGLO-AMERICAN LAW* 143-76 (1999). See annotation at Section A1, above. The section on civil and criminal procedure provides a brief history of a few procedural protections of the common law, and the sources from which these protections arose.

Michael P. Schutt, *What's a Nice Christian Like You Doing in a Profession Like This?* 11 REGENT U. L. REV. 137 (1998-99). Part of this very short essay addresses the importance of moral procedure, sometimes pejoratively called "legal technicalities," to the separation of God's jurisdiction and man's.

Michael P. Schutt and Jeffrey A. Brauch, eds., *A Study on the Biblical Foundations of Procedural Law* (Inst. for Christian Legal Studies 2002). This is an excerpt of a forthcoming longer work. This 32-page pamphlet is designed for study groups seeking a Biblical perspective on procedure and the rule of law. It contains excerpts of other works, including those listed above in this section. It may be downloaded in full at <http://www.clsnet.org/lsmPages/ICLS/index.php3>.

³⁶ This description is from Regent Law Professor Alice Curtis, who teaches Mediation and Negotiation.

3. Conflicts

Craig A. Stern, *Foreign Judgments And The Freedom Of Speech: Look Who's Talking*, 60 BROOKLYN L. REV. 999 (1994). This article addresses the problem of conflicts of interest and the first amendment. Professor Stern discusses the conflicts problem in terms of the Christian doctrine of the Trinity: "Thus, conflict of laws is a jurisprudential formulation of the problem of the One and the Many, with neither the One nor the Many being ultimate."³⁷

4. Constitutional Law, Constitutional History, and First Amendment³⁸

-Useful

BERNARD BAILYN, *IDEOLOGICAL ORIGINS OF THE AMERICAN REVOLUTION* (1967).

DONALD J. D'ELIA, *THE SPIRITS OF '76: A CATHOLIC INQUIRY* (1983).

JOHN EIDSMOE, *CHRISTIANITY AND THE CONSTITUTION* (Baker 1987). This is more than a simple discussion of the document itself; it is also a history of the religious ideas that shaped it. Part One, "Background," discusses how Calvinism, Puritanism, and other religious influences shaped early America and the views of the founders. Part Two, "Meet the Founding Fathers," examines the particular religious beliefs of thirteen founders and delegates to the Constitutional Convention. In Part Three, Professor Eidsmoe examines the Constitution, the Declaration, and the principles reflected in the words of those documents. It is a fine introduction to many important themes, but at 411 pages, it will take some commitment to finish.

NOEL B. REYNOLDS & W. COLE DURHAM, EDS., *RELIGIOUS LIBERTY IN WESTERN THOUGHT* (1996). Another book in the Emory University Studies in Law and Religion series, this book contains ten chapters, collectively tracing the development of religious liberty, in practice and theory, from Marsilius of Padua (early 14th century), through Luther, Calvin, Locke, and others through the American Founding.

-Important Reference

NEIL H. COGAN, *CONTEXTS OF THE CONSTITUTION* (Foundation Press 1999). This is a sourcebook of basic texts on the underlying principles of the U.S. Constitution. The materials are grouped by topic: constitutionalism, republicanism and democracy, separation and balance of powers, federalism, equality and rights.

³⁷ Craig A. Stern, *Foreign Judgments And The Freedom Of Speech: Look Who's Talking*, 60 BROOKLYN L. REV. 999, 1023 (1994).

³⁸ Professor David W. Wagner has suggested several of the works in this section, including the Bailyn, D'Elia, Cogan, Elezar, and Sandoz works, which he uses in his courses at Regent University Law School. I appreciate his suggestions and input.

John Paul II, Encyclical Letter on the Value and Inviolability of Human Life: *Evangelium Vitae* (1995). This encyclical addresses, among other things, abortion, euthanasia, and the death penalty. Most important from a legal perspective is its view of the role of the state that leads to Church doctrine on the death penalty (§§55-56). In addition, the Pope speaks to political and civic activity of civil leaders, “intellectuals,” and teachers, among others, to create a “culture of life.”

ELLIS SANDOZ, ED., POLITICAL SERMONS OF THE AMERICAN FOUNDING ERA, 1730-1805 (Liberty Fund, 2d ed. 1998). This two-volume set is an unlikely source of quick guidance to biblical principles applied to the law. At more than 1500 pages, the sermons give flavor, color, and character to the varied themes of religion and politics, rather than law in the late 18th century. There are a good number of sermons that address “rights,” usually freedom of worship or other religious or associational liberties. With the extensive index, however, a little digging will yield some gems relevant to other areas of legal study. There are a number of sermons, for example, examining the duties of the civil magistrate as God’s agent and other related subjects.

-Other Resources

BERNARD BAILYN, ED., DEBATE ON THE CONSTITUTION (1967). This impressive two-volume collection, published by the Library of America, includes speeches, articles, and letters during the ratification debate. The historical context of the letters and articles, including the Federalist Papers, provides unique insight and great reading. Each volume exceeds 1100 pages. The volumes include excellent commentary by Professor Bailyn, chronologies, tables, and a full index.

DANIEL J. ELAZAR, COVENANT AND CONSTITUTIONALISM: THE GREAT FRONTIER AND THE MATRIX OF FEDERAL DEMOCRACY (1997). This is volume three in the author’s series, *The Covenant Tradition in Politics*. This work discusses the biblical idea of “covenant” and the transformation covenant principles through history.

George P. Fletcher, *In God's Image: The Religious Imperative of Equality Under Law*, 99 COLUMB. L. REV. 1608 (1999). Professor Fletcher explores the “religious foundations for the commitment to equality,” using biblical and philosophical sources. He then briefly evaluates Supreme Court jurisprudence on race, gender, and wealth in light of his equality analysis.

H. WAYNE HOUSE, ED., RESTORING THE CONSTITUTION: IS JUDICIAL ACTIVISM DESTROYING THE CONSTITUTION? (Probe 1987). This volume contains nine essays on the topics “Judicial Restraint and the Nature of the Constitution” and “Perspectives on Constitutional Interpretation.”

STEPHEN B. PRESSER, RECAPTURING THE CONSTITUTION: RACE, RELIGION, AND ABORTION RECONSIDERED (1994). The author argues that twentieth-century Supreme Court jurisprudence was grounded on secular humanism and faddish cultural doctrines, rather than the rule of law. It seeks to encourage a return to the vision of the framers.

Craig A. Stern, *What's a Constitution Among Friends? - Unbalancing Article III*, 146 U. PA. L. REV. 1043 (1998). Professor Stern deals with the modern view that Article III of the United States Constitution cannot be read literally. The experts say that “[s]uch a reading . . . would doom the District of Columbia courts, courts-martial, the welfare state, and more.” As a result, “[C]ourts and commentators have sought to escape the constitutional text by drafting exceptions, striking balances, or proposing Pickwickian readings of Section 1 of Article III.” Stern’s article suggests that “Section 1 of Article III does work, and that Chief Justice Marshall was the vanguard not for escaping the text, but for reading it carefully. Section 1 does not threaten life as we know it in the United States, nor does it threaten even most of the developments thought to run afoul of the Section. Read carefully, Section 1 does provide principled answers for some troublesome questions.” In the process, Stern uses techniques such as reading the actual text of the Constitution and discussing the original meaning of “judicial power.”

GRAHAM WALKER, *MORAL FOUNDATIONS OF CONSTITUTIONAL THOUGHT: CURRENT PROBLEMS, AUGUSTINIAN SOLUTIONS* (1990). This book examines constitutional theory on a broad level.

5. Contracts

Roger Bern, *A Biblical Model for Analysis of Issues of Law and Public Policy: With Illustrative Applications to Contracts, Antitrust, Remedies, and Public Policy Issues*, 6 REGENT U. L. REV. 103 (1995). See annotation at section A1, above.

JAMES GORDLEY, *THE PHILOSOPHICAL ORIGINS OF MODERN CONTRACT DOCTRINE* (1991).

C. Scott Pryor, *Mission Possible: A Paradigm for Analysis of Contractual Impossibility at Regent University*, 74 ST. JOHN’S L. REV. 691 (2000). As part of his article on the mission of Regent Law School, Professor Pryor demonstrates the application of his suggested models to the area of contractual impossibility.

HERBERT W. TITUS, *GOD, MAN, AND LAW: THE BIBLICAL PRINCIPLES* 201-227 (1994). See general annotation at Section A1, above.

JEFFREY A. BRAUCH, *IS HIGHER LAW COMMON LAW? READINGS ON THE INFLUENCE OF CHRISTIAN THOUGHT IN ANGLO-AMERICAN LAW* 321-45 (1999). See general annotation at Section A1, above. An historical treatment of contract law, this section begins with Berman’s view that the development of contract law was guided by “fundamental moral principles.”

6. Criminal Law

-Most Useful

JEFFREY A. BRAUCH, IS HIGHER LAW COMMON LAW? READINGS ON THE INFLUENCE OF CHRISTIAN THOUGHT IN ANGLO-AMERICAN LAW 229-99 (1999). See general annotation above at Section A1. The readings on Criminal Law provide a brief, but deep introduction to the major philosophical issues in the criminal law. Excerpts from Blackstone, Charles Colson, Jeff Tuomala, and C.S. Lewis center on human responsibility, competing theories of punishment, and the nature of the criminal law.

JAMES B. JORDAN, THE LAW OF THE COVENANT 93 – 130 (1984).

Craig A. Stern, *Crime, Moral Luck and the Sermon on the Mount*, 48 CATH. U.L. REV. 801 (1999). In this article, Professor Stern answers the puzzling question “Why are criminal attempts punished less severely than completed crimes?” In the process, Professor Stern explains much more, exploring the biblical principle of limited civil authority and the doctrine of God’s sovereignty, arriving at an answer based upon God’s truth.

Craig A. Stern, *Torah and Murder: The Cities of Refuge and Anglo-American Law*, 35 VAL. U. L. REV. 461 (2001). An excellent demonstration of applying biblical principles to modern legal questions—here, manslaughter and murder.

HERBERT W. TITUS, GOD, MAN, AND LAW: THE BIBLICAL PRINCIPLES 277-309 (1994).

Jeffrey C. Tuomala, *Christ’s Atonement as the Model for Civil Justice*, 38 AM. J. JURIS. 221 (1993). This article explains: “Legal doctrines are justified by, and maintain coherence as part of, a particular worldview. . . . The doctrine of Christ’s atonement is of singular importance for theories of punishment as it is the judicial archetype of the way in which God deals with sin and crime. . . . The civil magistrate, as “minister of God for justice,” should deal with crime and civil wrongs according to the same principles by which God deals with sin through the atonement.”³⁹ This is a must read; it sets the groundwork for a theory of justice based upon God’s justice.

Jeffrey C. Tuomala, *The Value of Punishment: A Response to Judge Richard L. Nygaard*, 5 REGENT U. L. REV. 13 (1995). A brief, direct explication of the biblical bases for and means of criminal punishment and a critique of fashionable alternatives.

-Useful

W. Cole Durham, Jr., *Religion and the Criminal Law: Types and Contexts of Interaction*, in THE WEIGHTIER MATTERS OF THE LAW: ESSAYS ON LAW AND RELIGION 193 (John Witte, Jr. and Frank S. Alexander, eds., 1988).

³⁹ Jeffrey C. Tuomala, *Christ’s Atonement as the Model for Civil Justice*, 38 AM. J. JURIS. 221, 221-22 (1993).

Michael P. Schutt, ed., *Readings on the Biblical Foundations of the Criminal Law* (Institute for Christian Legal Studies 2001). This first installment in the Biblical Tradition and the Law Study Series collects several of the works by Stern, Tuomala, and Titus cited above and presents them in edited form, with study and discussion questions. The 88-page booklet is designed for Bible Study discussion groups of law students.

-Other Resources

Michael P. Schutt, ed., *Readings on the Foundations of the Criminal Law* (Inst. for Christian Legal Studies 2001). This little pamphlet, available from the Christian Legal Society is useful as a Bible Study or discussion group tool in thinking “Christianly” about select issues in the criminal law. It contains excerpts of several of the articles mentioned above, and provides discussion questions at the end of each section.

Jill Jones, *The Christian Executioner: Reconciling “An Eye for An Eye” with “Turn the Other Cheek,”* 27 PEPP. L. REV. 127 (1999).

Walter Berns, et al., *The Death Penalty: A Philosophical and Theological Perspective*, 30 J. MARSHALL L. REV. 463 (Winter 1997).

Thomas L. Shaffer, *Should a Christian Lawyer Serve the Guilty?* 23 GA. L. REV. 1021 (Summer 1986). On this topic, see also Michael P. Schutt, *What’s a Nice Christian Like You Doing in a Profession Like This?* 11 REGENT U. L. REV. 137 (1998-99).

7. Environmental Law

-Most Useful⁴⁰

FRANCIS SCHAEFFER, *POLLUTION AND THE DEATH OF MAN* (1970). This is a classic on Christian stewardship. Schaeffer explores the biblical basis for our clear duty of environmental stewardship.

WESLEY GRANBERG-MICHAELSON, *ECOLOGY AND LIFE* (1988).

CALVIN DEWITT, ED., *THE ENVIRONMENT & THE CHRISTIAN* (1991).

-Other Resources

ENVIRONMENTAL STEWARDSHIP IN THE JUDEO-CHRISTIAN TRADITION: JEWISH, CATHOLIC, AND PROTESTANT WISDOM ON THE ENVIRONMENT (2000). A monograph from the Acton Institute. The work includes three scholarly essays with extensive citations. Each essay is written from a different theological perspective. The first is based upon the Torah, the second on the teachings of the Catholic Church, and the third a “biblical” approach from

⁴⁰ On the topic of environmental law, I defer to my colleague Professor Mike Hernandez, who teaches the subject and uses the cited resources in his classes. I appreciate his recommendations.

a Protestant perspective. The essays were approved by committees of distinguished scholars. The monograph is available online:
<http://www.acton.org/environment/theology/monograph.html>.

8. Family Law and Domestic Relations⁴¹

-Useful

H. TRISTAM ENGELHARDT, JR., *THE FOUNDATIONS OF CHRISTIAN BIOETHICS* (2000).

Robert P. George and Gerard Bradley, *Marriage and the Liberal Imagination*, 84 *GEO. L. J.* 301 (1995). This article addresses marriage, homosexuality, and public policy.

Douglas W. Kmiec, (Book Review) *A Reply to Drs. Carlson and Hitchcock: Still a Fool's Game—The Mistaken Pursuit of Family Virtue Through Politics and Law*, 10 *NOTRE DAME J. L. ETHICS & PUB. POL.* 642 (1996).

LYNN D. WARDLE, MARK STRASSER, ET AL., EDs., *MARRIAGE AND SAME-SEX UNIONS: A DEBATE* (2003). The book covers all the bases of the debate in a true “debate” format: one scholar takes one side of the issue, another takes the other, then each responds to the other’s article. The participants are all recognized scholars and/or experts in the arena.

JOHN WITTE, JR., *FROM SACRAMENT TO CONTRACT: MARRIAGE, RELIGION, AND LAW IN THE WESTERN TRADITION* (1997). “At one level, *From Sacrament to Contract* is a report of five richly developed conceptual constructs: marriage as sacrament in the Catholic tradition, as social estate in the Lutheran reformation, as covenant in the Calvinist tradition, as commonwealth in the Anglican tradition, and as contract in the inheritance of the Enlightenment. . . . But Witte has done more than equip his readers to continue ‘the endless Western dialogue’ on marriage, in the sense of being able to understand something of what has been said and politely to say it again. . . . Professor Witte's wonderful book responds to what he argues is a crisis--the disintegration and marginalization of the West's store of wisdom about marriage and family, indeed the virtual cessation, except at the margins, of a genuine dialogue about marriage's and family's goods and goals and the means of their realization.”⁴²

CHRISTOPHE WOLFE, ED. *THE FAMILY, CIVIL SOCIETY, AND THE STATE* (Rowman and Littlefield, 1998). A detailed look at the Family and modern social institutions, this book includes essays from a who’s who of lawyers and cultural critics. It is divided into four parts:

The first part of the book explores what is distinctive in the current situation of the family, and offers both optimistic and pessimistic assessments of the family

⁴¹ My thanks to Lynne Marie Kohm, John Brown McCarty Professor of Family Law at Regent University, who has suggested these sources from her experience in using them in her courses.

⁴² Patrick McKinley Brennan, *Of Marriage And Monks, Community And Dialogue* (Review Essay), 48 *EMORY L. J.* 689, 670 (1999).

in our time, as well as a historical overview. In the second part, authors look at the family today; demographics, economics, and social pathologies are all discussed. Part three offers analysis of the family and American law, especially the law of divorce, and the fourth part deals with the relationship between the family and two profoundly important facets of the structural framework of American life: our capitalist economic system and the cultural power of the media. Finally, the fifth part surveys the various areas of public policy, and concludes by asking whether, and what, public policy can do for the family. (From the publisher).

-Other Resources

JAMES DOBSON, *LOVE MUST BE TOUGH* (Updated 1996). Dr. Dobson provides advice to an innocent spouse on methods for responding biblically to a partner's infidelity, cruelty, or abuse in marriage.

CHARLES R. SWINDOLL, *THE STRONG FAMILY* (1992). How to raise a family with biblical wisdom.

CHRISTOPHER WOLFE, ED. *HOMOSEXUALITY AND AMERICAN PUBLIC LIFE* (Spence Publishing 2000). From the publisher: "Philosophers and lawyers make the definitive case that homosexuality is both a moral and psychological disorder and a matter for compassionate but urgent public concern." Introduction by William Kristol and afterward by Richard John Neuhaus. Contributors include Robert P. George, Hadley Arkes, Gerard Bradley, Michael Pakaluk, and David Coolidge.

9. Immigration

Michael Scaperlanda, *Immigration Justice: Beyond Liberal Egalitarian and Communitarian Perspectives*, *Rev. Social Economy* (Vol. LVII No. 4, December 1999, p.523).

Michael Scaperlanda, *Who is My Neighbor?: An Essay on Immigrants, Welfare Reform, and the Constitution*, 29 *CONN. L. REV.* 1587 (1997). Professor Scaperlanda argues that that the Welfare Reform Act "conflicts with a Judeo-Christian vision of our constitutional community:" "[A] Catholic Christian vision of who we are as a constitutional people forbids a policy choice that places the burdens of welfare cuts mainly on the backs of noncitizens. . . . [T]his argument's roots are deeply embedded in . . . Judeo-Christian teaching."⁴³

⁴³ Michael Scaperlanda, *Who is My Neighbor?: An Essay on Immigrants, Welfare Reform, and the Constitution*, 29 *CONN. L. REV.* 1587, 1613-14 (1997).

10. International Law

HUGO GROTIUS, *THE LAW OF WAR AND PEACE* (1625). Various Internet sites provide the entire work. See, e.g., <http://www.geocities.com/Athens/Thebes/8098/>. Grotius is often called the father of international law. Others have called him the father of the “modern” theory of natural law.⁴⁴

John XXIII, Encyclical Letter Peace on Earth: *Pacem in Terris* (1963). This encyclical begins by addressing “natural rights” and duties: “The natural rights with which We have been dealing are, however, inseparably connected, in the very person who is their subject, with just as many respective duties; and rights as well as duties find their source, their sustenance and their inviolability in the natural law which grants or enjoins them.” “Therefore, to cite a few examples, the right of every man to life is correlative with the duty to preserve it; his right to a decent standard of living with the duty of living it becomingly; and his right to investigate the truth freely, with the duty of seeking it ever more completely and profoundly.”⁴⁵ It then moves on to discuss the nature of the State and its relation to God, from whom it derives its moral authority. It notes that laws passed contrary to the moral order are not binding on citizens (§51). The major focus, however, is on the relationship between states and their moral duties one to another.

James V. Schall, *Natural Law Theory and the Law of Nations: Some Theoretical Considerations*, 15 *Fordham Int’l L. J.* 997 (1991-92).

David M. Smolin, *Church, State, and International Human Rights: A Theological Appraisal*, 73 *NOTRE DAME L. REV.* 1515 (May-July 1998).

Jeffrey C. Tuomala, *Just Cause: The Thread That Runs So True*, 13 *DICK. J. INT’L L.* 1 (1994). Professor Tuomala argues that “[j]ust cause is the central element in the centuries-old just war doctrine of Christian thought.” In this article, he analyzes the legality of unilateral actions under the requirements of customary law, the U.S. Constitution, and the just war doctrine, and discusses the “positive relation between law and sound policy decisions.”

11. Jurisprudence

-Most Useful

J. BUDZISZEWSKI, *WRITTEN ON THE HEART: THE CASE FOR NATURAL LAW* (Intervarsity 1997). A very readable, entertaining, and basic introduction to natural law theory. This is the perfect resource for the busy law student who is willing to take the time to read it. Despite its accessibility, it is a scholarly primer, with index and numerous notes. 228 pages. The more recent *WHAT WE CAN’T NOT KNOW* is less concerned with instruction on natural law theory, but quite helpful in developing it as an evangelistic and apologetics tool (see page 23).

⁴⁴ See, e.g., A.P. D’ENTREVES, *NATURAL LAW* 50-54 (1951) and sources therein.

⁴⁵ *Pacem in Terris* ¶¶28-29.

A.P. D'ENTREVES, *NATURAL LAW* (1951). D'Entreves provides a discussion of natural law in a historical context, closely examining the theory in its many different formulations. It is relatively short (the 1951 edition is 122 pages), but the discussion is not light. On the other hand, it is very readable and worth the effort.

RUSSELL HITTINGER, *THE FIRST GRACE: REDISCOVERING THE NATURAL LAW IN A POST-CHRISTIAN WORLD* (2003). Hittinger takes a broad approach to natural law theory, providing applications across a broad spectrum of legal and non-legal concerns, with a view to reclaiming the natural law rooted, fundamentally, in *theological* truth. Hittinger discusses the decline of natural law theory and the decline of civil society. In doing so, he addresses the American founding, assisted suicide, judicial activism, religious liberty, and natural rights. 283 pages, plus notes and index. Professor Budziszewski praises its usefulness across the theological spectrum: “The contribution of *The First Grace* to Catholic moral theology should be plain, but it should be read at the other end of the churchyard as well. For some time, evangelicals have been seeking high and low for the materials of a public philosophy. Although they find the idea of natural law attractive, the only sort of natural law theory that Scripture-sensitive Protestants could embrace would be the sort that Hittinger champions—one that acknowledges its rootedness in the providence of God.”⁴⁶

HERBERT W. TITUS, *GOD, MAN AND LAW: THE BIBLICAL PRINCIPLES* (1994). See annotation at Section A1, above.

JOHN WARWICK MONTGOMERY, *LAW AND GOSPEL: A STUDY IN JURISPRUDENCE* (Christian Legal Society 1978). This 50-page monograph is designed as a study guide on the basic law school subjects. There are 20 extremely short sections, most covering one topic in one or two pages. (For example, the Torts section is two pages long). In the section, Dr. Montgomery sets out a brief discussion, usually with quotations from scripture or case law. He then poses a handful of questions based on the text, along with some scripture references for further study. This little text will reward a close reading. Each section is short enough that it can be covered in small bites.

-Useful

HADLEY ARKES, *NATURAL RIGHTS AND THE RIGHT TO CHOOSE* (2002). Michael Novak says, “I can think of no book more important to the survival and good health of the American republic — and its most precious experiment — than this little masterpiece. Too many who argue about the elephant in the middle of our room focus exclusively on choice, or exclusively on life; it is Hadley Arkes’s genius to see that the fundamental issue is that of natural right. Forget about life for a few hours, and forget about choice; get the question of natural right straight. Then much else will in due course make itself clear.”⁴⁷

⁴⁶ J. Budziszewski, *Prima Gratia* (Book Review), *FIRST THINGS*, April 2003, at 61-62.

⁴⁷ Michael Novak, *Hadley’s Comet*, *NATIONAL REVIEW ONLINE*, April 30, 2003 (<http://www.nationalreview.com/novak/novak043003.asp>).

MICHAEL CROMARTIE, ED., *A PRESERVING GRACE: PROTESTANTS, CATHOLICS, AND NATURAL LAW* (1997). A collection of recent essays by well-known Catholic and Protestant lawyers and scholars. A good introduction to the main issues in modern natural law theory.

ROBERT P. GEORGE, *IN DEFENSE OF NATURAL LAW* (Clarendon 1999). There is also a new paperback edition out from Oxford University Press.

DENNIS PATTERSON, *LAW AND TRUTH* (Oxford 1996). "Patterson devotes a chapter to each of six major schools of contemporary jurisprudence: legal formalism, legal realism, legal positivism, and the jurisprudential theories of Ronald Dworkin, Stanley Fish, and Philip Bobbitt. He explains why each is seriously or fatally flawed and, in the concluding chapter, presents his own alternative formulation. In so doing, he takes on seemingly all of the major figures of contemporary legal thought. Yet, his conclusion--a powerful defense of law's integrity as a social and argumentative practice--will be appealing and even comforting to many lawyers. It is a potent rejoinder to the various "law and" movements and . . . is consistent with the emerging long-term direction of the legal academy."⁴⁸

CHARLES E. RICE, *50 QUESTIONS ON THE NATURAL LAW: WHAT IT IS AND WHY WE NEED IT* (1995). In simple question and answer form, Professor Rice defends and discusses natural law theory and modern misconceptions about it. It is short and accessible to the novice.

-Other Resources

Frank S. Alexander, *Beyond Positivism: A Theological Perspective*, 20 GA. L. REV. 1021 (Summer 1989).

ALBERT W. ALSCHULER, *LAW WITHOUT VALUES: THE LIFE, WORK, AND LEGACY OF JUSTICE HOLMES* (2000). The publisher explains, "In recent decades, Oliver Wendell Holmes has been praised as 'the only great American legal thinker' and 'the most illustrious figure in the history of American law.' In *Law without Values*, Albert Alschuler paints a much darker picture of Justice Holmes as a distasteful man who, among other things, espoused Social Darwinism, favored eugenics, and as he himself acknowledged, came 'devilish near to believing that might makes right.' . . . His pernicious legacy, according to Alschuler, is evident in twentieth-century legal thought, whether one takes an economic or a critical legal approach. Contrary to the perception of many modern lawyers and scholars, Holmes's legacy was not a "revolt against formalism," or against a priori reasoning; it was a revolt against the objective concepts of right and wrong--against values." On this topic, see also, James Gordley, *When Paths Diverge: A Response to Albert Alschuler on Oliver Wendell Holmes*, 49 FLA. L. REV. 441 (1997), and Michael P. Schutt, *Oliver Wendell Holmes and the Decline of the*

⁴⁸ Michael A. Livingston, *Postmodernism Meets Practical Reason* (Book Review), 107 YALE L. J. 1125 (1998).

American Lawyer: Social Engineering, Religion, and the Search for Professional Identity, 30 RUTGERS L. J. 143 (1998).

DAVID F. FORTE, ED., *NATURAL LAW AND CONTEMPORARY PUBLIC POLICY* (1998). A collection of articles on natural law theory as it relates to a wide variety of subjects. The authors come from all political and religious perspectives.

Douglas W. Kmiec, *America's Culture War—The Sinister Denial of Virtue and the Decline of Natural Law*, 13 St. Louis U. Pub. L. Rev. 183 (1993).

Leo XIII, Encyclical Letter on the Nature of Human Liberty: *Libertas Praestantissimum* (1888). The encyclical, on the relationship between human freedom and absolute truth, is a discussion of the sources and nature of human liberty, grounded in the eternal law: “[T]he eternal law of God is the sole standard and rule of human liberty, not only in each individual man, but also in the community and civil society which men constitute when united. Therefore, the true liberty of human society does not consist in every man doing what he pleases, for this would simply end in turmoil and confusion, and bring on the overthrow of the State; but rather in this, that through the injunctions of the civil law all may more easily conform to the prescriptions of the eternal law.”⁴⁹ Leo criticizes certain liberal theories of the separation of church and state (¶¶18-22), freedom of speech and the press (¶23), and freedom of conscience, except as it may be said to affirm the individual’s freedom from “an omnipotent state” to obey God and his commands (¶¶30 and 31).

Jonathan Edward Maire, *The Possibility of a Christian Jurisprudence*, 40 AM. J. JURIS. 101 (1995).

HEINRICH ROMMEN, *THE NATURAL LAW: A STUDY IN LEGAL AND SOCIAL HISTORY AND PHILOSOPHY* (Liberty Fund 1998).

James V. Schall, *The Intellectual Context of Natural Law*, 38 AM. J. JURIS. 85 (1993).

YVES SIMON, *THE TRADITION OF NATURAL LAW: A PHILOSOPHER’S REFLECTIONS* (Fordham Univ. Press 1992) (reprint).

JOHN WITTE, JR. & FRANK S. ALEXANDER, EDs., *THE WEIGHTIER MATTERS OF THE LAW: ESSAYS ON LAW AND RELIGION* 179 – 335 (1988). This book is a collection of essays in tribute to Harold J. Berman. This section contains seven essays on “Religious Perspectives on Law,” including: James Luther Adams, *Conceptions of Natural Law, From Troeltsch to Berman* (179); W. Cole Durham, Jr., *Religion and the Criminal Law: Types and Contexts of Interaction* (193); John V. Orth, *Casting the Priests Out of the Temple: John Austin and the Relation Between Law and Religion* (229).

⁴⁹*Libertas* ¶10.

12. Legal History

-Most Useful

HAROLD J. BERMAN, *LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION* (Harvard 1983). See annotation at Section A1, above.

Herbert W. Titus, *God's Revelation: Foundation for the Common Law*, 4 REGENT U. L. REV. 1 (1994). See annotation at Section A1, above.

-Useful

JOAN LOCKWOOD O'DONOVAN, *THEOLOGY OF LAW AND AUTHORITY IN THE ENGLISH REFORMATION* (Scholar's Press 1991).

STEPHEN C. PERKS, *CHRISTIANITY AND LAW: AN ENQUIRY INTO THE INFLUENCE OF CHRISTIANITY ON THE DEVELOPMENT OF ENGLISH COMMON LAW* (Avant 1993). A very brief history, traveling the same ground that Berman covers so much more thoroughly (Perks's book is a mere 59 pages). A good introduction, but a very summary treatment.

-Other Resources

JEFFREY A. BRAUCH, *IS HIGHER LAW COMMON LAW? READINGS ON THE INFLUENCE OF CHRISTIAN THOUGHT IN ANGLO-AMERICAN LAW* (Fred B. Rothman & Co. 1999). See annotation at section A1, above.

Daniel L. Dreisbach, *In Search of a Christian Commonwealth: An Examination of Selected Nineteenth-Century Commentaries on References to God and the Christian Religion in the United States Constitution*, 48 BAYLOR L. REV. 927 (Fall 1996).

Craig A. Stern, *Justinian: Lieutenant of Christ, Legislator for Christendom*, 11 REGENT U. L. REV. 151 (1998-99).

JOHN WITTE, JR. & FRANK S. ALEXANDER, EDs., *THE WEIGHTIER MATTERS OF THE LAW: ESSAYS ON LAW AND RELIGION 1 - 170* (1988). This book is a collection of essays in tribute to Harold J. Berman. This section contains six essays on "Historical Interaction of Law and Religion," including essays on "Ockham and the Origin of Individual Rights," "Marriage Law in the Lutheran Reformation," and "Religion, Law, and Revolution in the Shaping of Harvard College."

13. Professional Responsibility and the Legal Profession⁵⁰

-Useful

JOSEPH G. ALLEGRETTI, *THE LAWYER'S CALLING: CHRISTIAN FAITH AND LEGAL PRACTICE* (1996). Professor Allegretti provides a context within which the Christian lawyer might fulfill his or her calling.

Gordon J. Beggs, *Proverbial Practice: Legal Ethics from Old Testament Wisdom*, 30 WAKE FOREST L. REV. 831 (1995). "The Old Testament book of Proverbs supplied foundational moral values for our nation's legal ethics. With the adoption and revision of formal codes, moral teaching has virtually disappeared from legal ethics. This essay suggests that the wisdom of Proverbs offers a timely challenge to the character of the legal profession by advocating values which include justice, purity, mercy, humility, honesty, candor, truthful testimony, and civility."⁵¹

ANDREW J. BUEHNER, ED., *LAW AND THEOLOGY: ADDRESSES AT THE DEDICATION OF WESEMANN HALL, VALPARAISO UNIVERSITY AND ESSAYS ON THE PROFESSIONAL RESPONSIBILITY OF THE CHRISTIAN LAWYER* (Concordia 1965).

JOHN CALVIN, *INSTITUTES OF THE CHRISTIAN RELIGION, The Lord's calling a basis of our way of life*, III.X.6 (John T. McNeill, ed., Ford Lewis Battles, trans., Westminster Press 1960) (1559). Chapter X, section 6 is a classic formulation of the Protestant idea of "calling." See annotation at Section A1, above.

Teresa Stanton Collett, *Speak No Evil, Seek No Evil, Do No Evil: Client Selection and Cooperation with Evil*, 66 FORDHAM L. REV. 1339 (1998). Professor Collett, whose work focuses on legal ethics in a moral or religious context, discusses the problem for the Christian lawyer of associating with the "unsavory client."

Daniel O. Conkle, *Professing Professionals: Christian Pilots on the River of Law*, 38 CATH. LAW. 151 (1998). How can one be a Christian in the legal profession? Professor Conkle provides several perspectives.

Timothy W. Floyd, *The Practice of Law as Vocation or Calling*, 66 FORDHAM L. REV. 1405 (1998). A brief essay on the basics of the idea of the lawyer's vocation.

Leslie Griffin, *The Relevance of Religion to a Lawyer's Work: Legal Ethics*, 66 FORDHAM L. REV. 1253 and Thomas D. Morgan, *The Relevance of Religion to a*

⁵⁰ Professional Responsibility or Legal Ethics often includes a discussion of the legal profession or the proper role of lawyers. In addition to seeking an understanding of what scripture says about individual subjects that a lawyer must master, the Christian law student should seek an understanding of what scripture says about what a lawyer "is" and does.

⁵¹ Gordon J. Beggs, *Proverbial Practice: Legal Ethics from Old Testament Wisdom*, 30 WAKE FOREST L. REV. 831, 831 (1995).

Lawyer's Work – Legal Ethics: A Response to Professor Griffin, 66 FORDHAM L. REV. 1313 (1998)

John Paul II, Encyclical Letter on Human Work: *Laborem Exercens* ¶¶24 ff. (1981). A continuation, expansion, and explication of the Church's social teaching on work, the encyclical sets out the scriptural basis of the Church's social teaching and then develops the idea of the "spirituality of work."

Randy Lee, *Faith Through Lawyering: Finding and Doing What is Mine To Do*, 11 REGENT U. L. REV. 71 (1998-99). This lengthy article explores what it means to be called to be a lawyer.

Arthur Allen Leff, *Unspeakable Ethics, Unnatural Law*, 1979 DUKE L. J. 1229 (1979).

Susan R. Martyn, *Are We Moving in the Right Dimension? Sadducees, Two Kingdoms, Lawyers, and the Revised Model Rules of Professional Conduct*, 34 VAL. U. L. REV. 121 (1999). Professor Martyn, a member of the commission reviewing the ABA Model Rules of Professional Conduct for possible revisions in 2001, addresses issues of confidentiality, conflicts of interest, and fiduciary duty from a Lutheran perspective.

Michael P. Schutt, *What's a Nice Christian Like You Doing in a Profession Like This?* 11 REGENT U. L. REV. 137 (1998-99). A very short essay in answer to the ever-present challenge: "How can a Christian lawyer represent guilty people?" In addition, I discuss briefly the basic question of God's justice as opposed to human justice and the public's concerns about lawyers.

Michael P. Schutt, *Oliver Wendell Holmes and the Decline of the American Lawyer: Social Engineering, Religion, and the Search for Professional Identity*, 30 RUTGERS L. J. 143 (1998). A discussion of the view of Holmes and thousands after him that the law is an engine and lawyers are social engineers. With this utilitarianism, I contrast Alexis de Tocqueville's view of the lawyer and the role of the lawyer informed by God's call and a proper view of the law.

THOMAS L. SHAFFER, *ON BEING A CHRISTIAN AND A LAWYER* (1981). An important book, because, among other things, it laid the groundwork for more mainstream scholarship in the area of law and religion.

Thomas L. Shaffer, *On Religious Legal Ethics*, 35 CATH. LAWYER 393 (1994).

-Other Resources

Joseph Allegretti, *Lawyers, Clients, and Covenant: A Religious Perspective on Legal Practice and Ethics*, 66 FORDHAM L. REV. 1101 (1998).

Gordon J. Beggs, *Laboring Under the Sun: An Old Testament Perspective on the Legal Profession*, 28 PACIFIC L. J. 257 (1996).

Jeffrey A. Brauch, *John Winthrop: Lawyer as Model of Christian Charity*, 11 REGENT U. L. REV. 343 (1999).

Robert F. Cochran, *Professionalism in a Postmodern Age: Its Death, Attempts at Resurrection, and Alternative Sources of Virtue*, 14 NOTRE DAME J. LEG. ETHICS AND PUB. POL. 305 (2000).

Robert F. Cochran, *Honor as a Deficient Aspiration for "The Honorable Profession": The Lawyer as Nostromo*, 69 FORDHAM L. REV. 859 (2000).

Bruce Frohnen, *The Bases of Professional Responsibility: Pluralism and Community in Early America*, 63 GEO. WASH. L. REV. 931 (1995).

Thomas L. Shaffer, *The Profession as Moral Teacher*, 18 ST. MARY'S L. J. 195 (1986).

14. Property

-Most Useful⁵²

CHESTER ANTIEU, RIGHTS OF OUR FATHERS 2, 126-30, 133-34 (1968).

JOHN EIDSMOE, GOD & CAESAR 91-99 (1984).

JAMES B. JORDAN, THE LAW OF THE COVENANT 131 - 144 (1984).

Herbert Titus, *The Dominion Mandate: The Family, Private Property and Inheritance* (Sept. 3, 1985) (unpublished manuscript) (on file with author).

HERBERT W. TITUS, GOD, MAN, AND LAW: THE BIBLICAL PRINCIPLES 229-275 (1994).
See annotation at Section A1, above.

Jonathan Sacks, *Markets and Morals*, FIRST THINGS, August/September 2000, at 23.
Sacks explores the relationship between private property, morality, and the biblical tradition and its view of man.

-Important References

WILLIAM BLACKSTONE, COMMENTARIES. See annotation at Section A1, above.

2 JAMES KENT, COMMENTARIES CH. IV (1826). See annotation at Section A1, above.

⁵² Again, I defer to and thank my friend and colleague Mike Hernandez, who uses these sources in his Property course. Professor Hernandez also uses supplemental biblical integration materials that he and others have developed over the years for use in the classroom. JAMES SULLIVAN AND MICHAEL HERNANDEZ, PROPERTY I CASES AND MATERIALS: THE STUDY OF PROPERTY I FROM THE PERSPECTIVE OF A CHRISTIAN WORLD VIEW (esp. pp. 1-29)

Leo XIII, Encyclical Letter on the Condition of the Working Classes: *Rerum Novarum* (1891). *Rerum Novarum*, the major landmark in Catholic social teaching, addresses work, private property, and the social ends of each. On these subjects, *Rerum Novarum* should be read in light of encyclicals celebrating its fortieth, seventieth, ninetieth, and one hundredth anniversaries, explaining, affirming, and expanding upon Leo's teaching (see below). Pope John XXIII summarizes the key teachings of *Rerum Novarum*:

[Work must be regarded] not merely as a commodity, but as a specifically human activity. In the majority of cases a man's work is his sole means of livelihood. Its remuneration, therefore, cannot be made to depend on the state of the market. It must be determined by the laws of justice and equity. Any other procedure would be a clear violation of justice, even supposing the contract of work to have been freely entered into by both parties.

Secondly, private ownership of property, including that of productive goods, is a natural right which the State cannot suppress. But it naturally entails a social obligation as well. It is a right which must be exercised not only for one's own personal benefit but also for the benefit of others.

As for the State, its whole *raison d'être* is the realization of the common good in the temporal order. It cannot, therefore, hold aloof from economic matters. On the contrary, it must do all in its power to promote the production of a sufficient supply of material goods, "the use of which is necessary for the practice of virtue." It has also the duty to protect the rights of all its people, and particularly of its weaker members, the workers, women and children. It can never be right for the State to shirk its obligation of working actively for the betterment of the condition of the workingman.

It is furthermore the duty of the State to ensure that terms of employment are regulated in accordance with justice and equity, and to safeguard the human dignity of workers by making sure that they are not required to work in an environment which may prove harmful to their material and spiritual interests. It was for this reason that the Leonine encyclical enunciated those general principles of rightness and equity which have been assimilated into the social legislation of many a modern State, and which, as Pope Pius XI declared in the encyclical *Quadragesimo Anno*, have made no small contribution to the rise and development of that new branch of jurisprudence called labor law.

Pope Leo XIII also defended the worker's natural right to enter into association with his fellows. Such associations may consist either of workers alone or of workers and employers, and should be structured in a way best calculated to safeguard the workers' legitimate professional interest. And it is the natural right of the workers to work without hindrance, freely, and on their own initiative within these associations for the achievement of these ends.⁵³

In addition, at least four other Papal Encyclicals build on the doctrines of work, property, and the state:

Pius XI, Encyclical Letter on Reconstruction of the Social Order: *Quadragesimo Anno* (1931). Commemorating the fortieth anniversary of *Rerum Novarum*, this

⁵³ John XXIII, Encyclical Letter Christianity and Social Progress: *Mater et Magistra* ¶¶18-22 (1961).

encyclical is most significant for the development of the principle of subsidiarity. In addition, Pope Pius XI builds on *Rerum Novarum*'s foundations:

Pius XI's teaching in this encyclical can be summed up under two heads. First he taught what the supreme criterion in economic matters ought not to be. It must not be the special interests of individuals or groups, nor unregulated competition, economic despotism, national prestige or imperialism, nor any other aim of this sort. On the contrary, all forms of economic enterprise must be governed by the principles of social justice and charity. The second point which We consider basic in the encyclical is his teaching that man's aim must be to achieve in social justice a national and international juridical order, with its network of public and private institutions, in which all economic activity can be conducted not merely for private gain but also in the interests of the common good.⁵⁴

John XXIII, Encyclical Letter Christianity and Social Progress: *Mater et Magistra* (1961). This encyclical addresses issues of work, private property, and social justice, first set forth seventy years earlier in *Rerum Novarum*. Pope John summarizes and quotes extensively from *Rerum Novarum*, Pope Pius XI's *Quadragesimo Anno*, and from Pius XII, tracing changing conditions regarding work, property, and wealth. In discussing the role of private property, John lauds state and public ownership of property (¶117), and cautions against evil men in positions of power (¶118).

John Paul II, Encyclical Letter on Human Work: *Laborem Exercens* (1981). A continuation, expansion, and explication of the Church's social teaching on work. Written on the ninetieth anniversary of *Rerum Novarum*, the encyclical sets out the basis of the Church's social teaching in Genesis and then develops the idea of the "spirituality of work" for all.

John Paul II, Encyclical Letter on the Hundredth Anniversary: *Centesimus Annus* (1991). The Pope reviews and affirms the social teachings of the church first promulgated in Leo's *Rerum Novarum*. In his discussion of *Rerum Novarum*, Pope John Paul addresses the nature of man, the right and duties inherent in private property ownership (¶¶30-31), the role and nature of the state (¶¶40-48), and the relative weaknesses and strengths of political and economic systems of the world. In addition, he addresses the "welfare state" and the relative rights and duties of the State, individuals, and intermediary institutions in caring for others (¶48).

⁵⁴John XXIII, Encyclical Letter Christianity and Social Progress: *Mater et Magistra* ¶¶38-40 (1961).

15. Torts⁵⁵

-Most Useful

Douglas H. Cook, *Negligence or Strict Liability? A Study in Biblical Tort Law*, 13 WHITTIER L. REV. 1 (1992). A brief and helpful introduction to the central question in Tort law, based upon a careful analysis of the Exodus case laws. A good introduction on and example of how to use the Scripture to answer contemporary questions.

James Gordley, *Tort Law in the Aristotelian Tradition*, in DAVID G. OWEN, PHILOSOPHICAL FOUNDATIONS OF TORT LAW 132 (1995).

-Useful

JEFFREY A. BRAUCH, IS HIGHER LAW COMMON LAW? READINGS ON THE INFLUENCE OF CHRISTIAN THOUGHT IN ANGLO-AMERICAN LAW 301-20 (1999). See general annotation at Section A1. This brief section summarizes the late development of the law of torts, with special emphasis on theories of justification of tort law.

Douglas H. Cook, *Personal Responsibility and the Law of Torts*, 45 AM. U. L. REV. 254 (1996).

DAVID G. OWEN, PHILOSOPHICAL FOUNDATIONS OF TORT LAW (1995).

JAMES B. JORDAN, THE LAW OF THE COVENANT 93 – 130 (1984).

Saul Levmore, *Rethinking Comparative Law: Variety and Uniformity in Ancient and Modern Tort Law*, 61 TUL. L. REV. 235 (1986). Contains a brief, but illuminating discussion of some of the Exodus case laws in light of other ancient legal systems.

HERBERT W. TITUS, GOD, MAN, AND LAW: THE BIBLICAL PRINCIPLES 137-199 (1994). See annotation at Section A1, above.

⁵⁵ In my Torts class, I use materials that I have collected to supplement the readings Professor Richard Epstein's, *Cases and Materials on Torts*. MICHAEL P. SCHUTT, TORTS I SUPPLEMENT: NOTES AND COMMENTS ON BIBLICAL THEMES (2d ed. 1999).

II. PUBLICATIONS

These publications usually include articles helpful to the task of integrating scripture with the study of law and legal issues.

American Journal of Jurisprudence
Notre Dame Law School
Notre Dame, IN 46556
(219) 255-2938

Quarterly of the Christian Legal Society
First Things, "The Journal of Religion and Public Life" (www.firstthings.com).

The Catholic Lawyer

Journal of Christian Jurisprudence

Regent University Law Review

Regent University School of Law

1000 Regent University Dr.

Virginia Beach, VA 23464

www.regent.edu

Journal of Law and Religion

Veritas - A Journal of the Natural Law Studies Center.

III. ORGANIZATIONS

Acton Institute for the Study of Religion and Liberty

Acton Institute

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Grand Rapids, MI 49503

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Alliance Defense Fund

Alan E. Sears, President & General Counsel

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Fax: (602) 953-5630

E-mail: aesadf@azlink.com

"The Alliance Defense Fund (ADF) is a nonprofit organization that funds the legal defense and advocacy of religious freedom, the sanctity of human life, and family values. Unlike other legal defense organizations, ADF does not take cases to court itself, but instead provides strategic planning, training, and funding to those individuals and groups that do litigate cases."

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“The American Center for Law and Justice is a not-for-profit public interest law firm and educational organization dedicated to the promotion of pro-liberty, pro-life and pro-family causes. The ACLJ engages in litigation, provides legal services, renders advice and counsels clients, and supports attorneys who are involved in defending the religious and civil liberties of Americans.” www.aclj.org

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Dept. of Political Science,
Marquette University
P.O. Box 1881, Milwaukee
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The goal of the APPI is to advance natural law in the academy and public discourse.

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Center for Public Justice

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Christian Leadership Ministries

CLM is the faculty ministry of Campus Crusade for Christ. The mission of Christian Leadership Ministries is to reach and equip professors to change the world for Christ. Their website for students is a good one: www.leaderu.com.

Christian Legal Society

4208 Evergreen Ln.

Suite 222

Annandale, VA 22003

Email: CLSHQ@clsnet.org

“CLS is a non-denominational national network of attorneys, judges, law students, professors, and lay people, with local attorney chapters and law student chapters located in almost every state. CLS helps lawyers to integrate their faith in Christ with their professional responsibilities and reaches and teaches law students across the country to obey Jesus' age-old command ‘to do justice with the love of God.’”

www.christianlegalsociety.org

The Dooyeweerd Centre for Christian Philosophy

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Ancaster, ON L9K 1J4

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Emory Law School Law and Religion Program

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<http://serv1.law.emory.edu/religion/>

Institute for Christian Legal Studies

Director, Michael P. Schutt

Associate Professor, Regent University School of Law

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For more information on ICLS, contact:

Michael P. Schutt
Director, Institute for Christian Legal Studies
806 Fleming Drive
Mt. Pleasant, TX 75455
michsch@regent.edu
903.575.0775

David Nammo
Director, Law Student Ministries
Christian Legal Society
4208 Evergreen Ln., Suite 222
Annandale, VA 22003
dnammo@clsnet.org
703.642.1070 ext. 3300