5 The Confessional Presbyterian

2009 A Journal for Discussion of Presbyterian Doctrine & Practice

Table of Contents

The Confessional Presbyterian, P. O. Box 141084, Dallas, Texas 75214.
Editor: Mr. Chris Coldwell. Email: editor@cpjournal.com.
Reviews Editor: Mr. Lane Keister. Email: ReviewEditor@cpjournal.com.
Subscriptions: USA $18; Library/Foreign $25. Retail: $25.
The Confessional Presbyterian, Volume 5 (2009).
ISSN 1549–9979 ISBN 978-0-941075-44-2

This periodical is indexed in the ATLA Religion Database®, a product of the American Theological Library Association, 300 S. Wacker Dr., Suite 2100, Chicago, IL 60606, USA. email: atla@atla.com, www:http://www.atla.com.
Front Cover: John Calvin (1509–1564). Copyright © 2009 by Mike Mahon.
Back Cover: Westminster Abbey, Exterior, North Entrance, Rose Window.

Editorial

Welcome to the fifth volume of *The Confessional Presbyterian*. When first assaying what would become this journal, the editor desired to achieve at least five issues which might stand as a solid set even if it were not ultimately a long term success. This issue accomplishes that goal. Whether we are able to continue with more volumes in successive years will depend ultimately on whether there are enough subscribers willing to continue to support what has become a rather substantial print journal. We are also completely indebted to the many fine contributors who have made this journal worthwhile these first five years.

The fifth issue, following a trend, is the largest issue yet (and it could have been larger; several reviews and articles did not make the cut off date for publication and we hope to run these in a future issue). In this volume readers may once again find a wide range of material.

The two part *Westminster Assembly & the Judicial Law* stands out for its length if for no other reason. The first part, containing a chronological survey, is unique in ordering the source material by "release" date around a time line of the work of the Westminster Assembly. This is largely possible due to the dating of the Thomason tracts, and to a lesser degree the records of the Company of Stationers and other sources. Matthew Winzer provides the second analytical part, concentrating on two foundational questions, of which the first is key: "Do the Westminster Confession and Catechisms teach what has come to be called the theonomic thesis—'the abiding validity of the law in exhaustive detail?' Do the writings of the Westminster divines provide any justification for thinking that the Westminster documents teach this thesis?" Mr. Winzer concludes that "these questions should be answered in the negative."

Some other Confessional issues are addressed in this issue. Dr. VanDuren has written a helpful defense of the Reformed view rejecting representations of Christ, which is both succinct and extensive in its references. The siren song of recent literature to abandon the view as represented in Westminster Larger Catechism 109 is strongly countered. And Lane Keister examines the exegetical basis for the Puritan view proscribing recreation on the Lord's day as summarized in the Westminster Standards.

In the arena of Presbyterian polity, in *Presbyterian Quintessence: The Five 'Heads' of Church Government,* Frank J. Smith uncovers the answer to why the Presbyterian Church in America Book of Church Order speaks of five "heads" of

Continued on Page 322.

Table of Contents Continued

The Westminster Assembly & the Judicial Law: A Chronological Compilation and Analysis

By Chris Coldwell and Matthew Winzer

To them also, as a body politic, He gave sundry judicial laws, which have expired together with the State of that people; not obliging any other now, further than the general equity thereof may require.[1]

Part One: Chronology

In the context of the debate over Theonomy and the Westminster Confession of Faith, there have been previous compilations published of Puritan material attempting to show their thoughts on the nature of any abiding validity of the Judicial Law. The most significant of these have been those by Sinclair Ferguson and Martin Foulner, the latter contending a kinship in theology with Theonomy, the former affirming only a practical agreement.[2] Both covered a broader range of time than just the years the Westminster Assembly was in session, but did not present all the material that may be found for even that period. The purpose of this survey is to narrow down to the specific time when discussions could or would have taken place on this topic amongst the Westminster divines. Therefore the time frame has been narrowed to the start of the Assembly through the completion of chapters 19, 20 and 23 of the Confession of Faith with proofs. While the inclusion of Chapter 19 on the Law of God is obvious, Chapters 20 and 23 would have afforded the same opportunity to discuss the judicial law as it related to the punishing of doctrinal error, a controversy at the time within the Assembly and throughout London. The period of the survey has been pushed back to the start of the Assembly because the divines immediately began work revising the Thirty-nine Articles, including Article 7 containing comment on the judicial law.

Any writings for this period by members of the Assembly relative to the subject under review are of interest to this study. Additionally, of particular interest are the writings by those divines that were more directly connected with the work on the ninth proposition of Article 7 of the Thirty-Nine Articles and Westminster Confession of Faith chapters 19, 20 and 23. For instance, Anthony Burgess is of interest because of his book *Vindicæ Legis;* being on the Assembly's third committee, he would have potentially helped to craft WCF 19 "Of the Law of God," and his book was published only weeks after that chapter was finalized and approved. *Jus Divinum Regiminis Ecclesiastici* appeared about the same time and is of keen interest as more than a few of the Westminster divines may be connected with it.

However, the goal in this survey is not to attempt to adduce any individual divine as either interpretive of or influential upon Westminster Confession of Faith 19.4. This would require proof from the records of the Assembly, and there is no known surviving account of their debates over the expiration of the judicial law. There is nothing in the record regarding the judicial law for instance, like Gillespie's insistence for a change to

The Authors: The chronologically ordered collection of source material was compiled by Chris Coldwell, editor of *The Confessional Presbyterian*. Matthew Winzer, author of the analysis presented in part two, is pastor of Grace Presbyterian Church (Australian Free Church), Rockhampton, Queensland, Australia.

1. Westminster Confession of Faith, 19.4, cited from S. W. Carruthers, *The Westminster Confession of Faith: Being an account of the Preparation and Printing of its Seven Leading Editions to which is Appended a Critical Text of the Confession with notes thereon* (Manchester: R. Aikman & Son, 1937) 124.

2. Sinclair B. Ferguson, "An Assembly of Theonomists? The Teaching of the Westminster Divines on the Law of God," in *Theonomy: A Reformed Critique,* ed. William S. Barker & W. Robert Godfrey (Grand Rapids, Mich: Academie Books, 1990) 315–349. Martin A. Foulner, *Theonomy and the Westminster Confession: an annotated sourcebook* (Marpet Press, 1997).

The Westminster Assembly & the Judicial Law: Chronology of Surveyed Literature	
July 1, 1643.	Seating of the Westminster Assembly
July–October, 1643.	The Revision of the Thirty-Nine Articles
August 2, 1643.	John Sedgwick, *Antinomianism Anatomized.*
August 9–15, 1643.	**Westminster Assembly.** Lightfoot's Journal. Discussion of the 9th proposition of Article 7.
August 10, 1643.	Jeremiah Burroughs (2nd committee), *An Exposition of the Prophesie of Hosea.*
September 30, 1643.	Thomas Case (1st), *The Quarrel of the Covenant.*
December 27, 1643.	Alexander Henderson, *Sermon to the House of Commons.*
May, 1644 – March 8, 1648.	The Confession of Faith
May 3, 1644.	Samuel Rutherford, *Due Right of Presbyteries.*
August 13, 1644.	Herbert Palmer (1st), *The Glasse of God's Providence.*
August 14, 1644.	**Westminster Assembly.** Session 265. Confession of Faith.
August 20, 1644.	**Westminster Assembly.** Session 269. Committee for the Confession of Faith.
August 28, 1644.	William Reyner (1st), *Babylon's ruining-earthquake and the Restauration of Zion.*
September 4, 1644.	**Westminster Assembly.** Session 278. Committee for the Confession.
September 5, 1644.	Anthony Burgess (3rd), *Judgement's Removed, where Judgement is Executed.*
September 5, 1644.	Thomas Case (1st), *Jehoshaphats Caveat to his Judges.*
September 28, 1644.	Anthony Burges (3rd), *The Magistrate's Commission from Heaven.*
October 30, 1644.	George Gillespie, *A Late Dialogue betwixt a Civilian and a Divine.*
December 25, 1644.	Edmund Calamy (2nd), *An Indictment against England.*
January 8, 1644/45.	George Gillespie, *Wholesome Severity Reconciled with Christian Liberty.*
January 29, 1644/45.	George Walker (2nd), Sermon to the House of Commons.
February 7, 1644/45.	Daniel Featley (2nd), *The Dippers Dipt.*
March 26, 1645.	John Ward (3rd), *God Judging Among the gods.*
April 21, 1645.	**Westminster Assembly.** Session 421. Confession of Faith.
April 30, 1645.	Samuel Bolton.
April 30, 1645.	Cornelius Burges (1st), *Second Sermon to the House of Commons.*
May 1, 1645.	Daniel Cawdrey (2nd) and Herbert Palmer (1st), *Sabbatum Redivivum.*
May 9, 1645.	**Westminster Assembly.** Session 432. Expediting the Confession of Faith.
May 12, 1645.	**Westminster Assembly.** Session 434. Confession of Faith, New Committee.
May 21, 1645.	James Ussher. *A Body of Divinitie.*
May 28, 1645.	Alexander Henderson, *Sermon to the House of Lords.*
June 25, 1645.	Richard Byfield (2nd), *Zion's Answer to the Nations' Ambassadors.*
July 8, 1645.	**Westminster Assembly.** Session 464. Confession of Faith, Committee for the Wording.
July 11, 1645.	**Westminster Assembly.** Session 467. Confession of Faith to the Standing Committees.
September 16, 1645.	John Ley (1st), *Annotations upon Exodus.*
October 24, 1645.	Jeremiah Burroughs (2nd), *Irenicum to the Lovers of Truth and Peace.*
November 17, 1645.	**Westminster Assembly.** Session 537. Law of God to the Third Committee.
November 24, 1645.	Robert Baillie, *A Dissuasive From the Errours of the Times.*
November 26, 1645.	Jeremiah Burroughs (2nd), *Sermon to the House of Peers.*
December 8, 1645.	**Westminster Assembly.** Session 549. Committee to Revise the Confession of Faith.
December 18, 1645.	London Ministers, *A Letter Presented to the Assembly of Divines.*
January 1, 1645/46.	**Westminster Assembly.** Session 564. Report on the Law of God.
January 7, 9, 12–13, 1645/46.	**Westminster Assembly.** Sessions 568, 570, 571, 572. Law of God Debated.
January 22, 1645/46.	Robert Baillie, *A Dissuasive From the Errors of the Times.* Second impression.
January 29, 1645/46.	**Westminster Assembly.** Session 581. Christian Liberty. Committee for Law of God (Gouge).
February 2, 1645/46.	**Westminster Assembly.** Session 582. Report on the Ceremonial and Judicial Law.
February 9, 1645/46.	**Westminster Assembly.** Session 585. Debate on the Ceremonial & Judicial Law's Abrogation.
February 10–12, 1645/46.	**Westminster Assembly.** Session 586–588. Debate on Christian Liberty.
February 16, 1645/46.	**Westminster Assembly.** Session 590. Debate on Christian liberty.
February 23, 1645/46.	**Westminster Assembly.** Session 593. Liberty, Sabbath, Magistrate, Marriage and Divorce.
March 3, 1645/46.	Samuel Rutherford, *Divine Right of Church Government Vindicated.*
March 4, 1645/46.	**Westminster Assembly.** Session 598. Christian Liberty Committee to Meet.

The Westminster Assembly & the Judicial Law: Chronology of Surveyed Literature	
May, 1644 – March 8, 1648.	The Confession of Faith, Continued
March 10, 1645/46.	**Westminster Assembly.** Session 602. Report on Christian Liberty.
March 26, 1646.	**Westminster Assembly.** Session 610. Report on the Magistrate. Draft of Christian Liberty.
March 26, 1646.	Stephen Marshall (1st), *God's Master-Piece.*
March 27, 1646.	**Westminster Assembly.** Session 611. Christian Liberty.
March 30,1646.	**Westminster Assembly.** Session 612. Christian Liberty.
March 31, 1646.	**Westminster Assembly.** Session 613. Christian Liberty vote not to Recommit.
April 23, 24, 27, 1646.	**Westminster Assembly.** Sessions 628–630. Civil Magistrate.
June 17, 19, 1646.	**Westminster Assembly.** Sessions 660, 662. Committee for Perfecting the Confession.
July 30, 1646.	**Westminster Assembly.** Session 680. Mr. Gillespie's Book.
August 4, 1646.	George Gillespie, *Aaron's Rod Blossoming.*
August 21–August 31, 1646.	**Westminster Assembly.** Grand Committee, The Law of God.
September 1–4, 15, 17, 1646.	**Westminster Assembly.** Sessions 696–699, 708, 710. Committee for Perfecting the Confession, Cawdrey, Law of God.
September 23, 1646.	**Westminster Assembly.** Session 716. Report on Christian Liberty.
September 24, 1646.	**Westminster Assembly.** Session 718. Debate on Christian Liberty.
September 25, 1646.	**Westminster Assembly.** Session 719. Christian Liberty Report; Law of God Passed.
September 30, 1646.	Herbert Palmer (1st), *The Duty & Honour of Church-Restorers.*
October 1, 1646.	**Westminster Assembly.** Session 720. Christian Liberty Partially Approved.
October 7–9, 1646.	**Westminster Assembly.** Sessions 722, 723, 724. Christian Liberty Debated.
October 7–9, 1646.	**Westminster Assembly.** Session 725. Christian Liberty Debated; Report on the Civil Magistrate.
October 12, 1646.	Anthony Burges (3rd), *Vindiciæ Legis.*
October 13–16, 20, 21, 1646.	**Westminster Assembly.** Sessions 726–729, 730, 731. Christian Liberty; Civil Magistrate.
October 23, 1646.	**Westminster Assembly.** *The Humble Advice Concerning Part of a Confession of Faith.*
October 28, 1646.	Stephen Marshall (1st), *A Two-edged Sword Out of the Mouth of Babes.*
October 30, 1646.	**Westminster Assembly.** Session 733. Christian Liberty Concluded.
November 9, 1646.	**Westminster Assembly.** Session 736. Civil Magistrate Approved.
December 2, 1646.	London Ministers, *Jus Divinum Regiminis Ecclesiastici.*
December 3, 1646.	**Westminster Assembly.** Session 751. Slight Alteration to Law of God.
December 4, 1646.	**Westminster Assembly.** Session 752. Gillespie's Alteration to "Of the Civil Magistrate".
December 7, 1646.	**Westminster Assembly.** *The humble advice of the Assembly of Divines concerning a confession of faith.*
January 6, 1646/47.	**Westminster Assembly.** Session 768. Scripture Proofs.
January 27, 1646/47.	Obadiah Sedgwick (1st), *The Nature and Danger of Heresies.*
February 19 & 22, 1646/47.	**Westminster Assembly.** Session 796. Scripture Proofs, Chapter 19.
February 25, 1646/47.	**Westminster Assembly.** Session 798. Scripture Proofs, Chapter 20.
February 26, 1646/47.	**Westminster Assembly.** Sessions 799, 801–804. Scripture Proofs, Chapter 20.
March 2–5, 1646/47.	**Westminster Assembly.** Session 802. Scripture Proofs, Chapter 23.
March 3, 1646/47.	**Westminster Assembly.** Session 802. Scripture Proofs, Chapter 23.
March 5, 1646/47.	**Westminster Assembly.** Session 804. Review of Scripture Proofs.
March 10, 1646/47.	Richard Vines (3rd), *The Authours, Nature, and Danger of Hæresie.*
March 11–12, 1646/47.	**Westminster Assembly.** Sessions 805–806. Scripture Proofs, Chapter 20.
April 5, 1647.	**Westminster Assembly.** Session 820. Confession of Faith Finished.
April 6, 1647.	**Westminster Assembly.** Session 821. Scripture Proofs Approved.
April 12, 1647.	**Westminster Assembly.** Session 825. Scripture Proofs of Chapter 23 Approved.
April 29, 1647.	**Westminster Assembly.** Confession of Faith with the Scripture Proofs.
May 26, 1647.	Thomas Case (1st), *Spirituall Whordome Discovered.*
	Postscript
March 8, 1647/48.	**Westminster Assembly.** Session 1027. Cheynell and Acontius.
March 8, 1647/48.	Francis Cheynell (3rd), "The Report made to the Reverend Assembly." In *The Divine Trinunity of the Father, Son, and Holy Spirit.* Cheynell on the Judicial Law (March 26, 1650).

The Westminster Assembly & the Judicial Law: A Chronological Compilation and Analysis

By Chris Coldwell and Matthew Winzer

To them also, as a body politic, He gave sundry judicial laws, which have expired together with the State of that people; not obliging any other now, further than the general equity thereof may require.

Part Two: Analysis

In the last several decades the theonomic movement has brought controversy to the teaching of the Westminster Confession of Faith regarding the judicial law of Moses. The first part of this study presented a chronological survey of the work of the Westminster Assembly with extracts from the writings of representative divines interleaved by date. This second part of the study will present an analysis of these writings and will concentrate on answering two fundamental questions. Do the Westminster Confession and Catechisms teach what has come to be called the theonomic thesis—"the abiding validity of the law in exhaustive detail?"[1] Do the writings of the Westminster divines provide any justification for thinking that the Westminster documents teach this thesis? The analysis will show that these questions should be answered in the negative.

The first question is foremost in the discussion. What the Confession and Catechisms explicitly teach is fundamental to deciding the issue; therefore this analysis will undertake to clarify what the Confession and Catechisms teach in their own right. If it is obvious that theonomy teaches a different view of the abiding validity of the law than that which is stated in the Westminster formulary, the honourable course would be to simply admit it rather than reinterpret the formulary in the vain attempt of making it affirm something it plainly denies.

The second question is a little more complex. Were the writings of the divines to contradict the explicit teaching of the Westminster Confession and Catechisms it should not alter the plain interpretation of these historic documents. If there were variety of sentiment amongst the formulators then this would only prove a variety of sentiment; it does not become an interpretative filter for understanding the unified formulary to which these divines gave consent. It is the conclusion of this analysis, however, that the writings of the divines do not contradict the express teaching of the Confession and Catechisms, and do not provide the slightest justification for thinking that these men taught the abiding validity of God's law in exhaustive detail. Although there might be a circumstantial appearance of agreement with the theonomic thesis, it is clear that the divines always employed categories, distinctions, and qualifications which theonomists reject. Therefore, while the main aim of this analysis is to clarify the position of the Westminster documents, there will also be repeated reference to the writings of the divines as confirmation and illustration of the formulary. In doing so it will become apparent that there is no real agreement with the view that God's law in exhaustive detail continues to exert a binding influence on modern nations.

The first part of this analysis will examine the nature and function of the law. Here it will be seen that moral law alone is the perpetual rule for all men and that other classifications of law are introduced for the express purpose of showing that they were temporary. The judicial laws have expired with the State of Israel and do not now function as laws to bind the consciences

The Authors: The chronologically ordered collection of source material presented in part one, was compiled by Chris Coldwell, editor of *The Confessional Presbyterian*. Matthew Winzer, author of Part Two, is pastor of Grace Presbyterian Church (Australian Free Church), Rockhampton, Queensland, Australia.

1. Greg L. Bahnsen, *Theonomy in Christian Ethics* (Nutley, New Jersey: The Craig Press, 1979) 39.

of men; however, the spirit of these laws continues to teach principles of equity which remain obliging.

The second part will give some attention to the nature and function of the civil magistrate, where one may observe its divine institution in the sphere of nature as distinct from the sphere of grace. Nevertheless, when the State professes Christianity it enters into covenant with God and the magistrate receives a further obligation to support the Church in its endeavours. In this capacity the Christian magistrate is directed by the moral law of God as he maintains wholesome laws. The Old Testament law certainly provides moral norms for the punishment of moral crimes, but those punishments are variable both as to the kind employed and the degree to which they are inflicted.

Part One. The Nature and Function of the Law: The Nature of Law in General

A noticeable feature of the Westminster Confession and Catechisms is the presence of a distinct understanding of *law*. It is not some vague, nebulous concept, which is left to the spirit of the times to define, but is clearly articulated according to the biblical framework. The underlying belief is that God Himself provides the ultimate moral standard because "He is most holy in all His counsels, in all His works, and in all His commands" (*WCF* 2.2).[2] The *good* and the *right* are bound to what God is, what God does, and what God speaks. As explained by Samuel Rutherford, "Things are just and good, because God willeth them."[3] Consequently, this most holy God is the source of moral obligation: "To Him is due from angels and men, and every other creature, whatsoever worship, service, or obedience He is pleased to require of them" (*WCF* 2.2). The concepts of duty and obligation arise as a result of God's requirements upon man. Hence the Catechisms begin their treatment of man's duty by tying it to that which "God requireth of man" (*LC* 91, *SC* 39).

Furthermore, this requirement of Holy Sovereignty is placed within the framework of covenant transaction. All relations and actions of God to men are understood to be a "voluntary condescension on God's part," which He expresses in "covenant" terms so as to make Himself the "blessedness and reward" of man (*WCF* 7.1). In the giving of His law God gifts Himself to man and makes Himself the measure and the means of blessing in human life. This is evident throughout the federal scheme of theology which the Confession utilises as a broad hermeneutical rule for interpreting Scripture. Law is an essential component of both the covenant of works and the covenant of grace, thereby ensuring that ethics is intrinsically tied to theology.

The Confession states that "God gave to Adam a law, as a covenant of works,[4] by which He bound him and all his posterity to personal, entire, exact, and perpetual obedience; promised life upon the fulfilling, and threatened death upon the breach of it: and endued him with power and ability to keep it" (*WCF* 19.1; *cf.* 7.2). It also notes that Jesus Christ, in the covenant of grace, while delivering man from the law as a means of justification and an instrument of condemnation, does not "any way dissolve, but much strengthen this obligation" to the law (*WCF* 19.5, 6); so that "The moral law doth for ever bind all, as well justified persons as others, to the obedience thereof" (*WCF* 19.5). In justification, the righteousness of the law is fulfilled by Christ and imputed to believers (*WCF* 11.1–3). In regeneration, there is "a new heart and a new spirit created in them" (*WCF* 13.1). In sanctification, they are "more and more quickened and strengthened in all saving graces, to the practice of true holiness, without which no man shall see the Lord" (*WCF* 13.1).[5] In genuine repentance, grace is

2. All quotations of the Westminster Formulary are taken from *Westminster Confession of Faith* (Glasgow: Free Presbyterian Publications, 1994). *WCF* refers to the Confession of Faith, *LC* to the Larger Catechism, and *SC* to the Shorter Catechism.

3. Samuel Rutherford, *Lex, Rex, or, the Law and the Prince* (Edinburgh: Robert Ogle and Oliver & Boyd, 1843) 138.

4. It should be observed that the Confession employs the word "law" here in a composite sense, including both the moral law and the positive prohibition concerning the tree of knowledge of good and evil, as is evident by comparing this statement with Larger Catechism answer 92. According to the Confession the moral law was natural to Adam and Eve (*WCF* 4.2), but the covenant of works was a post-creation, superadded command and promise made only "to Adam, and in him to his posterity" (*WCF* 7.2). Anthony Burgess lays it down as a basic doctrine: "That God besides the naturall law engraven in Adams heart, did give a positive law, to try his obedience" (*Vindiciæ Legis*, 105; see in this issue "Chronology," 41). There is therefore no basis for assuming that the divines considered the moral law and the covenant of works to be synonymous in *WCF* 19.1, as if law necessarily requires a works-principle and is antithetical to grace. This idea is expressly repudiated in 19.6, 7: "a man's doing good, and refraining from evil, because the law encourageth the one, and deterreth from the other, is no evidence of his being under the law; and not under grace. Neither are the forementioned uses of the law contrary to the grace of the gospel, but do sweetly comply with it; the Spirit of Christ subduing and enabling the will of man to do that, freely and cheerfully, which the will of God, revealed in the law, requireth to be done."

5. This stands in contrast to the teaching of Rousas J. Rushdoony, who wrote in the Foreword to *Theonomy in Christian Ethics*, x., "Sanctification is by the grace of God through faith, and sanctification is by the law." In *The Institutes of Biblical Law* (n.p.: The Presbyterian and Reformed Publishing Company, n.d.) 550, he maintains this chapter of the Confession "is excellent as far as it goes, but it fails to specify precisely what the *way* of sanctification is." The reality is that

given which leads to a "purposing and endeavouring to walk with Him in all the ways of His commandments" (*WCF* 15.2). In blessed assurance, the believer finds "strength and cheerfulness in the duties of obedience," one of "the proper fruits of this assurance" (*WCF* 18.3). So although believers in Christ are neither justified nor condemned by the moral law, yet it continues to be "of great use to them, as well as to others … as a rule of life" (*WCF* 19.6; *cf. LC* 95). The law therefore continues to rule believers in the same way as it rules all men in general. Only now, as believers in Christ, they are free from condemnation, and are made willing to follow its precepts out of gratitude to God for the redeeming work of Jesus Christ (*WCF* 19.6, 7; *LC* 95).

Hence the law of God is the rule of life for all men, unbelievers and believers alike. The law comes to man to teach him the blessedness of human life when it is lived in communion with God—the acceptance of it results in blessing and life, and the rejection of it is the embracing of death because it is a turning away from Him who is Life and Goodness. Law therefore is both *a requirement and a gift of Holy Sovereignty*. Morality is only possible because God requires man to act in submissive obedience to His will, and by means of submissive obedience man is led to enjoy the blessed life gifted by God.

Moreover, what "God requireth of man, is obedience to His *revealed* will" (*LC* 91, *SC* 39). Man is not left to discover his duty from some mysterious code to be found in the course of the stars, animal behaviour, or in man's social needs. God is said to have revealed His will in such a manner that man knows it and is accountable to it; in the words of one of the proof texts appended to the Catechisms, "He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God" (Micah 6:8). Human morality is dependent on the fact that God has revealed His will to men. The Confession and Catechisms, then, have followed the clear teaching of Scripture in identifying morality with what God graciously *requires* of man and has *revealed* to man.

Given that the Westminster formulary follows the biblical framework by defining morality as submissive obedience to the divine law, it is undeniable that "theonomy" is taught in the broad sense of the term, that is, in opposition to the idea of "autonomy." One is bound to accept God's law as the measure and means of human life and blessedness or be sentenced to the curse and destruction that is entailed in self-law.

The definition of moral law

The Confession and Catechisms are careful to specify *what* law it is that man is obliged to obey at all times and in every situation—the *moral* law (*WCF* 19.5; *LC* 92, *SC* 40). It is to be observed that the writings of the divines, as presented in the chronological half of this study, have also indicated that *moral* is identical to *perpetual* by virtue of the fact that *perpetual* is used as a synonym for, in apposition to, or as a predicate of, *moral* in numerous instances ("Chronology," 21, 22, 28, 29, 36, 43, 46, 53, 54).

As a theologico-ethical concept the word *moral* was not used lightly in seventeenth century religious works, but was part and parcel of a number of discussions which were commonplace in theology. According to Anthony Burgess,

> The word Morall, or Morally, is used in the controversie of the Sabbath; in the question about converting grace; in the doctrine of the Sacraments, about their efficacy and causality; and so in this question, about a Law, what makes it morall" (*Vindiciæ*, 148).

The use of this category was not fitted to support an individual teaching and then abandoned once it had served its purpose. It was a meta-concept, and its strict definition was important to the reformed system because it had a bearing on a variety of ethical and theological issues.

In ethical discussions the term was largely treated by Puritan divines for two reasons. The first was more general; it pertained to the issue of the relationship between the Old and New Testaments and the abiding validity of the law. It is the *moral* nature of the law which constitutes it a *perpetual* law. Anthony Burgess alluded to this when he noted the question about what makes a law moral. His treatise, written to vindicate the law, was specifically a defence of the moral law. The second reason was more specific; it dealt with the fourth commandment in particular, or the binding nature of the Sabbath. Puritan literature abounds with able defences of the moral nature of this command, and a number of Westminster representatives are to be found enlisted in the catalogue of authors. Daniel Cawdrey and Herbert Palmer, to cite but one example, indicate the necessity of correctly defining the term before they can embark on the subject at hand: "it is in a sort necessary to make

the Confession teaches a *gracious way* of sanctification. How can this be found wanting except by those who espouse a legal method?

use of it, and accordingly to discourse a little of it in the very entrance of our Dispute, by shewing how divers men take it diversly, & what we understand by it in this Controversy."[6] The time and effort taken to understand the word *moral* indicates it was a key term for the ethical system of Puritan thought. It was such an important term precisely because it identified which parts of God's law are *perpetual*.

The Larger Catechism provides a clear and concise definition of what is meant by utilising this key term:

> The moral law is the declaration of the will of God to mankind, directing and binding every one to personal, perfect, and perpetual conformity and obedience thereunto, in the frame and disposition of the whole man, soul and body, and in performance of all those duties of holiness and righteousness which he oweth to God and man: promising life upon the fulfilling, and threatening death upon the breach of it (*LC* 93).

One of the features which stands out in this definition is the repetitive use of universal terms—"every one," "personal, perfect, and perpetual," "whole man," and "all." The word *moral* is thereby made to convey the idea of that which applies to every action done by every person on every occasion. A *moral* law, then, is a universally and perpetually obliging law. This is well articulated by William Gouge: "That is accounted morall, which (as a rule of life) bindeth all persons, in all places, at all times."[7] The perpetual force of the word is also to be found in Anthony Burgess' denotation of it: "that which is perpetual and alwaies obliging; yet thus it is meant here, when we speak of a thing moral, as opposite to that, which is binding but for a time" ("Chronology," 43). The authors of "the Sabbath Vindicated," after disagreeing with those who would make the term either too broad or too narrow, are careful to define the term so as to emphasise perpetual obligation: "We therefore so understand the word, as to imply 'any Law of God expressed in Scripture … which from the time it was given, to the end of the world, binds all succeeding Generations of their Posterity to whom it was given'" (*Sabbath Vindicated*, 3).

This repeated clarification in the writings of the divines as well as the clear definition provided by the Larger Catechism demonstrates that the reason for affixing the adjective *moral* before *law* is to clarify exactly what *kind* of law is considered to be universal and perpetual. The *moral law*, then, by definition, is universal and perpetual, and if it is not classed as moral it is because it is not universal and perpetual.

Now this presents a contrasting position to that which is advocated by theonomists. According to Greg Bahnsen, "Every word which proceeds from God's mouth, whether in the gospels of the New Testament or in the case law of the Older Testament, binds the behavior of God's people" (*TICE*, 261). Again, "the law must be kept and endorsed just as God imposes it, and thus it must be followed *in full*. Venturing to select some commandments as binding on the believer and some as not is to come into judgment upon God's holy law; *every* bit of it is authoritative and continues to bind God's people" (262). It is evident from these declarations that the theonomist does not identify a specific *kind* of law as *moral*, and is highly critical of any attempt to categorise one class of commandments as moral and perpetual in distinction from other commandments which are temporary.[8] This is the first step of theonomy's deviation from the Westminster formulary.

The function of moral law

The Larger Catechism speaks of the moral law as "directing and binding every one" (*LC* 93). The chronology has highlighted a concern with the application of the law and provided numerous instances where the focus was upon the moral law as a rule of duty. Moral law *prescribes* man's course of action ("Chronology," 12, 16, 26, 44, 54) and *obliges* man to act accordingly (22, 29, 36, 43) so that he bears a specific *duty* to God and man (12, 14, 18, 19, 20, 23, 25, 27, 38, 40, 41, 48, 49, 53). The idea of *description* or *guidance* is foreign to the language employed by the divines. In each case the issue concerns what God *requires* of man and therefore what man is *obliged* to do. This is the language of *morality*, and the Westminster divines clearly teach that it is the moral law as law which for ever binds men. The function of moral law, then, is to *bind* men to duty and to do so by legislative authority.

This understanding of law is well explained by Anthony Burgess, who notes that the essence of law consists in direction and obligation: "*Direction*; therefore

6. Daniel Cawdrey and Herbert Palmer, *Sabbatum Redivivum: or the Christian Sabbath Vindicated*, the first part (London, 1645) 2.

7. William Gouge, *The Sabbaths Sanctification* (London, 1641) 1.

8. The criticism *in toto* recoils on the theonomist when he is forced to deal with the undeniable presence of ceremonial laws and categorically distinguish them from moral laws for the purpose of showing they are not to be observed by believers under the New Testament. See Greg Bahnsen, *TICE*, 207ff. The fact that "their meaning and intention have been eternally validated" by Christ (209) does not negate the fact that they present a unique category of law which no longer practically applies to believers.

a law is a rule; hence the law of God is compared to a light…. The second essentiall constitute of a law is, *Obligation*; for therein lyeth the essence of a sinne, that it breaketh this law, which supposeth the obligatory force of it" (*Vindiciæ*, 61). The free style of Samuel Rutherford also helps to illustrate the point: "it is essentiall to the Law, as a Sunne shining, whether hell and Antinomians will or not, till Christs second comming, to give light, and shew what is our dutie."[9] The function of the moral law is to bind man to the will of God. The moral law does not merely provide guiding principles, but unchanging absolutes which oblige him to walk accordingly.

Because theonomists have failed to distinguish between perpetual and temporary laws of God, they give a rather vague impression as to the function of law. In general the law is thought to be inflexible in its requirements, but in particular situations these requirements become flexible to suit the situation. Greg Bahnsen explains what he means by the abiding validity of case laws as well as the ten commandments: "The case law illustrates the application or qualification of the principle laid down in the general commandment. The case law elaborates the commandment by means of a concrete illustration" (*TICE*, 313). The problem with this view is that it makes the ten commandments something less than moral law; they have lost their absolute character as a law that perpetually binds all men by reason of legislative authority. Moral *law* has been reduced to moral *principle*. Absolutes, which should apply at all times, have been turned into relative values that require *qualification* or *elaboration* in specific situations. Something other than the legislative authority of the Lawgiver becomes the reason for acting under particular conditions. The theonomist has unwittingly ascribed autonomy to man by giving him the power to choose situations where the moral law must be adjusted so as to apply case-specific laws.

The natural origin of moral law

Another point which the chronology has brought to the fore is the *natural* origin of moral law, that is, the way it operates in the sphere of *nature* so as to impose itself on all men. The words *nature* and *natural* are consistently used in connection with the moral law and equity ("Chronology," 9, 12, 16, 18, 29, 32, 34, 37, 41, 45, 46, 48, 55).

The divines' utilisation of *natural law* is in perfect harmony with the Westminster formulary, which does not refer to holy Scripture as providing the first revelation of God's will to man. Rather, it notes that man himself, created in the image of God, reflects a moral nature analogous to his Life-giver. The Confession declares that God created man "with reasonable and immortal souls, endued with knowledge, righteousness, and true holiness, after His own image; having the law of God written in their hearts, and power to fulfil it: and yet under a possibility of transgressing, being left to the liberty of their own will, which was subject unto change" (*WCF* 4.2; *cf.* 19.1, and *LC* 17). Man therefore is created with moral quality, ability, and liberty. This is what makes him a capable moral agent, and as such is morally culpable for his actions. The ability of man to be morally obligated is founded on the fact that the law of God is written in his heart. Says Samuel Rutherford, "the law of Nature hath all its obligation from God, who wrote it in the heart" (*Spirituall Antichrist*, 2.6).

The Confession fully recognises the effects of original sin: the corrupted nature of the first parents is conveyed to their posterity by ordinary generation (*WCF* 6.3; *LC* 26), and this corruption renders all men "utterly indisposed, disabled, and made opposite to all good, and wholly inclined to all evil" (*WCF* 6.4; *cf. LC* 25). Sin has so defaced the image of God in man as to take away the power and inclination to obey God's law, but it has not removed the ability to apprehend good and evil: "This law, after his fall, continued to be a perfect rule of righteousness" (*WCF* 19.2). The difference between apprehension and inclination is well explained by Anthony Burgess in his comment on Romans 2:15:

> There is therefore a two-fold writing in the hearts of men; the first, of knowledge and judgement, whereby they apprehend what is good and bad: the second is in the will and affections, by giving a propensity and delight, with some measure of strength, to do this upon good grounds. This later is spoken of by the prophet in the covenant of grace, and the former is to be understood here, as will appear, if you compare this with chap. 1.19" (*Vindiciæ*, 60).

The fall into sin was not understood to have taken away the apprehension of what is good and bad, but merely the inclination to do the good required by the law. Thomas Goodwin, in speaking of the work of the law in sinful man, says, "it works there, and all truth would break out in practice, if men did not 'imprison

9. Samuel Rutherford, *A Survey of the Spirituall Antichrist* (London, 1648) 2.117, 118.

it' (so Rom. i. 18)."[10] The dictates of the law continue; it is only delight in the law which has been vitiated by the fall into sin.

This emphasis on *natural law*, a law that imposes itself on all men by virtue of creation, is seen by the theonomic advocate to be another version of autonomy. Rousas Rushdoony calls natural law "heretical nonsense" (*Institutes*, 9). He claims, "For the Bible, there is no law in nature, because nature is fallen and cannot be normative;" accordingly, it is alleged that natural law can only reflect "the sin and apostasy of man" (10). Natural law is seen by Greg Bahnsen to be "a projection of autonomy and satisfaction with the status quo" (*TICE*, 399). He provides one of two alternatives for those who maintain that natural revelation can serve as a standard of judgement: "this either amounts to preferring a sin-obscured edition of the same law of God or to denying the unity of natural and special revelation" (399, 400). Because natural revelation is suppressed in unrighteousness by the sinner, the theonomist alleges that it cannot be recognised as a "functional measure of his ethical obligation" (400).[11] This eventually leads to a faulty interpretation of Westminster's approval of natural law: "The Westminster divines did not expect *natural law* to be a *moral* authority, and they viewed natural revelation as identical in its demands with special (redemptive) revelation" (545).

The fact remains, however, that the Westminster divines *did* appeal to the natural law as possessing moral authority. Anthony Burgess understood the light of nature to be necessary in moral things and distinguished it from the information provided by Scripture:

> the light of Nature is necessary in religious and morall things, though it be not sufficient. We speak of the light of Nature in the first consideration, as it is the residue of the glorious image of God put into us (for of the later, as it is informed by Scripture, it is no question)" (*Vindiciæ*, 72).

Unity of natural and special revelation is affirmed, but whereas Scripture knowledge requires believing reception, nature's light utilises discursive reason:

> Faith therefore, and the light of Nature go to the knowledge of the same thing different waies: faith doth, because of the testimony and divine revelation of God; the light of Nature doth, because of arguments in the thing it self by discourse. And faith is not a dianoeticall or discursive act of the understanding, but it's simple and apprehensive (*Vindiciæ*, 73).

To reason by the light of nature is not simply and intuitively to accept the biblical testimony of what the light of nature teaches, but to use a rational process to examine the nature of the subject under investigation.

The same function is ascribed to reason by Daniel Cawdrey and Herbert Palmer:

> By the light of nature we meane, The understanding that men have by naturall principles in their mindes, (even notwithstanding the present corruption of nature) whereby their Consciences, either of themselves, or awakened by others discourses, come to prescribe the Lawes of Nature to them: making them see by way of conclusion from those principles a necessity of duty, to or against such and such things, even though they have not heard of the Scriptures, or give no credit to their authority. So that the Principles of reason concerning God or man, are the light of nature, and the Practicall conclusions drawn from thence are the Lawes of Nature" (*Sabbath Vindicated*, 157, 158).

Besides ascribing to reason the power to draw moral conclusions, these divines also say that such moral conclusions "urge the Consciences of Men, where the Scripture is silent, or is not heard in the case" (*Sabbath Vindicated*, 158). The law of nature, then, is thought to possess moral authority to which appeal can be made without reference to Scripture. Samuel Rutherford calls the law of nature written in man's heart and the light of the Word "two candles that God has lighted" for the direction of conscience.[12]

There is obviously a fundamental point of difference

10. Thomas Goodwin, *The Works of Thomas Goodwin* (Edinburgh: James Nichol, 1866), 7.295. The personal view of Thomas Goodwin is complex to understand because of his insistence that the moral law was completely erased by the fall: "These characters are written, not born within us; we by nature have but *abrasas tabulas*, tables in which everything is razed out; it is the new work of some second hand hath took the pains to write them there," which Goodwin proceeds to identify from John 1:9 as a "common light" which Christ works in all men (*Works*, 10.101). Although he uses a different route Goodwin eventually arrives at the same destination because the final conclusion is that all men have the work of God's law written in their heart by the "common print of his mediation" (*Works*, 10.102).

11. *Cf.* Martin Foulner, *Theonomy and the Westminster Confession: an annotated sourcebook* (Marpet Press, 1997) 5fn, who acknowledges that "theonomists believe an appeal to natural law today is practically meaningless," and defends it on the basis that the law revealed in Scripture is more complete because it "has been defined by God Himself" whereas our understanding of the law revealed in nature "has been obscured by our sinful nature."

12. Samuel Rutherford, "The Soume of Christian Religion," in *Catechisms of the Second Reformation* (London, James Nisbet & Co., 1886) 165.

between the view of Westminster and that espoused by theonomists as to the sufficiency of the light of nature. It is observed by J. V. Fesko and Guy M. Richard, who have appraised the writings of William Twisse, Samuel Rutherford, Anthony Tuckney, and Thomas Goodwin, that "the Westminster Confession and the divines that composed the document accept natural theology to a greater degree than present-day Reformed theologians."[13] They explain that "there is continuity between the natural theology of Aquinas, the Reformation, and post-Reformation periods;" "natural theology provides unregenerate man with general principles of ethics and conduct" ("Natural Theology," 260). The divines accepted a limited function of human reason based on natural revelation. According to the Westminster formulary and its framers, to argue from the light of nature does not equate to providing Scripture proofs as to what God naturally demands of all men; it requires rational arguments based on moral principles to establish the point. The theonomist rules this approach out of order and thereby expresses dissent with the ethical approach of the Westminster formulary.

Moral law and the ten commandments

Since the Westminster formulary and its framers have taught that the moral law is natural, a question arises as to the relationship between this natural, moral law and the commandments of God as delivered in holy Scripture. The Confession provides the answer when it declares that the moral law which had been given to Adam did not perish in the fall, but "This law, after his fall, continued to be a perfect rule of righteousness, and, as such, was delivered by God upon mount Sinai, in ten commandments, and written in two tables" (*WCF* 19.2). The words "as such" indicate what was important about this publication of the natural, moral law under Moses to the people of Israel on Sinai, viz. that "it was the perfect rule of righteousness;" further, it is stated that this perfect rule of righteousness was delivered "in ten commandments." The ten commandments, then, contain the natural, moral law of God in such a form as to be a perfect rule of righteousness.

There is a clarification in the Larger and Shorter Catechisms as to what is meant by the moral law being *in* the ten commandments. It is said "the moral law is *summarily comprehended in* the ten commandments" (*LC* 98, *SC* 41). The verb, to *comprehend*, means to fully include a thing; and the adverb, *summarily*, qualifies that the thing so comprehended is briefly accounted for. The moral law, therefore, is fully but briefly accounted for within the ten commandments. Taking the Confession and Catechisms together, according to the plain and common sense of their words, one may conclude that the framers considered the moral law to be a perfect rule of righteousness which is fully but briefly contained within the ten commandments.

Theonomists, however, reject this understanding of the ten commandments when they make the decalogue to serve as a summary which comprehends the whole law or a mere summary of the moral law. Greg Bahnsen states his distinctive view as follows: "the decalogue has a *summary* nature: it briefly comprehends the whole law of God without going into detail." The consequence is that the law which the Mediator ratifies includes not only the decalogue but also "the case law applications and elaborations" (*TICE*, 194fn.). In a different vein Martin Foulner criticises those who "equate the Moral Law with the Ten Commandments," and suggests that they "were only a *summary* of the Moral Law" (Foulner, *Theonomy*, 6). Unlike Bahnsen, he makes the decalogue a summary of the *moral* law, but he omits the *comprehensive* nature of that summary.

That the divines did not think like theonomists on the summary nature of the decalogue is apparent from the discussions of the Assembly on the nature of the moral law as set out in the Thirty-Nine Articles of the Church of England. Under the date of Tuesday, August 15, 1643, John Lightfoot reports, "Mr Palmer made the quaere, & gave very sound reason for an addition which at last we agreed upon to be this, 'by the morall law we understand the 10 commandments in their full extent' ("Chronology," 11).

The same identification is to be found in the writings of the divines. Anthony Burgess, for example, teaches,

> Peter Martyr did well resemble the Decalogue to the ten Predicaments, that, as there is nothing hath a being in nature, but what may be reduced to one of those ten; so neither is there any Christian duty, but what is comprehended in one of these, that is, consequentially, or reductively (*Vindiciæ*, 3).

When Burgess comes to treat of the giving of the law, he raises the following question: "What Law this delivered in Mount Sinai is, and what kindes of laws there are, and why its called the Morall Law." His answer shows that he considered the commandments written in tables of

13. J. V. Fesko and Guy M. Richard, "Natural Theology and the Westminster Confession of Faith," in *The Westminster Confession into the 21st Century*, 3 (Ross-shire, Scotland: Mentor/Christian Focus Publications, 2009) 224.

stone, that is, the ten commandments, to be the moral law: "only that which we call the Morall Law, had the great preheminency, being twice written by God himself in tables of stone" (*Vindiciæ*, 147).

In a following lecture on the same subject, Burgess specifically answers the question as to how "the Law doth binde us in regard of Moses," and also negates any binding authority it may have because it is a revelation given by Moses: "First, this may be understood reduplicatively, as if it did bind, because of Moses; so that whatsoever is of Moses his ministery doth belong to us: and this is very false, and contrary to the whole current of Scripture; for then the Ceremoniall Law would also binde us" (*Vindiciæ*, 165, 166). The law does not bind Christians as it was given by Moses to Israel, but because "God, when he gave the ten Commandements by Moses to the people of Israel, though they were the present subject to whom he spake; yet he did intend an obligation by these Laws, not only upon the Jewes, but also all other Nations that should be converted, and come to imbrace their Religion" (*Vindiciæ*, 166). When he comes to explain how it is that the ten commandments continue to bind Christians, he explains, "we must conceive of Moses as receiving the Morall Law for the Church of God perpetually; but the other Lawes in a peculiar and more appropriated way to the Jewes." So the ten commandments are clearly equated with the moral law which binds all men while the "other laws" are set apart from the moral law because they are addressed specifically to the Jews. He further clarifies that the reason the moral law perpetually binds all men and not simply the Jews is because it contains the law of nature: "whatsoever in it is the Law of Nature, doth oblige all: and thus, as the Law of Nature, it did binde the Jewes before the promulgation of it upon Mount Sinai" (*Vindiciæ*, 166).

Samuel Rutherford makes essentially the same point when he teaches that the law does not bind as it was given by Moses but only as it sets forth the moral law in the ten commandments: "we say not that the moral law bindeth under that *reduplication* as given by Moses, for then all ceremonials should bind us also who are Christians. But that God intended, by these *ten words* delivered by Moses, to oblige all Christians to the world's end to perpetual obedience, is clear" (*Spirituall Antichrist*, 2.5). He further identifies the ten commandments with the moral law when he specifies what part of the law Christ has not dissolved:

> the light of teaching direction to know our dutie, and how we are to order our walking in Gospel-holinesse, which the Spirit borroweth from the ten Commandements delivered by Moses, is established and taught by Christ, and not removed; for if Gospel-grace extirpate this light of the Morall Law, either out of our heart, or out of the written Commandements and writings of Moses, then surely Christ is come to dissolve the Law, and to teach men neither to doe, nor obey Law-commandements (*Spirituall Antichrist*, 2.117).

From both statements it is apparent that the ten commandments or ten words are the moral and perpetual part of the Mosaic law because these provide "teaching direction to know our dutie," and these ten commandments are distinct from the other commandments given by Moses.

The identification of the ten commandments with the moral law and the law of nature is also made by George Gillespie: "Now, if we consider what law was written in the nature of man in his first creation, it was no other than the decalogue, or the moral law."[14] It is this moral law or decalogue which binds all nations: "By the law of God I understand here *jus divinum naturale*, that is, the moral law or Decalogue, as it bindeth all nations (whether Christians or infidels), being the law of the Creator and King of nations."[15]

Further testimony is provided by William Gouge, who carefully defines the moral quality of a commandment: "How appeares it [the Sabbath] to be morall? It is one of the ten precepts of the morall law, Ex. 20.8. It is not an appendix to another precept: but an intire precept in it selfe" (*Sabbath's Sanctification*, 1). The moral quality of a commandment is identified in terms of its independent standing among the ten precepts, and is discerned on the basis that it is not attached as an appendix to another precept. In other words, it is considered moral because it is a moral absolute in and of itself and does not provide any situational qualifications to other moral absolutes.

The Prolocutor of the Assembly, William Twisse, not only declares it as his opinion, but also considers the equation of the moral law with the decalogue to be a matter of general persuasion: "I ever conceived it [the Sabbath] for the substance to be Morall; otherwise, what should it make among the ten Commandements, which all account the Law morall, in distinction both from the law judiciall, and the law ceremoniall given

14. George Gillespie, "A Dispute against the English Popish Ceremonies," in *The Works of Mr. George Gillespie* (Edinburgh: Robert Ogle and Oliver and Boyd, 1846) 1.184; cf. *A Dispute* (Dallas, Tex.: Naphtali Press, 1993) 391.

15. George Gillespie, "Aaron's Rod Blossoming," in *The Works*, 2.121.

by Moses unto the Jewes."[16] The ten commandments are identified with the moral law and this is held to be distinct from the judicial law.

So it is clear that the framers of the Westminster formulary considered the ten commandments to be a comprehensive summary of all moral absolutes and to form a perfect rule of righteousness which is binding upon all men in all ages because they are a republication of the law of nature. This view is rejected by theonomists, who are forced by their commitment to the abiding validity of other laws to give a much lower appraisal of the relationship of the ten commandments to the moral law.

Moral and positive law

It has been observed that the Westminster formulary places great emphasis on the moral law as a perfect rule of righteousness, but it does not maintain that *all* law is *moral*. Within the Westminster documents and amongst the writings of the divines there is a second kind of law which goes by the name of *positive*. This is not used in opposition to *negative*, but in contrast to *moral*. As has been noted, the moral law is natural; besides these moral laws God gives other commandments which are not moral in their own nature but are obliging simply because God commands them.

There is a concrete example of a positive command in the Larger Catechism: "The rule of obedience revealed to Adam in the estate of innocence, and to all mankind in him, *besides a special command* not to eat of the fruit of the tree of the knowledge of good and evil, was the moral law" (*LC*, 92). This demonstrates the basic nature of positive commands—they stand *beside* the moral law. As Anthony Burgess teaches, "the object of this command is not a thing good or bad in its own nature, but indifferent, and only evil because prohibited" (*Vindiciæ*, 104).[17] If it is asked why man should be obliged to something that is not right in its own nature, John Lightfoot explains that it is in virtue of the moral law: "though the command, Eat not of the forbidden fruit, was a Positive and not a Moral Command; yet was Adam bound to the obedience of it by virtue of the Moral Law, written in his heart, which tyed him to love God, and to obey him in every thing he should command."[18] Hence positive commandments are not moral in their own right, but are only obliging because they provide temporary directions for the fulfilment of the moral law. Once the temporary situation is passed, the moral obligation attached to the positive commandment ceases.

There are various references to positive commands in the chronology (pp. 11, 16, 28, 29, 36, 46). It is assumed in all but one of the statements that a positive command is by nature non-moral, and is only binding in the time, place, and condition to which the command was addressed. These statements take it for granted that a positive law is not perpetually binding.

The one statement in the chronology which seems to suggest that positive commands may be morally binding is contained in "The Sabbath Vindicated." It declares, "Every Law of God (though Positive) recorded in the Scripture, is Moral and Perpetual, unless it be afterward found Repealed by God, or Expired in the nature of it" (*Sabbath Vindicated*, 28). This absolute statement, however, is later qualified to indicate that, "Every Law of God, though but Positive, which is Substantially-profitable for all men in all Ages to be obliged unto, is Moral, that is, Universal and Perpetual" (29). The qualification indicates that it is not positive law as law which is perpetually obliging, but only that which is substantially profitable.

Is this statement out of accord with the previous finding that positive law is not perpetually binding? Afterall, if the command holds out some substantial profit, it would be reasonable to conclude that it must have some quality of *good* and *right* in itself so that it cannot be altogether indifferent. Closer examination will discover that the authors of "Sabbath Vindicated" utilised a definition of law which they call "moral-positive," but which has no practical difference with moral-natural commandments. They say, "We shall not need be overcurious in distinguishing Moral-Natural, from Moral-Positive, for both will come to one effect to us" (37). When it comes to discerning the difference between a bare positive and a moral-positive command, the authors indicate, "We have one Rule more to add, to know a Law to be Moral, though but Positive, and that is, Every Law of the Decalogue, or every one of the ten Commandments, is a Moral and Perpetual Law" (*ibid.*). The difference, then, is that a bare positive command stands *beside* the moral law while a moral positive command stands *in* the moral law. The final result is that moral-positive laws are commandments *in* the

16. William Twisse, *Of the Morality of the Fourth Commandment* (London, 1641), preface.

17. Burgess explains that although there is no inherent right or wrong in the nature of the commandment it still has good reasons for it in terms of God's purpose: (1.) "That hereby Gods dominion and power over man might be the more acknowledged;" (2.) "To try and manifest Adams obedience" (*Vindiciæ*, 106).

18. John Lightfoot, *The works of the Reverend and learned John Lightfoot* (London, 1684) 1325, 1326.

decalogue with positive aspects which cannot be discovered by the light of nature.[19] So "the Sabbath Vindicated" sets forth the same position as that which is taught by the other statements included in the chronology, only it has left room for the positive elements in the Sabbath commandment to be regarded as perpetual.

This Puritan approach to the fourth commandment eventually came to be formulated in the Confession of Faith, which refers to the Sabbath as "a positive, moral, and perpetual commandment" (21.7). The moral part of the commandment is traced back to the law of nature which dictates that "a due proportion of time be set apart for the worship of God." The positive obligation arises from the fact that God "hath particularly appointed one day in seven, for a Sabbath, to be kept holy unto Him;" and it is further observed that God has changed the Sabbath from the last to the first day of the week after the resurrection of Christ. As indicated by Anthony Burgess, the determined proportion of time must be considered positive because it cannot be discovered from the light of nature by those who never heard the Sabbath commandment: "howsoever the command for the Sabbath day was perpetuall, yet it did not binde the Gentiles, who never heard of that determined time by God" (*Vindiciæ*, 148); "the Sabbath day cannot be from the Law of Nature, in regard of the determinate time, but hath its morality and perpetuity from the meere positive Commandment of God" (170). The reason why this commandment is deemed to be perpetual is because, as the proof text indicates, it is a part of the ten commandments recorded in Exodus chapter 20, which constitutes it a "perpetual commandment, binding all men, in all ages." This example shows that a positive command standing *in* the moral law is considered to be "moral and perpetual" by virtue of its position in the ten commandments.

What this brief digression reveals is that, in the thinking of the divines, all law is not moral and therefore perpetual in its own nature; if it were, they would not have taken the time to identify what commands are moral, what are positive, and what are moral-positive; the very process of distinguishing between laws presupposes that some of them are time-bound expressions of God's will. The position of theonomy stands in contrast to Westminster's approach. All law as law is thought to be unchangeable. The thesis is the abiding validity of God's law in exhaustive detail, in every jot and tittle. Greg Bahnsen explains the understanding behind this thesis: "the law is as *unchangeable* as the justice of God which it embraces; God is immutable, and the law as a transcript of His holiness is never modified in its content and validity" (*TICE*, 252). Again, "God's revealed standing laws are a reflection of His immutable moral character and, as such, are absolute in the sense of being non-arbitrary, objective, universal, and established in advance of particular circumstances (thus applicable to general types of moral situations)."[20] The Confession, on the other hand, distinguishes things that differ: "The *moral law* doth for ever bind all," both in regard of *content*, "the matter contained in it," and in respect of *validity*, "the authority of God the Creator, who gave it" (*WCF* 19.5). Likewise the Larger Catechism defines the *moral law* as a transcript of God's holiness, which informs all men "of the holy nature and will of God" (*LC* 95). The theonomic failure to distinguish between moral and positive law places its ethical structure at variance with the Westminster formulary.[21]

The Threefold division of the law

The Westminster Confession clearly teaches that one class of commandments is *ceremonial*, another class is *judicial*, and yet another class is *moral* (19.3–5). Particular commandments are able to be classified according to one of these three classes. The chronology demonstrates that the threefold division was standard amongst the divines and was adopted for its customary usefulness in marking areas of continuity and discontinuity between the Testaments ("Chronology," 9, 11, 25, 27, 32, 42, 43, 46, 47).

It is important to observe that the threefold division of the law is not arbitrarily imposed on the Scriptures, but is a natural result of the interpretative process which forms the system of doctrine taught by the Westminster formulary. According to the federal scheme of theology taught by Westminster, the covenant of grace "was differently administered in the time of the law, and in the time of the gospel" (*WCF* 7.5; *LC* 33). Remission of sins and eternal salvation by faith in Jesus Christ is

19. *Cf.* Anthony Burgess, *Vindiciæ*, 148: "the Moral Law in some things that are positive, and determined by the will of God meerly, did not binde all the nations in the world … so that there are more things expressed in that, then in the law of Nature."

20. Greg L. Bahnsen, *By This Standard* (Tyler, Tex.: Institute for Christian Economics, 1985) 346.

21. When Greg Bahnsen comes to explain the Puritan view (*TICE*, 550), he seems to be fully aware that it is the moral law which is a reflection of God's holiness and justice, not the whole law. He writes, "The moral law was viewed as 'consonant to that eternall justice and goodness in [God] himself' so that God could turn it back only if He would 'deny his own justice and goodnesse' (Anthony Burgess, *Vindiciæ Legis*, 1646)." The particular citation is from page 4, where Anthony Burgess distinguishes "positive things" from God's eternal justice and goodness.

the *substance* of the covenant of grace, but the *form* in which this was administered under "the law" is seen as unique to the Old Testament. The legal form of the covenant was necessary because it looked forward to "Christ to come," "the promised Messiah," by whom salvation would be accomplished once for all. Until that appointed time in salvation history "the law" served the necessary function of binding the covenant people of God to the faith of Jesus Christ. It was therefore intended to be a temporary administration until "Christ, the *substance*, was exhibited," when a new dispensation of the covenant of grace was introduced (*WCF* 7.6; *LC* 35). The new dispensation is called "the gospel" and is administered with "more simplicity, and less outward glory." The *substance* of the covenant is the same as was taught under the Old Testament, but now "it is held forth in more fulness, evidence, and spiritual efficacy, to all nations, both Jews and Gentiles" (*WCF* 7.6).

This radical alteration in the form of administering the covenant of grace has resulted in numerous discontinuities between the Testaments. Given that the Confession considers the *legal* form of administration to have passed away, it is to be expected that it would teach how the coming of Christ has affected *the law*. In keeping with its basic premise that the substance of the covenant continues in the New Testament, the Confession teaches that the law of God which was given to all men (19.1), and is a perfect rule of righteousness (19.2), forever binds all men (19.5), both Jews and Gentiles.[22] This is identified as the *moral* law. Continuity is seen in the fact that the decalogue was not tied to the legal form of administration given to the nation of Israel, but was always the rule of duty for every man of every nation. Further, in maintaining its commitment to the passing nature of the legal administration, the Confession speaks of two forms of discontinuity—abrogation and expiration (19.3, 4). The "ceremonial laws are now abrogated, under the New Testament," while the judicial laws "expired together with the State of that people." These two categories are therefore seen to comprise *the legal form* of the covenant of grace because they were specifically given to Israel "as a church under age" and as "a body politic." As such, they are tied to the temporary administration of the covenant of grace and have no continuing validity as laws under the New Testament.

22. *Cf.* Anthony Burgess, *Vindiciæ*, 166: "God, when he gave the ten Commandements by Moses to the people of Israel, though they were the present subject to whom he spake; yet he did intend an obligation by these Laws, not only upon the Jewes, but also all other Nations that should be converted, and come to imbrace their Religion: And this is indeed the very proper state of the Question."

This threefold division of the law, therefore, is a natural result of the covenant scheme of theology which is part and parcel of the system of doctrine taught by the Westminster formulary. If one were to suggest a new division for categorising the Old Testament laws it would necessarily involve a different understanding of the relationship between the Testaments and could only be described as an alteration to Westminster's system of doctrine. Yet this is precisely what theonomists are suggesting. It is argued, "The most fundamental distinction to be drawn between Old Testament laws is between *moral* laws and *ceremonial* laws" (Bahnsen, *Standard*, 135). This involves theological disagreement with the Confession's use of "judicial law" as a category of discontinuity: "one does not have grounds for simply positing a third category (viz. judicial laws), which is comprised of laws not to be observed today as they were in the Older Testament" (Bahnsen, *TICE*, 450). According to theonomy's revised classification system, the laws which were classed *judicial* by the Westminster divines may now be regarded as either *moral* or *ceremonial*. This new division for categorising the Old Testament laws introduces a different concept of continuity and discontinuity which necessarily alters the federal scheme of theology taught by Westminster. A whole range of laws which were categorised as discontinuous are now thought to be continuous according to the theonomic proposal.

The positive nature of judicial laws

It has been seen that chapter 19, section 2, of the Confession identifies the natural, moral law of God with the ten commandments. When it comes to examine the other commandments which are delivered in the Scriptures, it provides five internal markers to separate them from the moral law of God and to indicate that these are *positive* commands.

The first marker is the prepositional phrase of section 3 introduced by *beside*. This sets the ceremonial and judicial laws apart from the moral law of the ten commandments referenced in section 2. The same preposition is used in *LC* 92 to describe the positive command given to Adam in paradise which stood *beside* the moral law written in his heart.

A second marker is the categorical definitions employed in sections 3 and 4, which class these laws as a different *kind* of law to that which is meant be the term *moral*. *Ceremonial* law prescribes ritual observance, and *judicial* law provides judgement in civil cases. By categorical definition they are situational laws which

are different from the universal norms indicated by the word *moral*.

A third marker is the particular recipient of these laws—*the people of Israel* in section 3 and *them* in section 4, which stands in contrast to the universal recipient of the moral law as taught by sections 1 and 2.

A fourth marker is the specific context in which the recipient was given these laws. The ceremonial was given to Israel as a church, the judicial as a body politic. This means the laws only apply in these specific contexts and cannot be transferred to other contexts.

A fifth and final marker is the ultimate termination of these laws—"abrogation" and "expiration." Section 5 creates an evident contrast when it maintains, "The moral law doth for ever bind all."

These five internal markers of the text—separating preposition, categorical definition, particular recipient, specific context, and ultimate termination—all serve to indicate that the text of the Confession intended to teach that these other laws of Scripture are a different kind of law from the moral, perpetual laws which are found in the ten commandments. Dr. Ligon Duncan is surely correct when he writes, "The precision of the Confession's language, as a legal document, is here to be noted."[23] The only possible conclusion to be drawn from such precise language is that the Confession places the judicial laws amongst the positive laws of Scripture on the understanding that positive laws are not perpetually binding.

This finding is confirmed by the various references to the judicial laws in the chronology. Jeremiah Burroughs confesses, "I think we are not bound in every particular circumstance according to those commandments that God required of them … those things being required of them by some positive Law" ("Chronology," 11). Samuel Rutherford calls the judicial laws given to the Jewish State "shadows" which passed with the coming of Christ (12). Again, "the whole bulk of the judicial Law, as judicial, and as it concerned the Republic of the Jews only, is abolished" (36). Anthony Burgess indicates that the manner of punishment prescribed by the law may be altered because it belongs "to God's Judicial Law" (18). Again, "for the Judicial Laws, because they were given to them as a politick body, that polity ceasing, which was the principal, the accessory falls with it" (43). Daniel Featley declares without qualification, "the ceremonial and judicial are not now in force" (25). Daniel Cawdrey and Herbert Palmer teach that the ceremonial and judicial laws were peculiarly given to Israel and "are not esteemed perpetual," but are termed "Judaical, or Mosaical Laws" (28). Finally, the *Jus Divinum*, the production of a number of Westminster representatives, states unequivocally,

> Some things he commands but *positively* to be of use for a certain season; as the ceremonial administrations till Christ should come, for the Jewish Church, and the Judicial observances for their Jewish polity. All these positive laws were *jure divino*, *till Christ abrogated them* (46).

Outside the scope of time covered by the chronology, John Lightfoot provides further witness:

> The Ceremonial Law that concerned only the Jews, it was given to Moses in private in the Tabernacle, and fell with the Tabernacle when the veil rent in twain. The Moral Law concerns the whole World, and it was given in sight of the whole World on the top of a mountain, and must endure as long as any mountain standeth. The Judicial Law (which is more indifferent, and may stand or fall, as seems best for the good of a Common-wealth) was given neither so publick as the one, nor so private as the other, but in a mean between both" (*Works*, 1028).

The judicial laws, therefore, are understood to be positive laws which were given *beside* the moral law for the specific purpose of ordering Israel's commonwealth, and to have expired with the cessation of that commonwealth. Theonomists dislike the distinction between moral and civil laws which is made by the Westminster formulary and its framers. Greg Bahnsen criticises those who draw a line "between 'moral' and 'civil' laws with the intention of giving the impression that the latter class are mere matters of time-bound administration" (*TICE*, 310). He alleges there is a "concealed presumption in eliminating commandments from God which directly apply to social matters…. Such an approach does not live under the sovereign authority of God but is a reversion to rationalism and inclination" (311). If this is the theonomic opinion of the approach adopted by the Westminster formulary then it should be apparent that the Westminster formulary is non-theonomic.

Expiry of the judicial laws

The Confession's language is quite explicit as to the expiration of the judicial laws. It teaches that the judicial

23. J. Ligon Duncan, *The Westminster Confession of Faith*: A Theonomic Document? http://www.providencepca.com/essays/theonomy.html. Accessed: September 3, 2009.

laws, given to Israel as a body politic, "expired together with the State of that people" (19.4). The Scripture proofs are also straightforward. Exodus chapters 21 and 22 indicate that these laws were accommodated to the State of that people;[24] Genesis 49:10 is adduced for the purpose of showing that the law of that people would cease with the coming of Christ;[25] and 1 Peter 2:12 binds Christians to submit to the ordinances of that government under which they live.[26] The explicit proposition of the Confession together with the obvious meaning of the Scripture proofs leads to the conclusion that the Confession teaches a hermeneutic of radical discontinuity with respect to the Old Testament judicial laws. Although the Confession qualifies this proposition to provide for an element of continuity in the general equity of these laws, the fact remains that the laws themselves are considered to have been discontinued as a result of the expansion of the covenant of grace to include nations other than Israel.

This hermeneutic of radical discontinuity is confirmed by the writings of the various divines represented in the chronology. Daniel Cawdrey and Herbert Palmer point out that an expired law is "now out of date" ("Chronology," 13), "manifestly ceased" and "at an end in respect of obligation" (29). Anthony Burgess teaches, "And thus for the Judicial Laws, because they were given to them as a politick body, that polity ceasing, which was the principal, the accessory falls with it" (43). Samuel Rutherford speaks of abolition: "we conceive, the whole bulk of the judicial Law, as judicial, and as it concerned the Republic of the Jews only, is abolished" (36). Daniel Featley maintains they have lost their force: "The ceremonial and judicial are not now in force; but the moral is" (25). All these expressions, when taken together, elucidate what is meant by saying that the judicial laws are expired, namely, that they are legally inactive and ineffective because the situation no longer exists for which these laws were originally given.

Some advocates of theonomy, upon being confronted with the plain meaning of the Confession, simply reject it. Rousas Rushdoony provides an example of this reaction:

> in paragraph IV, without any confirmation from Scripture, it is held that the 'judicial laws' of the Bible 'expired' with the Old Testament. We have previously seen how impossible it is to separate any law of Scripture as the Westminster divines suggested.… At this point, the Confession is guilty of nonsense (*Institutes*, 551).

Other advocates attempt to reinterpret the plain meaning of the Confession in order to make it appear agreeable to theonomy. Francis Nigel Lee argues,

> the *Confession* then also goes on to declare that only 'sundry [or several] judicial laws ... expired together with the State [or *Politeia*]' of the people of Israel" and "that even those 'sundry judicial laws' still oblige all people to obey them—as far as 'the general equity thereof may require.[27]

The text, however, will not permit such a reading. At no point does it partition the judicial laws and speak of expiration in terms of a subset of them. The pronoun, *which*, refers back to what was given to Israel—"sundry judicial laws." It is therefore the whole set of judicial laws which are expired, and not merely a subset of them.

Greg Bahnsen denies the Confession maintains the position "that the penal sanctions and case laws of the Old Testament no longer bind people" (*TICE*, 539, 540). His argumentation is twofold. First, the Westminster Confession itself is thought to teach that magistrates "are obligated to observe *all* the commandments of God (23.3), even those which elaborate and illustrate the Decalogue" (539, 540). Secondly, the Scripture proofs appended to the Confession are interpreted as teaching that the whole law and specifically the case laws are "still authoritative and binding after Christ's advent" (539, 540).

In response to the first argument, it suffices to show that 23.3 nowhere mentions the commandments of God and therefore cannot be interpreted as teaching that the magistrate is bound to *all* the commandments of God. It only declares what is the magistrate's authority and

24. *Cf.* Anthony Burgess, *Vindiciæ*, 147, "It is plain by Exod. 20 & cap. 21. All the laws that the Jews had were then given to Moses to deliver unto the people, only that which we call the Morall Law, had the great preheminency, being twice written by God himself in tables of stone." This is further explained on p. 166, "we must conceive of Moses as receiving the Morall Law for the Church of God perpetually; but the other Lawes in a peculiar and more appropriated way to the Jewes."

25. John Ley interprets the prophecy as relating to the time of Christ, when the Jewish Commonwealth would be dissolved, and the people left "wholly in the power of the Princes, or Potentates, or States in whose Land they live" ("Chronology," 32).

26. *Cf.* Anthony Burgess, *Vindiciæ*, 211, 212: "Now it may be easily proved, that the Ceremoniall, and Judiciall lawes they are abrogated by expresse repeale. The Judiciall Law, 1 Pet. 2.13, where they are commanded to be subject to every ordination of man: and this was long foretold, Genes. 49.10, The Law-giver shall be taken from Judah."

27. Francis Nigel Lee, *Are the Mosaic Laws for Today, www.contra-mundum.org/books/Mosaic%20Laws.pdf*, page 39. Accessed: September 3, 2009.

duty in relation to the external affairs of the church. To discover what the Confession teaches with respect to the law of God it would be natural to turn to the chapter on the law of God. It is quite unnatural to read 19.4 in the light of 23.3, when 19.4 was written for the very purpose of showing *what* law binds all men.

The second argument is open to two criticisms: (1) the failure to ascertain the intention of the divines in appending the Scripture proofs, and (2) the use of the proofs to nullify the fundamental assertion of the Confession.

(1) The bare appeal to the Scripture proofs begs the question as to what the divines intended by appending these specific texts to prove the proposition of 19.4. Some attempt should have been made to discern the exegetical tradition which lies behind the adduction of these *common places* as proofs which establish the proposition. Instead, as Sinclair Ferguson observes, the theonomist simply "assumes the Westminster Divines would exegete the text in the same way he does."[28]

The writings of the divines indicate, however, that they did not hold the theonomic view of Matthew 5:17. Greg Bahnsen insists that "the law" which Jesus did not come to abrogate cannot be restricted to the moral law: "Nothing in the text supports a restriction of this term's referent to the moral law. Jesus is saying that He did not come to abrogate *any* part of the law" (*TICE*, 48).[29] The divines, on the other hand, did restrict the referent to the moral law. John Ley annotates the verse as follows:[30]

> they hearing the law otherwise expounded than their teachers used to do, verse 21, 22, might think that Christ did abrogate the moral Law, and bring in a new one: he warns them before hand, not to think so; … the moral Law stands still in force.

John Lightfoot makes a similar observation, and specifically excludes the ceremonial and judicial laws from the Law which Christ did not disannul:

> When the Ceremonial and Judicial Law have thus brought us to Christ, we may shake hands with them and farewel, but for the Moral, as it helps to bring us thither, so must it help to keep us there. For Christ came not to disannul this Law, but to fulfil it (*Works*, 1030).

Anthony Burgess is also restrictive: "When our Saviour, Mat. 5, gave those severall precepts, he did not adde them as new unto the Morall Law, but did vindicate that from the corrupt glosses and interpretations of the Pharisees" (*Vindiciæ*, 152). He also excludes the ceremonial and judicial laws from the referent: "Mat. 5, he denied that he came to dissolve the Law.… Now it may be easily proved, that the Ceremoniall, and Judiciall lawes they are abrogated by expresse repeale…. We cannot say, in any good sense, that the Morall Law is abrogated at all" (211, 212).

Samuel Rutherford makes the same restriction: "God commandeth as a Law-giver in the Gospel, all that eternall righteousnesse which hee commandeth in the Law; for neither the Gospel, nor Christ dissolveth one tittle or jot of the eternall Morall Law of God" (*Spirituall Antichrist*, 2.120).

The only writer to include the judicials in the referent of Matthew 5:17 is George Gillespie: "Christ's words (Matt. 5:17), *Think not that I am come to destroy the Law or the Prophets*, *I am not come to destroy*, *but to fulfill*, are comprehensive of the judicial law, it being a part of the law of Moses" ("Chronology," 22). It is evident, however, that he is not giving his own interpretation but is simply showing the opinion of Johannes Piscator.

The restriction is also made by the Confession itself. Having affirmed, in contrast to the ceremonial and judicial laws, that "the moral law doth for ever bind all," it states, "neither doth Christ, in the gospel, any way dissolve, but much strengthen this obligation" (19.5). The proof text is Matthew 5:17–19.

If the divines tended to restrict "the law" of Matthew 5:17 to the moral law, there is no basis for the theonomic assumption that the divines appealed to this text in the belief that it teaches the non abrogation of the whole law. Rather, it would be more natural to conclude that general equity is connected in a specific way to the moral law of the ten commandments. In the next section of this analysis it will be shown that this is in fact the case, and that general equity is to be equated with the moral principles underlying the judicial laws.

(2) A further criticism is that the Scripture proofs are being used to establish a conclusion which contradicts the fundamental assertion of 19.4. The proofs—Matthew 5:17 and 1 Corinthians 9:9, 10—are intended

28. Sinclair Ferguson, "An Assembly of Theonomists?" in *Theonomy: a Reformed Critique* (Grand Rapids, Michigan: Zondervan Publishing House) 335, 336.

29. It should be noted that Greg Bahnsen does not accept that any law has been set aside, including the ceremonials. The ceremonial system is simply regarded as having been made ineffective by its fulfilment in Christ, and for that reason it is not to be practised by believers in the New Testament. For a discussion of this point see Greg L. Bahnsen, *TICE*, 209, 210.

30. John Ley, "Annotations on the Gospel according to S. Matthew," in *The Second Volume of Annotations upon all the Books of the Old and New Testament* (London, 1657) n.p., on Matthew 5:17.

to show the obliging nature of the general equity in the judicial laws. Greg Bahnsen uses them to teach that the judicial laws themselves are still authoritative and binding. Such a conclusion is in direct opposition to the Confession's basic assertion that the judicial laws have expired. It cannot be imagined that the divines utilised a Scripture text which, according to their own interpretation of it, would undermine the basic position they were proving.

This second criticism reaches the heart of the problem. The precise wording of the Confession creates an insuperable barrier to accepting the theonomic interpretation. As suggested by Sinclair Ferguson, "it is difficult … to believe that the Westminster Divines would attempt to express a theonomic viewpoint by the wording we actually find in the Confession" ("Assembly," 328, 329). One would expect an affirmation that the judicial laws remain binding. Instead, the judicial laws are negated by a statement which declares they have expired. The theonomic interpretation could only be made possible by excising the first half of the section, and even then the qualification concerning general equity would still leave a measure of reasonable doubt.

Greg Bahnsen offers one more piece of information to support his interpretation of the Confession, which may be considered an historical argument of sorts. This is found in the "Abstract of the Laws of New England" by John Cotton, which is esteemed for its "noble attempt to bring God's law to bear in a real historical situation on the civil magistrate" (*TICE*, 557). It is claimed that "this work can be of hermeneutical benefit when it comes to present day understanding of the Westminster Confession's declarations about God's law and the civil magistrate" (557).

It is certainly correct to appeal to a seventeenth century work as providing valuable historical background to seventeenth century thought on the abiding validity of God's law, but some attempt should have been made to pinpoint which segment of the theological world it represents. It just so happens that Robert Baillie, one of the Scottish Commissioners to the Westminster Assembly, openly criticised the work of John Cotton and associated it with the errors of the time and the extremes of Brownism ("Chronology," 34). At least from his point of view, the abiding validity of the judicial law as taught by John Cotton is outside the theological boundaries which were accepted by the Westminster divines.

The theonomic interpretation of the Westminster formulary is impossible to defend. The plain words of the Confession, its proof texts, the writings of the divines, together with the historical denunciation by Robert Baillie, all add up to the conclusion that the judicial laws were not considered binding on modern nations. Whereas the Confession and its framers speak decisively of the expiry of the judicials as a specific category of Old Testament law, theonomists insist that no view can be taken which results "in the civil magistrate's release from obligation to the Old Testament laws" (Greg Bahnsen, *Theonomy*, 541). This insistence stands in direct opposition to the view taken by the Westminster formulary.

The nature of general equity

At this point it is natural to ask what might be meant by the qualification, "further than the general equity thereof may require" (*WCF* 19.4). Does this qualification breathe new life into the expired judicial laws so as to make them binding on modern nations, or does it simply indicate that these laws function like the rest of biblical revelation to teach "what man is to believe concerning God, and what duty God requires of man" (*LC* 5, *SC* 3)? An examination of the writings of the Westminster divines will demonstrate that the latter answer is the correct one—that it is not the law *as law* which is binding, but the law *as teaching* which requires a process of interpretation and application.

The *Oxford English Dictionary* refers to the use of "equity in a statute," and defines it as "the construction of a statute according to its reason and spirit, so as to make it apply to cases for which it does not expressly provide."[31] A. Craig Troxel and Peter J. Wallace have traced the distinction between common law and equity in English jurisprudence and have concluded that "equity denotes justice which is administered according to what is right and fair as opposed to what is strictly demanded by the rules of common law."[32] In a legal context equity aims to achieve fairness by laying aside the letter of the law and following its spirit. As noted by Sinclair Ferguson, "It involves the recognition that laws must be applied existentially, since the application of 'the letter of the law' may in fact distort the real purpose of the law and ignore the individuality and particularity of circumstances" ("Assembly," 330).[33] An equitable

31. "Equity," *The Oxford English Dictionary*. 2nd ed. 1989. OED Online. Oxford University Press. 4 Apr. 2000. http://dictionary.oed.com. Accessed September 3, 2009.

32. A. Craig Troxel and Peter J. Wallace, "Men in Combat over the Civil Law: 'General Equity' in WCF 19.4," *Westminster Theological Journal* 64 (Fall, 2002) 308.

33. The use of the adverb "existentially" is liable to misunderstanding. In approving this statement I would like to qualify that "existential" can be used as a simple contrast with "literal" and does not necessarily deny that justice is an object of thought. As will be demonstrated, the divines considered equity to be "rational."

process requires discernment as to the principles involved in the individual circumstances of a case rather than an automatic application of what the law requires.

That this is the proper sense of equity as used by the Confession can be deduced from the chronology, where the adjectives *moral* ("Chronology," 11, 22, 26, 34, 36, 53, 54) and *natural* (12) are used to qualify the word. There is also the synonymous use of *right* (9), *substance* (31, 54), and *reason* (32, 46). This terminology points to the fact that the divines did not think of equity in terms of the legal nature of the judicial law, but were looking through the law to discover what natural, moral, and rational principles it taught.

Furthermore, the use of "general" as an adjective of "equity" shows that they did not consider all the judicial laws to contain an obliging equity. The chronology frequently uses the adjective *common* ("Chronology," 9, 12, 27, 30, 32, 33, 46, 47) in place of *general*. This creates a contrast with those laws which were particular to the conditions of Israel. *Jus Divinum* draws out this contrast when it refers to the abrogation of those laws which contain "a peculiarity respecting their state in that Land of Promise given unto them." On the other hand, "Whatever was in their Laws of *Moral concern*, or *general equity* is still obliging ("Chronology," 46). General equity is such equity as applies to all nations and not simply Israel.

So "equity" looks beyond the letter of the law to discover the moral principles lying behind it, and the adjective "general" limits the equity to those judicial laws which address the moral situation of all nations and not just the particular conditions of Israel. Although John Sedgwick was not a member of the Assembly, his definition of general equity captures the thought behind the use of this term:

> the common equity or right hereof remaineth as far as it was grounded on the Law of Nature, served directly to confirm any of the Ten Commandments, or to uphold the good of Family, Church, or Common-wealth, it is still in force, and of good use ("Chronology," 9).

First, general equity is *natural*, that is, "grounded on the law of nature." Alexander Henderson refers to the "common and natural equity" of the law as that which is "written in the heart of man by nature" ("Chronology," 12). *Jus Divinum* describes "common equity" as "the principles of reason and nature." Francis Cheynell appeals to the law's agreement "to the Dictates of nature, as doth appeare by the several Lawes and Decrees of Heathens" ("Chronology," 55). As Robert Shaw comments, general equity is "founded in the law of nature common to all nations."[34]

Secondly, general equity is *moral*, that is, it confirms the ten commandments. *Jus Divinum* states that equity serves "to the maintenance of the Moral Law" ("Chronology," 46). It is the "moral concern" of the judicial laws which is considered to be binding: "Whatever was in their Laws of Moral concern, or general equity is still obliging" (46). William Gouge writes, "That which we account Morall, and to have a perpetuall equity, is the substance of the Law" (*Sabbath's Sanctification*, 27).

Thirdly, general equity is *rational*; there is *reason* for it, which makes it *right*. It is not simply binding because God made it a law to govern national Israel, but it is seen to apply to all nations because reason requires it. Daniel Cawdrey and Herbert Palmer say of an expired law, "if the reason of it should, or could, be revived, so would the Law be in like sort" ("Chronology," 29). Jeremiah Burroughs speaks of the judicial laws as binding in regard to the "common reason and equity in them" (32), and discerns "common equity" on the basis that "there is a necessity of it as truly now as there was then" (33). Francis Cheynell refers to moral equity as "a reason given which is of general and perpetual equity" ("Chronology," 53). As A. A. Hodge writes, "a careful examination of the reason of the law will afford us good ground of judgment as to its perpetuity."[35]

General equity, therefore, is that natural, moral, and rational justice which applies to all nations. The bare existence of a divine law to regulate the society of Israel does not suffice to make it obliging. One must ask the questions, is it grounded on the law of nature? does it explain the morality of the ten commandments? and is there reason for its permanent application? Only once this process has been followed is it possible to speak of the *morality* and *perpetuity* of a law which is outside the ten commandments.

How does this compare with the theonomic interpretation of general equity? As explained by Martin Foulner, "Theonomists interpret the words of the Confession as meaning that though the precise situations addressed by the case law may no longer be found in modern society, there are *parallel cases* to which they do apply, and where these parallel situations are found, the case laws are *binding*" (*Theonomy*, 8fn.). Greg Bahnsen suggests, "Perhaps the best interpretation of 19.4 is to see it as

34. Robert Shaw, *An Exposition of the Confession of Faith of the Westminster Assembly of Divines* (Philadelphia: Presbyterian Board of Publication, 1846) 225.

35. A. A. Hodge, *A Commentary on the Confession of Faith* (London: T. Nelson and Sons, 1870) 255.

affirming the necessity to apply the illustrations given in the Old Testament case laws to changed, modern situations and new social circumstances" (*TICE*, 540).

Such an interpretation fails on three counts. (1) The Confession speaks of the general equity *of* the judicial laws as a part of the whole and considers the laws themselves to have expired. Theonomy, however, treats the judicial laws as if they were generally equitable in themselves and as if they remain valid as laws. (2) The Confession uses the word *may*, not *must*; there is no *necessity* in the application of the laws as if they continued to exercise binding force in their own right; the obligation only arises from the fact that the law teaches an equity that is generally applicable to all nations. Theonomy requires the law to be applied wherever a parallel situation is found; case laws which were fitted to specific situations are made universally binding; this creates an obligation to enforce these laws in situations they were never intended to address. (3) The Confession requires the use of right reason to discern the natural and moral spirit of these laws and apply it where the situation calls for it. Theonomy rejects this use of reason and teaches that genuine ethical guidance is to be found in the letter of the judicial laws.

If the theonomic ethic were consistently followed in matters of ethical concern today, the judicial laws would hinder magistrates from administering the justice these laws were fitted to provide. Robert Baillie makes this point in relation to John Cotton's rigid policy:

> what men besides them have made so bold with Kings and Parliaments, as not only to break in pieces their old Lawes, and to divest them of all power to make new ones; but also under the Pretext of a divine right, to put upon their necks that unsupportable yoke of the Judicial Law of the Jews, for peace and for warre, without any power to dispence either in addition or subtraction. I grant this principle of Barrow is limited by Mr. Cotton to such Judicials as doe contain in them a moral equity; but this moral equity is extended by him to so many particulars, as Williams confesses the whole Judicial law to be brought back againe thereby ("Chronology," 34).

According to this Westminster representative, the theonomic interpretation of general equity resurrects the judicial laws and divests the magistrate of the power that is necessary to maintain peace and justice. The theonomic view of general equity fails to appreciate the concern for natural, moral and rational justice which is explicit in the writings of the Westminster divines.

Summary

To summarise the first part of this analysis—it is evident that Westminster defines morality as submissive obedience to the divine law, and thereby upholds theonomy against autonomy. This law, however, is identified as the moral law in contrast to theonomy's teaching that every law of God is perpetual. According to Westminster, the moral law is unalterably binding, whereas theonomy allows case laws to qualify the moral law. Where Westminster traces the moral law back to the law of nature and allows the use of right reason to apply this law to the life of man, theonomists reject the use of reason and bind man to the law of Scripture alone. Westminster appraises the ten commandments as a perfect rule of righteousness, while theonomy considers that they need supplementation. Westminster distinguishes between moral and positive laws, but theonomy views all law as a transcript of God's holiness. Westminster upholds the traditional threefold division of the law as a marker of continuity and discontinuity between the Testaments, but theonomy rejects it in favour of a twofold division. Westminster views the judicial laws as positive and therefore discontinuous in the New Testament, which theonomists criticise as a reversion to rationalism. Westminster speaks explicitly of the expiration of the judicial laws, whereas theonomy supports the abiding validity of the judicial laws. Finally, Westminster allows that the natural, moral, rational equity of the judicial laws requires application to modern nations, but theonomy demands the enforcement of the judicial laws themselves where parallel cases exist. Westminster and theonomy disagree to such an extent on the nature of the law that they must be considered two incompatible systems of thought.

Part Two. The Nature and Function of the Civil Magistrate: The Civil Magistrate is the Ordinance of God

The Westminster formulary teaches that God "hath most sovereign dominion" and does "whatsoever Himself pleaseth" (*WCF* 2.2). Dominion does not originate with human society and its needs, but in "God, the supreme Lord and King of all the world" (*WCF* 23.1). One man becomes a superior over another man because "God's ordinance" instates him in a "place of authority, whether in family, church, or commonwealth" (*LC* 124). The duties required of superiors are founded on "that power they receive from God," and the aim of fulfilling them is "to preserve that authority which God hath put

upon them" (*LC* 129). As stated by Samuel Rutherford, "power of government in general must be from God…. God only by a divine law can lay a band of subjection on the conscience" (*Lex, Rex*, 1).

Not only is all civil government *from* God, it is also *for* God. Civil magistrates, that is, those who bear rule over the civil sphere of society, are ordained by God to be "under Him, over the people, for His own glory, and the public good" (*WCF* 23.1). George Gillespie, relating what the reformed churches believe, calls civil superiors "the ordinance of God himself appointed as well to the manifestation of his own glory, as to the singular profit of mankind;" for this reason they are to be esteemed "as the ambassadors and ministers of the most high and good God, being in his stead, and preferred for the good of their subjects."[36] Civil magistrates, in the words of Thomas Case, are nothing less than God's "deputies and vicegerents" ("Chronology," 17); they exercise the delegated power of God.

To fulfil the purpose for which authority has been given over civil society, magistrates have been armed "with the power of the sword, for the defence and encouragement of them that are good, and for the punishment of evil doers" (*WCF* 23.1). The power to reward and punish is nothing less than God's power given to civil superiors. Life and death itself are committed to the magistrate's hands, so that the righteous judgement of the magistrate is considered to be the righteous judgement of God. This is well noted by Francis Cheynell: "the Sword that is thus drawn is not the Sword of Gideon only, the Sword of man, but the Sword of God" ("Chronology," 54).

According to George Gillespie, the power of the sword endues the magistrate with "a compelling jurisdiction and external force, whereby such stubborn, rebellious, and undaunted pride may be externally repressed" (*Propositions*, 15). God has enjoined "severity to his Deputies," says Thomas Case ("Chronology," 18). Moreover, this compelling severity is not an option, but an obligation:

> Rulers must be a terror to evil doers, unles ye mean to bear the Sword in vain. And if you wil, God wil not; and if God take the Sword into his own hand once (as he seems to be a doing of it) he wil smite to purpose; he wil execute vengeance throughly: both upon the evil doers, and upon you that have not bin a terror to them ("Chronology," 53).

Richard Byfield encourages the magistrates

> to make proof of the sword which God hath put into your hands, and not in vain: and whosoever will not obey your Law, and the Law of your God, let judgement be executed speedily upon him, whether it be unto death or to banishment, or to confiscation of goods, or to imprisonment, as his fault shall deserve ("Chronology," 31).

An individual's conscience is no plea against the power of the civil magistrate. The Confession teaches that both authority and liberty are given by God, but qualifies that these "are not intended by God to destroy, but mutually to uphold and preserve one another;" therefore it is a "pretence of Christian liberty" to "oppose any lawful power, or the lawful exercise of it" (20.4). As Herbert Palmer reminds his superiors, it is "the Magistrate's duty to draw the sword against evil doers: neither is the plea of conscience any thing in this matter" ("Chronology," 41).

Furthermore, the civil magistrate is to rule *through* God. This is owing to the fact that "God alone is Lord of the conscience" (*WCF* 20.2). As already noted, God is the source of law, which means that He has the supreme prerogative of obliging men to duty. In delegating this obliging power to the magistrate God does not relinquish His right; rather, He restricts the power of civil magistrates to what is *lawful*. There must be a "lawful exercise" of "lawful power" in order to compel the consciences of individuals to submit to it (*WCF* 20:4). It is the duty of people to obey the magistrates' "lawful commands, and to be subject to their authority, for conscience' sake" (*WCF* 23.4). It is a part of the honour that inferiors owe to their superiors to give "willing obedience to their lawful commands and counsels" and "due submission to their corrections" (*LC*, 127). On the other side, it is the duty of superiors "to instruct, counsel, and admonish" their inferiors, "countenancing, commending, and rewarding such as do well; and discountenancing, reproving, and chastising such as do ill" (*LC*, 129). In short, good and evil are determined by the supreme Lord so that He is the arbiter of what may lawfully be required by the superior and what is dutifully obeyed by the inferior.

The theonomic understanding of the civil magistrate accords with the Westminster formulary up to this point. Greg Bahnsen correctly summarises Westminster's position: "The people are accountable to the ruler, and the ruler is accountable to God. This means that the ruler should follow the moral direction of God"

36. George Gillespie, "111 Propositions concerning the Ministry and Government of the Church," in *Works*, 1:12.

(*TICE*, 518). To this extent the view of Westminster may be defined as broadly theonomic.

The spheres of nature and grace

Chapter 23 of the Westminster Confession makes three statements to indicate the sphere in which the civil magistrate exercises jurisdiction. Section 2 states, "It is lawful for Christians to accept and execute the office of a magistrate, when called thereunto." Section 3 states, "The civil magistrate may not assume to himself the administration of the Word and sacraments, or the power of the keys of the kingdom of heaven." Section 4 states, "Infidelity, or difference in religion, doth not make void the magistrates' just and legal authority, nor free the people from their due obedience to them." In each of these statements Christianity and the State are clearly distinguished. A Christian may take up the lawful calling of a magistrate, in contrast to Anabaptism. A magistrate must not exercise his rule in sacred things, in contrast to Erastianism. An infidel magistrate still possesses legal authority, in contrast to Romanism.[37]

Although Anabaptism, Erastianism, and Romanism are quite divergent systems, the three share one underlying assumption in their views of the relationship of the State to Christianity—they all teach that lawful civil power is, in some way or another, derived from Jesus Christ as Mediator.[38] Anabaptists denied that non Christian government is ordained of God. As Robert Baillie relates, they considered the saints to be those who were "joined to their Churches and received their Anabaptisme; all the rest of them were wicked and to be cut off."[39] Erastians asserted, in the words of Thomas Coleman, "that God hath given all Magistracy to Christ to be managed under him, for him."[40] Romanists made magistrates servants to the papacy. Samuel Rutherford wrote, "Stapleton, Bellarmine, and Papists will have them [princes] to be brutish Servants, to execute whatsoever the Pope and Councells shall decree, good or bad, without examination."[41] All three systems differ as to the application of this principle and the place where ultimate jurisdiction is to be vested—Anabaptists placing it in the Conscience, Erastians in the King, and Romanists in the Pope—but they agree on the principle itself, that Jesus Christ as Mediator is the foundation of civil power.

In opposing these three errors, the Westminster divines, with the exception of the Erastian representatives, rejected the view that the civil magistrate derives his authority from Christ as Mediator. Rather, it is from God as the Creator and Supreme Ruler that magistrates receive power. This is highlighted in the proceedings of the Assembly under the date of December 4, 1646:

> Upon a motion by Mr Gilesby for an alteration in the chapt[er] about the civill magistrate, and upon debate it was
>
> Resolved upon the Q[uestion]: that in the said chapter, for the word 'Christ,' the word 'God' shall be put in 3 places.
>
> Dr Burges enters his dissent.
>
> Memorandum: this vote was not intended to determine the controversy about the subordination of the civill magistrate to Christ as mediatour ("Chronology," 47).

Alexander Mitchell is correct to observe that the memorandum left "both parties free to hold their respective opinions upon it."[42] At the same time, however, the alteration from "Christ" to "God" significantly changes the teaching of the Confession. This is brought out by the statement of Thomas M'Crie (the younger), the first historian to locate the original minutes and comment on the alteration:

> On consulting the passage, chap, xxiii., sects. 1st and 2d, it will be seen that the alteration, whatever controversy it may or may not determine, is very important. Had it stood as originally proposed, "*Christ*, the supreme Lord and King of all the world, hath ordained civil magistrates to be, under Him, over the people," &c., it would

37. That these are the errors addressed by the Confessional statements is indicated by the contemporary commentary of David Dickson, *Truth's Victory over Error*: *or*, *the True Principles of the Christian Religion* (Kilmarnock: John Wilson, 1787 rpt). He represents the Anabaptists as maintaining, "that it is not lawful for Christians to carry the office of a magistrate" (159); the Erastians as maintaining, "that the civil magistrate hath in himself all church power" (161); and the Papists as maintaining, "that subjects ought not to suffer a king that is an infidel, or obey that king in his just commands, that differs from them in religion" (162).

38. William Cunningham astutely observed the agreement between Erastians and Ultramontanists, who placed supreme civil jurisdiction in the King and the Pope respectively, in *Discussion on Church Principles* (Edinburgh: T. and T. Clark, 1863) 152ff.

39. Robert Baillie, *Anabaptism*, *the True Fountain of Independency*, *Antinomy*, *Brownisme Familisme* (London, 1647) 32.

40. Thomas Coleman, *A Brotherly Examination Re-examined* (London, 1645) 19.

41. Samuel Rutherford, *The Due Right of Presbyteries* (London, 1644) 411.

42. Alexander F. Mitchell, *The Westminster Assembly*: *its History and Standards* (London: James Nisbet & Co., 1883) 364.

> have taught a very different doctrine from what it does as it now stands.[43]

The mover of this verbal alteration, George Gillespie, wrote extensively on this particular point, and explained what is involved in deriving the authority of the civil magistrate from "God" and not specifically from "Christ." In a speech before the Westminster Assembly during the Erastian controversy, he stated,

> The civil magistrate … is God's vicegerent, but not Christ's, that is, the magistrate's power hath its rise, origination, institution, and deputation, not from that special dominion which Christ exerciseth over the church as Mediator and Head thereof, but from that universal lordship and sovereignty which God exerciseth over all men by right of creation.[44]

The same point was stressed in Gillespie's 1645–46 pamphlet debate with Thomas Coleman. When Coleman asserted "that God hath given all Magistracy to Christ to be managed under him, for him," the Scottish commissioner replied,

> the civil magistrate, whether Christian or pagan, is God's vicegerent, who, by virtue of his vicegerentship, is to manage his office and authority under God, and for God; … but he is not the vicegerent of Christ as Mediator, neither is he, by virtue of any such vicegerentship, to manage his authority and office under Christ, and for Christ.[45]

Eventually in 1646 Gillespie wrote a complete treatise to answer the Erastians, entitled "Aaron's Rod Blossoming," where the Erastian view of the magistrate serving under Christ as Mediator is made an essential point of the debate: "The question is, Whether the Christian magistrate be a governor in the church *vice Christi*, in the room and stead of Jesus Christ, as he is Mediator? ... I am for the negative" (*Aaron's Rod*, 97). It is explained that,

> Christ, as Mediator, hath right to the whole earth, and all the kingdoms of the world, not as if all government (even civil) were given to Christ (for in this kind he governeth not so much as any part of the earth, as he is Mediator); … but it is meant only of his spiritual kingdom, which is not of this world, and in this respect alone is it that Christ, as Mediator, hath right to the government of all nations: he hath *jus ad rem* [right to the thing], though not *in re* [in the thing] (97, 98).

This view is finally and more fully stated in the "111 Propositions," a work which was commended by the General Assembly of the Church of Scotland in 1647, the same year that the Westminster Confession of Faith was approved.[46] Gillespie states that civil and ecclesiastical power are foundationally different:

> they are differenced the one from the other, in respect of the very foundation and the institution: for the political or civil power is grounded upon the law of nature itself, and for that cause it is common to infidels with Christians; the power ecclesiastical dependeth immediately upon the positive law of Christ alone: that belongeth to the universal dominion of God the Creator over all nations; but this unto the special and economical kingdom of Christ the Mediator, which he exerciseth in the church alone, and which is not of this world (*Propositions*, 13).

To summarise Gillespie's teaching—while both civil and ecclesiastical power are derived from divine authority, they are based upon a different foundation. The civil office is dependent on the moral order of the world as created by God, not upon a special redemptive order which has been introduced for the remedy of sin. Only ecclesiastical power is founded on Christ's authority as Mediator (*cf. WCF* 30.1).[47] The magistrate's power is therefore exercised outside the spiritual kingdom of Christ the Mediator and is confined to the sphere of nature. Christians and infidels may be put in possession of civil power because the magistrate's office is "grounded on the law of nature."

43. Thomas M'Crie, "Original Minutes of the Westminster Assembly," in *the Evangelical Repository*, volume 18, number 1 (June, 1859) 407.

44. George Gillespie, "Notes of Proceedings of the Assembly of Divines at Westminster," in *Works*, 2.110.

45. George Gillespie, "Nihil Respondes," in *Works*, 1.8.

46. See the "Act approving the eight general heads of doctrine against the tenets of Erastianism, Independency, and Liberty of Conscience, asserted in the One Hundred and Eleven Propositions, which are to be examined against the next Assembly," in George Gillespie, *Works*, 1.3. The importance of this work for the correct interpretation of the twenty third chapter of the Confession is noted by William Cunningham, *Discussions*, 231.

47. *Cf.* Thomas Case, *Sermon preached before the Honourable House of Commons*, August 22, 1645 (London, 1645) 26: "As King of Nations, he hath a Temporal Kingdom and Government over the world…. the Rule and Regiment of this Kingdom he hath committed to Monarchies, Aristocracies, or Democracies…. But Christ is also the King of Saints: As he hath an inward and Spirituall Government in the Conscience, which is onely his Throne; so he hath an outward Kingdom, which he doth visibly exercise in his Church."

It is on the basis of this nature-grace distinction that Gillespie asserts the civil magistrate does not have authority to exercise spiritual functions:

> the word of God and the law of Christ, which by so evident difference separateth and distinguisheth ecclesiastical government from the civil, forbiddeth the Christian magistrate to enter upon or usurp the ministry of the word and sacraments, or the judicial dispensing of the keys of the kingdom of heaven (*Propositions*, 18).

This is the same language as that employed by the Confession of Faith: "The civil magistrate may not assume to himself the administration of the Word and sacraments, or the power of the keys of the kingdom of heaven" (*WCF* 23.3).

Gillespie's thoughts on the distinction between authority derived from "God" and "Christ" are essential for understanding the verbal alteration which he suggested and the Assembly adopted. If the word "Christ" had been permitted to stand, the Confession would have contained a distinctive of Erastianism. In altering the word to "God" the Assembly prejudiced the Erastian cause and laid a solid foundation for denying the power of the civil magistrate to interfere in the spiritual jurisdiction of the Church. While the Erastian representatives were left free to hold their unique position, they were provided no footing in the Confession whereby they could advance this position.

It cannot be said that this alteration was the invention of a single individual. The writings of Samuel Rutherford demonstrate that he stood for the same truth with his fellow Commissioner. Like Gillespie, he insists that the king's power does not require him to be a Christian:

> though the King were not a Christian magistrate, yet hath hee a Kingly power to command men as Christians…. Christianitie maketh him not a King over Christians as Christians, for then hee could not bee their King, and were not a King over Christians, so long as hee wanteth Christianitie, which is false, for the Christians acknowledged heathen Emperours as their Kings (*Due Right*, 393).

The insistence that civil power must be Christian is identified with the abhorrent practice of Popery: "It maketh way to the popish dethroning of Kings when they turne hereticks, and leave off to bee members of the Christian Church, which wee abhorre" (393).

The reason why Christianity is not essential to the magistrate is because he does not derive it from Christ as Mediator: "Hee who is called God, and so is the vicegerent of God, is Gods Ambassador politick commanding in Gods name…. Magistracy may bee called accidentall to Christs mediatory government" (447). This is explained more accurately in a later work: "The Magistrate, as the Magistrate (should we speak accurately in such an intricate debate) doth not serve Christ as Mediator, for then all Magistrates, Heathen and Indian, were obliged to serve him."[48]

From this brief survey it is clear that the divine institutions of civil power and ecclesiastical power stand on completely different foundations. The magistrate legitimately serves in the natural sphere of the created order under God the Supreme Ruler of all things, not under the gracious sphere of the redeemed order under Christ the Mediator. It is this fundamental point which validates the three statements of the Confession in limiting the sphere of the magistrate's jurisdiction. A Christian may fulfil the office of a magistrate because it is a natural ordinance which is blessed by God; a magistrate may not assume the spiritual functions of the Church because he has not received his authority from Christ as Head of the Church; and an infidel may exercise civil power because that power does not require submission to Christ as Mediator in order to be legitimate.

In contrast to the teaching of the Confession and its framers, theonomy rejects the nature-grace distinction and teaches that the civil magistrate is subservient to Christ as Mediator. Greg Bahnsen claims that "A nature/grace dichotomy in the area of civil government is totally alien to the scriptural outlook" (*TICE*, 433). It is taught that "the Lord's Messiah has absolute, firm, and autocratic authority over all the magistrates of the nations; they are guided, directed, and chastised by Him" (362). The apostle Paul is alleged to have "subordinated the authority of Caesar to that of King Jesus" and "by his teaching of the Kingship of Christ Paul was opposing the decrees of autocratic Caesar" (395).[49] Finally, it is maintained,

> The only ultimate King in civil government is Christ, and all rulers of the nations derive their authority from Him; hence all magistrates are subject to Christ's word, even Christ's confirmation of every bit of the law (Matt.

48. Samuel Rutherford, *A Free Disuputation against pretended Liberty of Conscience* (London, 1649) 223.

49. The Westminster Annotations take the opposite view, and judge the allegation made against Paul and Silas to be nothing less than a false aspersion cast upon them by the Jews. It also comments, "Paul and Silas endeavoured to advance the spiritual kingdom of Christ, without any injury to the Roman Empire…. the ancient Christians were no disturbers of States. "Annotations on the Acts of the Apostles," in *The Second Volume of Annotations,* on Acts 17:7.

> 17f.)… National leaders have no exemption from the law of God just as they have no escape from the universal Lordship of Christ (429).

The civil magistrate, according to this view of it, is a "Christocracy" (432). This means that "state leaders are just as obligated to follow Christ's direction *as the church elders* are required to obey the *Head of the Church*" (433).

It is true that theonomy recognises the separation of Church and State, but it only sees this separation as *functional*, not *foundational*. This is evident in Greg Bahnsen's evaluation of George Gillespie's teaching. He portrays "Aaron's Rod Blossoming" as saying, "this separation pertains to the *functions* of magistrate and minister; while their jurisdiction are coordinated, being set side by side, their authority and responsibility trace back to God in both cases" (*TICE*, 529). Such an interpretation fails to note the differences in the way these two institutions are ultimately traced back to divine authority. George Gillespie asserts that the civil magistrate "is God's vicegerent, but not Christ's;" Greg Bahnsen, however, insists that "the only ultimate King in civil governments is Christ, and all rulers of the nations derive their authority from Him." The Westminster divine teaches a *foundational* distinction whereas the theonomic advocate only allows for a *functional* distinction.

This is the first point of difference between the views of the Westminster formulary and theonomists concerning the civil magistrate. The non-Erastian Westminster divines understood that the magistrate operates in the sphere of nature and derives authority from God the Creator. Whether the magistrate is Christian or not he fulfils God's purpose for civil order. Theonomy translates the magistrate's authority to the sphere of grace and makes it dependent upon Christ as Mediator.

The connection of Church and State

While the Westminster formulary limits the origin of civil power to the natural sphere, it also affords a large range of activity to magistrates in matters pertaining to the Christian Church. After the Confession denied the right of magistrates to assume spiritual functions, it states,

> yet he hath authority, and it is his duty, to take order, that unity and peace be preserved in the Church, that the truth of God be kept pure and entire; that all blasphemies and heresies be suppressed; all corruptions and abuses in worship and discipline prevented or reformed; and all the ordinances of God duly settled, administered, and observed. For the better effecting whereof, he hath power to call synods, to be present at them, and to provide that whatsoever is transacted in them be according to the mind of God (*WCF* 23.3).

James Bannerman remarks that the Confession has been charged "with giving countenance to the Erastian principle of ascribing to the civil magistrate a proper jurisdiction in ecclesiastical matters, and of surrendering to his power the inherent freedom and independence of the Church."[50] This charge is unsustainable if the leading proposition which opens this section of the Confession is taken into consideration. As noted, this proposition limits the jurisdiction of the magistrate to the sphere of nature as distinct from the sphere of grace. Bannerman observes, "The exclusion of the civil magistrate from the whole province that can possibly belong to the Church is absolute and complete" (*Church*, 1.176). If this exclusion is taken seriously, and the Confession is not made to contradict itself, the magistrate's duties which are listed in the rest of the section should be restricted to his own sphere of jurisdiction. "All that is fairly implied in it, is the ascription to the State of a certain authority about the Church, for the purpose of promoting its interests, not the ascription to it of an authority within the Church, for the purpose of exercising jurisdiction there" (*Church*, 1.177). William Cunningham shows the real principle inculcated by the wording of the Confession:

> The words, then, do not necessarily or naturally mean more than that the civil magistrate is entitled and bound to aim at, and to seek to effect, the different objects here specified, which are all comprehended under the general heads, of the welfare of religion, and the purity and prosperity of the church of Christ. This is just the principle of National Establishments (*Discussions*, 223, 224).

The Confession teaches the Establishment principle, not the Erastian principle—that the civil magistrate has authority about sacred things (*circa sacra*), not in sacred things (*in sacris*); that the Church and State may join together in a co-ordinate relationship as long as the one is not permitted to intrude upon the sphere of jurisdiction which belongs to the other.

The Establishment principle is often caricatured as if it sought to advance Christianity by the power of the sword and to compel men to become Christians. It is

50. James Bannerman, *Church of Christ* (Edinburgh: Banner of Truth Trust, 1974) 1.172.

certainly liable to be misunderstood if it is not set out according to two fundamental tenets which the twenty third chapter of the Confession has already taught. These tenets are, (1) the superadded obligation of Christianity, and (2) Submission to national constitutions.

(1) The superadded obligation of Christianity is taught in the correlation of sections 1 and 2. Section 1 stated that civil magistrates are ordained by God to be "under Him, over the people, for His own glory, and the public good." This means that civil government is a moral entity which is accountable to God for its use of power whether it is Christian or non Christian. A magistrate, as a magistrate, is to do all to the glory of God and the good of the people. Section 2 adds a new quality to the magistrate's office when it makes it "lawful for Christians to accept and execute the office of a magistrate." Upon accepting this calling to civil office, the Christian is bound to uphold his distinctive view of faith and life, and to do what is in his power to help others to uphold it also. As the Larger Catechism teaches (99.7, 8), "what is forbidden or commanded to ourselves, we are bound, according to our places, to endeavour that it may be avoided or performed by others, according to the duty of their places." Further, "what is commanded to others, we are bound, according to our places and callings, to be helpful to them; and to take heed of partaking with others in what is forbidden them." A Christian magistrate, as a magistrate, is to serve for the glory of God and the public good; as a Christian, he is to advance the cause of Christ in his civil calling.

The importance of this point is seen in the way Samuel Rutherford and George Gillespie speak of the duty of the magistrate towards the Christian religion. They are careful to point out that the magistrate's authority is still valid if he is not a Christian. It is certainly beneficial to be Christian, but it is not essential. Rutherford explains:

> the end of Kingly power according to its essence, and de facto, is a quiet life, though it attaine not Godlinesse, as it doth not attaine that end, nor can it attaine it, amongst Pagans, and yet there is a Kingly power in its essence, whole and intire amongst Pagans, where there is no godlinesse, or Christian Religion (*Due Right*, 388).

This does not mean there is no obligation upon heathen kings to become Christian and to act as Christians in their office. It simply means that the power to add royal sanction to Christianity remains a virtual power that is not actually invoked:

> There is in Heathen Kings a regall and Kingly power to establish Christian Religion and adde regall sanctions to Christian Synods, though there neither is, nor can be, during the state of Heathen Paganisme, any Christian Religion there; this power is essentially and actu primo, regall, yet as concerning execution, it is vertuall onely (*Due Right*, 388).

Whenever a magistrate becomes a Christian he has the power to establish the Christian religion in his realm, but it is not an obligation which is derived from his office as a non Christian. It is specifically as a Christian that the magistrate enacts and enforces laws concerning Christianity in his realm:

> The Magistrate, not as the Magistrate, but as a member of the Church who is extraordinary politically and guardian of each Table of the law, has a collateral authority with the Church under Christ immediately conferred to him with the Church. But this power corresponds to the King, because and insofar as he is a member of the Church.[51]

Gillespie also speaks of the establishment of the Christian religion as a superadded obligation which is laid on Christian magistrates as Christians:

> But whereas the Christian magistrate doth wholly devote himself to the promoting of the gospel and kingdom of Christ, and doth direct and bend all the might and strength of his authority to that end: this proceedeth not from the nature of his office or function, which is common to him with an infidel magistrate, but from the influence of his common Christian calling into his particular vocation (*Propositions*, 16).

The reason why Christian magistrates bear this responsibility over non Christians is due to the spiritual quality he possesses as a Christian. As Rutherford expresses it,

> Christianity spiritualizeth the exercise of marital, paternal, Magistratical power, and elevates them above their common nature in Christian Husbands, Fathers, Magistrates, which it cannot do in all husbands, as husbands; fathers, as fathers; Magistrates, as Magistrates: even suppose they be heathens (*Pretended Liberty*, 223).

51. Samuel Rutherford "Of the Civil Magistrate," in *The Confessional Presbyterian Journal* 4 (2008) 275.

According to Gillespie, the godly magistrate shares the responsibility to advance the cause of Christ in common with all Christians:

> every member of the church (and so also the faithful and godly magistrate) ought to refer and order his particular vocation, faculty, ability, power, and honour, to this end, that the kingdom of Christ may be propagated and promoted, and the true religion be cherished and defended (*Propositions*, 16).

So the Christianity of the magistrate adds an obligation towards the Christian religion which the office does not naturally require. Gillespie's position is neatly summarised by Hugh Cartwright, "Christian magistrates, having supernatural revelation, have obligations beyond those which they have simply as magistrates."[52]

Given the fact that Christianity adds new qualities to the magistrate's office, it is natural to apply the statement of the Confession (23.3) concerning the duty of the magistrate to the Christian magistrate. This is how Gillespie applies it:

> the advancement of the gospel, and of all the ordinances of the gospel, is indeed the end of the godly magistrate, not of a magistrate simply: or (if ye will rather) it is not the end of the office itself, but of him who doth execute the same piously.… Christian magistrates and princes, embracing Christ, and sincerely giving their names to him, do not only serve him as men, but also use their office to his glory and the good of the church … (*Propositions*, 16, 17, 20).

Besides the external testimony of the divines to this effect, the Confession itself provides four internal markers which establish this interpretation. (1) Section 2 had just stated that it is lawful for a Christian to execute the office of a magistrate, so section 3 should naturally be taken as providing an outline of the Christian magistrate's duty. (2) The leading proposition of section 3 forbids the magistrate from interfering with the spiritual government of the church, contrary to the Erastian principle that "A Christian Magistrate, as a Christian Magistrate, is a Governour in the Church."[53] If the debate was solely concerned with Christian magistrates then the negation of this Erastian principle in the Confession naturally applies to Christian magistrates in particular, not to all magistrates in general. (3) The closing sentence of section 3 allows the magistrate to provide that whatsoever is transacted in Synods "be according to the mind of God," which is competent only to a Christian magistrate (*cf. WCF* 1.10). (4) Section 4 introduces the magistrate's "infidelity, or difference in religion" as a new consideration.

So the first tenet of establishmentarianism which the Confession teaches is the superadded obligation of Christianity. It is the Christian magistrate who has a special duty towards the Christian religion and the Christian church. Because he is a Christian he is obliged to exercise a care over Christian matters according to his public station.

(2) The Confession also teaches the tenet that the Christian magistrate must be submissive to national constitutions. It allows the Christian the exercise of the office with the proviso that the civil constitution of the commonwealth is respected both as to the *acceptance* and *execution* of the office: the Christian must be "called thereunto," and must manage his office "according to the wholesome laws of each commonwealth." This second tenet of establishmentarianism requires the consent of the people and repudiates all persecuting measures in the advancement of Christianity in a free society.

Rutherford sets forth the following distinction for considering this subject: "There is one consideration of a Heathen or Pagan nation which never received Christianitie, and the true faith, and another consideration of a nation baptized and professing Christ" (*Due Right*, 352). The magistrate only has legal right to enact Christian laws in a Christian State: "Where a nation hath embraced the faith, and sworne thereunto in Baptisme, it is lawful for the Magistrate to compell them to professe that truth to the which they have sworne in Baptisme" (354). There is no compelling power of the sword where the consent of the people has not first been gained. Christianity must be advanced by the teaching of the Word: "the Magistrate is not to compell to profession of the truth immediately, and without any foregoing information of the mind; for the Church is to teach and instruct in all the externall acts of worship, before the Magistrate doth compell these acts" (355, 356). When a nation is still in a non Christian condition, magistrates have no coercive power to compel them to faith: "Princes have neither from the Law of nature, or from any divine Law, a coercive power over the faith of Pagans; nor is Scotus in this to bee heard, that the same divine law obliegeth all

52. Hugh Cartwright, "Westminster and Establishment: a Scottish Perspective," in *The Westminster Confession into the 21st Century*, 2 (Ross-shire, Scotland: Mentor/Christian Focus Publications, 2005) 186fn.

53. Thomas Coleman, *Hopes Deferred and Dashed* (London, 1645) 27.

Princes, and the Churches, that did lie upon Israel to destroy the Canaanites" (362).[54]

Gillespie also denies that the Christian religion should be established by compelling men to an implicit faith:

> it is sufficiently clear that they ought to cherish, and by their authority ought to establish the ecclesiastical discipline; but yet not with implicit faith, or blind obedience; for the reformed churches do not deny to any of the faithful, much less to the magistrate, the judgment of Christian prudence and discretion concerning those things which are decreed or determined by the church (*Propositions*, 20, 21).

The repudiation of persecuting measures is also made by Thomas Case when he distinguishes between a Christian and a non Christian nation: "We say, therefore, that religion may be considered as *to be planted*, or as *already planted*, *in a nation*."[55] Under the first aspect, he says,

> When it is to be planted and hath gotten no interest or footing among a people, the preachers and professors of it must run all hazards, and boldly own the name of Christ, whatever it cost them. The only weapons which they have to defend their way, are prayers and tears…. And what we say concerning religion in the general, holdeth true also concerning reformation, or the restitution of the collapsed state of religion ... in this case we only press the magistrate to 'be wise' or cautious that he do not oppose Christ Jesus, (Psalm ii. 10,) 'by whom kings reign, and princes decree justice.' (Prov. viii. 15.) (Case, *Conclusion*, 519, 520.)

It is only once "religion is already planted and received among a people, and hath gotten the advantage of law and public edicts in its favour, not only for its security and protection, but also for its countenance and propagation; then it becomes the people's birthright" (Case, 520). It is at this stage that the establishment principle is activated and becomes a force for good in the nation. Prior to the national profession of Christianity it remains a virtual power which is inactive while the power of the preached Word does its work.

Jeremiah Burroughs makes the same point as to the primacy of the Word:

> Let not violence be used to force people to things spirituall that they know not; if those who now have but food and raiment should have great penalties inflicted upon them for not submitting to what they yet have had no meanes to instruct them in, how grievous would it bee? The Votes of Parliament are to bee honoured, and the judgement of an Assembly of godly and learned men is not to be slighted; but that which must subject mens consciences in matters concerning Christ and his worship, must be light from the word.[56]

It is clear that the Westminster divines did not consider it to be any part of the magistrate's duty to compel men to acknowledge the Christian faith by the power of the sword. The sword of the Spirit, which is the word of God, must first gain the consent of the people. While the nation has no interest in the gospel of Jesus Christ, civil power must not be used to coerce the people; but once the nation has been gained to the Christian faith, it becomes the Christian magistrate's responsibility to enact laws for the protection of the Christian liberties of the people and the Church of his nation. The duty of the Christian magistrate as outlined in the twenty third chapter of the Confession cannot be interpreted as implying persecuting measures. The Christian magistrate must respect the constitution of the nation in which he serves and is not at liberty to force Christianity on his subjects.

Theonomy and Establishment

Where does theonomy stand in relation to the establishment principle as taught by the Westminster formulary

54. Rutherford's views on the free consent of the people are clearly stated in *Lex*, *Rex*. "We teach that government is natural, not voluntary; but the way and manner of government is voluntary…. Here both the free gift of God, and the free consent of the people intervene" (*Lex Rex*, 38). He maintains, "the people make a king, as a king, conditionally, for their safety, and not for their destruction" (57). The people give the power of executing laws to their superiors, but retain the fountain of the power in themselves: "when the people give themselves conditionally and covenant-wise to the king … there is even here a note of superiority…. They never constituted over themselves a king, in regard of fountain-power" (82). The fundamental laws of State are not derived from the king, but from "the law of nature, and the law of nations, and especially from the safety of the public" (137). The same view is stated by Alexander Henderson: "civil power is not absolute but limited, first, by the will of God whose minister the magistrate is, and next, by such laws and limitations as are agreed upon to be the foundation of that power" ("Chronology," 31). The Independent, William Bridge, also defines civil power as "that power which regularly is given to one or more, by the People, for the ordering and preservation of the Commonwealth, according to the civil laws thereof."—*Works*, 5 (London, Thomas Tegg, 1845) 263.

55. Thomas Case, "The Conclusion of the Morning Exercise," in *Puritan Sermons*, 1659–1689 (London: 1660; repr. London: Thomas Tegg, 1845) 5.519.

56. Jeremiah Burroughs, *Sermon before the House of Peers*, Nov. 26, 1645 (London: 1645) 44.

and its framers? Greg Bahnsen raises the question, "whether the state should establish one denomination over others as the state-church," and responds with what can only be called a negative probability: "the answer again might very well be that we should hold to the separation of church and state" (*Standard*, 290). J. Ligon Duncan has observed that there seems to be an anomaly in the theonomic thesis "in that Bahnsen, while adamant about the implementation of the civil laws of Israel, is indifferent toward the establishment principle. This is a strange combination, for if the Old Testament church was anything, it was established!" (*Theonomic Document*).

Notwithstanding this anomaly, the theonomist does maintain that the magistrate has authority to fulfil the duties which are listed in chapter twenty three of the Confession. Reflecting on the teaching of the Confession, Greg Bahnsen recognises that the civil ruler is obligated "to promote conditions in which the church can function prosperously (being concerned with its unity, peace, purity, etc.) by being a nursing father unto it" (*TICE*, 537). Unlike the Westminster divines, however, there is no attempt to limit this obligation to Christian magistrates, or to define it in terms of superadded obligation. Quite the contrary, when the theonomist sums up the Confession's teaching he leaves it open for non Christian magistrates to act as a nursing father to the church:

> 4. The magistrate's authority and jurisdiction is separate from that of the church; he may not administer the word or sacraments, handle the keys of the kingdom. And on the other hand orthodoxy or Christian profession are not required for civil authority.
>
> 5. This separation of church and state, however, does not render the two indifferent to each other: the ruler is to be a 'nursing-father' to the church, and Christians are to pray, reverence, and support the magistrate (*TICE*, 548).

It has already been shown that theonomy rejects the nature-grace distinction of the Westminster divines and views civil government as Christ's vicegerent to establish a "Christocracy." Besides this Erastian foundation, theonomy also teaches that the civil government's function is to take order and make provision for the church's unity, peace, and purity, even though that government may not be Christian. Furthermore, the magistrate is permitted to function as a nursing father to the Church without any commitment to the Establishment principle, which means there is no constitutional basis for his actions as he seeks to promote Christianity under his dominion. This produces a situation where the magistrate, as the vicegerent of Christ, is armed with the sword to further the kingdom of Christ without any connection to the Church or recognition of its instrumentality. While it is true that he has separate *functions* to the Church, he uses these *functions* to promote Christianity independently of the Church. Such a view removes all the constitutional safeguards which the Westminster divines erected against persecuting measures. The only difference between civil and ecclesiastical government in the theonomic scheme of things is the *means* which are used to advance the cause of Christ. Whereas Westminster taught that Christian civil government has a duty to recognise the Christian Church and enact civil sanctions in its favour, theonomy converts civil government into a Christian institution which promotes Christianity by means of civil sanction.

The rule of the magistrate

According to theonomy, the civil magistrate is bound to follow the prescriptions of the whole law of God. Greg Bahnsen equates civil law with the regulative principle of worship: "when God's law is rejected, the law of man … is substituted; will worship preempts God's standards for behavior" (*TICE*, 21); the only choice is between "God's own directives or the arbitrary punishments of statesmen" (31). It is not the moral law of the ten commandments but the whole law which binds magistrates: "there is no alternative but to maintain that the civil magistrate is responsible to the entire law of God as a direction for his government and judging" (400). The State is bound to the regulative principle as equally as the Church: "state leaders are just as obligated to follow Christ's direction as the church elders are required to obey the Head of the Church" (433).

This view is projected onto the Westminster divines: "it was the *whole* law of God which the magistrate, as God's vicegerent, was to maintain and enforce according to the Westminster Confession" (537). George Gillespie is represented as making the magistrate responsible "to carry out the prescriptions of the whole law (the ten words and their case law elaborations)" (538). The rationale for reading the Confession in this way is quite ingenious but blatantly wrong. It is claimed that "Chapter 23, section 3 binds the civil authority to all the ordinances of God" (539). On this basis it is concluded that "the Westminster view of civil authority requires all magistrates to observe and carry out the whole law

of God as the standard of social justice and public righteousness" (539).

These ordinances, however, are not civil but ecclesiastical. The duty to take order that all the ordinances of God are duly settled, administered, and observed is not the duty of the magistrate in general but of the Christian magistrate acting as a nursing father to the church under his care; and the ordinances do not pertain to the law but to the gospel. Gillespie clarifies both of these points: "the advancement of the gospel, and of all the ordinances of the gospel, is indeed the end of the godly magistrate, not of a magistrate simply" (*Propositions*, 16).

As a matter of fact the twenty third chapter of the Confession only teaches that subjects are to obey the magistrate's "lawful commands" (23.4) without explaining the meaning of the adjective "lawful." The Assembly had already declared its mind on the law of God in chapter nineteen, where it was stated in plain language that the judicial laws expired together with the State of Israel but "the moral law doth for ever bind all" (19.4, 5). The rule of the magistrate is the same rule which binds all men—the law of the ten commandments in their full extent.

The sentiments of Gillespie will serve to confirm this view and clear him from misrepresentation. In debate with Erastian controversialists, who appealed to the Old Testament State as a pattern for the Christian State, he asks, "where is that Christian State, which was, or is, or ought to be moulded according to this pattern? … must all criminal and capital Judgements be according to the Judicial Law of Moses, and none otherwise? ("Chronology," 39). He mentions that

> some divines hold, that the Judicial Law of Moses, so far as concerneth the punishments of sins against the moral Law, Idolatry, blasphemy, Sabbath-breaking, adultery, theft, &c. ought to be a rule to the Christian Magistrate. and [sic] for my part, I wish more respect were had to it, and that it were more consulted with ("Chronology," 39).

These divines did not hold that the judicial law is binding, but only "the punishments of sins against the moral law." Nor did they oblige the magistrate as a magistrate to these punishments, but only "the Christian Magistrate." Yet, even with these qualifications, the Scottish divine only wished that "it were more consulted with," not that it should be made the law of the land. Later in the same book he makes a direct statement to the effect that the decalogue is the law which the magistrate is bound to uphold:

> By the law of God I understand here *jus divinum naturale*, that is, the moral law or Decalogue, as it bindeth all nations (whether Christians or infidels), being the law of the Creator and King of nations. The magistrate, by his authority, may, and in duty ought, to keep his subjects within the bounds of external obedience to that law, and punish the external man with external punishments for external trespasses against that law (*Aaron's Rod*, 121).

Gillespie understood the magistrate to be "the keeper and defender of both tables of the law" (*Propositions*, 12). He is not bound to case law elaborations, but by secular power he "maketh and guardeth civil laws, which sometimes also he changeth and repealeth" (15, 16). He is to see to it that "virtue, justice, and the moral law of God (as touching those eternal duties of both tables, unto which all the posterity of Adam are obliged) may remain in strength and flourish" (*Propositions*, 16). So the magistrate is not responsible to carry out the prescriptions of "the whole law," but is a civil custodian of the ten commandments, and has secular power given to him to make, change, and repeal laws which best accomplish this mandate. Contrary to theonomy, the Confession and its framers assert that the rule of the magistrate is the moral law, not the whole law.

Moreover, there is no sense in which the divines bind the moral law upon the magistrate as if it prescribes specific actions. The moral law is normative, not regulative. The Confession undoubtedly affirms that the whole counsel of God is contained in Scripture (1.6), but it also distinguishes between two different *kinds* of biblical counsel. In 20.2, it is said that God has left the conscience free from the doctrines and commandments of men "which are in any thing contrary to His Word; or beside it, if matters of faith or worship." According to this statement, the Word gives normative direction for life in general, but regulative prescription in the areas of faith and worship (*cf. WCF* 21.1, which teaches that the worship of God is "limited by His own revealed will"). This is another way of referring to moral and positive laws. Scripture provides moral direction for all of life, but positive prescription for faith and worship. Civil power, being derived from God as Creator, is bound to observe the moral laws of nature; but ecclesiastical power, being derived from Christ the Mediator, is bound to observe the positive laws of Christ.

When Thomas Coleman challenged George Gillespie

to prove "that Scripture-commands belong to infidels," the Scottish Commissioner replied,

> There are two sorts of duties in Scripture; some which are duties by the law of God, written in man's heart at his creation, some principles and notions whereof remain in the hearts of all nations, even infidels by nature: other duties are such, by virtue of special commands given to the church, which are not contained in the law of nature. The first sort (of which the punishing of evil doers, mentioned Rom. xiii. 4, is one) belongs to those that are without the church as well as those within. The other only to those that are within.[57]

The magistrate, then, is ruled by the normative principles of the law of nature; he is not regulated by the special commands of Scripture. Jeremiah Burroughs speaks precisely to this point:

> But we have often heard that of Tertullian urged; If it be therefore said it is lawful because Scripture doth not forbid, it is therefore unlawful because the Scripture doth not command. *Ans*. In the matters of God's worship this rule is to be urged, but not in matters civil or natural ("Chronology," 33).

An action is unlawful in ecclesiastical ordinances if Scripture does not command it, but in civil matters it is lawful if Scripture does not forbid it.

Stephen Marshall indicates that reason and prudence have an important function in the building of the State:

> In building the Civil State, you doe it *ad modum imperii*, by way of rule and command; therein you have authority; *Meum* and *Tuum*, the things of this life, are by the Lord committed into the hands of a State, and the light of Nature and humane Prudence are sufficient to direct you in them, and in these things you have power and authority, according to your own reason and will, to make Laws about them ("Chronology," 37).

The light of nature, prudence, and reason are to be utilised by the civil magistrate as he makes laws about the things of this life. Anthony Burgess teaches that the light of nature is "usefull and necessary for the making of wholsome lawes," and remarks, "It's wonderfull to consider, how excellent the Heathens have been therein" (*Vindiciæ*, 68).

The divines do sometimes speak of the magistrate being directed by the positive commands of Scripture, but this is not for the purpose of governing the State. What they have in mind is the connection of Church and State as discussed in the previous section. The Christian magistrate, taking care for the external worship of the Church, is bound to observe the same regulating principle of Scripture as the Church. Stephen Marshall draws this distinction in a sermon before Parliament: "Your wisdome and reason in matters of the Commonwealth is regula regulans [a ruling rule], but in matters of religion, regula regulata [a ruled rule]: every pin of the Tabernacle was appointed."[58] Where the magistrate is tied to the regulative principle the context is invariably the ordinances of the Church rather than the laws of the State.

It is not as though the judicial laws have ceased to have any usefulness. All Scripture is profitable for instruction in righteousness (2 Timothy 3:16). Although the judicial laws have lost the force of binding laws, as Scripture they continue to serve a didactic function and provide direction for life. Therefore the divines speak of the common equity of judicial laws as providing guidance to the Christian magistrate. William Gouge notes that there were "branches of the judicial Law which rested upon common equity: and were means of keeping the moral Law;" he says that these "remain as good directions to order even Christian polities accordingly" ("Chronology," 47). But in every instance where common equity is appealed to, the prescriptive nature of the command is denied and a reason is provided as to why a specific law gives guidance to the magistrate. The judicial law as law is expired, but as a part of God's word it must be interpreted and applied with godly wisdom to the life of the Christian. As Samuel Rutherford warns, "He that will keep one judicial Law, because judicial and given by Moses, becometh debtor to keep the whole judicial Law, under pain of God's eternal wrath" ("Chronology," 36).

Civil punishments

At this point it becomes necessary to clarify the nature of civil punishments. Theonomists claim to have an affinity with the Westminster divines because of their appeal to the capital punishments prescribed by the Old Testament. Martin Foulner, for example, claims that Samuel Rutherford and George Gillespie were both theonomic because they employed the following hermeneutic: "If a law punished a moral crime it was a Moral law, and therefore perpetually binding, whatever lable

57. George Gillespie, "Male Audis," in *Works*, 1.7.

58. Stephen Marshall, *The Power of the Civil Magistrate* (London, 1657) 5. *Cf.* "Chronology," 37.

[sic] was attached to that law" (*Theonomy*, 6). He accepts that some of the divines, such as William Greenhill and Anthony Burgess, held different views, because they allowed that "the magistrate could impose lesser penalties under certain circumstances." Although it is admitted that such a view would not be accepted by most theonomists, nevertheless he still classifies this viewpoint "as broadly theonomic" (*Theonomy*, 7).

A close examination of the two systems will reveal that the affinity is merely a matter of appearance, and that they are in fact substantially different. This can be shown to be the case both with respect to the nature of punishment in general and to the specific punishments prescribed under the Old Testament.

First, there is a difference with respect to the nature of punishment in general. An underlying yet unproven assumption of the theonomic thesis is that punishment must be moral because it enforces moral laws, and that if there were no punishments there would be no genuine law. Says Greg Bahnsen,

> The binding force and authority of any particular commandment always lies in its penal threat; if no punishment is to follow the violation of a law, then the law is merely a suggestion. A person is not *demanded* to act in a certain way unless his disobedience is followed by the application of a penal sanction (*TICE*, 435).

On the face of it this sounds quite plausible, but it actually turns out to be an antinomian fallacy. Anthony Burgess found it necessary to address this "fundamentall errour of the Antinomian, about a law in generall; for they conceive it impossible but that the damning act of a law must be where the commanding act of a law is" (*Vindiciæ*, 61). The reason why he called it a "fundamental error" is made clear by the consequence which the antinomians drew from it, namely, that the believer must be freed from the commanding power of the law as well as its condemning power because a law without punishment is not law. Ironically, it turns out that theonomists and antinomians share the same underlying assumption about the moral nature of legal punishment.

The Confession speaks against this theonomic-antinomian assumption when it declares that the believer is not under the law "to be thereby justified or condemned; yet it is of great use to them … in that, as a rule of life informing them of the will of God, and their duty, it directs and binds them to walk accordingly" (*WCF* 19.6). Here it is maintained that the law continues to exercise the binding nature of law upon believers even when it has no power to condemn them. The Larger Catechism, likewise, refers to the promises and threatenings of the second to fifth commandments as "reasons annexed to the … commandment, the more to enforce it (*LC* 110, 114, 120, 133).

The superadded nature of punishment is asserted by Anthony Burgess against the fundamental error of the antinomians: "as for the other consequent act of the law, to curse, and punish, this is but an accidentall act, and not necessary to a law; for it cometh in upon supposition of transgression … a law is a compleat law oblieging, though it do not actually curse" (*Vindiciæ*, 61).[59] So also Samuel Rutherford, when he comes to clear Martin Luther of teaching antinomianism, lays it down as an interpretative proposition that

> The binding authority in the law laying on the sinner an obligation to doe and act, is different from the binding power of the law to suffer punishment, for transgressing of the law. The former agreeth to the Law simply, as it is a Law: the latter agreeth to the Law as it is violated and disobeyed (*Spirituall Antichrist*, 1.87).

Punishment, therefore, is not considered moral by nature, but is added to the law as a result of transgression.

The theonomic view of punishment is not the same as that which is taught by the Westminster formulary and its framers. Theonomy teaches that punishment is essential to a law while the divines teach it is superadded to a law. This must be considered a substantial point of variance even if it appears there are similarities with respect to capital punishments.

Secondly, the two systems approach the punishments prescribed under the Old Testament in substantially different ways. Theonomy asserts that a punishment prescribed under the Old Testament is binding by virtue of the fact that God commands it. In the words of Greg Bahnsen, "the social punishments detailed in God's word are as authoritative as any other command He sets down to be obeyed" (*TICE*, 436). "When the magistrate follows God's law in executing criminals he has the approval and authorization of God" (445). "God's standards for public and civil justice have *not* changed, for God is immutable (as is His law, Matt. 5:17–18). Thus the death penalty for certain crimes is not simply a suggestion from God but a formal *command*" (447). "In this present age the civil magistrate ought to follow the law of God and its commandments pertaining to punishment for social crimes" (455). The theonomic

59. Remarkably Greg Bahnsen quoted this passage from Anthony Burgess (*TICE*, 551), but failed to see how it contradicted his own view that punishment is essential to law.

penology considers the Old Testament punishments to be inherently moral and therefore perpetually binding at all times and places. There is no process of reason which ensures the punishment fits the crime; it is simply assumed that these punishments are just because God has commanded them.

One does not find anything like this in the Westminster divines. They certainly appeal to the Old Testament punishments and may even draw the conclusion that such punishments were binding upon the covenanted nations of England, Scotland, and Ireland, but they transgress the theonomic thesis in three significant ways: (1) they do not simply assume the justice of the prescribed punishments but follow a process of reasoning which deduces the general equity of these laws; (2) they are careful to qualify that the punishments are applicable only in a covenanted nation; and (3) they more or less allow for the alteration and moderation of these punishments to ensure the punishment fits the crime.

(1) The divines do not simply assume that the judicial punishments are just. As was noted under the discussion on general equity, the bare existence of a divine law to regulate the society of Israel does not suffice to make it obliging. It must be grounded on the law of nature, explain the morality of the ten commandments, and have a reason for its permanent application. This is the process the divines employ when they appeal to the Old Testament punishments. Herbert Palmer appeals to the law and light of nature:

> the Scripture expressly commands to put such to death, as also all Seducers to Idolatry, & the suitableness of these laws, to the law and light of nature, shows they cannot be Typical, or merely Judicial laws, considering how necessary they are both for the honour of God, and for the safety of others souls ("Chronology," 41).

Samuel Rutherford states that the reason why the punishment against blasphemy is binding is because there is a reason for it in nature:

> This law obligeth the stranger, and any heathen to be put to death, if hee should blaspheme God, saith it is the law of nature, and obligeth us under the New Testament as being the first and highest sin that nature crieth shame and woe upon" (*Free Disputation*, 183).

Such laws are binding, not because they are a part of the judicial laws of God, but because of their natural equity:

> To be sure, these laws do not pertain to us, as they are Judicial laws (as Theodore Beza notes in his de Haereticis puniendis):[60] … But in respect to their natural equity, it cannot be proven from the Scriptures that these Laws are of those which are abrogated by the death of Christ (Rutherford, "Civil Magistrate," 272).

William Gouge refers to the maintenance of the moral law:

> There were other branches of the judicial Law which rested upon common equity: and were means of keeping the moral Law: as putting to death Idolaters and such as enticed others thereunto: and witches, and wilful murderers, and other notorious malefactors ("Chronology," 47).

Francis Cheynell argues for the reason of it: "The Moral equity of this Command is very evident for the punishing of such as do entice men from the true Religion, because there is a reason given which is of general and perpetual equity" ("Chronology," 53).

This is a distinct approach to that taken by the theonomic penology. There may be cases where the divines arrive at the same conclusion with respect to the enforcement of specific punishments for specific crimes, but the method employed includes a number of variables for which the theonomic method does not make any allowance. Under different circumstances the variables might produce a different conclusion whereas a theonomic approach is bound to the same inflexible conclusion at all times and places.

(2) The divines are careful to qualify that the punishments prescribed by God are applicable to a covenanted nation. One should not overlook the driving force behind the Assembly's "work of reformation"—the Solemn League and Covenant. This context is of utmost importance in coming to a proper understanding of the statements of the divines as they urged the Parliament of England to resist an unbounded toleration of all sects and to undertake the punishment of seducing

60. Theodore Beza's views are as follows: "We acknowledge those politic laws to be prescribed only to the country of the Jews; neither are we so unskilful that we would have Moses' common wealth or government called back again, as though it were not lawful for every magistrate within his own dominion to make laws in civil matters." "The judicial laws were framed only for one nation. Therefore, seeing they were never written for us, they cannot be said to be abrogated." "Only the Israelites were bound to the judicial laws, that is, those that dwell in Jewry, because they were made fit for that commonwealth only." The translation is supplied by John Whitgift, *The Works of John Whitgift* (Cambridge: The University Press, 1851) 1.277, 278.

heretics. In 1643, Parliament had entered into a "Solemn League and Covenant for the reformation and defence of religion." One of the articles which the Parliament was sworn to uphold was "the extirpation of Popery, Prelacy, … superstition, heresy, schism, profaneness, and whatsoever shall be found to be contrary to sound doctrine and the power of godliness."[61] The sermons which were delivered to the Parliament were either fast day or thanksgiving day messages. Their objective was to assist in bringing the covenanting magistrate to humiliation before God or thanksgiving to God so far as the great work of reformation was concerned. Herbert Palmer serves as a good example of a court preacher who invoked the covenant for reformation as the basis of his appeal:

> And give me leave, I humbly pray, to proceed a little further in a particular or two more specified in our Covenant for Reformation. One is that we may ever remember that Clause in the first Article, *To endeavour the Reformation of Religion in the Kingdoms of England and Ireland in Doctrine, Worship, Discipline and Government, according to the Word of God* ("Chronology," 13).

The monthly appeals of the ministers to the Parliament to suppress heresies were grounded on the covenanted commitment of the civil magistrate.

Where the Confession states it is the duty of the magistrate "to take order … that all blasphemies and heresies be suppressed" (*WCF* 23.3), it is important to note that the divines limit this obligation to a Christian magistrate governing in a Christian nation according to a Christian constitution. Samuel Rutherford makes this the true state of the question in his work against pretended liberty of conscience:

> the true state of the question is … whether or no ought the Godly and Christian Prince restraine & punish with the sword false teachers, publishers of hereticall and pernicious doctrines, which may be proved by witnesse, and tends to the injuring of the souls of the people of God, in a Christian societie, and are dishonorable to God, and contrary to sound doctrine (*Pretended Liberty*, 57).

Rutherford insists that it is not a non Christian nation, but a nation "in covenant with God," which is the object of the magistrate's punishment:

> Hence not simple Idolaters, nor all the Nations round about, nor all the Papists, that are educated in Idolatry, by this Law shall be put to death, but such as are *within the gates of Israel*. 2. *In covenant with God*. 3. It is *wrought in Israel*, and so Apostates to Judaisme, to strange Gods are to be punished; so we teach not that Nations are to be converted by the sword, or that the idolatry of Indians, the blasphemy of Jews, is a sufficient ground to make war against them, and cut them off with the sword (*Pretended Liberty*, 187).

Nor is it simply the magistrate, "But the Magistrate, as such a Magistrate, lustered with Christianity, punisheth Gospel Heretics, and sinneth against his Magistratical office if he do not so" (*Pretended Liberty*, 223).

George Gillespie makes the same fundamental qualification. Throughout the many rhetorical flourishes of his anti-sectarian work, "Wholesome Severity," he does not fail to specify who should undertake the punishment of heretics:

> I have endeavoured in this following discourse to vindicate the lawfull, yea necessary use of the coercive power of the Christian Magistrate in suppressing and punishing hereticks and sectaries, according as the degree of their offence and of the Churches danger shal require.[62]

The adjective "Christian" is subsequently used on pages 1, 6, 7 (thrice), 8 (thrice), 12, 29, 31 (twice). In pressing for the punishment of heretics, Gillespie specifies that the covenanted reformation requires it: "It is for … drawing factions among the people contrary to the covenant, for resisting the reformation of religion, for lying and railing against the covenant" (*Wholesome Severity*, 34). "Other seduced ones the Magistrate is to command *subpoena*, and cause them stand to the covenant of God" (35). The magistrate's duty is "to endeavour the discovery of all such as have been or shall be evil instruments, by hindering the reformation of religion, or making any faction or party amongst the people, contrary to the solemn league and covenant" (*Wholesome Severity*, 37). The same point is made in the *Late Dialogue*: "to grant an unbounded liberty unto all sorts of heretics and sectaries … is inconsistent with the Solemn League and Covenant of the three kingdoms" ("Chronology," 19).

Francis Cheynell also ties the duty of suppressing blasphemies and heresies to a covenanted State:

> We cannot in equity extend the Law of Moses to such as never entred into any Covenant with God, nor to any

61. "The Solemn League & Covenant," in *Westminster Confession*, 359.

62. Anonymous (ascribed to George Gillespie), *Wholesome Severity Reconciled with Christian Liberty* (London, 1645) to the Christian Reader.

> that are led away in their simplicity before they have been better instructed and admonished once and again; nor to such as do in a Christian and Peaceable way dissent from their brethren in points of lesse consequence ("Chronology," 54).

The use of "equity" is striking. It means there are situations where the punishments prescribed by the Old Testament code would be unjust, and an uncovenanted nation is just such a situation.

This qualification—that the Old Testament punishments are applicable only to a covenanted nation—provides a concrete example of the way the divines might reach a different conclusion to that which is reached by the theonomic approach. The divines take the situational perspective of a State into consideration whereas theonomy requires the inflexible enforcement of God's penal laws regardless of the situation.

(3) Finally, the divines more or less allow for the alteration and moderation of these punishments to ensure the punishment fits the crime. Samuel Rutherford makes an important distinction between the nature and the mode of punishment:

> the punishing of a sin against the Moral Law by the Magistrate, is Moral and perpetual; but the punishing of every sin against the Moral Law, *tali modo*, so and so, with death, with spitting on the face: I much doubt if these punishments in particular, and in their positive determination to the people of the Jews, be moral and perpetual ("Chronology," 36).

When a punishment is added to a moral commandment it is considered a matter of common moral equity. Such an addition demonstrates that the nature of the crime requires punishment, but the mode of punishment is a positive determination.

Rutherford not only considered the mode but also the degree of punishment to be variable. He asks the question in plain terms, "Whether the rulers by their Office, in order to peace, are to stand to the Laws of Moses, for punishing seducing teachers;" and answers it with like plainness, "Judicial Laws may be judicial and Mosaic, and so not obligatory to us, according to the degree and quality of punishment" (*Pretended Liberty*, 298). He provides a concrete example in the case of theft:

> No man but sees the punishment of theft is of common moral equity, and obligeth all Nations, but the manner or degree of punishment is more positive: as to punish Theft by restoring four Oxen for the stealing of one Ox, doth not so oblige all Nations, but some other bodily punishment, as whipping, may be used against Thieves" (*Pretended Liberty*, 299).

The addition of a punishment is moral-positive: the morality of punishing the crime is due to the fact that the crime is against the moral law; but the mode and degree of punishment is positive and variable.

When Rutherford comes to apply the law of punishing seducing prophets, the most he claims is that the crime is punishable by nature: "the Christian Magistrate is tyed and obliged to these punishments to bee inflicted for morall offences, that the Law of God hath ordained, at least in nature" (308, 309). "The punishing of a seducing Prophet is morall" (*Pretended Liberty*, 310). There is no insistence that death must invariably be the punishment.

The position of George Gillespie is a little more difficult to evaluate because he did not provide explanation and qualification of his views. It might even appear that Gillespie contradicted himself. On the one hand, it is maintained, "He who will hold that the Christian Magistrate is not bound to inflict such punishments for such sins, is bound to prove that those former laws of God are abolished, and to show some Scripture for it." On the other hand, there is place given for "toleration whereby the Magistrate when it is in the power of his hand to punish and extirpate … granteth them a *Supersedeas* [forbearance]" ("Chronology," 23). If this is accepted as a real contradiction in the light of modern debate then it only serves to show the problems involved with imposing a modern theonomic understanding on Gillespie's writings.

Alternatively, the apparent contradiction might be removed by an application of Rutherford's distinction of punishment by nature and punishment by degree. Where Gillespie speaks of "such punishments for such sins," he might be understood as referring to the crime naturally deserving punishment; but where he allows a forbearance, he might have been thinking of the degree to which the deserved punishment might be inflicted. Given the fact that Gillespie has not undertaken to qualify himself, this could be the best way of reconciling his conflicting statements. It certainly accords with his stated purpose for writing the pamphlet, which was to vindicate the suppressing and punishing of heretics and sectaries "according as the degree of their offence and of the Churches danger shal require" (*Wholesome Severity*, to the reader). The only other option is to conclude that Gillespie was still undecided on the matter.

However one chooses to interpret Gillespie, the

allowance of forbearance in the matter of prescribed punishments indicates a "moderate" position akin to that which was taught by Anthony Burgess. The position of Burgess is stated as follows: "The Corrigibility and relenting of the Offender, may much procure Clemency ("Chronology," 16). This "moderate" position essentially consists in taking the situational perspective into consideration and allowing the magistrate the power to exercise mercy. Gillespie's position is no different. First, he takes the situational perspective of the offender into consideration: "having to do with such of whom there is good hope either of reducing them by convincing their judgments, or of uniting them to the Church by a safe accommodation of differences, he grants them a *supersedeas* [forbearance]" ("Chronology," 23). Secondly, he allows for clemency:

> or though there be no such ground of hope concerning them, while he might crush them with the foot of power, in Christian piety and moderation, he forbears so far as may not be destructive to the peace and right government of the Church, using his coercive power with such a mixture of mercy as creates no mischief to the rest of the Church ("Chronology," 23).

Contrary to Martin Foulner's evaluation, there is no basis for alleging that the views of Rutherford and Gillespie were less moderate than those of Burgess and Greenhill.[63] Their allowance for variability in the degree of punishment is basically non-theonomic because it ascribes discretionary power to the magistrate.

The testimony of Robert Baillie may be added to confirm the view of the Scottish commissioners. To be sure, Baillie was equally opposed to the toleration of all sects: "Liberty of Conscience, and Toleration of all or any Religion is so prodigious an impiety, that this religious Parliament cannot but abhorre the very naming of it."[64] Yet, when it came to the capital punishments prescribed under the Old Testament, he found fault with the Brownists because "They lay it upon the Magistrate to punish by death, without any dispensation, every Adulterer, every Blasphemer, every Sabbath-breaker; and above all, every Idolater." ("Chronology," 33). From the perspective of this Westminster representative, the theonomic penology is to be associated with the errors of Brownism.

It is clear, then, that the Westminster divines appealed to the Old Testament punishments, but they deviated from the theonomic approach in three significant ways. First, they followed a process of reasoning which sought to discover where and when such punishments were justly administered; they did not simply assume the punishments were just and binding. Secondly, they carefully noted the covenanted context of Israel and only applied the punishments to the context of a Christian magistrate upholding a Christian constitution in a Christian nation. Thirdly, while they spoke of the punishment of specific crimes as moral, they allowed for variation in the kind and degree of punishment. These deviations are significant enough to conclude that the Westminster divines did not follow the theonomic approach.

To summarise this part of the analysis—Westminster teaches that the magistrate is an ordinance of God, and in that sense it is broadly theonomic in its outlook. Westminster confines the magistrate's sphere to nature in distinction from the sphere of grace in which the Church functions, but theonomy denies the nature-grace distinction and derives the authority of the magistrate from Christ as Mediator. Whereas Westminster teaches the connection of Church and State by means of Christian constitutionalism and guards against persecuting measures, theonomy separates the two and makes the State an agency for propagating the Christian religion independently from the Church. Westminster teaches that the rule of the magistrate is the moral law of God which gives normative direction for law-making, but theonomy advocates the magistrate is bound to the whole law of God as it prescribes specific actions in particular situations. Finally, Westminster maintains that a Christian magistrate over a covenanted nation may suppress blasphemies and heresies with the liberty to alter the kind and degree of punishment, but theonomy makes the Old Testament punishments binding and unalterable on all nations. Westminster and theonomy clearly set forth two divergent schemes as to the nature and function of the civil magistrate.

Continued on Page 322.

63. There is no record of disagreement in the discussions of the Assembly anent the judicial law or the punishment to be meted out to blasphemers or heretics. The minutes show that some of the Independents dissented over statements such as "the known principles of Christianity" ("Chronology," 41), "publishing opinions" (44), and the civil magistrate's duty to suppress heresies (50). Most of these disagreements arose because of the way the propositions were worded. The fact that Jeremiah Burroughs was among the dissenters shows that there was no genuine dissatisfaction with the teaching of the Confession because he openly preached against toleration (32). It seems that Mr. Carter Jr. took exception to the truth as stated. None of these disagreements, however, touch on the kind or degree of punishment which blasphemers and heretics should receive. In fact, there is no record that the Assembly ever discussed it.

64. Robert Baillie, *A Dissuasive from the Errours of the Time* (London, 1646), epistle dedicatory.

Editorial. **Continued from Page 2.**

church government. Dr. Smith explores why and how this concept was adopted by Southern Presbyterianism, and solving the mystery entails the interplay of church history with politics, culture, and science. C. N. Willborn has provided *The Deacon: A Divine Right Office with Divine Uses,* and sets "forth the biblical basis of the office of deacon, the biblical nature and duties of the office of deacon, and the relation of the diaconate to the eldership."

In other articles, Dr. W. Gary Crampton surveys John Calvin's doctrine of divine revelation, and D. Patrick Ramsey assesses Samuel Rutherford's contribution to the development and establishment of covenant theology in Scotland. James Cassidy examines Turretin's doctrine of the covenant of works as it is found in his *Institutes of Elenctic Theology*, and Karl Barth's disposition towards Turretin and the doctrine of the covenant of works in his *Church Dogmatics*.

Donald John Maclean explores the old reformed view of a spiritual interpretation of Canticles by examining James Durham on the Song of Solomon. Wes Bredenhof provides a glimpse into the life and work of "the chief apostle to the Indians under the Dutch regime," Johannes Megapolensis (1603–1670). And Anthony T. Selvaggio examines redemptive historical preaching in *An Answer to the Challenge of Preaching the Old Testament: An Historical and Theological Examination of the Redemptive-Historical Approach*.

We are pleased to continue the various departments begun in prior issues as we provide a rendering of Psalm 42, complete the translation of John Brown of Wamphray on Psalmody (begun in volume 3), and detail the contents of two volumes of James Durham MSS held by Glasgow University Library.

The journal now has a dedicated editor for the Reviews section, the Rev. Lane Keister, who brings an orderly and systematic approach to this important portion of *The Confessional Presbyterian*.

Chris Coldwell

As the new *Reviews & Responses* editor for *The Confessional Presbyterian*, I would like to express my thanks to Mr. Chris Coldwell for inviting me to fill this position. I am very glad to take up this post. It has been extremely rewarding this year. We have some great reviews, focusing some distinct attention on books about John Calvin, for obvious reasons. In addition to this, I have sought (and will seek to do in future as well) to provide balanced reviews in each of the following categories: historical theology, systematic theology, exegesis, and practical theology. I have also sought to provide some reviews of books that will be well-known already. However, there are some books reviewed here which ought to be better known, but are not. Enjoy what we have to offer this year.

Lane Keister ▪

The Westminster Assembly & the Judicial Law: A Chronological Compilation and Analysis Part Two. **Continued from Page 88.**

Conclusion.

There can be no doubt that the Christian Church needs to give more serious attention to the law of God and its application to modern society. Those churches that subscribe to the Westminster formulary have less excuse than others for not being more active in this regard, when it is considered that their subordinate standards amply testify of the social responsibility of Christians. It may well be that the theonomic movement has helped to create a greater awareness of the need to develop a biblical social ethic, but theonomy itself falls too far short of the wisdom and balance of the Westminster formulary to be a useful ethical system.

The theonomic view of law does not have its roots in Puritanism but in the separatist ideals of Brownism. It rejects the natural law tradition which was fundamental to the Puritan system of ethics and fails to distinguish between moral and situational commandments. The theonomic view of the civil magistrate has more in common with Erastianism than with the Presbyterianism of the Assembly of divines. Although it follows the modern separation of Church and State, theonomy ascribes to civil power a commission under Christ to nurture and advance His kingdom by means of the sword. There is no recognition of the distinct spheres of nature and grace nor any acknowledgment of the Christian constitutionalism which is evident in the writings of the Westminster divines.

The only appearance of similarity between the two systems is in the formal appeal to the Old Testament punishments, but there is no substantial agreement. When the divines of the Assembly appealed to these punishments it was for the purpose of preventing the slide of a Christian commonwealth into atheism and schism. Their only concern was to show that a Christian civil magistrate has the power to suppress blasphemy and heresy by means of the sword, and they left room for the free use of reason and prudence to determine how this might be best accomplished. Theonomy, however, presents the civil punishments as a cure to the immorality of modern non-Christian States, and insists the magistrate is bound to enforce these punishments because they are revealed by God.

Do the Westminster Confession and Catechisms teach "the abiding validity of the law in exhaustive detail?" If the system of doctrine as a whole is observed, and the original intention of the divines is respected, the answer must be a definite "no." ▪