

# Reformed Social Antinomianism

## An Examination and Refutation of Reformed and Evangelical Arguments against the Old Testament Moral Case Laws and Their Penalties

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That modernist and evangelical churches have an unbiblical view of God's law should come as no surprise to those familiar with their systems of theology. What is surprising, however, is the fact that most modern conservative Presbyterians express hostility to the moral case laws within the judicial code of Israel as well. In this section we will look at some of the popular arguments against the use of these laws in the New Covenant era and will critique them.

A common view among modern Presbyterians is that, with the coming of Christ, not only have the ceremonial ordinances of the Old Testament been abrogated, but the *whole civil law* has been put away as well. For example Dabney writes, "Although the Ten Commandments were given along with the civil and ceremonial laws of the Hebrews, we do not include them along with the latter, because the Decalogue was, unlike them, given for all men and all dispensations.... They rise wholly above the temporary and positive precepts, which were only binding while they were expressly enjoined."<sup>1</sup> The PCA scholar Philip Ryken essentially agrees when he says,

The civil law has also expired, but for a slightly different reason: The church is not a state. We do have a king (namely, Christ), but his kingdom is spiritual. Therefore, although the civil laws of the Old Testament contained principles that are useful for governing nations today, God's people are no longer bound by their specific regulations. The basic error of the theological perspective known as *theonomy* (or "Christian reconstruction") is to imagine that civil laws from the time of Moses should still be enforced in America today. This is what some people mean when they talk about restoring a "Christian America." But as Calvin recognized, such a view is "powerless and seditious" because like the ceremonial law, the civic law has been superseded by Christ. Today the people of God are governed instead by church discipline, which is based on the moral law, and which has spiritual rather than civil consequences.<sup>2</sup>

Ernest Kevan and others (e.g., Walter Chantry, *God's Righteous Kingdom* [Carlisle, PA: Banner of Truth, 1980]) argue for a Ten Commandments only position based on the unique manner in which the decalogue was given. Kevan writes,

A consideration of the majestic accompaniments of the promulgation of the moral law will serve to exhibit its outstanding dignity.... It would be right to conclude that God gave the Law

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<sup>1</sup> Robert L. Dabney, *A Defense of Virginia* (New York: Negro University Press, [1867] 1969), 122, 123.

<sup>2</sup> Philip Graham Ryken, *Exodus: Saved for God's Glory* (Wheaton, IL: Crossway Books, 2005), 531.

in this solemn and impressive manner in order that its authority and majesty might be more readily recognized. This dignity belongs peculiarly to the moral Law in distinction from the judicial and ceremonial; for although the judicial and ceremonial Laws were given at the same time as the moral Law, there is nevertheless a great difference between them.<sup>3</sup>

While it is true that the Ten Commandments received special treatment by God (e.g., they were written with God's own finger on tablets of stone (Ex. 31:18); they were spoken by God directly to the people (Ex. 19:9); they were placed in the ark of the covenant; and so on), it is *not* because *only* the Ten Commandments were moral in nature but because (as the Larger Catechism notes [Q 98]) they summarized the *whole* moral law of God. (In the biblical worldview the number ten represents wholeness or completeness. Moreover, the fact that the tablets were written upon the front and the back [Ex. 32:15] probably symbolized their perfection and sufficiency; that men are not to add to God's moral law.) There is even a summary of the Ten Commandments *outside* of the decalogue ("You shall love the LORD your God with all your heart, with all your soul and with all your might" [Deut. 6:5] and "you shall love your neighbor as yourself" [Lev. 19:18]). The moral case laws contained in Israel's civil law are an extension of the Ten Commandments. One cannot abrogate the moral case laws in the civil code without abrogating the Decalogue itself. Since all moral laws are based on God's nature and character such an abrogation is impossible. In addition, those who base their argument on the uniqueness of the giving and storing of the Decalogue seem to have forgotten that *this uniqueness existed throughout the whole Old Covenant period*. The Old Testament Jews never concluded that the civil laws were unimportant or not applicable. Why would this uniqueness only come into play after the death and resurrection of Christ? In their zeal to refute theonomy, these churchmen have not carefully thought their position through. It is one thing to argue that Israel's judicial law as a system or complete body of law has expired as a whole system. It is quite another thing to argue that every law within the code has expired as well. The former is obvious and easily supported by Scripture. The latter is easily disproved and was rejected by the Westminster divines.

The Free Church of Scotland General Assembly report on theonomy says,

If Theonomy is clear in its rejection of a distinction between civil and moral, and in its insistence on the continuance of Old Testament civil punishments today, the Confession is equally clear, but in an opposite direction. The Confession teaches (Chapter 19 - Of the Law of God) a threefold distinction in the Law - moral, ceremonial and judicial. The moral law is the Ten Commandments (19.2, 3) and remains binding on all (19.5). The ceremonial laws "given to the people of Israel as a church under age . . . containing several typical ordinances . . . prefiguring Christ . . . are now abrogated under the new testament." (19.3) As far as the civil law is concerned, the Confession says "To them also [i.e. Israel], as a body politick, he gave sundry judicial laws, which expired together with the state of that people, not obliging any other now, further than the general equity thereof may require." (19.4)

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<sup>3</sup> Ernest Kevan, *Moral Law*, 41.

Now, no matter how much effort Theonomist writers expend in trying to show that their teaching does not contradict the Confession (and some go to great lengths), they face an impossible task. The Theonomist says the judicial laws are still binding, the Confession says they have expired (died, become invalid). The Theonomist says other nations (apart from ancient Israel) are obliged to keep the judicial laws, the Confession says no other nation is obliged to keep them. Theonomists say these laws apply in exhaustive detail, the Confession says only the “general equity” of these laws apply. This is about as clear a contradiction as it is possible to get!...

But what does the Confession mean by general equity? As Sinclair Ferguson points out (*Theonomy - A Reformed Critique*, p. 330), the expression “general equity” has a long history stretching back to the Greeks and Romans and was a well-recognised technical legal term by the time of the Westminster Assembly. It means “the application of the principles of justice to correct or supplement the law.” It involves a recognition that it is not enough to have laws, whether in the form of statute law or case law, these must be administered in a way that is fair and just. It is therefore quite clear what the Confession means. It is saying that the actual laws have ceased to be valid, but the general principles of justice in the civil law of Old Testament Israel are still valid. What are examples of general equity in OT? - a man must not be punished for a crime he has not committed; two or more witnesses are required to convict; punishment should be proportionate to the crime.<sup>4</sup>

The influence of dispensational thought runs through these kinds of arguments. In order to reveal their unbiblical and irrational nature, we need to consider each argument in turn. First, we need to answer the question: does the Westminster Confession of Faith teach that the *whole* judicial law has been abrogated (i.e. each and every individual civil law as stated in the Old Testament) and that only the general principles behind them remain? The modern Presbyterian appears to think that a general principle of justice means that: a) we can disregard the original penalties attached to the civil laws;<sup>5</sup> and, b) we can ignore the specifics of the original civil law

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<sup>4</sup> *The Report of the General Assembly of the Free Church of Scotland from 1998*, 3-4.

<sup>5</sup> This is definitely the position of the Free Church of Scotland. Its report reads, “Again according to most Theonomists, the state should apply the death penalty to a whole range of sins including homosexuality, rape, fornication, apostasy, idolatry and the striking or cursing of parents. Already this tenet of Theonomy has been highlighted in sensational form in a tabloid newspaper. The story was headlined ‘In Scotland a deacon wants to stone “bad” kids to death.’ But before we shake our heads and consider Theonomy beneath our dignity to debate, there are several causes for concern” (p. 1). There are a number of things to note regarding this obnoxious statement. First, it contains gross inaccuracies. No theonomist believes that fornication is a death penalty offense. Moreover, only violent rape, which involves a form of kidnapping, is a death penalty offense. What we call “date rape” today is a serious crime but not a death penalty offense. In addition, death for incorrigible children involves something far beyond a refusal to eat one’s spinach or forgetting to take out the garbage. Second, is the Free Church asserting that the penalties attached to the moral case laws are somehow unjust or “beneath our dignity” to even consider? R. J. Rushdoony, Gary North and Greg Bahnsen did not make up these penalties. They were written by Jehovah Himself. To disparage the penalties as unworthy of consideration and obviously absurd is to dishonor God, who not only gave His people these laws but declared them to be far superior to those in the Gentile nations and perfectly just: “And what great nation is there that has such statutes and righteous judgments [i.e. judgments are just] as are in all this law which I set before you this day” (Deut. 4:8)? “[N]o other great nation possesses a body of laws so *righteous*, i.e. so conformable to the requirements of justice and right, and consequently so adapted to command the admiration of mankind at large, as Israel has” (S. R. Driver, *A Critical and Exegetical Commentary on Deuteronomy* [Edinburgh: T & T Clark, (1885) 1986], 65). Modern Presbyterians apparently have been influenced by post-enlightenment

that is moral in content and apply it in a general manner. This is generally understood by modern Presbyterians to mean that we have a certain amount of flexibility to depart from the original moral case law. In other words, those aspects of the moral case laws in the judicial law that seem too harsh or unreasonable can be moderated for our pluralistic modern culture. (This statement may seem unfair to some in conservative Presbyterian circles, but one must consider the fact that theonomists are frequently mocked by Presbyterian scholars for holding to the Old Testament penalties as if such penalties are absurdly harsh [e.g., see footnote 9]. Such churchmen, in their zeal to protect human autonomy in judicial matters, have apparently forgotten that they are criticizing penalties *that Jehovah wrote* and that the inspired penalties *are identified as just by God Himself* [e.g., see Deut. 4:8].)

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secular thought and pluralism. This point is supported by the Free Church's implicit rejection of the establishment principle and the applicability of first table commandments in modern nations. In 1846 the General Assembly passed a Declaratory Act concerning the Questions and Formula for Ministers and Other Office-bearers which said, "that, while the Church firmly maintains the same scriptural principles as to the duties of nations and their rulers in reference to true religion and the Church of Christ, for she has hitherto contended, she disclaims intolerant or persecuting principles, and does not to regard her Confession of Faith, or any portion thereof, when fairly interpreted, as favoring intolerance or persecution, or consider that her office-bearers, by subscribing it, profess any principles inconsistent with liberty of conscience and the right of private judgment." To argue that one adheres to Reformational concepts of the establishment principle but then to allow the *open* practice and propagation of idolatry in a confessional Christian nation is contradictory. Criminal laws with no sanctions are worthless. The Free Church has adopted the pluralistic opinion that moral case laws against idolatry and blasphemy, which God's Word regards as the very worst of crimes, must not be enforced. To do so apparently (in their mind) is cruel, harsh, against liberty, immoral, and outdated and unjust. Whether it realizes it or not, the Free Church (by implication) is asserting that sinful man, following post-enlightenment principles, can come up with *penalties* for these first table crimes that are more just, fair and humane than those written by God Himself and placed in the Word of God for our benefit. This position (which is simply a reflection of the modern world's opinion on this matter) would be strongly condemned by the original Presbyterians who adopted the Confession of Faith. Note the words of George Gillespie, a Westminster divine: "By the same principle they must deny that an oath (be it never so just and necessary) may be imposed by authority, or that the magistrate ought to put to death a *blasphemer*, an incestuous person, an adulterer, a *witch*, or the like (the scriptural warrants which make these crimes capital being in the Old, not in the New Testament). Saith not the Apostle, 2 Tim. iii.16, 'All Scripture (and consequently the lawful examples and laudable precedence of the Old Testament) is given by inspiration of God, and is profitable for doctrine, for reproof, for correction, for instruction in righteousness'" ("A Treatise of Miscellany Questions" [1646] in *The Works of George Gillespie* [Edmonton A.B., Canada: Still Waters Revival Books, 1991], 2:68). Samuel Rutherford, another member of the Assembly, concurs, "[The Magistrate's use of the sword]... *Answ.* The sword is expressly given by God, Rom. 13 to Christian magistrates, and this is not against the meekness of Christ, no more nor to deliver to Satan, or to curse and excommunicate Apostates with that great curse called *Anathema Maranatha*, 1 Cor. 16. 22. And though Heretics and Mahomet teach that Heretics, as also they teach that manslayers, adulterers, paricides should die the death, it followeth not that we are not to teach the same" (*The Due Right of Presbyteries or a Peaceable Plea, etc.* [London 1644], 358). "[Magistrates to punish idolatry, as keepers of two tables of the law] And this is the cause (I conceive) why great Divines have said the object of the Magistrates power as a Magistrate is the external man, and earthly things, because he doth not in such a spiritual way of working, take care of the two Tables of the Law, as the Pastor doth; and yet the spiritual good and edification of the Church in the right preaching of the Word, Sacraments, and pure discipline is his end. It is true, whether the blasphemer professed repentance, or not, the Magistrate is to punish, yea and to take his life, if he in seducing of many, have prevailed, but yet his end is edification, even in taking away the life; for he is *to put away evil, that all Israel may fear, and do so no more*; but this edification is procured by the sword, and by a co-active power, and so the *Church power* and the kingly power differ in their formal objects, and their formal ends" (Ibid, 398). Note that Gillespie and Rutherford (both members of the Westminster Assembly) appeal *directly* to Old Testament moral case laws and their penalties. If we accept the Free Church interpretation of the Confession's exception clause, this would mean that the authors of the Confession themselves were unconfessional.

Regarding the common idea that every law is abrogated and only some general principles remain, we need to make a number of observations.

(1) *One cannot glean or derive general moral principles from abrogated or annulled moral case laws.* If the particular or specific law does not apply, it cannot serve as a moral foundation for a general law or application. Note, for example, a moral case law frequently cited as proof that the civil laws do not apply today. The Mosaic law says that a parapet or fence like structure must be built around the edges of a roof so that people do not fall off, bringing guilt upon the owner of the house for negligence (Deut. 22:8). People point out that virtually all American homes are built with sloped roofs and since people no longer entertain guests on their roof this law does not apply today. The general principle of safety (e.g., a fence around the swimming pool or railing in a balcony), however, still applies. This kind of reasoning is irrational and makes no sense whatsoever. The moral case law *still applies* just as written by God and anyone who uses their roof as a deck or living space must obey this specific moral case law exactly as written. One must not assert that a moral case law has been abrogated because certain circumstances have changed to a degree. The original law, which is moral, remains and therefore applications to modern life still apply. Remember, one cannot glean morally *binding principles* from a moral law that is not binding. The law binds or it does not bind. The general principle viewpoint is simply irrational. Christians should study moral case laws within the judicial law because they are binding and make as many applications to today's society as possible.<sup>6</sup>

(2) If one studies the Larger Catechism<sup>7</sup> and the writings of prominent Presbyterian scholars at the time or soon after the Confession was written, it can be proved beyond a shadow

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<sup>6</sup> The absurdity of the idea that all the moral case laws are abrogated yet we can glean a few general (i.e. nonspecific) principles from them can be seen by attempting to put such a hermeneutical and applicatory principle into practice. Take the moral case law against bestiality, "Nor shall you mate with any animal, to defile yourself with it. It is perversion" (Lev. 18:23). The teaching is not specifically restated in the New Testament. If this Old Testament case law is abrogated, what is the general principle that we are supposed to glean from it? Does it teach that one should avoid animal abuse? What about the case law against homosexuality (Lev. 18:22)? Has it been abrogated? What is the general principle that it teaches? The Old Testament moral case laws are specific and detailed for a reason. God does not hate sin in a vague, general way; He wants us to know precisely what He hates. The general principles interpretation is simply a smoke screen for human autonomy.

<sup>7</sup>The Larger Catechism takes the position that "the moral law is summarily comprehended in the Ten Commandments" (A. 98 emphasis added). If one reads the section on the Ten Commandments in the Larger Catechism, one will note that each moral commandment is explained or fleshed out using moral case laws from the judicial law. (It also appeals to applications of moral laws outside the Decalogue found in the writings, prophets and New Testament.) The position of radical discontinuity found in most modern Presbyterian circles is baffling when we look at the proof texts used in the Confession and Larger Catechism on Christian ethics. Note the following examples: A. 104 on the first commandment appeals to Deut. 6:5. A. 108 on the second commandment cites Deut. 7:5; and A. 109 on the same commandment refers to Deut. 13:6-12 which requires the death penalty for seducers to idolatry. A. 113 on the third commandment appeals to Deut. 28:18, 18:10-14 and A. 114 appeals to Lev. 19:12. A. 128 on the fifth commandment refers to Ex. 21:15 and Deut. 21:18ff which calls for the death penalty for obstinately rebellious sons. A. 136 on the sixth commandment cites Ex. 21:18ff and Num. 35:16-21, 31 which are case laws. A. 139 on the seventh commandment cites Lev. 20:15-16 which deals with bestiality. The Confession of Faith (24:4) states that marriage must not be "within the degrees of consanguinity or affinity forbidden by the word," using the moral case laws in Lev. 18 and 20 as proof texts. A. 141 on the eighth commandment appeals to Lev. 6:2-5; 25:35; Deut. 21:1-4 and Ex. 23:4ff. A. 142 on sins forbidden in the eighth commandment cites Deut. 19:4 on removing ancient landmarks. A. 145 on the sins forbidden by the ninth commandment uses Lev. 19:15 (on rendering righteous judgment); Lev. 5:1 and Deut. 13:8 (on the wickedness of concealing the truth); Lev. 19:17 (on our obligation to

of a doubt that the general equity clause does not teach the abrogation of the moral case laws within the judicial law. It teaches that the judicial law *as a body of laws* for Old Covenant Israel has come to an end; but, the laws within the judicial code which are moral do continue. For example, James Durham (1622-1658) wrote, “[We would] distinguish between the moral, the ceremonial, and judicial law. The first concerns manners, and the right ordering of a godly conversation [behavior]: and, because these things are of perpetual equity and rectitude, the obligation of this law, as to that is perpetual. And therefore, in the expounding of it, these two terms, *moral*, and *perpetual authority*, are all one, and to be taken so.... The *judicial* law is for regulating outward society, and for [the civil] government, and generally (excepting what was peculiar to the people of *Israel*) agrees with the moral law. This as given to them, is not perpetual, their policy being at an end.”<sup>8</sup> Durham states that laws which are moral have perpetual authority and that the judicial law contains much in common with the moral law. Therefore, although *as a body of laws* for ancient Israel, the judicial code came to an end, that which is moral and consequently perpetual obviously must continue. All moral laws, whether in the Ten Commandments or the moral case laws (which apply the commandments to society), are based on God’s nature or character and thus are universal and perpetual. One may discern new applications but the original moral commands cannot be abrogated or changed because God’s nature does not change.

George Gillespie (1613-1648), a member of the Westminster Assembly, not only endorses the moral case laws within Israel’s judicial code but also adheres to the abiding validity of the inspired punishments as well:

It will be asked, “But how does it appear that these or any other judicial laws of Moses do at all appertain to us, as rules to guide us in like cases?” I shall wish him who scruples this, to read Piscator’s appendix to his observations upon the 21-23 chapters of Exodus, where he excellently

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rebuke our neighbor in person instead of gossiping cf. Lev. 19:16); Lev. 19:16 (on the requirement not to gossip); and Ex. 23:1 (which condemns circulating false reports or slander). In A. 151:3 on what aggravates an offense or makes it more severe Deut. 22:22, 28ff is noted as proving different degrees of sin. These are moral case laws that note the different penalties between fornication with an unmarried virgin (i.e. sexual relations, not rape) and adultery with a married woman. Fornication results in a severe fine and marriage (unless the father of the girl refuses) while adultery results in the death penalty for both the man and the woman. The Westminster divines understood that the moral case laws help define the Ten Commandments. If we abandon the moral case laws or attempt to make them irrelevant by teaching that we can basically ignore them or only glean a few general principles out of them, we restrict our understanding of God’s moral law and greatly increase sinful human arbitrariness, vagueness, autonomy, flexibility, thereby watering down and corrupting Christian social ethics. The results of such thinking have been disastrous for Europe and America.

<sup>8</sup> James Durham, *A Practical Exposition of the Ten Commandments* (Dallas, TX: Naphtali Press, [1801] 2002), 55. Durham appealed to Leviticus 18, 20 and Deuteronomy 22 for the proper punishment of homosexuals (Ibid, 327). For uncleanness, incest and the degrees of consanguinity, he appealed to the same chapters (Ibid.). He believed that adultery should be punished with death: “It is a heinous crime worthy to be punished by the judge. The Laws of man should take over such a sin, and the moral law of God taught that such a sin deserved death (Deut. 22:22), not only in the woman, as some would have it only, but also in the man” (*Lectures on Job*, Chris Coldwell ed., [Dallas, TX: Naphtali Press], 170). Note that not only does Durham appeal to a judicial law of Israel for a proper penalty, but to refers to the penalty [death] in Deuteronomy 22:22 as a *moral law*. Therefore, in this respect, he has much more in common with theologians than a modern Presbyterian who wants some general principles and no Old Testament penalties except for first-degree murder. (Durham was writing in 1673; his book was endorsed by John Owen.)

disputes this question, whether the Christian Magistrate is bound to observe the judicial laws of Moses, as well as the Jewish Magistrate was. He answers by the common distinction, he is obliged to those things in the judicial law which are unchangeable, and common to all nations: but not to those things which are mutable, or proper to the Jewish Republic. But then he explains this distinction, that by things mutable, and proper to the Jews, he understands the emancipation of an Hebrew servant or handmaid in the seventh year, a man's marrying his brother's wife and raising up seed to his brother, the forgiving of debts at the Jubilee, marrying with one of the same tribe, and if there be any other like to these; also ceremonial trespasses, as touching a dead body, etc. But things immutable, and common to all nations, are the laws concerning moral trespass, sins against the moral law, as murder, adultery, theft, enticing away from God, blasphemy, striking of parents. Now that the Christian Magistrate is bound to observe these judicial laws of Moses, which appoint the punishments of sins against the moral law, he proves by these reasons.

(1.) If it were not so, then it is free and arbitrary to the Magistrate to appoint what punishments he pleases. But this is not arbitrary to him, *for he is the minister of God*, (Rom. 13:4) and *the judgment is the Lord's* (Deut. 1:7; 2 Chron. 19:6). And if the Magistrate is *keeper of both tables*, he must keep them in such manner as God has delivered them to him.

(2.) 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. Now he could not fulfill the judicial law, except either by his practice, or by teaching others still to observe it; not by his own practice, for he would not condemn the adulteress (Jn. 8:11), nor divide the inheritance (Luke 12:13-14). Therefore it must be by his doctrine for our observing it.

(3.) If Christ in his sermon (Matt. 5), would teach that the moral law belongs to us Christians, in so much as he vindicates it from the false glosses of the scribes and Pharisees; then he meant to hold forth the judicial law concerning moral trespasses as belonging unto us also; for he vindicates and interprets the judicial law, as well as the moral (Matt. 5:38), *An eye for an eye*, etc.

(4.) If God would have the moral law transmitted from the Jewish people to the Christian people; then he would also have the judicial laws transmitted from the Jewish Magistrate to the Christian Magistrate: there being the same reason of immutability in the punishments, which is in the offenses. Idolatry and adultery displease God now as much as then; and theft displeases God now no more than before.

(5.) *Whatsoever things were written aforetime, were written for our learning* (Rom. 15:4), and what shall the Christian Magistrate learn more from those judicial laws, but the will of God to be his rule in like cases? The ceremonial law was written for our learning, that we might know the fulfilling of all those types, but the judicial law was not typical.

(6.) *Do all to the glory of God* (1 Cor. 10:31; Matt. 5:16). How shall Christian Magistrates glorify God more than by observing God's own laws, as most just, and such as they cannot make better?

(7.) *Whatsoever is not of faith is sin* (Rom. 14:23). Now when the Christian Magistrate punishes sins against the moral law, if he does this in faith and in assurance of pleasing God, he must have his assurance from the Word of God, for faith can build upon no other foundation; it is the Word which must assure the conscience: God has commanded such a thing, therefore it is my duty to do it; God has not forbidden such a thing; therefore I am free to do it. But the will of God concerning civil justice and punishments is no where so fully and clearly revealed as in the judicial law of Moses. This therefore must be the surest prop and stay to the conscience of the Christian Magistrate. These are not my reasons (if it be not a word or two added by way of explaining and strengthening), but the substance of Piscator's reasons. Unto which I add...<sup>9</sup>

Gillespie could not be clearer. Civil magistrates are obligated to enforce the judicial laws of Moses including the inspired penalties of those laws that are "unchangeable" (i.e. those laws that are moral in content).

Samuel Rutherford (1600-1661), another member of the Westminster Assembly, taught repeatedly that sins which are crimes must not only receive church discipline but also must be punished by the state. He taught that [damnable] Heretics, murderers, adulterers, parent killers, blasphemers, etc. are to be put to death by the civil magistrate;<sup>10</sup> that kings are obligated to continually study the book of the Law of God (the five books of Moses or the Torah) in order to learn true justice and doctrine.<sup>11</sup> He wrote that "all the laws of the Old Testament (which we hold in their moral equity to be perpetual) must be applied by civil magistrates today to society including such crimes as "blasphemies, heresies, [and] solicitation to worship false gods."<sup>12</sup> He argued that it was proper and lawful for civil magistrates to put to death "blasphemers and false teachers for spreading heresies and blasphemies"<sup>13</sup> as well as seducers to idolatry (Deut. 13:11).<sup>14</sup> When speaking of proper judicial punishments, Rutherford argued that a civil

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<sup>9</sup> George Gillespie, "Wholesome Severity Reconciled with Christian Liberty" [1645] as reprinted in *Anthology of Presbyterian and Reformed Literature* (Dallas, TX: Naphtali Press, 1991), 182-183. In the same discourse Gillespie says, "Though we have clear and full Scriptures in the New Testament of the abolishing of the ceremonial law, yet we nowhere read in all the New Testament of the abolishing of the judicial law, so far as it did concern the punishing of sins against the moral law, of which heresy and seducing of souls is one, and a great one. Once God did reveal his will for punishing those sins by such and such punishments. 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 show some Scripture for it" (*Wholesome Severity*, 183). It is rather ironic that George Gillespie, a crucial Presbyterian member of the Westminster Assembly, holds to one of the main tenets of theonomy and, if alive today, would be ineligible to become a minister or elder in the Free Church of Scotland (see also *Aaron's Rod Blossoming; or the Divine Ordinance of Church Government Vindicated* [Preface, 30, 67, 90, 115, 121, 149, 152]; *A Treatise of Miscellany Questions; etc.* [2:68]).

<sup>10</sup> See Samuel Rutherford, *The Due Right of Presbyteries or, A Peaceable Plea, etc.* (London: 1644), 358.

<sup>11</sup> *Ibid*, 429.

<sup>12</sup> *Ibid*, 47, 184. Note that the crimes Rutherford cites are taken from the moral case laws within the judicial law, not the Ten Commandments.

<sup>13</sup> *Ibid*, 53.

<sup>14</sup> *Ibid*, 55, 68, 185.

magistrate must use the sword [the death penalty] to remove the seducers to false religion and sodomites from society.<sup>15</sup> He argued that England and Scotland were justified in hanging priests and Jesuits because their death penalty law was based on the moral case laws in Deuteronomy 13, which condemned seducers to a false religion to death. In fact, the king and Parliaments of both these kingdoms “serve Christ, and kiss the Son in making and executing these laws.”<sup>16</sup> In fact, he says explicitly that the moral case laws regarding seduction to idolatry, *including the death penalty*, still apply today: “That [Deut. 13] is no temporary law obliging the Jews only.”<sup>17</sup> Rutherford noted that since the moral case laws against making sacrifices to Molech applied to sojourners and non-Jews in the covenant nation [Lev. 20:2], then it must be universal and applied to all Gentiles as well.<sup>18</sup> Rutherford liked to point out that the moral case laws and their attendant penalties, applied not only to crimes from the second table of the law (“murder, adultery, perjury”) but also the first table of the law (“blasphemy, idolatry, heresies”)<sup>19</sup>: “... So if the Magistrate keep[s] both tables, he must not punish according to his own will, but according to the rule and prescript of God.”<sup>20</sup> Like a good theonomist, Rutherford argued that the penal sanctions of the law are moral and perpetual<sup>21</sup> and thus must be inflicted by Christian civil magistrates.<sup>22</sup>

Modern Presbyterian critics of theonomy make much of the fact that the Westminster Standards do not say that the judicial laws of Israel are binding unless specifically annulled by the New Testament. Thus, the general equity clause is interpreted to mean that the whole judicial law has nothing to do with Gentile nations except for some general principles. It is also

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<sup>15</sup> Ibid, 57-58.

<sup>16</sup> Ibid, 68.

<sup>17</sup> Ibid, 185.

<sup>18</sup> Ibid, 188, 189.

<sup>19</sup> Ibid, 189.

<sup>20</sup> Ibid, 321.

<sup>21</sup> “I come to the assumption, the punishing of a seducing Prophet is moral. In that it is commanded to father and mother not to pity him, Deut. 13. 6. Holden forth as the zeal of God, and father and mother, under the Messiah’s Kingdom, Zach. 13:1, 2, 3, 4, 5, 6. And everyone is forbidden, To bid him God speed, yea, and commanded to deny him an act of humanity, and hospitality, and not receive him in his house, 2 Joh. 1. If we be commanded to put any shame on him, far more must the ruler be taught of God, what shame he should put upon him. For whatever under the New Testament is capable of a command, is moral. And if moral, what the Magistrate should do to him can no more be determined by the will and wit of man, then it can be determined what punishment the Magistrate must inflict upon the murderer, the adulterer, the Sorcerer, the Sodomite; which all the wisdom of God hath determined: in the word, other ways God hath blessed that Magistrate in the dark, that from the word he has no direction, when he committeth murder, or, when he doth acts of justice” (Ibid, 310).

<sup>22</sup> “... But for the point in hand the Christian Magistrate is tied and obliged to these punishments to be inflicted for moral offenses, that the Law of God hath ordained, at least in nature: I prove, 1. That which is moral, and cannot be determined by the wisdom and will of man, must be determined by the revealed will of God in his word; but the punishment of a seducing prophet, that ruins the soul of our brother, and makes him twofold more the child of Satan than before, is moral and cannot be determined by the wisdom and will of man: *Ergo*, such a punishing of a seducing Prophet must be by the revealed will of God in his word. 1. Because God only, not Moses, or any other law-giver under him, taketh on him to determine death to be that adulterer’s punishment, Levit. 20:10. And the same he determined that to be the punishment of willful murder, Exodus. 21:12; of smiting of the Father or Mother, V. 15. of Man-stealing, Vers. 16. of Sorcery, Exod. 22:18; of Bestiality, 19; Of sacrificing to a strange God, vers. 10; And upon the same reason, God only, nor any mortal man, must determine the punishment due to such as seduced souls to eternal perdition” (Ibid, 308-309).

interpreted in such a way to do away with all the penalties except murder, which is discussed in Scripture outside of the Mosaic law (Gen. 9:5-7). We have seen in our brief examination of the writings of some of the most important Presbyterian thinkers from the days of the Second Reformation in Scotland, that modern anti-theonomic Presbyterians are seriously misinterpreting the general equity clause of the Confession of Faith. When the Confession says that the judicial laws expired when the Jewish nation ceased, it is simply teaching that the judicial code *as a code* or a *complete body of law* no longer applies. (I am not aware of any theonomist writers who teach that we are obligated to keep every judicial law [e.g., the cities of refuge, levirate marriage, the jubilee regulations, etc.].) But, it is very clear in the case of writers such as George Gillespie, Samuel Rutherford and many others,<sup>23</sup> that any laws within the judicial code that are *moral in content*, as well as the penalties attached to those laws, are universal (i.e. binding on all men, even the Gentiles) and continue to have abiding validity in the New Covenant era. This is true of

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<sup>23</sup> The Covenanter George Hutchison (1626-1674) wrote, “6. The Lord doth so far detest the sin of adultery violating the covenant of marriage, and especially in women, who to corrupt a family by bringing in an illegitimate issue into it, that it is his will that such a transgression be punished with death; for so do they repeal his law given by Moses, ‘that such should be stoned;’ and being a punishment of a moral transgression, it should stand in force so long as the transgression is still the same. The law concerning the putting of adulterers to death is clear from Levit. XX. 10; Deut. XXII. 22” (*The Gospel of John* [Carlisle, PA: Banner of Truth (1657) 1972], 158). When the Covenanter scholar David Dickson (1583-1633) discussed the duty of magistrates to put to death idolaters and heretics, he appealed to Deut. 13:6-13; 17:2-7; Lev. 24:16 and the historical examples of the godly kings (e.g., 2 Chron. 15:13) (*Truth’s Victory Over Error* [Edinburgh: 1684], 144, 145). He did not appeal to general principles or reject the penalties but used specific moral case laws out of the judicial code: “Because, God hath expressly commanded, that transgressing idolaters be put to death; Deut. 17.7. Deut. 19.21” (Ibid, 206). In 1652, the great Presbyterian preacher James Ferguson (1621-1667) delivered a series of sermons on the errors of toleration. He noted that those who wanted a broad pluralism appealed to the abrogation of the judicial law. The sectaries reasoned that it was inconsistent of Presbyterians in Scotland to repeatedly appeal to certain O. T. civil laws as a foundation of their judicial laws if these laws were no longer binding (note that in essence the sectaries were using the same argument against using the judicial laws of Israel and their penalties as modern anti-theonomic Presbyterians). Ferguson responded by noting that *the moral laws within the judicial law are still binding on all* and then went on to explain that while a number of things in the judicial law of Israel was peculiar to Israel, the moral parts of it must continue. He wrote, “But there was another thing in their Judicial Laws and that is somewhat of Common Equity belonging unto all, *such as Laws for punishing sins done against the Moral Laws* [i.e. sins that are crimes]; and in this far the Judicial Law is binding to us: because there is not a syllable in the New Testament for abrogating of it, and so [it] must bind, being given by God” (*A Brief Refutation of the Errors of Toleration, Erastianism, Independency and Separation* [1692], 51-52, as quoted in Martin A. Foulner, *Theonomy and the Westminster Confession* [Edinburgh: Marpet Press, 1997], 29). Ferguson goes on to point out that Christ and the apostles used the moral case laws within the judicial law of Israel as proof texts for universally binding moral teachings.

One familiar with Presbyterian writings will note a radical change regarding the law occurring between the teachings of Presbyterians in the 1600s and the 1800s in both America and Scotland. It seems that by the 1800s most Presbyterians had adopted enlightenment concepts of pluralism and toleration. When Presbyterians became pluralists and tolerationists, they had to repudiate the specific teachings of the moral case laws within the judicial code. Thus they adopted a *Ten Commandments only position* and the idea that *only general principles* can be gleaned from the judicial law. They rejected the views of their spiritual forefathers on these matters because they wanted more *flexibility* and *human autonomy* when it came to the judicial sphere. If they clung to the older, original Presbyterian position, which is based squarely upon Scripture, they would have been on a collision course with the United States Constitution, which is explicitly pluralist. Only the Covenanters in America maintained the original Presbyterian theonomic position. One must always keep in mind that most modern Presbyterian rejecters of theonomy are defending declension rooted in secular enlightenment principles. Why else would professing Christians object to modern states implementing moral case laws right out of the inspired Word of God? When churchmen prefer the rule and laws of secular humanists over biblical law, there is something seriously wrong.

case laws relating to the first table of the law (e.g., idolatry, seduction to a false religion, blasphemy, Sabbath desecration, witchcraft, sorcery, etc.) as well as the second (e.g., kidnapping, homosexuality, manslaughter, theft, rape, property damage, etc.).

## The Nature of the Judicial Law

One can better understand why modern Presbyterians have gone astray on the judicial laws by examining what the civil laws are. This is an area where theologians have erred and caused confusion themselves. Therefore, we will help clarify this topic by examining where Christian Reconstructionist writers have gone astray and how modern anti-theonomy writers err as well.

Theonomist writers have opened a door of criticism against themselves by churchmen who want pluralism and flexibility (i.e. human autonomy) in modern civil law codes by their own misunderstandings concerning this sphere of law. In early Christian Reconstructionist writings, it was common to dismiss the category of judicial law altogether. For example James Jordan writes, “In the literature of Protestantism, it is assumed that the law of God comes in three categories: moral, judicial, and ceremonial. The criticism rightly shows that this category scheme is erroneous. What has been termed ‘judicial law’ is not in fact a legal law code, but rather a set of explanations of the moral law.”<sup>24</sup> Einwechter agrees, “It is important to understand that the civil laws of Israel do not constitute a third category of law; the civil laws are really a subset of the moral law.”<sup>25</sup> Some theologians would argue for two categories of law: moral laws and restorative (i.e. ceremonial-typical) ordinances.<sup>26</sup> Rousas John Rushdoony was more cautious when he wrote, “It is a serious error to say that the civil law was also abolished, but the *moral law* retained. What is the distinction between them? *At most points*, they cannot be distinguished. Murder, theft, and false witness are clearly civil as well as moral offenses. In almost every civil order, adultery and dishonoring parents have also been civil crimes.”<sup>27</sup> He notes that the civil and the moral law are not an identical category, but does not understand that the Confession’s

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<sup>24</sup> James Jordan, “Calvinism and ‘The Judicial Law of Moses’: An Historical Survey,” in *Journal of Christian Reconstruction* (1978-1979), 5:19.

<sup>25</sup> William O Einwechter, *Ethics and God’s Law: An Introduction to Theonomy* (Mill Hall, PA: Preston Speed Pub., 1995), 41-42.

<sup>26</sup> Greg Bahnsen seems to speak this way in *Theonomy in Christian Ethics* [1977], 450. Whatever his view on this matter was in the 1970s, by the time of the publication of *No Other Standard* in 1991, his view apparently was in line with traditional Presbyterian thought. He wrote, “A *category distinction* is unmistakable in God’s declaration, ‘I desire faithful love, not sacrifice’ (Hos. 6:6). That statement would have made no sense whatsoever if Israel could not tell the difference between the laws demanding sacrifice (which we call ceremonial) and to the laws demanding faithful love (which we call moral and civil). Are we to believe that the ancient Israelites lacked the mental acumen to catch the contrast between laws which bound Jews and Gentiles *alike* (e.g., the death penalty for murder, Lev. 24:21-22) and those which bound Jews but *not* Gentiles (e.g., the prohibition of eating animals that died of themselves, Dt. 14:21)? Whether they used the verbal labels of ‘moral,’ ‘civil’ and ‘ceremonial’ (as we do) is beside the point” (97-98).

<sup>27</sup> Rousas John Rushdoony, *The Institutes of Biblical Law* (Phillipsburg, NJ: Presbyterian and Reformed, 1973), 304 emphasis added.

statement regarding the expiration of the judicial laws of Israel refers to them as a national code of law, not the moral laws within.

While a third category of law called judicial or civil is legitimate and helpful (for there are civil laws that are not moral or ceremonial that can only be applied to the ancient nation of Israel), this subject is difficult due to a number of ways the covenant law is expressed in the New Testament's scant teaching on the judicial law. For example:

(1) The Mosaic law is not delineated in clear-cut categories. Laws dealing with ritual purity and ceremonial matters are mixed with laws that are clearly moral. Consequently, a number of modern scholars reject such category distinctions as an artificial construct imposed on the law by Christian theologians. They assert that the laws are mixed up in such a way that the Jews would not have recognized such categories. While it is indeed true that the Mosaic law is not organized in neat, clear-cut categories, the distinction between moral and ceremonial laws is recognized in both Testaments. For example, God repeatedly rebuked the Jews for being strict regarding ceremonial or ritualistic practices while at the same time grossly neglecting their moral duties (e.g., "Has the LORD as great delight in burnt offerings and sacrifices, as in obeying the voice of the LORD?" [1 Sam. 15:22]; "I desire mercy and not sacrifice" [Hos. 6:6]; Micah 6:6-8 contrasts a multitude of blood sacrifices with acting justly, treating people with love and mercy and walking humbly with God). Such passages are incomprehensible without the Jewish audience understanding a difference between laws that are ceremonial (i.e. positive laws designed as types) and moral (i.e. laws that are based on God's character).

(2) The covenant law is unique in that it gave the Jews a body of law as a nation and as a church. Consequently, although it recognizes a separation between civil and religious (cultic) responsibilities, it is not like a modern traditional law code (see 4 below).

(3) Although the New Testament epistles spend a good deal of time discussing the abrogation of Israel's ceremonial laws, there is nothing explicitly abrogating the judicial laws. The New Testament teaching on the ceremonial law is that these ordinances typify Jesus and His work of redemption. They were shadows which pointed to Christ who is the reality, the substance and the perfect (e.g., Heb. 7:9-28; 8:4-6; 9:1-15; 10:1-12; Eph. 2:14-16; Gal. 5:2-3). The ceremonial laws referred to animal sacrifices and the whole temple cultus: the priesthood, blood offerings, the Levitical holy days (i.e. the feasts), the temple itself, the Levitical choirs and musical instrumentation, incense, the holy utensils, circumcision, ritual washings, special food laws, and so on.

The ceremonial laws were designed for two main purposes. First and foremost, the rites, offices and ceremonies were teaching tools that pointed the people to Christ and His redemptive work. The types were designed to strengthen the faith of the Jews in their coming Savior and Messianic King. They were directed to the Jews, or the church in a state of immaturity (Gal. 3:23-25). If a professing Christian were to offer a blood sacrifice today or to engage in ceremonial temple rituals, he in essence would be saying that Christ's atoning death on the cross was insufficient and needs supplementation. One can see why the apostles so clearly taught the abrogation of the ceremonial law. To continue with the Old Testament ceremonies and rituals

was heresy. Before the coming of Christ such things could be done in faith and were actions of obedience. After our Lord's death and resurrection, to do such things reveals a lack of faith and thus they are acts of disobedience. Second, there were rituals of purification, food laws and laws against mixing different food, plants and types of cloth which in a ceremonial manner taught the people about holiness, separation from evil and sanctification (Deut. 14:1-21; 22:9-11; Lev. 11:1-47; 20:22-26). These laws illustrated that the Gentile nations were unclean before the coming of Christ (cf. Ac. 10:9-43) and served as a wall of division between Jews and Gentiles (cf. Eph. 2:11-22).

When it comes to the civil laws or moral case laws as a *complete* body or system, the New Testament teaches two things. First, the judicial law of Israel *as a national code of law* no longer is relevant, for God has taken the kingdom privileges of national Israel away and given them to the international church of Christ (Mt. 21:43). Moreover, the author of Hebrews tells us that the land of Canaan was but a type of the believer's citizenship in heaven (Heb. 11:8-16). The conquest of Canaan through the use of the physical sword also served as a symbol of the spiritual conquest of the earth in the New Covenant era. This conquest is accomplished through the double-edged sword that proceeds out of the mouth of the White Horse Rider—the gospel or the Word of God. (Note that Jehovah's promise to Joshua at the beginning of Israel's mission, "I will be with you. I will not leave you nor forsake you" [Josh. 1:5], is essentially the same as Jesus' final words to the apostles: "I am with you always, even to the end of the age" [Mt. 28:20]). In addition, God judged Israel for murdering the Messiah and persecuting the church and that nation as a covenant nation was destroyed in A.D. 70 by the Roman armies. Therefore, modern Israel, which is a heathen secular state, has nothing in common with Old Testament Israel. The church is now spiritual or true Israel. Consequently, laws regarding the borders of Israel, the location of the tribes, political loyalty to the nation, the method of tax collection, the type or form of the government, the location of the capital and defending "the holy land" with physical military means are not applicable today. That land is no longer holy or set apart and ethnic Jews do not automatically have a title to that land. Moreover, laws that dealt specifically with the land such as the laws of Jubilee and the cities of refuge are no longer binding.

The judicial law contained a number of laws that do not apply to the nations outside of Israel. There were regulations designed to protect the existence of the various tribes and land allotments such as the command for a brother to raise up a seed for his deceased brother (Deut. 25:5) and the returning of land to its original owner every 49 years. Such laws were clearly designed to protect the lineage of the coming Redeemer. After the incarnation such laws are obviously unnecessary. Further, these laws cannot even be applied to modern Israel, for the documents proving the family lineage and proper succession of family plots were destroyed in A.D. 70 by the Romans when they burned the Temple complex where the records were stored. There are also a number of judicial laws that are in part ceremonial, such as various health regulations about cleansing that typified regeneration and sanctification. Therefore, the idea that a nation today could simply adopt Israel's judicial law code is not only absurd but impossible.

These are the reasons why the authors of the Westminster Confession say that Israel's judicial law [code] has expired.

Second, the inspired authors of the New Testament presuppose the binding authority of judicial laws that are moral in content. For example, Paul upheld the moral case laws on incest (1 Cor. 5:1), homosexuality (Rom. 1:26, 27, 32; 1 Cor. 9:9; 1 Tim. 5:18) and used the case law on not muzzling an ox as a proof text for paying pastors for their labors in the Word (1 Cor. 9:9; 1 Tim. 5:18). Like the Puritans, the apostles defined sexual immorality in terms of the detailed, perspicuous moral case laws of the Old Testament. The necessity of these judicial laws for a biblical view of sexuality is proven in that the prohibitions against bestiality and a number of the degrees of consanguinity are not repeated in the New Testament. "He endorsed the use of God's law to curb social crimes like killing one's parents, kidnapping, homosexuality, perjury, etc. (1 Timothy 1:8-10). He expected the civil sanctions of God's law to be applied (Acts 25:11), teaching that civil magistrates must pursue their offices as 'ministers of God' (Romans 13:1-4). He indicted the emperor for his 'lawlessness' (2 Thessalonians 2:8)."<sup>28</sup> If one teaches that the ethics of the New Testament are different or more flexible than the Old Testament, then one must sever the moral law from God's nature and character and adopt a secular humanistic or Manichaean concept of the moral law. To do so reduces the moral law to a non-transcendent, arbitrary, relativistic level.

To reject or ignore the many moral case laws within the judicial code of Israel because we do not like the penalties, or do not want to apply first table offenses, or want flexibility to make up our own laws is dishonoring to God who wrote these laws in His infallible Word. It does not take much skill or insight to tell the difference between a law that is positive and expired, ceremonial or for the land of Israel and laws that are moral in content. It is a great error to reduce the moral law to its bare summary and ignore the many case laws that apply the Ten Commandments to individuals, families and societies. As the notable Puritan William Perkins noted, "Now judicial laws, that are in foundation and substance moral, are not abrogated, but are perpetual.... If a judicial law serve[s] directly and immediately, to guard and [give] sense [to] any of the ten commandments, in the main scope and end thereof, it is moral in equity and perpetual: because the end and use of it is perpetual."<sup>29</sup> The judicial laws against blasphemy

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<sup>28</sup> Greg Bahnsen, *No Other Standard*, 159.

<sup>29</sup> William Perkins, *A Commentary on Galatians* (New York: The Pilgrim Press [1617] 1989), 203. George Gillespie concurs, "The will of God concerning civil justice and punishments is nowhere so fully and clearly revealed as in the judicial law of Moses. This therefore must be the surest prop and stay to the conscience of the Christian Magistrate" ("Wholesome Severity" in *Anthology of Presbyterian and Reformed Literature*, 4:182). In *A Solemn Testimony against Toleration...By the Commissioners of the General Assembly* [1649] we read, "As the Lord by his servant Moses, in the xviiith of Deuteronomy, requires of him that shall reign over his people, that he have a copy of the law of the Lord by him, and that he read therein all the days of his life, that he may learn to fear the Lord his God, and to keep all the words of that law; so the in the xiiiith of that book he gives a command to put to death the false prophet, and the brother that speaks to his people to turn them away from the Lord their God; and the reasons taken from the nature of the duty, whereby he persuades unto the obedience thereof, *are perpetual and no less binding unto us now, then to them of old....* For it cannot be shown that any part of that power which magistrates had under the Old Testament is repealed under the new, neither can any convincing reason be brought, why it should be of narrower extent now nor then. Are not blasphemies, heresies and errors dishonorable to God, and destructive unto souls as well now as of old?" (Reprinted in *Faithful Witness-Bearing Exemplified* [Kilmarnock: 1783], 74, 76.

(Lev. 24:16), idolatry (e.g., Ex. 20:3; 23:13), bestiality (Lev. 18:23), homosexuality (Lev. 18:22), bribery (Ex. 23:8), adultery (Ex. 20:14; Lev. 18:20), perjury (Ex. 20:16), perverting justice (Ex. 23:1-2, 6), witchcraft (Ex. 22:18), sorcery (Ex. 22:18; Deut. 18:10), cross-dressing (Deut. 22:5), murder (Ex. 21:13), manslaughter (Ex. 21:12-14), assault (Ex. 21:18-26), kidnapping (Ex. 21:16; Deut. 24:7), perjury (Ex. 20:16), moving property markers (Deut. 19:14), arson (Ex. 22:6), theft or stealing (Ex. 20:15; 22:1-5), slander (Ex. 23:1), oppressing a stranger (Ex. 23:9), mistreating the blind or deaf person (Lev. 19:14), loving one's neighbor (Lev. 19:19) and the like are obviously moral and binding on all men.

## Modern Reformed Attempts at Circumventing the Moral Case Laws within the Judicial Code

In their attempts to refute Presbyterian theonomy and uphold pluralism and human autonomy in national law codes, modern Presbyterians have offered a number of arguments that they contend prove the abrogation of *all* the judicial laws. An examination of these arguments will demonstrate that they are unbiblical and irrational.

### *The Middle Wall of Partition Argument*

A number of churchmen argue that the judicial law (along with the ceremonial law) served as the middle wall of partition that separated Jews and Gentiles. Therefore, they argue, that when Jesus, by His redemptive work, broke down the middle wall of separation, He abrogated the whole judicial law (cf. Eph. 2:14). (This is one of the arguments of the Free Church Report and Sherman Isbell, a pastor in the Free Church, Continuing.<sup>30</sup>) This argument suffers from a number of insurmountable problems.

(1) How does a moral law within Israel's judicial law act as a barrier between Jew and Gentile? Are they asserting that Jehovah only required Jews not to blaspheme (Lev. 24:16), or commit bestiality (Lev. 18:23), or practice homosexuality (Lev. 18:18) or trip blind men (Lev. 19:14)? Were Gentile proselytes allowed to commit incest (Lev. 18:6ff), assault (Ex. 21:18-26), etc.? Such a view is most absurd! Consequently, the standard Protestant interpretation is that the middle wall of partition was the ceremonial law.<sup>31</sup>

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As quoted in Martin A. Foulner, *Theonomy and the Westminster Confession*, 33, emphasis added. Foulner notes that this testimony was subscribed October 1658 by Samuel Rutherford, James Wedderburn, John Crookshank, James Guthrie, Alexander Moncrief, John Murray, Robert Campbell and Francis Peirson).

<sup>30</sup> Sherman Isbell, "The Divine Law of Political Israel Expired: General Equity."

<sup>31</sup> John Calvin writes, "...ceremonial observances were the open and avowed symbols of that separation.... Ceremonial observances were afterward added, which, like walls, enclosed the inheritance of God, prevented it from being open to all or mixed with other possessions, and thus excluded the Gentiles from the kingdom of God...the ceremonies by which the distinction was declared, have been abolished through Christ. What were Circumcision, sacrifices, washings, and abstaining from certain foods, but symbols of sanctification, reminding the Jews that their lot was different than other nations?" (*Commentaries on the Epistle of Paul to the Ephesians* [Grand Rapids: Baker, 1980], 236, 237). Matthew Poole notes, "And has broken down the middle wall of partition between us; having taken

(2) God expected the heathen to keep the moral case laws within Israel's judicial law (that for them would have been "the work of the law written on the heart"; Rom. 2:15), for He says explicitly that the Canaanite nations were judged and cast out of the land for violating the moral case laws of Leviticus 18 (cf. vs. 24-30).

(3) The middle wall of partition cannot be the civil laws, for God told the Jews to be faithful to their law system (clearly all the laws relating to justice, the ceremonial laws were in mind), so the surrounding pagan nations would see the ethical superiority of their system of law and consequently note the superiority of Jehovah who gave this law (Deut. 4:5-8).<sup>32</sup> Rather than

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away the ceremonial law, which was a wall of separation between Jew and Gentile..." (*Commentary on the Whole Bible* [Carlisle, PA: Banner of Truth (1685) 1963], 3:668). Matthew Henry says, "He broke down the middle wall of partition, the ceremonial law, that made the great feud, and was the badge of the Jews peculiarity, called the partition-wall by way of allusion to the petition in the temple, which separated the court of the Gentiles from that into which the Jews only had liberty to enter" (*Matthew Henry's Commentary on the Whole Bible* [McLean, VA: MacDonald Pub., no date], 6:694). John Gill concurs, "and has broken down the middle wall of partition between us; the ceremonial law, which was made up of many hard and intolerable commands, and distinguished, and divided, and kept up a division between Jews and Gentiles... a middle wall of partition; a difference and distance; and such there was between the Jew and Gentile, by reason of the ceremonial law: but Christ removed it" (*An Exposition of the New Testament* [London: Matthews and Leigh, 1809], 3:75). Charles Hodge writes, "...as Christ abolished the law as a covenant of works by fulfilling its conditions, so he abolished the Mosaic law by fulfilling all its types and shadows" (*Ephesians* [Carlisle, PA: Banner of Truth, (1856) 1964], 86-87, emphasis added). William Hendriksen adds, "But while, according to many, the apostle here in verse 15, also refers to the satisfaction rendered by Christ, which opinion I believe to be correct, I agree with Grosheide (*op. cit.*, p. 45) that Paul was thinking especially of the ceremonial law. The very wording 'the law of commandments with its requirements' point in that direction" (*Galatians and Ephesians* [Grand Rapids: Baker, 1967, 68] 1979), part 2:134-135). D. Martyn Lloyd-Jones writes, "There will never be true peace [between Jew and Gentile] until all that is broken down. Christ, says the apostle here, has broken it down in this matter of religion once and forever, for 'He has abolished the law of commandments contained in ordinances.' That is how He did it. Which means the way to God now is no longer in the burnt offerings and sacrifices and the things that were peculiar and special only to the Jew" (*God's Way of Reconciliation: An Exposition of Ephesians 2* [Grand Rapids: Baker, 1972], 209). John Eadie says the interpretation that this verse refers to the ceremonial law was held by Theodoret, Calvin, Bucer, Grotius, Meier, Holzhausen, Olohausen, and Conybeare (see *A Commentary on the Greek Text of the Epistle of Paul to the Ephesians* [Grand Rapids: Baker, 1975], 2:135). Gordon Clark notes, "One reason is that the enmity or wall of partition was not so much the moral law or the Ten Commandments – though the Gentiles were not exemplary in obeying them – but that the ceremonial law and especially circumcision, plus the now increasing Pharisaic and Talmudic intricacies, which Jesus referred to in Matthew 15:2-9, produced animosity on both sides. These, then, so it seems to me, are 'the law of the commandments and decrees.' One writer includes in this nullification the civil laws of the ancient Jewish state – contemporary theologians are not Puritan – but in Paul's day there was no independent Jewish nation; the laws of Solomon and Rehoboam, or even Ezra and Nehemiah, or more to the point the Mosaic civil laws in Leviticus, were not enforced. None of these was a factor in the enmity, and the context gives no hint that Paul had civil law in mind. That the text does not apply to civil law is of course no justification of contemporary theonomy. The point is that the ceremonial law with its additions binds no Christians" (*Ephesians* [Jefferson, MD: The Trinity Foundation, 1985], 85).

<sup>32</sup> The pro-theonomy understanding of Deuteronomy 4:8 is common among the best Protestant commentators. For example, Matthew Henry writes, "What nation is there so great, that hath statutes and judgments so righteous? Observe, First, That all these statutes and judgments of the divine law are infinitely just and righteous, above the statutes and judgments of any of the nations. The law of God is far more excellent than the law of nations. No law so consonant to natural equity and the unprejudiced dictates of right reason, so consistent with itself in all the parts of it, and so conducive to the welfare and interest of mankind, such as the Scripture-law is, Ps. 119:128. Secondly, The having of these statutes and judgments set before them is the true and transcendent greatness of any nation or people. See Ps. 147:19, 20. It is an honor to us that we have the Bible in reputation and power among us. It is an evidence of a peoples being high in the favor of God, and a means of making them high among the nations. Those that magnify the law shall be magnified by it" (*Commentary on the Whole Bible*, 1:744). John Gill notes that the

being a wall of separation, Israel's justice system was to serve as an advertisement for the true religion. If God Himself says that this body of laws is *the most just* among all the nations and thus is worthy of admiration, and the emulation and imitation by the heathen, then why do modern Christians do everything they can to avoid it and circumvent its specific rulings? The only explanation is that these modern Presbyterians *do not like* these civil laws that are moral in content. They want pluralism, which involves disobeying all penal sanctions relating to the first table, and they want penalties that are "less harsh" with regard to the second table. Whether they realize it or not, *they are implicitly teaching that men can do a better, more just and fair job of implementing penalties than God.* This radically unbiblical manner of thinking is almost universal among "conservative" Presbyterians today. For at least two centuries, most American Presbyterians have drunk deeply from the polluted humanistic well of enlightenment pluralistic thought.

The *absurdity* of the common modern Presbyterian position is proved by simply asking a question based on the logical implication of Deuteronomy 4:6-8: if the moral law (the Ten Commandments and the moral case laws within the judicial law [e.g., laws against murder, manslaughter, rape, incest, homosexuality bestiality, theft, adultery, fornication, mistreating a wife, etc.]) are said by God Himself to be superior, wiser, more just and righteous, etc., than the laws of pagan nations, would it be *wrong, unwise, unjust or unbiblical* for a heathen nation to replace their laws that are defective and unjust with moral laws out of the Torah? The answer to this question is obvious. Of course not! Would the modern United States with its pro-abortion laws, homosexual marriage, sodomite rights, fractional reserve banking (i.e. "legal" counterfeiting), parole for murderers, no-fault divorce, women in the military, state schools, rampant pornography and prostitution, etc. be better off (i.e. more just and equitable) if it *modeled* its civil laws after the moral law (the Ten Commandments) and the moral case laws that explain and apply the Ten Commandments in the sphere of criminal law? The answer to this question is also obvious. Our nation would be far more just and a much safer place to live.

(4) When it comes to the judicial laws that are moral in content, the same standard that applied to the Jews also applied to the sojourners, foreigners are non-Jews within the land. "One law shall be for the native born and for the stranger who dwells among you" (Ex. 12:49). "You shall have the same law for a stranger and for one from your own country; for I am the LORD your God" (Lev. 24:22). Foreigners were expected to show respect for Jehovah by obeying His moral laws. This included the Sabbath (e.g., Ex. 20:10), blasphemy (Lev. 24:16), the prohibition against idolatry (Lev. 20:2), and all the various moral laws on sexuality including incest, homosexuality, bestiality and adultery (Lev. 18:26). They participated in all the same civil

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Jews "had such a body of laws, in which they were instructed, and according to which they were governed, and in which they walked; that were so agreeable to reason, truth, justice, and equity; insomuch that so far as they became known they were admired and copied after, both by Greeks and Romans; and hence it was that the oracle declared, that only the Chaldeans and Hebrews were a wise people; the Hebrews came from Chaldea, as Abraham the father of them" (*Exposition of the Old Testament*, 2:18). Gary North says, "How could the Gentile nations learn of the wonders of God's judgment and His blessings (Deut. 4:6-8)? One way would be through the information sent back from fellow countrymen living in Israel. Placing resident aliens under the protection of God's civil law was therefore to be a preliminary stage of international evangelism" (*Tools of Dominion*, 673).

protections as the Jews. They were not to be oppressed or treated unfairly by the courts (Deut. 1:16; 24:16; 27:19). Moreover, even the poor laws applied to them. If foreigners fell into poverty, they could glean the fields with the Jews (Lev. 19:10; 23:22; Deut. 24:19-20; cf. Ruth 2:2-19) and could even receive of the poor tithe (Deut. 14:29; 26:12). While it is true that these foreigners were, in the main, Gentile proselytes, nevertheless it is clear that moral case laws were universal in application.

(5) The judicial laws that regulate ethical matters are obviously not positivistic or arbitrary. If they are moral (and they clearly are), then they are based on God's nature and character and are as transcendent and eternal as the Ten Commandments themselves. They cannot be annulled or abrogated. There are some positive laws in the Old Testament code that continue into the New Covenant era. For example, incest or intermarriage between brother and sister is positive and was never abrogated. A special time set apart for worship is positive, only the day is changed. On the difference between forms of incest that are intrinsically moral laws and positive-moral requirements, see Matthew Henry, *Commentary on the Whole Bible*, 1:515.

### *The Church Is Israel Argument*

One of the most common arguments against theonomy is based on the fact that the church of Christ has replaced national Israel. It is argued that since the church is spiritual and church discipline has replaced civil sanctions, the civil case laws are no longer needed and thus do not apply today. While it is true that national Israel has forever lost its covenantal significance, the kingdom of God is spiritual and the church is responsible to discipline members for unrepentant and scandalous sin, it does not exegetically or logically follow that Christian states are free to ignore the moral case laws and their penalties. This point can be proved from the following observations.

(1) Although Christ's kingdom is spiritual (Jesus said, "My kingdom is not of this world," Jn. 18:36), it applies in certain ways to all earthly institutions. While the church is not to employ carnal weapons or physical punishments, for it only has use of the keys of the kingdom and the spiritual sword, it does not logically follow that God has abolished the covenantal sphere of the state. People who want to replace the civil laws of Israel with church discipline make the mistake of not recognizing that even in the Mosaic administration there was a separation of church (ecclesiastical or cultic functions) and state (civil responsibilities). The fact that the church of Christ takes upon itself ecclesiastical functions alone does not mean the civil responsibilities that are moral are abrogated. Those who want to replace civil sanctions with church discipline do not seem to realize that they, in essence, are arguing that modern states can make up their own laws (following vague general biblical principles, of course), but cannot appeal *directly* to God's law. Such a view is not only absurd but also is a recipe for disaster.<sup>33</sup>

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<sup>33</sup> One must remember, that one of the things that modern conservative Presbyterians find the most offensive regarding theonomy is the idea that specific judicial case laws that are moral in content must be strictly followed and especially the teaching that the penalties of the law are still binding. Regarding this hostility, we need to note that: a) It is completely contrary to the views of early Presbyterian Covenanters; and, b) It is hostility toward the specific

The separation of church and state in Scripture and the fact that Israel lost its kingdom privileges due to apostasy, does not allow modern states to rule through human autonomy or even vague moral principles (which allow magistrates to fill in the details and to make up the penalties) any more than the separation of the civil magistrates and the Levitical priesthood in the Old Testament gave the King freedom to depart from the law of God.

(2) The Bible teaches that Christ has all authority over the kings of the whole earth (Ps. 2:7-12 110:1-2; Ac. 2:3, 34-36; Rev. 19:15-16) and that the church is to make disciples, not simply of individuals but also whole nations as nations (Mt. 28:19). This means that eventually, there will be Christian nations with explicitly Christian constitutions and law orders.<sup>34</sup> Does the fact that the church does not have the authority to use the physical sword mean or imply that Christian civil magistrates cannot use the sword of justice? Of course not! Then, when a nation bows the knee to Christ and covenants with Him, what laws should they use to form their justice system: secular humanistic law, natural law or biblical law? The state is obligated to obey special revelation or *revealed* law as part of the “all things” that Christ has commanded (Mt. 28:20). This concurs with Paul, who says the civil magistrate is “a minister of God...for good...[and] an avenger of wrath to execute wrath on him who practices evil” (Rom. 13:4). This means that civil leaders are obligated to rule under God’s authority and direction. The fact that pagan rulers, due to “the work of the law written on the heart” (Rom. 2:15), come up with *some* just laws does not mean that Christian civil leaders can or should ignore God’s revealed, perspicuous, just moral case laws in the judicial code of Israel.

(3) There are prophecies regarding the New Covenant era that teach that the Gentile nations will seek to learn and will implement the law of God. The prophets, using Old Testament terminology, pictured all nations flowing into the church to receive instruction and learn God’s law. “Now it shall come to pass in the latter days that the mountain of the Lord’s house shall be established on the top of the mountains, and shall be exalted above the hills; and all nations shall flow to it. Many people shall come and say, ‘Come, and let us go up to the mountain of the Lord,

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teachings of Scripture. The detractors against modern theonomy speak as though God’s own laws are evil and dangerous.

<sup>34</sup> “The Old Testament prophets teach that the Great Commission implies that there is to be a genuine acceptance of the true religion and spiritual gospel worship among all nations. “‘For from the rising of the sun, even to its going down, My name shall be great among the Gentiles; in every place incense shall be offered to My name, and a pure offering; for My name shall be great among the nations,’” says that LORD of hosts’ (Mal. 1:11). ‘All the ends of the world shall remember and turn to the LORD, and all the families of the nations shall worship before You. For the kingdom is the LORD’S, and He rules over the nations’ (Ps. 22:27-28). ‘All nations whom You have made shall come and worship before You, O Lord, and shall glorify Your name’ (Ps. 86:9). ‘He shall have dominion also from sea to sea, and from the River to the ends of the earth. Those who dwell in the wilderness will bow before Him, and His enemies will lick the dust. The kings of Tarshish and of the Isles will bring presents; the kings of Sheba and Seba will offer gifts. Yes, all kings shall fall down before Him; all nations shall serve Him’ (Ps. 72:8-11). Psalm 72 is a glowing description of the reign of the Messiah, as righteous (vv. 1-7), universal (vv. 8-11), beneficent (vv. 12-14), perpetual (vv. 15-17). It speaks of the social (vv. 2-4, 12-14) and economic benefits of His reign (v. 16), as well as the spiritual benefits (vv. 5-7, 17). The imagery of pouring rain here reflects the spiritual presence of Christ in the Person of the Holy Spirit (Rom. 8:9; John 14:16-18) being poured out upon the world from on high (Isa. 32:15, 44:3; Ezek. 39:29; Joel 2:28-29; Zech. 12:10; Acts 2:17-18). Christ is ‘in’ us via the Holy Spirit, which is poured out upon us since Pentecost” (Kenneth L. Gentry, Jr., *He Shall Have Dominion* [Tyler, TX: Institute for Christian Economics, 1992], 199).

to the house of the God of Jacob; He will teach us His ways, and we shall walk in His paths.’ For out of Zion shall go forth the law, and the word of the Lord from Jerusalem” (Isa. 2:2-3).<sup>35</sup> If Israel had been obedient, the surrounding Gentile nations would have acknowledged the superiority of the covenant nation’s justice system (Deut. 4:6-8). What did not occur in the Old Covenant era, will come to pass before Christ returns. Matthew quotes Isaiah 42:1-4 (which speaks of “My Servant” [the Messiah] bringing justice to the Gentiles) and says, it is being fulfilled. God through Isaiah said, Christ “will bring forth justice to the Gentiles.... He will not fail nor be discouraged, till He has established justice in the earth; and the coastlands shall wait for His law” (Isa. 42:1, 3-4). The Messiah’s work continues through His church (based on His redemptive victory and the efficacy of His death and resurrection) and it is not completed until every far off continent receives the gospel. Christ is discipling the nations, and His work is not completed until all civil governments base their laws upon His perfect law. The commissioners of the General Assembly in the 1649 noted, “the Lord hath prophesied and promised of the Christian magistrate in the days of the gospel, that he shall not defile the place of the Lord’s throne, and the place of the soles of his feet where he will dwell in the midst of his people, in their setting up of the thresholds, and to their posts by his post is Ezek. xliii. 7, 8; and that they shall thrust through false prophets, Zech. xiii. 3.”<sup>36</sup>

(4) The argument based on the fact that the church replaced Israel contradicts the standard Protestant view on the threefold use of the law. The first use is to reveal our sin. Calvin writes, “The Law is like the mirror in which we first contemplate our own weakness, then the iniquity that proceeds from the same, and finally the malediction that comes of both, even as in a mirror we perceive the blemishes upon our face” [*Institutes*, II, 7, 7]. The second function of the law is to restrain evil acts in society through fear of the civil punishments or sanctions of the law. Of the second use Calvin notes, “This constrained and forced righteousness is necessary to the community of men, for the tranquility which our Savior provides by preventing all things from being overturned in confusion—which would happen if everything were permitted to everyone” [*Institutes*, II, 7, 10]. The third use of the law is for the sanctification of believers or the mortification of our sinful natures.

A strict and consistent enforcement of the moral case laws within the judicial code will have a restraining effect on the unregenerate in two ways. First, men will by and large obey these laws out of a fear of the civil punishments for crimes. If witches, false prophets, sorcerers, rapists, murderers and adulterers are publicly executed, people who do not care about Christ or the Bible will have a strong incentive not to commit such crimes. Crime would not pay. A system that allows criminals who have committed serious crimes to go free after a few years in prison is not an effective deterrent to criminal activities. Second, the civil laws of a society have a tendency to affect the way people think. This can be observed in the United States with its decriminalization and praise of homosexuality. In less than one generation, most Americans have

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<sup>35</sup> The author of Hebrews uses the expression “Mt. Zion” (12:22) in a spiritual sense to refer to the New Testament church. A time is coming when the church will be prominent in world affairs.

<sup>36</sup> Reprinted in *Faithful Witness-Bearing Exemplified*, 108; as quoted in *Theonomy and the Westminster Confession*, 33.

changed their views on homosexuality from great hatred and disapprobation to complete acceptance and praise. The unregenerate masses are like sheep and have a tendency to follow their leaders into lawlessness and calamity. The civil use of the law does not make the unregenerate good or better, it simply restrains their outward behavior for the overall benefit of society.

### *Are the Penalties Positivist?*

A common argument against Presbyterian theonomy is based on the idea that the penalties are positivistic and not binding on nations outside of Israel. (Positive law refers to those commands of God which are grounded solely on the fact that God says that man must obey them. An example of a positive law is the command to Adam and Eve not to eat of the fruit of the tree of knowledge of good and evil [Gen. 2:17]. There was nothing intrinsically evil regarding the forbidden fruit; it was wrong *solely* because God said it was wrong.) Those who use this argument usually appeal to Calvin. This argument has a certain appeal to modern Presbyterians because: (1) The most offensive aspect of theonomy to modern churchmen is its insistence on the original penalties. This view gives modern civil magistrates human autonomy in determining penalties. (2) It appears more defensible than the idea that every judicial law is simply abrogated; for many civil laws are obviously moral in content. An advocate for this position writes,

Thus the magistrate may find in his particular nation that it is necessary to punish some offenses more severely than that Judicial Law would. At other times or in other places the magistrate may find himself compelled to punish more leniently than would the Judicial Law. Calvin does allow for either. In some nations, adultery was punished more leniently than the Judicial Law punished it. In other nations robbery was punished but exacting twofold of that which was taken, which is a more lenient punishment than that of the Judicial Law. Yet in other nations where robbery and slaughter are pandemic, it may become necessary to punish both with immediate death.<sup>37</sup>

The basic idea here is that the penalties are relativistic and conditioned by Hebrew culture, therefore, modern rulers can adapt them to each unique society as they see fit. Hembd writes,

The penalties for infractions against the Moral Law can and may be adapted to the specific situations of a given culture. The Judicial Law given to Israel is just such an adaptation, given by Jehovah God of Israel to address its specific culture. Specific penalties for infraction of the Moral Law can be adapted to a specific culture. The Judicial Law addressed the state of Israel as it existed *at that time*. Of course, due consideration must be given by the present-day magistrate to the penalties assigned in the Judicial Law. The Judicial Law was a law given by the All-wise God, and it could be argued that, in some instances at least, some of the punishments have an

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<sup>37</sup> Al Hembd, "Josiah, Erastianism, and National Covenanting, Part 2" in *Blue Banner* Vol. 1, Issue 3 (Rowlett, TX: First Presbyterian Church, July/Sept, 1997), 4.

abiding permanence. The death penalty for murder would be one example, since that particular penalty was given prior to and apart from the Judicial Law of Israel. Yet however one might change the penalties of the Judicial Law, one cannot change the Moral Law without changing the very standard of right and wrong *by that act*.<sup>38</sup>

The idea that the penalties are positivistic or culturally conditioned and that, therefore, civil magistrates are free to depart widely from the inscripturated penalties is dangerous, absurd and unbiblical for a number of reasons. First, the penalties in God's law are described as just and righteous (Lev. 19:15, 35; 24:18ff; Deut. 4:8; 16:18; 24:17; 29:21; 2 Sam. 8:15; 2 Chron. 8:8; Ps. 19:7; 119:102, 117, 121; Isa. 56:1; Jer. 23:5; Rom. 7:12). The penalties as given by God are expressions of justice. They are not arbitrary. This point is proved by the Bible's clear teaching on the judicial principle known as the *lex talionis* (the law of retaliation). This principle is stated in Exodus 21:23-25; "But if any lasting harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe" (cf. Lev 24:18ff.; Deut. 29:21). The whole point of the *lex talionis* is that the punishment "must fit the crime; it must be proportionate to the offense, neither lesser nor greater."<sup>39</sup> "Where physical damage can be determined objectively, the criminal must pay on an 'eye for eye' basis.... The punishment must fit the magnitude of the violation; the violation is assessed in terms of the damages inflicted."<sup>40</sup> The view of Second Reformation Presbyterians was that the requirement of execution was moral except for the Fourth Commandment's penalty, which they regarded as positive. The *method* of putting a guilty criminal to death was regarded as positive. In other words, stoning is not required. If a substitution for death was allowed by the Mosaic law for certain crimes, then the *victim* can request the substitution. The early Presbyterians did not view the penalties as arbitrary or culturally conditioned. The general view was that the civil magistrate could go beyond the prescribed penalty in extraordinary situations (e.g., the use of deadly force during the looting and rioting).

There is disagreement among scholars as to whether the *lex talionis* was meant by God to be enforced literally (e.g., amputation of a limb). The context permits the substitution of a non-literal penalty (cf. Ex. 21:26-27) at least in some instances. There are crimes in which God permits no substitution, such as first and second degree murder (cf. Num. 35:31), homosexual behavior, acts of bestiality, open idolatry, seduction to idolatry, witchcraft, sorcery, etc. Jewish Midrash and Jewish medieval scholars such as Nachmanides (thirteenth century) taught that the *lex talionis* referred to a just monetary recompense to a victim for a damaged eye or limb. Some scholars regard the amputation of a limb for a victim's limb as referring to the maximum penalty allowed. However, the victim, not the state, is the one who decides whether or not to accept monetary compensation. (This debate is beyond the purview of this essay.) Although scholars may disagree on exactly how the *lex talionis* is to be enforced, the meaning of the *lex talionis*

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<sup>38</sup> Ibid, 2.

<sup>39</sup> Rousas John Rushdoony, *The Institutes of Biblical Law*, 229.

<sup>40</sup> Gary North, *Victim's Rights: The Biblical View of Civic Justice* (Tyler, TX: Institute for Christian Economics, 1990), 99.

cannot be denied. The Bible teaches that penalties must be just; and it is God's law that defines justice. Justice is not relative. It is not affected or changed by time, culture or social considerations. To argue that it is equally just to execute a person for theft in one country, while in another country a thief should only pay restitution, is to argue a blatant contradiction. Bahnsen writes,

The main underlying principle of penology (whether civic or eternal) is not reformation or deterrence, but justice. The outstanding characteristic of theonomic punishment is the principle of equity; no crime receives a penalty which it does not warrant. The punishment for a violation of God's law is always appropriate for the nature of the offense; "an eye for an eye, and a tooth for a tooth." Here is the most blessed standard of social retribution that man's civilization has ever seen. That the Old Testament laws set forth humane and just punishments for crimes is immediately apparent when one compares it with the legal codes of the nations around Israel. God's penal sanctions are not overweighted, cruel, unusual, or excessive; a criminal receives what he deserves: no more, no less.... None of God's penalties are excessive or lenient; hence the Older Testament does not detail arbitrary punishments for crimes...but the punishment was made to correspond to the social heinousness of the offense so that the culprit receives what his public disobedience merits (e.g., Deut. 19:19).<sup>41</sup>

God's law restricts the state's authority to impose vengeance: "[B]iblical law restrains the officers of the State by imposing strict limitations on their enforcement of law. It is God's law that must be enforced, and this law establishes criteria of evidence and a standard of justice. This standard is 'an eye for an eye.' A popular slogan in the modern world permits a parallel judicial principle: 'the punishment should fit the crime....' Biblical law restrains the arbitrariness of the State's officers. If the punishment must fit the crime, then the judges do not have the authority to impose lighter judgments or heavier judgments on the criminal."<sup>42</sup> The idea that the State can lawfully determine its own penalties apart from God's word is an implicit denial of the justness of the Bible's Spirit inspired penalties. It is judicial relativism and statism. In reality, justice is objective. God revealed to Israel a just justice system so that arbitrary and unjust penalties would not be inflicted upon people as was commonly done in the surrounding pagan nations. "[C]an the state be God's servant and by-pass God's law? And if the state 'must exercise justice', how is justice defined, by the nations, or by God?...Neither positive law nor natural law can reflect more than the sin and apostasy of man: *revealed law* is the need and privilege of Christian society."<sup>43</sup>

The fact that the judges and officers in Israel are commanded to judge "the people with just judgment" presupposes an objective standard of justice. "You shall appoint judges and officers in all your gates, which the LORD your God gives you, according to your tribes and they shall judge the people with just judgment. You shall not pervert justice; you shall not show

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<sup>41</sup> Greg Bahnsen, *Theonomy in Christian Ethics*, 437-438. The position on the penalties that Al Hembd and many modern Presbyterians have adopted explicitly contradicts the general equity clause of the Confession. Judicial equity is obviously completely incompatible with the idea that the penalties are positivistic and culturally conditioned, for while a positivistic penalty is arbitrary and depends on the whim of man, biblical justice is defined by God's law and the appropriate restitution to the victim. Hembd's position ultimately leads to statism and injustice, while the biblical position is concerned with submitting to an objective standard and fulfilling a victim's rights.

<sup>42</sup> *Ibid*, 254, 257.

<sup>43</sup> R. J. Rushdoony, *The Institutes of Biblical Law*, 10.

partiality, nor take a bribe, for a bribe blinds the eyes of the wise and twists the words of the righteous. You shall follow what is altogether just, that you may live and inherit the land the LORD your God is giving you” (Deut. 16:18-20). Craigie writes,

Both the people and the officers of law were to *pursue justice, and justice alone*, rather than pervert justice (v. 19). The pursuit of *justice alone* provided a basis for the execution of the law that was not merely human, whereas perverting justice reduced the execution of the law to a human basis in which unjust criteria became operative. Justice, the principle underlying the law, was not man-made or conceived, but found its source and authority in God. Hence justice was the only sure and authoritative basis for law. The pursuit of justice and the execution of the law in justice could alone lead to prosperity, namely, life and the possession of the promised land (v. 20b).<sup>44</sup>

In modern society most secular humanists would agree that murder, rape, and bestiality are immoral activities. But, when secular humanists discuss the civil penalties for such activities they usually deny biblical justice. The penalty rarely fits the crime. Even most unbelievers acknowledge that the American justice system often dispenses injustice. One reads of child molesters and rapists who spend six months in jail and murderers being paroled after seven years, etc. Those who argue that the moral law is binding while the penalties are positivistic cannot consistently make a case against the judicial atrocities being committed in most countries today. If, as Hembd asserts, the state can lawfully execute a thief if it deems it necessary for the greater good of society, then *the state can execute anyone for any crime*. The Bible condemns such thinking. Civil magistrates are to render “true justice” or literally “righteous judgment” (*mispat sedef*). “Justice does not follow man’s needs, but man follows justice. Justice is God-centered, not man-centered. Modern law is not in touch with reality, because it seeks to be man-centered and defines the Rule of Law in terms of man and the will of man.”<sup>45</sup>

Biblical justice is not the opinion of the civil magistrate but is the application of God’s righteousness to specific acts. Biblical justice is objective and universal and, thus, contrary to Hembd’s assertion, culture and social circumstances are irrelevant in determining penalties. Murder, kidnapping, rape, and theft are just as evil and offensive to God in 1<sup>st</sup> century Palestine as in 18<sup>th</sup> century England or 20<sup>th</sup> century Brazil. The vengeance of God toward these crimes is the same. The justness or righteousness of the penalty also remains the same. “The Bible knows only one kind of justice or righteousness, God’s justice as set forth in His law. Thus, whether justice or righteousness in Scripture is ascribed to God, or to man and man’s dealings, the reference is to the same fact. Man is righteous when he is in obedience to God’s law.”<sup>46</sup>

Those who argue that God’s penalties against crime are positivistic, arbitrary or culturally conditioned have not only contradicted the Bible but also the correct use of reason. They are following Calvin on this topic who engages in a blatant self-contradiction on this issue. He wrote,

It is a fact that the law of God which we call the moral law is nothing else than a testimony of natural law and of that conscience which God has engraved upon the minds of men. Consequently, the entire scheme of this equity of which we are now speaking has been prescribed in it. Hence, this equity alone must be the goal and rule and limit of all laws. What

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<sup>44</sup> P. C. Craigie, *The Book of Deuteronomy* (Grand Rapids, MI: Eerdmans, 1976), 248.

<sup>45</sup> R. J. Rushdoony, *Law and Society* (Vallecito, CA: Ross House, 1982), 521.

<sup>46</sup> *Ibid*, 585.

ever laws shall be framed to that rule, directed to that goal, bound by that limit, *there is no reason why we should disapprove of them, however they may differ from the Jewish laws, or among themselves.*<sup>47</sup>

Calvin argues that natural law testifies to the moral law; that nations who depend on natural law and equity to determine penalties can have just laws that *differ* from the Old Testament legislation and each other. Calvin then proceeds to give examples of different punishments for the same offences. According to Calvin one country may execute thieves, another may whip them and another fine them and yet they are all still following the same natural law and equity. This assertion is utter nonsense. Calvin apparently believes that justice is served as long as a criminal is punished in some manner for a crime. Yet, the amount of punishment is irrelevant to the question of justice. Calvin jettisons the whole judicial law of Moses with no scriptural argumentation and then asserts that magistrates can arbitrarily determine penalties. If as Scripture teaches, the penalty must fit the crime, then Calvin's view must be rejected. It is simply irrational to assert that executing an adulterer and fining an adulterer fifty dollars are both just. Either one is too harsh or one is too lenient. "The *lex talionis* should not be dismissed as some sort of peculiar judicial testament of a long-defunct primitive agricultural society. What the Bible spells out as judicially binding is vastly superior to anything offered by modern humanism in the name of civic justice."<sup>48</sup> "A system of just restitution would eliminate taxpayer support of criminals, rid society of a major breeding and training ground for criminals, and justly reimburse crime victims"<sup>49</sup>

"The Israelites expected God's justice to be fair because it issued from God who was a righteous Judge (Ps. 7:11, 9:8, 119:137, 145:17). Those who were appointed to the office of judge (*dayyan* or *sopet*) or magistrate were expected to reflect God's holy nature (Ex. 18:21). Consequently, when executing justice, the judges (*sopetim*) were to be absolutely fair, realizing that they were acting as agents or deputies of the Holy God (Deut. 1:16-17; cf. Ex. 18:21-23)."<sup>50</sup> Christians who argue that the penalties are positive, arbitrary and socially conditioned need to explain how cultural and social conditions affect or alter the proper penalty for rape, theft, manslaughter, fraud, incest, adultery, fornication, etc. Why should a rapist be treated differently in Polynesia then in Sweden? Does the climate, language, dress, food or means of earning a living make rape somehow less reprehensible? Is adultery less evil in an industrialized nation than in an agricultural society? Is bestiality less or more of a crime in a nation of sheep herders than in a high tech society? It is obvious that specific evil acts that are defined as crimes in the Bible are not rendered less evil because of culture. Furthermore, God teaches how evil He regards particular crimes by the severity of the penalty that He attaches to them. The Bible says that the magistrate is "an avenger to execute wrath on him who practices evil" (Rom. 13:4). The wrath spoken of does not refer to the ruler's wrath but God's. "[T]he magistrate is the avenger in executing the judgment that accrues to the evil doer from the wrath of God."<sup>51</sup>

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<sup>47</sup> John Calvin, *Institutes of the Christian Religion*, ed. John T. McNeil, trans. Ford Lewis Battles (Philadelphia, PA: Westminster, 1960), IV. XX. 16, 2:1504, *emphasis added*.

<sup>48</sup> Gary North, *Victim's Rights*, 135.

<sup>49</sup> Kenneth L. Gentry, Jr., *God's Law in the Modern World* (Phillipsburg, NJ: Presbyterian and Reformed, 1993), 62-63).

<sup>50</sup> Temba L. J. Mafico, "Just, Justice" in *Anchor Bible Dictionary*, ed. David N. Freedman (New York, NY: Doubleday, 1992), 3:1128.

<sup>51</sup> John Murray, *The Epistle to the Romans* (Grand Rapids: Eerdmans, [1959, 65] 1968), 2:153.

The only reliable method for determining the proper wrath or penal sanction that God desires for a particular crime is to examine the Spirit-inspired penalties in God's law. Those who reject the penal sanctions have abandoned biblical justice for penal relativism. They have replaced God's wrath for the wrath of an earthly ruler. Those writers who consider the idea that civil magistrates should impose the penal sanctions in God's law as heretical and dangerous need to explain how a *penalty instituted by God* is dangerous or unjust. If a change in time, climate, clothing, methods of industry etc. renders a just penalty to now be unjust, then explain how and why; give examples. Christians who argue that natural law or general revelation must be the sole guide for nations must explain how general and special revelation can contradict one another. A return to the biblical system of penal justice is the *only* way to avoid the tyranny of the state and the tyranny of criminals. When Christians abandon what God has said regarding justice and teach that sinful men can determine justice autonomously, they implicitly hand society over to injustice and oppression.<sup>52</sup>

In addition, those who want to replace the inspired penalties of the Old Testament law need to refute the author of Hebrews' endorsement of the law's civil sanctions: "the word spoken through angels proved steadfast, and every transgression and disobedience received a just reward" (2:2). The connection of the angels with the giving of the law is found in other sections of the New Testament (e.g., Acts 7:53; Gal. 3:19). Paul regards the law as a gracious manifestation of Jehovah's will. He says the punishments in the law are just because they perfectly correspond to the transgression. The word "just" (*dikaios*) when used of persons means they possess the positive quality of righteousness. When it is used of judgments or penalties, it means that they are correct or right, or righteous in God's sight. The word translated "reward" (*misthapodosian*) points to the idea of an exact requital of good or evil by a sovereign judge. Since Paul is discussing penalties set forth by God Himself, the description of perfect and exact justice makes sense. "Our author has already adduced scriptural evidence to demonstrate the inferiority of angels to Christ; yet, he now says the word of the law spoken through their mediation at Sinai was *valid* or binding and unchangeable, as is evident from the consideration that every infraction of the law *received a just retribution*. The law, of course, was firm and valid precisely because it was spoken by God, not because angels had a role to play in its promulgation...."<sup>53</sup>

This verse sets forth a crucial teaching on how we should regard the penalties of the Old Testament law. Since Paul is discussing the law's penalties in the Old Covenant administration and says they contain "a just recompense of reward" (that is, the degrees of punishment are right or righteous because they fit the crime; they are neither too lenient nor too excessive; they are

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<sup>52</sup> John Calvin's views regarding the Mosaic penalties lead to *immediate injustice* regarding civil penalties. Rutherford (completely contrary to the many other assertions on the penalties noted above in this study) held in part to the same unscriptural view: "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" (*A Free Disputation Against Pretended Liberty of Conscience*, [(London: R. I. for Andrew Cook, 1649), p. 299]). According to Calvin, Rutherford and others, whipping can replace restitution as a just penal sanction against theft. But, replacing biblical restitution with whipping is a *denial* of biblical justice. A central aspect of biblical penology is *restitution* and *victim's rights*. Calvin's view is totally compatible with the penal system of Western nations in which victims do *not* receive restitution and are *not* permitted to impose the maximum biblical penalty allowed. The injustice of the modern system can be observed by the fact that in many cases where something is stolen from a private individual, the criminal is forced to pay a fine to the state, while restitution to the victim is not required.

<sup>53</sup> Philip Edgcumbe Hughes, *A Commentary on the Epistle to the Hebrews* (Grand Rapids: Eerdmans, 1977), 75.

just and equitable), who are we to discard them as temporary or abrogated? Moreover, who are we to reject them and replace them with our own ideas as to what constitutes justice or fairness? The way that most modern evangelical and Reformed churchmen speak about the Old Testament penalties is insulting to God's law and to God. If an Old Testament law is moral in content or positive yet not expired (e.g., certain laws on incest, etc.), then the inspired penalty attached to that law remains binding, for it is an expression of Jehovah's justice.

## Does the New Testament Abrogate the Civil Penalties?

One of the best ways to ascertain if the moral case laws within the judicial law of Israel are binding today is to examine the exegetical arguments offered by the opponents of theonomy to see if they carry any weight (i.e. Are they biblical, logical, valid arguments?). In this section, we will consider some of the most common arguments and will prove that they are fallacious.

The first argument against retaining certain judicial laws and their penalties is based on the idea that Jesus abrogated the death penalty for adultery and substituted divorce in its place. The author of the Free Church of Scotland report against theonomy wrote,

Whilst recognising that the major thrust of the Sermon on the Mount is ethical, the various emphases which impinge on the civil and judicial should not be ignored. It is clear that the primary concern of his kingdom is with the spiritual and moral application of the law, not the civil and judicial, but Jesus speaks of murder, adultery, divorce, retribution, persecution - all of which have civil aspects. However, in connection with divorce (Matthew 5:31,32) there is the clearest evidence that Jesus was altering even the civil application of the law. John Murray (Divorce, p.27) demonstrates that Jesus authoritatively replaced the death penalty for adultery in the Mosaic code with divorce. "Here then is something novel and it implies that the requirement of death for adultery is abrogated in the economy Jesus himself inaugurated. Here are accordingly two provisions which our Lord instituted, one negative and the other positive. He abrogated the Mosaic penalty for adultery and he legitimated divorce for adultery. . . . One the one hand, the abrogation of the death penalty for adultery and the substitution of divorce as the legitimate resort for the innocent husband indicate a relaxative amendment of the penal sanction attached to adultery. On the other hand, in the abrogation of the Mosaic sufferance respecting divorce we find an increased severity of moral judgement and legal enactment."<sup>54</sup>

Before we demonstrate that the Free Church's interpretation of Christ's teaching is fallacious, we need to point out that the report's statement, "It is clear that the primary concern of his kingdom is with the spiritual and moral application of the law, not the civil and judicial," is not the point of Matthew 5 at all. In this section of the Sermon on the Mount, Christ wants to make His position on the Old Testament, and especially the law of God in its moral aspects, perfectly clear before the general public in Israel. He is not offering a critique of the law itself (which He wrote); but rather, the perversion of the law by the religious leaders of Israel in His day. The Redeemer's teaching and actions were so radically different than that of the predominant religious leaders that the people would have wondered about His loyalty to what they considered the only true religion. The Pharisees' supposed loyalty was expressed by "fencing" the law with all sorts of man-made traditions ("the tradition of the elders," [Mt. 15:2; Mk. 7:2, 3]). Jesus not only refused to cooperate with such man-made regulations, but also emphatically rejected them (Mt. 15:3-9; Mk. 7:6-13). Also, there were confrontations with the

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<sup>54</sup> *The Report of the General Assembly of the Free Church of Scotland* from 1998, 5-6.

religious leaders during our Lord's ministry over the proper observation of the Sabbath (Mt. 12:1-12), divorce and remarriage (Mt. 19:3-9), eating without the ritual of hand washing (Mt. 15:1-9), as well as differences over the proper use of oaths (Mt. 5:34) and the use of retaliation (Mt. 5:39). To a people trained to follow the traditions of the elders, the Savior's message seemed very radical and perhaps even revolutionary. Therefore, almost at the outset of His public ministry, He makes His full and unswerving loyalty to the law and the prophets public.

The ethics of Christ's kingdom are not contrary to Scripture (note 5:17, "Do not think that I came to destroy [abrogate, annul, put away] the Law or the Prophets..."); but, they are contrary to the perversions of Scripture caused by human traditions. This view of Matthew 5 is proved beyond a shadow of a doubt by our Lord's six contrasts, "You have heard it said..." (5:21, 27, 31, 33, 38, 43), where Jesus refutes the rabbinical perversions by presenting the true meaning of the Torah.<sup>55</sup> Christ's primary concern was not moral and spiritual versus civil or judicial (The judicial laws contained much that is moral and spiritual); but rather the Pharisaical tendency to pervert and completely *externalize* laws to make them much easier to keep. The religious leaders of Israel were teaching a system of salvation through human merit or the personal keeping of the law and thus needed to redefine obedience or personal righteousness in a manner that was external and seemed achievable. Jesus tears their unbiblical view to pieces by emphasizing *the internal, spiritual aspect of the Old Testament law itself*, including the moral case laws in the judicial law (e.g., vs. 23-26 deals with interpersonal disputes; vs. 31-32 deals with divorce; and vs. 33-37 discusses oaths. In verse 43, He quotes a moral law *outside* the Ten Commandments and then expounds it in vs. 44-47).

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<sup>55</sup> This interpretation is (with rare exceptions) the accepted Protestant interpretation of this passage. For example, Matthew Poole says, "The Pharisees, in their lectures upon the law, usually thus prefaced, *It was said by them of old time*; this, saith Christ, *ye have heard. Thou shalt not kill*: this was spoken by God in Mount Sinai, it was the six of the 10 words then spoke. *And whosoever shall kill shall be in danger of the judgment*: this was now the Pharisees addition, for we read of no such addition to the law as delivered, Exod. xx. 13. Thus they mixed their traditions with the word of God, which possibly might be the reason of their saying rather, *it was said of them of old time*, than, *It was said by Moses*, or, *It was said in the law of God*; for under that phrase, *It was said by the ancients*, they both comprehended the law given by Moses to the ancient people of God, and also their own traditions and false glosses, which though not so ancient as the law, yet had obtained for some considerable time in the corrupt state of the Jews" (*Commentary on the Whole Bible*, 3:23). Matthew Henry writes, "Christ having laid down these principles, that Moses and the prophets were still to be their rulers, but that the scribes and Pharisees were to be no longer their rulers, proceeds to expound the law in some particular instances, and to vindicate it from the corrupt glosses which those expositors had put upon it. *He adds not anything new*, only limits and restrains some permissions *which had been abused*: and as to the precepts, shows the breadth, strictness, and spiritual nature of them, adding such explanatory statutes as made them more clear, and tended much toward the perfecting of our obedience to them" (*Commentary on the Whole Bible*, 5:57). John Gill notes, "*Ye have heard, &c.* That is, from the Scriptures being read to them, and the explanations of the ancients... Being read in the schools, and heard by Scholars; so that to *hear*, was along with the recital of the text, to receive by tradition, the sense the elders had given of it... That *it was said*, or *it hath been said*; this is also a Talmudic form of expression... That is by the ancient doctors... by the elders... who by their false glosses corrupted the law" (*An Exposition of the New Testament*, 1:43). D. Martyn Lloyd-Jones writes, "Bearing all this in mind, let us also remember that in these six contrasts which our Lord draws, *He is comparing not the law of Moses, as such, with His own teaching, but rather the false interpretation of this law by the Pharisees and scribes*. Our Lord obviously does not say that He had come to correct the law of Moses, because it was God's law, given by God Himself to Moses. No, our Lord's purpose was to correct the perversion, the false interpretation of the law which was being taught to the people by the Pharisees and scribes. He is therefore honoring the law of Moses and displaying it in its great fullness and glory. That, of course, is precisely what He does with regard to the question of divorce. He is especially concerned to expose the false teaching of the Pharisees and scribes with regard to this important matter" (*Studies in the Sermon on the Mount* [Grand Rapids: Eerdmans, (1959) 1982], 1:253).

That the Free Church and John Murray are in error regarding their idea that Jesus changed the judicial law on adultery from death to divorce can be proved by the following points. First, our Lord, in both Matthew 5:31-32 and 19:9, is not setting forth a new doctrine on divorce *different* than the Old Testament. Rather, He is setting forth the biblical view in opposition to the perversion by the Jewish leaders who had a very lax view on divorce. A study of adultery in Scripture reveals that the death penalty was *the maximum penalty* allowed by the law and that the victim, or innocent party, had other options besides execution. This point is proved in that Jesus Himself interpreted Deuteronomy 24:1ff (if he “found some uncleanness [*erwat dabar*—literally “nakedness of a thing” or “a naked matter”]) as referring to sexual immorality. (The term nakedness is used as a metaphor for sexual intercourse 23 times in Leviticus 18, a chapter that deals with illicit or unlawful sexual relationships.) Our Lord clarifies and upholds Deuteronomy 24:1, which teaches that a man who knows that his wife is committing adultery but who does not have sufficient evidence for a civil prosecution; or who does not want to go through trial, is free to divorce his unfaithful wife. Shearer writes,

Moses and Christ agree that sin only, and the same sin, may justify divorce. Moses says, “Because he has found some uncleanness in her.” The original may be rendered “Matter of nakedness.” This is a technical term to indicate some form of lewdness, and there is no reference to ceremonial and ritual uncleanness. It can only mean uncleanness in the marriage relation, sexual sin.... Christ expounded this only “cause” of Moses to be fornication or adultery—sin in the marriage relation.<sup>56</sup>

Since Jesus did not speak to the issue of the civil penalty for adultery but rather gave His interpretation of a specific passage from the Mosaic law, there is absolutely no reason to conclude that He abolished the death penalty unless the passage in question (Deut. 24:1) also abolished the penalty. That of course would be absurd. If the woman guilty of adultery does not reconcile with her husband, she must remain single. If she chooses a course of habitual adultery by marrying another man, the original husband can *never* take her back. She is defiled before God.

This view of Matthew 5:31-32 and 19:9 as upholding and setting forth the proper interpretation of Deuteronomy 24:1ff is proved by the following considerations. (1) We have an inspired historical example of a godly man deciding on the divorce option for adultery *before* Christ was born, *before* the beginning of the New Covenant era: “Then Joseph, her husband, being a just man, and not wanting to make her a public example, was minded to put her away secretly.” Joseph and Mary were betrothed. Among the Jews betrothal was considered much more serious than our modern engagements. The Old Testament law places having sex with “a

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<sup>56</sup> J. B. Shearer, *The Sermon on the Mount: A Study*, (Richmond, VA: Presbyterian Committee of Publications, 1906), 63-64. Alfred Plummer writes, “The stricter Rabbis taught that the ‘unseemly’ things (*impudicum negotium*, Tertullian) which justified divorce (Deut. xxiv. 1) were adultery: and according to Matthew, Christ said the same thing. Nothing short of adultery justified divorce, but adultery did justify it” (*An Exegetical Commentary on the Gospel According to St. Matthew* [Grand Rapids, MI: Baker, 1982 (1915)], 81-82). R. V. G. Tasker writes, “Fornication renders *porneia*, which is a general term for ‘unchastity’, the word by which RSV here translates it.... [I]t must be supposed that Jesus favoured the interpretation put on Deuteronomy xxiv. 1 by the stricter school of Jewish interpreters” (*The Gospel According to St. Matthew*, [Grand Rapids, MI: 1961], 69). Arthur Pink writes, “Here Christ refutes the corrupt interpretation of the scribes and Pharisees, and positively affirms that divorce is permissible only in the case of that sin which in God’s sight disannuls the marriage covenant, and even then is only allowed, and not commanded” (*An Exposition of the Sermon on the Mount* [Grand Rapids, MI: Baker, 1982 (1950)], 93).

virgin betrothed to a husband” in the same category as adultery; it is a death-penalty offense (cf. Deuteronomy 22:23-24). “According to Philo and Maimonides, a betrothed woman possessed all the rights of a wife, and could only be repudiated with the same formalities.”<sup>57</sup> On the one hand, God’s law says specifically that the penalty for adultery is death and, on the other hand, the Bible calls Joseph a just man even though he decides not to prosecute Mary in civil court but “to put her away privately”; that is, without the public spectacle of a trial at the gate. (Keep in mind that Joseph at this time is an Old Testament saint. There is no question that at this time the Old Testament law had not been abrogated.) What does this mean? Does the Bible contradict itself?

This passage indicates that the victim of a crime (i.e. at least *certain* crimes of a private nature) does not have to take full advantage of the law against the guilty party. Joseph who loved Mary and knew of her past righteous conduct had the biblical right to extend mercy to her. Because Joseph loved justice he did condemn the crime of which he thought she was guilty (i.e. he did plan to put her away);<sup>58</sup> but, because he loved her, he refused to press charges in the civil court. (One must keep in mind that Joseph had no usable evidence for a judicial trial. Mary was pregnant *but was still a virgin*. Two witnesses could not be produced against her. A biblical court in such a situation could not produce a conviction. Joseph had no proof that Mary had committed adultery. He *assumed* she had, due to the pregnancy; but Mary was totally innocent. Because the situation was so unusual, God sent an angel to Joseph in a dream to clarify matters [Mt. 1:20]). James Morison writes, “While the law invested a man who had entered into an engagement of betrothal with power to visit his unfaithful spouse with the severest penalties (Deut. xxii. 23-27), yet of course it did not constrain him to avail himself of his power. If he felt that he could be satisfied without a public prosecution and judicial conviction and execution, then as a private member of society he had an unchallengeable *right* to dispense with his *rights*. Private members of society are not bound always to exact, though they are bound always to discharge, all their dues. There would probably be something so pure, and sweet, and elevated in the character of Mary, that Joseph, even under the influence of irritation and the deepest disappointment, would feel himself unable to entertain the idea of proceeding against her to the utmost extremity of the law.”<sup>59</sup> Joseph could repudiate Mary as prescribed in the Mosaic law (cf. Deut. 24:1) by giving her a bill of divorcement and sending her out.<sup>60</sup>

(2) If we accept the Free Church interpretation, we place ourselves in the untenable position of making the Redeemer contradict Himself within the same sermon. Remember, in this teaching Jesus is not setting aside the Mosaic law, but rather refuting the scribes and Pharisees. In Matthew 5:17 Jesus said, “Do not think that I came to destroy the Law or the Prophets. I did not come to destroy but to fulfill.” He also said, “Whosoever therefore breaks one of the least of

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<sup>57</sup> Joseph Addison Alexander, *The Gospel According to Matthew* (Grand Rapids, MI: Baker, 1980 [1860]), 12.

<sup>58</sup> “As a truly religious Jew, Joseph could not think of consummating his marriage with Mary under the present circumstances” (R. C. H. Lenski, *The Interpretation of St. Matthew’s Gospel* (Minneapolis, MN: Augsburg, 1964 [1943]), 43.

<sup>59</sup> James Morison, *A Practical Commentary on the Gospel According to St. Matthew* (Minneapolis, MN: Klock & Klock, 1981 [1884]), 8-9.

<sup>60</sup> “Letters of divorce were both private and legal, needing no publication before a court” (R. C. H. Lenski, *Matthew*, 43). This passage teaches that the victim of certain crimes does not have to prosecute his or her case before the civil magistrates but can extend mercy and impose a lighter sentence than that which is permitted by the law. This principle applies to the victim not the civil magistrate. To illustrate this principle, consider a typical modern occurrence of a crime. An eleven year old boy steals a bike from a person’s open garage and it comes to the attention of the head of that household. According to this principle the victim can ask for his bike back and request privately that the boy’s father force further restitution through a payment or yard work for the offense. Old Testament law does not demand that the victim have the boy arrested and detained for trial.

these commandments, and teaches men so, shall be called least in the kingdom of heaven. For I say to you, that unless your righteousness exceeds the righteousness of the scribes and Pharisees, you will by no means enter the kingdom of heaven” (vs. 19-20). Then in verses 21 through 48 Christ expounds upon the subject of His upholding and honoring the Law of Moses. Jesus gives six examples in which He contrasts the true meaning of God’s law with the perverse interpretations and additions to the law of the scribes and Pharisees. Those who argue that this passage teaches that Christ abrogated the death penalty and replaced it with something totally new (i.e. divorce), have Christ saying in the same sermon: “I didn’t come to destroy or get rid of the law but to fulfill it. If anyone teaches people not to obey any part of the law he shall be the least in the kingdom of heaven. By the way, I’m now abrogating the death penalty for divorce. I’m now teaching you not to observe this particular law of Moses.” If (as the Free Church of Scotland asserts) this was what Christ was teaching, would not Christ’s enemies have seized the opportunity of accusing Jesus of contradicting the law of Moses? Furthermore, if Jesus was substituting divorce for the death penalty, then Matthew 5:32 would contradict John 8:1-11. John 8:1-11 occurs after the Sermon on the Mount. Yet, in the passage in John’s gospel, Jesus upholds the death penalty provision.

Second, the issue of whether Christ abrogated a judicial penalty in the Mosaic law is definitively settled by John 8:1-11 (the woman taken in adultery). Although this passage is used by the Free Church as a proof text *against* the abiding validity of the penalties attached to the moral case laws,<sup>61</sup> it is actually an excellent example of the Redeemer upholding the moral law.

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<sup>61</sup> The Free Church Report on Theonomy says, “Jesus’ attitude is illustrated in his treatment of the adulterous woman (John 8:1-11, which may be textually questionable but yet records a genuine incident nonetheless). If only those innocent of adultery (and according to Jesus this includes inward lust) could condemn to death, he was the only person who could condemn. The fact that he refused to condemn, shows that he viewed the Mosaic penalty as no longer valid. This is completely in line with his general attitude. He mixed with tax-collectors and sinners like the Samaritan woman (John 4) and at no time indicated that they should be dealt with by the civil authorities. He even commended prostitutes (Matthew 21:31, 32) for repenting at the preaching of John the Baptist (under the Mosaic code, prostitution was a capital offense).” Although this quote is refuted in the body of the present paper, there are a few things that we must point out regarding this exceptionally sloppy statement. First, if we accept the *Report’s* interpretation that sinless perfection was required to condemn the adulterous woman to death, then Jesus would not simply be abrogating the statute regarding adultery in the Mosaic law, but *all civil sanctions against adultery*. This would amount to a *complete legalization* of this serious, horrendous crime. The report proves too much and thus is demonstrated to be absurd. Second, the fact that our Lord did not go around having prostitutes condemned by the state and executed, does not prove that He believed in the complete legalization of prostitution. The authors of the Free Church report have forgotten a number of key interpretive procedures. (1) They did not consider the cultural and social factors of first century Palestine. The Jews were under the authority of the Roman Empire. *Their leaders did not have the authority to execute anyone* without permission from Rome. Prostitution was not illegal in the Roman Empire and was accepted by most Roman soldiers and officials. If Jesus asked the officials to put to death prostitutes, He would have been disregarded and told to mind His own business. (2) Even more important is the fact (made clear by the Redeemer Himself) that Jesus did not come to earth to serve as a civil judge. He came to preach the gospel and seek out and save the lost (cf. Lk. 12:13-14). The task of judging would come after His exaltation. Third, Jesus is God and has authority to forgive sin and to remit penalties that earthly judges do not possess. In Numbers 35:31, the law explicitly says that persons guilty of murder must be put to death. No ransom is ever to be accepted for the life of a murderer. Yet, in 2 Samuel 12:13 God forgives King David for adultery and premeditated murder and also remits the civil penalty. Does 2 Samuel 12:13 teach that God has eliminated the civil penalties of the Mosaic law? No, of course not! Thus, there is no reason to believe that Christ has altered the penalties by not condemning the adulterous woman. Furthermore, the idea that Christ was abolishing the judicial penalties in John 8:1-11 is contradicted by the passages which teach that a change in the law occurred with Christ’s sacrificial death (cf. Eph. 2:14-16; Heb. 7:26-9:15). Thus the argument that Jesus is abolishing the Mosaic penalties in this portion of Scripture is both poor exegesis and chronologically premature.

If we look at the passage carefully, we will see that our Lord was avoiding a dangerous trap set by His enemies, while at the same time carefully upholding the moral case law and the penalty that He Himself enacted before the incarnation. The following considerations prove that Jesus was honoring His own law.

(1) It is crucial for a proper understanding of the passage to note that the scribes and Pharisees were not at all concerned for the law of Moses but merely were seeking a way to entrap Jesus. The Bible says that they caught the woman in adultery, “in the very act” (8:4). The act of adultery involves at a minimum two individuals. Yet the Jews brought the woman to Jesus and permitted the man to escape. The law specifically says in Leviticus 20:10 and Deuteronomy 22:22 that the man as well as the woman must be put to death. The witnesses of such a crime do not have the biblical option of prosecuting only one of the guilty parties. Since the woman was taken in the very act there should have been two sinners, not one, before Jesus. The fact that the woman was caught “in the very act” indicates the strong probability that either the adulterous situation was brought about by a premeditated plan on the part of the Jews, or that the Jews took advantage of a well-known adulterous relationship which they had ignored in the past but now decided to use solely for the purpose of trapping Christ. If Jesus had permitted the Jews to execute the adulterous woman, He would have been guilty of violating not only Leviticus 20:10 and Deuteronomy 22:22, but also Exodus 23:1, “Do not put your hand with the wicked to be an unrighteous witness.” If our Lord condemned this woman to death, He would have been violating the very law that He came to fulfill.

(2) If we are going to understand why the Savior answered the scribes and Pharisees so carefully (indeed brilliantly) and permitted the woman to go free, we must understand the nature of the trap which they set before Jesus. The Jews’ question was carefully designed so that Jesus would be forced *either to contradict the law of Rome or the law of Moses*. Because the Jewish nation was under the authority of Rome, the Jewish magistrates did not have the authority to impose the death penalty. “The Jews said to him [Pilate], ‘It is not lawful for us to put anyone to death’” (Jn. 18:31). If Jesus had told the crowd to stone the woman and she was killed by the mob, then Jesus could have been arrested by the Roman authorities for violating their law. If Christ told the people not to stone her, then the Jews could accuse Jesus of annulling the law of Moses. They could present Christ to the people as an enemy of the Mosaic law “and as one that usurped an authority to correct and control it, and would confirm that prejudice against him which his enemies were so industrious to propagate, that he came to *destroy the law and the prophets*.”<sup>62</sup> Godet concurs, “If Jesus answered: ‘Moses is right; stone her!’ they would have gone to Pilate and accused Jesus of infringing upon the rights of the Roman authority, which had reserved to itself the *jus gladii* here, as in all conquered countries. If He answered: ‘Do not stone her!’ they would have decried Him before the people and would even have accused Him before the Sanhedrin as a false Messiah; for the Messiah must maintain or restore the sovereignty of the law.”<sup>63</sup>

Thus we see that the religious leaders were totally insincere and did not really care about biblical justice. If they really wanted to have the adulterous woman executed, they could have sought a conviction by the Sanhedrin. (They would have to present *both parties* involved in the crime as well as at least two witnesses who themselves were not guilty of the same offense.) The Sanhedrin would then have had to send representatives to Pilate to argue that her crime merited a Roman execution. She could have only been executed if Pilate was first convinced. Given the

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<sup>62</sup> Matthew Henry, *Commentary on the Whole Bible*, 5:981.

<sup>63</sup> Frederic Louis Godet, *Commentary on John’s Gospel*, (Grand Rapids, MI: Kregel, 1978 [1886]), 647.

fact that many Roman leaders had mistresses and also frequented prostitutes, such an outcome was virtually impossible and the Jews knew it. For this reason, the Jews had not sought the death penalty for divorce for several decades.

Jesus, in order to avoid the trap set for Him by the Jews, had to answer in such a manner that honored the law of Moses yet did not permit the mob to kill the woman (Jesus' answer also implicitly dealt with the unsavory circumstances surrounding her capture). "So when they continued asking Him, He raised Himself up and said to them, 'He who is without sin among you, let him throw a stone at her first'" (v. 7). Many scholars (e.g., Matthew Poole, Matthew Henry, Alfred Plummer, J. C. Ryle, George Hutcheson, Rousas John Rushdoony) argue that the phrase, "he who is without sin," does not refer to sin in general (which would mean that in all of human history only Jesus was qualified to sit as a judge), but rather to the particular sin of adultery. (This perhaps explains why the men left in the order from the oldest to the youngest.) Our Lord is, in effect, saying to the mob, "Can you convict this woman without also convicting yourselves? Are you qualified to act as a judge in this case when you are guilty of the same thing?" The men understood exactly what Christ was saying and thus quietly slipped away. "This solemn and weighty sentence is a striking example of our Lord's perfect wisdom."<sup>64</sup> William Hendriksen writes, "He did not make light of her sin. Neither did he expressly or by implication abolish the seventh commandment. He did not even in so many words set aside the law which demanded the death-penalty for offenses such as these. On the contrary, without in any way implying that he personally desired her death, he proceeded upon their *presumed assumption*, as if the law of Moses were to be literally applied in this given case—which even they themselves, of course, did not *really* want—; but then he showed them that they were not fit to execute the very law which *ostensibly* they were so eager to carry out!"<sup>65</sup>

(3) Thus, we see that, on the one hand Jesus fully upheld the case law on adultery and the penalty when He said, "let him cast the first stone." But, on the other hand, He condemned the mob when He added the qualification "without sin." In essence He was saying to those (who were attempting to get Him to answer in a manner that either infuriated the Roman authorities or the Jewish people) that although He fully honored the law of Moses (which He wrote Himself), she could not be convicted and punished according to the law without violating that law. The circumstances of her arrest were corrupt and there were no qualified witnesses to testify against her. Moreover, Christ was not speaking to a lawful assembled court but to an insincere mob. He is contending not against a lawful punishment being inflicted after a lawful trial with lawful witnesses, but rather against unqualified, corrupt men taking the law into their own hands. The scribes and Pharisees had to violate the law in order to attempt to entrap Jesus. In addition, we need to point out that the Free Church interpretation would entail not simply the abrogation of the Old Testament penalty but also the complete legalization of adultery, for He neither imposes nor suggests any penalty. The reason for this is simple, our Lord in His incarnation and state of humiliation did not come to this earth as a judge but as a Savior. Jesus spoke to the woman not as an earthly judge, but as the divine-human Messiah. Furthermore, even if Christ had been speaking as a civil judge, He could not have had the woman executed for the hypocritical witnesses had all vanished. Calvin concurs, "He said this according to the custom of the Law; for God commanded that the witnesses should with their own hands, put malefactors to death,

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<sup>64</sup> J. C. Ryle, *Expository Thoughts on the Gospels*, (Cambridge: James Clark & Co, 1976 [1869]), 2:80.

<sup>65</sup> William Hendriksen, *The Gospel of John*, (Grand Rapids, MI: Baker, 1953), 2:38.

according to the sentence which had been pronounced on them; that greater caution might be used in bearing testimony (Deut. xvii. 7).”<sup>66</sup>

## The Jesus and the Apostolic Church Did Not Prosecute Argument

Another argument commonly used against the abiding validity of the Mosaic penalties is that if Christ and the apostles believed that the Mosaic penalties were still in force, then, why did they not turn prostitutes and criminals over to the state for prosecution? The authors of the Free Church of Scotland Report against theonomy write,

The fact that he [Jesus] refused to condemn [the adulterous woman (John 8:1-11)], shows that he views the Mosaic penalty as no longer valid. This is completely in line with his general attitude. He mixed with tax-collectors and sinners like the Samaritan woman (John 4) and at no time indicated that they should be dealt with by the civil authorities. He even commended prostitutes (Matthew 21:31, 32) for repenting at the preaching of John the Baptist (under the Mosaic code, prostitution was a capital offense). The Apostle Paul clearly followed the Lord Jesus in this. In 1 Corinthians 5 he does not command execution for the member of their fellowship guilty of incest, but excommunication. Most tellingly, in commanding excommunication, he uses the expression “Expel the wicked man from among you” (NIV). This is an almost exact quotation of the Septuagint (Greek) translation of “Purge the evil from among you” (Deuteronomy 17:7, 19:19, 21:21 etc), an expression used in the Mosaic code in the context of the death penalty for various sins, including sexual sins. This is one of the clearest indications in the New Testament that in Christ’s kingdom the civil penalty has been replaced with church discipline, and execution with excommunication. In addition, of course, 2 Corinthians 2:5-11 indicates that the ultimate goal of church discipline is repentance, forgiveness and restoration, not destruction. The Theonomist claim that the attitude of Jesus and Paul was determined by the particular political circumstances of their day does not stand up to scrutiny. If there is an overriding obligation to be obedient to God’s law in exhaustive detail, neither Jesus nor Paul could be exempted from that obligation just because they lived under a pagan Roman authority. Surely all nations are bound to obey what God has commanded for all time and for every nation, and if, as the Theonomist argues, this includes the Mosaic civil law, Jesus and Paul were duty-bound to urge this on their Roman rulers. Although the Romans did

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<sup>66</sup> John Calvin, *Commentary on the Gospel According to John* (Grand Rapids, MI: Baker, 1981), 1:320. Robert L. Dabney said of this passage, “The law of Moses, therefore, very properly made adultery a capital crime; nor does our Saviour...repeal that statute, or disallow its justice”; modern legislation which ignores the Mosaic stipulation is “drawn rather from the grossness of Pagan sources” (*Lectures in Systematic Theology*, [Grand Rapids, MI: Zondervan, 1972 (1872)], 407). There is actually no evidence within the passage that the woman repented or that Christ forgave her sins. She does refer to Christ as Lord (*kurie*), but this could just be a polite form of address meaning *sir*. Christ did not condemn the woman because of the reasons given above. Calvin writes, “We are not told that Christ absolutely acquitted the woman, but that he allowed her to go at liberty. Nor is this wonderful, for he did not wish to undertake anything that did not belong to his office. He had been sent by the Father to gather *the lost sheep*, (Matth. x. 6) and, therefore, mindful of his calling, he exhorts the woman to repentance, and comforts her with a promise of grace. *They who infer from this that adultery ought not to be punished with death, must, for the same reason, admit that inheritances ought not to be divided, because Christ refused to arbitrate in that matter between two brothers*, (Luke xii. 13). Indeed, there will be no crime whatever that shall not be exempted from the penalties of the law, if adultery be not punished; for then the door will be thrown open for any kind of treachery, and for poisoning, and murder, and robbery” (*Commentary on the Gospel According to John*, 1:323, emphasis added). “Bengel remarks that Jesus does not say: ‘Go in *peace*: thy sins are forgiven thee.’ For the sinful woman who is in question here did not come to Jesus by reason of a movement of repentance and faith” (Godet, *Commentary on John’s Gospel*, 649).

not allow the Jewish authorities to execute the death sentence themselves, appeal could be made to them to do so, as illustrated in the trials of Jesus and Paul. The fact that neither Jesus nor Paul made such an appeal for the carrying out of the Old Testament civil penalties is the final nail in the coffin of Theonomy.<sup>67</sup>

This rather common argument against theonomy suffers from a number of biblical and rational errors. First, does the fact that Jesus mingled with tax collectors, adulterers and prostitutes prove that our Lord came to abrogate the Old Testament moral case laws in the judicial code respecting such crimes and their penalties? No, it certainly does not! The Old Testament civil law teaches that a person is to be prosecuted for *specific acts*, on the basis of the eyewitness testimony of at least two witnesses. If a capital offense has been committed, the witnesses of the crime must be the first ones to cast a stone against the guilty party. Our Lord was not an eyewitness of any specific crimes but rather came to minister to sinners. Biblical law deals with *specific cases* and *actual witnesses* to a crime. It does not allow the state to round up alleged or suspected homosexuals, adulterers or prostitutes. So the fact that Christ was not going about rounding up suspected criminals proves nothing. Moreover, Jesus did not come as judge, but as Savior. He deliberately avoided being a judge in civil disputes (Lk. 12:14). In addition, if He had gone to the Jewish or Roman authorities, nothing would have been done because: a) as noted, two eyewitnesses were needed; and b) prostitution and adultery were not death penalty offenses under Roman law. Furthermore, the corrupt method of tax collection was Roman policy. Moreover, the idea that the moral case laws in the judicial code required Christians or church officers to turn over anyone guilty of a crime *in his past* for punishment by the state is completely destroyed by the example of Rahab. In the Old Testament, only one generation after the Jews received the Mosaic law, Rahab the harlot repented of her wicked behavior and was received into the Old Covenant church. Does the fact that the godly Joshua and Caleb did not place her under citizen's arrest and turn her to the authorities prove that they believed the judicial law of Moses was now abrogated? No, of course not! The Jesus and the apostles did not prosecute argument is ludicrous.

Second, those who advocate this argument have not carefully thought through their position. This argument from silence (i.e. on what Jesus and the apostles *did not do*) is worthless, for it would not only prove that the apostolic church was against the Old Testament penalties, but was also in favor of the complete legalization of prostitution, incest, adultery and fraud. Christians who hate the Old Testament penalties like to point out that Christ and the apostles did not turn adulterers, prostitutes and people guilty of incest over to the state for execution; but, it should also be noted that *they did not have such notorious sinners prosecuted in any way*. If the actions of the apostolic church in this area are overturning Old Covenant legislation regarding penal matters, then to be consistent, the opponents of theonomy would have to argue for *the legalization of all serious crimes*. Such arguments from silence are useless and dangerous, for there is also no evidence that Christ or any of the apostles went to the Roman authorities in an attempt to abolish idolatry, homosexuality, temple prostitution, chattel slavery, pederasty, murder or unjust warfare which was the foundation of the Roman Empire. Jesus did not circulate a petition to protest the inhumane torture of crucifixion or the working of slaves to death in salt mines. Are we supposed to believe that the sinless Son of God believed such activities were no

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<sup>67</sup> *The Report of the General Assembly of the Free Church of Scotland from 1998: Theonomy and the Confession of Faith*, 6.

longer criminal in the New Covenant era? Of course not! The Free Church should leave such irrational arguments for dispensational pseudo-scholars.

Third, in our study of the spiritual nature of the kingdom of God, we noted that Christ's rule is not spread by physical or carnal means. People must be changed from the inside out by the regenerating and sanctifying work of the Holy Spirit before they will implement or follow biblical law. That is why we do not see the apostles protesting idolatrous temples with pickets or putting pressure on the authorities to lockup sodomites and prostitutes. If the apostolic church had been involved in politicking and protesting, it would have hampered the cause of the gospel.

Fourth, we have noted that Jesus did not come to annul or abrogate the moral law of God but to obey it, honor it, fulfill it and advocate it. Whenever Christ encountered perversions of the law and moral case laws on the part of the Pharisees, He upheld and championed the law of Moses by exposing false interpretations of it and condemning human additions to it. If He had abrogated any of the moral aspects of the law or the civil penalties attached to it, His many enemies were unaware of it; for, if He had, they would have used such teachings against Him at His trial. But He was blameless; He was condemned for admitting that He was God (cf. Mt. 26:64-65; Lk. 22:70-71).

Fifth, 1 Corinthians 5:1ff is actually an excellent proof text for the apostolic church's adherence to the moral case laws within the judicial code. Paul notes that it is well known in the community that a serious case of fornication within the membership of the Corinthian church is taking place. (The word "fornication" in this passage is used in the broad sense of sexual immorality or any violations of a comprehensive understanding of the seventh commandment.) The sin specifically described is *not adultery* which is not mentioned (perhaps the father of the offender had died or had divorced his stepmother), but incest. "The offense was that a man married his stepmother, Lev. 18, 8. That it was a case of marriage is to be inferred from the uniform use of the phrase *to have a woman* in the New Testament, which always means, to marry. Matt. 14, 4. 22, 28. 1 Cor. 7, 2. 20."<sup>68</sup> That incest and not adultery is the sin, can also be inferred from the fact that he describes the sin as of so monstrous in character that it does not exist among the heathen (this is of course a general and not absolute statement for incest could be found among the emperors and the aristocracy on occasion).<sup>69</sup> Adultery was fairly common in Greco-Roman society, especially on the part of husbands.

This passage proves that Paul, writing under divine inspiration, recognized the perpetual obligation of the moral case laws regarding incest found in Leviticus. He regarded even the case laws found outside of the Ten Commandments as a perfect rule of duty and normative for the church and society. This is not an argument from or an appeal to nature, for a stepmother is not a blood relative at all. The children of such a union would have no genetic liabilities from inbreeding. He simply follows the teaching of Leviticus which not only prohibits marriage and sexual intercourse with blood relatives but also with stepmothers, half-sisters, their children, the wife of an uncle, a brother's wife, a daughter-in-law, etc. Gordon Clark writes,

Now, Paul does not explicitly appeal to this Old Testament legislation, but on what other basis could he condemn this relationship? No arguments from empirical observation can establish any

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<sup>68</sup> Charles Hodge, *1 & 2 Corinthians* (Carlisle, PA: Banner of Truth, [1857, 59] 1974), 81.

<sup>69</sup> John Gill notes, "...Such unnatural copulations were practiced among the Indians, Moors, Bactrians, Ethiopians, Medes, and Persians, as reported by sundry writers; and among the Arabians, before being prohibited by Mahomet; but then such marriages and mixtures were not allowed of among the more civilized and cultivated nations, as the Grecians and Romans, and never mentioned but with detestation and abhorrence" (*An Exposition of the New Testament* [London: Matthews and Leigh, 1809], 2:628).

moral principle. Let anyone who wishes try to formulate a syllogism to show that one should not marry his aunt (even though his aunt were a blood relation) or his daughter-in-law. Nor could Paul base his morality on Greek sensibilities, even though they agreed with him on this particular point. A moral principle can only be a divinely revealed prohibition or command, and Paul could find these only in the Old Testament. There is nothing in the New Testament concerning such marriages. A Christian must either accept these Old Testament norms on incest or acknowledge none at all.<sup>70</sup>

Paul is vehement in his upholding of this Old Testament moral case law. He strongly rebukes the church for tolerating this public, scandalous, unrepentant sin and demands that the guilty party be excommunicated by the church: “Deliver this man to Satan” (v. 5). This refers to a solemn, formal expulsion from church membership and the relegation of the unrepentant member to the sphere outside of the visible church or covenant community (Eph. 2:11, 12), where the devil holds sway over the unbelieving world of men. A person guilty of unrepentant sin forfeits the security and fellowship of being a member of the body of Christ; and, until he or she repents, is like the heathen (or as Jesus says is like “a pagan and a [corrupt or ungodly] tax collector,” Mt. 18:17). Such people are exposed to the malignity of Satan (1 Jn. 5:19) and the torments of the devil in a manner that faithful Christians cannot be. The goal, even of excommunication (except for the sin unto death), is to bring the sinner to repentance so he or she can be fully restored to the body of Christ. Every Bible believing scholar acknowledges that we have here a case of church discipline resulting in excommunication.

The question that is germane to our current discussion is: does this section of Scripture replace the civil penalty for incest with excommunication? The answer to this question is no, it does not. Those who argue that it does are basing their *argument on silence*, for there is nothing in this passage that speaks to the issue of civil penalties. The apostle is dealing with a wicked, unrepentant, professing Christian and a complacent, antinomian church. He is not concerned with the civil penalty, because the Corinthian church is not in a Christian Commonwealth; but rather, exists in a city notorious for its open and widespread sexual immorality. To see the absurdity of this argument against theonomy, ask yourself this question. How many conservative Bible believing churches in America that excommunicate members for sexual immorality, adultery, homosexuality or incest (between two consenting adults) proceed to go to the police and attempt to have them punished by the state? The answer is none, not even one. The reason they do not go to the civil authorities is because they know that they will be greeted with a “so what?” Does this prove that these elders and pastors believe that such activities identified in Scripture as crimes should be legal and should go unpunished? No, of course not! It only proves that such churchmen don’t like to waste their time appealing to wicked secular humanists that have already decriminalized such activities.

## The Synthesis of the Sacred and Profane Argument

Dispensational authors House and Ice argue that since postmillennialists believe that “Christianity is to take over institutions before Christ returns,”<sup>71</sup> there will be “a synthesis of

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<sup>70</sup> Gordon H. Clark, *First Corinthians* (Jefferson, MD: The Trinity Foundation, 1975), 78.

<sup>71</sup> H. Wayne House and Thomas Ice, *Dominion Theology: Blessing or Curse? An Analysis of Christian Reconstruction* (Portland, OR: Multnomah, 1988), 340.

Christianity with increasingly fewer Christian values under the guise of Christianizing culture.”<sup>72</sup>  
This synthesis will become

...worse and worse, until the so-called ‘Christianized’ institutions eventually have become anti-Christian. God has not decreed that Christians take over institutions during the church age. This will happen in the millennium. God has not given the church a proper dose of grace to Christianize the world. It is not that God’s grace is not powerful enough; rather he has not directed his grace to that end during this age.

The ironic facts of history indicate that when the church is most concerned about remaining pure in doctrine and faithfully living for Christ, the result is often a high level of Christian influence in society. As the church separates and protects itself from false teachings and stresses sound doctrine, a strong Christianity emerges to the benefit of society. However, to attempt to establish a long-term change of institutions before Christ returns will only result in the leaven of humanism permeating orthodox Christianity.<sup>73</sup>

There are so many problems with this critique of theonomy that one barely knows where to begin. First, this whole argument presupposes that any attempts on the part of Christians to change society, culture or institutions *automatically involves syncretism* or compromise. This is a rather strange and unfair thing to say about Christian Reconstructionist writers who emphasize in their writings that: there is no neutrality between the believer and unbeliever epistemologically, ethically or spiritually; that every thought must be taking captive for the Lord Jesus Christ; that any attempt to seek common ground with unbelievers is immoral, unbiblical and destined to failure. This criticism is especially unfair given the fact that theonomist authors have repeatedly emphasized that everything relating to the family, or schools, or institutions, or the state must be based not on some vague natural law theory (which gives men a smokescreen for human autonomy and compromise in these areas); but, rather, that Christians must “think God’s thoughts after Him” by basing everything on the explicit or implicit teaching of divine revelation. If believers go to the Bible and prove that what they are thinking, saying or doing *is rooted directly in Scripture*, they will avoid syncretism and the slide into apostasy that dispensationalists House and Ice predict.

Their accusation is not only unfair and inaccurate but also ironic, for they are the syncretizers not faithful theonomists. Because dispensationalists reject the whole Mosaic revelation of law (not simply ceremonial laws and laws distinctive to Israel) and depend on the Noahic covenant for the Gentiles and New Testament imperatives, which for the most part deal with personal and church affairs, they are left without detailed blueprints for society and culture. The result has been a dependence on natural law theory as a standard for nations instead of special revelation. For example, Norman L. Geisler, a prominent dispensational theologian and author, says, “Government is not based on special revelation, such as the Bible. It is based on God’s revelation to all men.”<sup>74</sup> Such thinking led Geisler to say on a PBS program on God and

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<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Norman L. Geisler, “A Pre-millennial View of Law and Government,” in *The Best in Theology*, gen. ed., J. I. Packer, (Carol Stream, IL: Christianity Today/Word, 1986), 1:259. “Writes the *Fundamentalist Journal* (Sept. 1988): ‘Geisler credits [Thomas] Aquinas with “having the most influence on my life,” and says that if his house were burning he would grab his wife, his Bible, and the *Summa Theologiae* by Aquinas’ (p. 20). It is hardly surprising that he should be a professor of philosophy at Baptist fundamentalist Liberty University. The anabaptists, who possess no separate philosophical tradition of their own, have always relied on the philosophy of medieval Roman Catholic scholasticism to defend their cause” (Gary North, *Tools of Dominion*, 21, footnote 45).

politics, “We do not want a Christian America but a moral America.” Geisler rejects God’s written law and instead follows the Roman Catholic philosophy of Thomas Aquinas who syncretized the natural law philosophy of Aristotle (the pagan Greek philosopher) with Christian doctrine. He has mixed the clay of paganism with the iron of Christianity in epistemology and ethics. Geisler (following Aquinas) assumes that fallen, depraved men can use reason and empiricism (without Scripture and an inner work of the Holy Spirit) to arrive at a comprehensive system of ethics that are morally and spiritually acceptable to God. He assumes that there can be a comprehensive body of laws determined by unbelievers through natural revelation with which believers can not only agree, but heartily endorse. This kind of thinking is why writers such as House and Ice can speak of the U.S. Constitution and the original American system as if it were inspired. Because they have bought into the enlightenment concept of setting aside biblical law for a system of natural law with which all men can supposedly agree, they have in essence rejected biblical law for a species of secular humanism. They have more faith in the ability of fallen men to come up with a just, fair and equitable body of laws *independently of Scripture*, than they do in the actual laws revealed to us by Jehovah in the Bible. While Christian churchmen warn us of the harshness and absurdities of holding to God’s revealed moral law-order, God Himself tells us that what He has given to Israel is superior and more just than *every* Gentile law-order on planet earth (Deut. 4:6-8).

The dispensational approach to civil government (which in many ways has penetrated modern Reformed thinking on this topic) must be rejected as unbiblical and syncretistic for the following reasons.

(1) God always intended revelation in nature and special revelation to be used together. This tendency on the part of those who are opposed to biblical law to treat the two God-given modes of revelation as different or opposed to each other is erroneous. They come from the same God and teach the same standard. Special revelation is to one’s advantage because of its perspicuity and sufficiency and because it reveals many things that “nature” cannot tell us. Natural revelation says nothing about the separation of church and state. It does not discuss the limits of state power; or, who is in charge of children’s education; or, how much tax the state can collect; or, what sins are also crimes. It does not specifically speak to the issue of proper penalties for most crimes. The idea of natural law as a theory sounds good until one actually attempts to govern by it. It has never worked well in all of human history and has always degenerated into humanism and statism *because sinful men are the ones in charge of interpreting and applying these supposedly natural laws*. Without divine revelation as the interpretive guide to natural revelation, *fallen man’s autonomous mind* becomes the ultimate arbiter of reality. We must remember that Paul appealed to the work of the law written on the heart (Rom. 2:15), not as a comprehensive system of ethics by which to regulate the church or nations, but as enough of a standard within man’s conscience to convict those without the written law of the guilt of sin. Natural law theory in the Middle Ages did not appear so deficient because those discussing it were speaking of it within the context of biblical revelation and the Christian world and life view. Without the influence of biblical revelation, natural law theory (due to man’s sinful nature) can become the philosophical platform for virtually any view of ethics (e.g., the French Revolution, sadism, Charles Manson, new age mysticism, etc.).

(2) Natural law as an independent source of ethics cannot work because of the sin of Adam and our fallen, depraved human natures. After the fall, we have an additional reason why everything including natural revelation must be examined and interpreted in the light of special

revelation. Man needs to be redeemed and receive the illumination of the Holy Spirit to get his epistemological and ethical house in order. As Greg Bahnsen notes,

Being lost in sin and thus mentally turning away from God, man has lost his bearings with respect to knowing anything; he cannot really justify the things he claims to know, even though in some sense he clearly does continue to know things about himself and the world. His ability to warrant his beliefs has, at the most basic level, become confused and corrigible; he no longer has a sure sense of the reason (purpose) for things, of their cause, or of appropriate norms or standards. He pretends that he is intellectually authoritative in a world where, nevertheless, his lack of epistemic self-sufficiency and normative authority is conspicuous. He now walks about with a “vain mind,” “darkened understanding,” and “ignorance” (Eph. 4:17-18); he lives with the empty words of mental darkness, self-congratulatory foolishness, empty and pointless philosophy – and prefers it (Eph. 5:6-8; 1 Cor. 1:18-25; Col. 2:8; John 3:19). Any satisfactory theory of knowledge must offer an account of why men are so capable of error, why they disagree with each other even over fundamental issues of method and interpretation, why they deny the obvious (such as the evidence for God, or whatever else is thought to be the precondition for the possibility and procedures of learning anything), why they sometimes prefer irrationality, why interpretive mistakes are so pervasively made, etc. The Christian view is that this is a personal matter of insubordination against God and His authority. Sinful men thus act like “fools” in trying to evade God, with the result that their mental lives are afflicted with logical inconsistency, incorrectly interpreted perceptions, misleading conceptualizations, fallacies in reasoning, mistakes in computation, personal bias and error, inappropriately chosen standards, inability to resolve disputes, purposeful lies and deception—and, above all, an inability to make sense of their methods of knowing. Since man has suppressed the light and chosen to proceed in darkness, he now needs to be saved epistemologically (as well as spiritually). His reasoning is as lost in sin as any other part of his personality.

Accordingly, if God is to be properly known and the intellectual effects of man’s fallen condition are to be corrected, a deistic or redemptionless worldview is inadequate. It is not enough for man to think that he can take as the context and foundation of his epistemological efforts God as Creator and final Judge. He also needs a Redeemer who can deal with his guilt and pollution, especially as they bear upon his intellectual life. As the Westminster Confession of Faith puts it, Christ’s work as the mediator of the covenant of grace encompasses His saving ministry, not only as priest and king, but also as our prophet. Man will not return to thinking aright without this divine provision. The necessity of noetic salvation is integral to the Christian worldview and has an enormous bearing upon the defense of the faith. Men cannot get their “rational lives” in order without getting right with God spiritually, and they cannot get back to the necessary and fundamental knowledge of their Creator (in terms of which any other knowing can make sense) without being graciously restored to Him by the work of the Redeemer. Therefore, Paul did not set forth the “treasures of wisdom and knowledge” as “deposited” in God simply conceived of as the Creator; it is rather and more particularly that they are deposited in the “Messiah” (Christ: Col. 2:3). Any philosophy that takes its presuppositions (“rudimentary principles”) from the world instead of from the Messiah will be deprived of such treasures (v. 8). The possibility of saving man’s intellectual endeavors from arbitrariness and absurdity has been graciously provided by Christ coming into the world to save sinners who have rebelled against the knowledge of God in nature. They have turned from the Light in which anyone can see light (cf. Ps. 36:9) and sunk into darkness, but, according to God’s gracious promise, His creative “Word” (cf. Prov. 8:22-31) has arrived as “the true light which enlightens every man coming into the world” (John 1:9). Through His saving work, men can now be “renewed unto knowledge after the image of the Creator” (Col. 3:10) and can repent

“unto the knowledge of the truth” (2 Tim. 2:25). Christ as the way back to the Father is simultaneously man’s way back to knowledge of the Father’s world.<sup>75</sup>

House, Ice and those who follow the dispensational paradigm are essentially asking us to turn away from divine revelation and trust in fallen human reason and the heathen’s empirical abilities for the proper governance of society. Given Western Europe’s and the United States’ history in the last few hundred years, such thinking is not only unscriptural but inexcusable. Following the Greek concept of natural law, these syncretists have assumed that man’s mind is basically sound; that the unaided mind can consistently and comprehensively determine what is good and just. But Paul says fallen man “suppresses the truth in unrighteousness” (Rom. 1:18); that the world by its wisdom (i.e. by the effort of its regenerated intellect) had not found God (1 Cor. 1:18-31); that men who are not born again cannot please God (Rom. 8:8) or know spiritual truths (1 Cor. 2:4-16). The Christ that the apostles preached is Lord over all. He is an absolute Messiah who demands absolute obedience. To believe His gospel and bow down before Him is to acknowledge that one’s own wisdom is foolishness. It is to admit that one’s own concept of knowledge and works are rubbish and worthless. Jesus is not something to be added onto Aristotle, or Locke, or Plotinus. In bowing before the glorified Redeemer, we relegate human philosophies to the ash can of history and rest our faith on the inner testimony of the Holy Spirit who gives us the divine word as a gift and enables us to understand it and embrace it. It is precisely this theology that leads the theonomist away from syncretism with human philosophies into the arms of Christ and His perfect law. Our Lord’s rebuke to the Pharisees applies to all dispensationalists who have rejected the law of Christ from the Older Testament for pagan concepts of natural law: “For laying aside the commandment of God, you hold the tradition of men [Darby, Scofield, Chafer, Ryrie, Walvoord, Geisler, etc.].... All too well you reject the commandment of God, that you may keep your tradition” (Mk. 7:8, 9).

Second, the statement that “God has not given the church a proper dose of grace to Christianize the world” is unscriptural and is based on dispensational theology not biblical exegesis. Dispensationalists have apparently forgotten the promise that our Lord gave the disciples to encourage them immediately after He commanded them to disciple the nations: “Lo I am with you always, even to the end of the age” (Mt. 28:20). The word “lo” is a Hebraistic way of calling attention to what is about to be said. It has the sense of “behold,” “see,” “pay attention.” In Greek, this statement is emphatic: “I [ego] ‘myself’ will be with you....” This promise is the New Covenant counterpart to Jehovah’s promise of His presence with Joshua in his God-given assignment of conquering the seven Canaanite nations: “Be strong and of good courage; do not be afraid, nor be dismayed, for the LORD your God is with you wherever you go” (Josh. 1:9). The fact that Jesus will be present with His church through the Holy Spirit during the whole New Covenant era is the guarantee of the success of the gospel in history. While the dispensationalist proclaims that kingdom victory can only occur when the Savior returns *physically* to rule over the nations, Christ told the disciples that *His leaving the earth* (at the ascension) was to their advantage; for He would send His spirit to empower them (Ac. 1:8) and convict the world of sin (Jn. 16:7-8). Our Lord’s spiritual presence (that flows from His throne in heaven due to His redemptive victory) is more crucial to earthly victory than even His bodily presence. The One whose eyes are as flames of fire (Rev. 1:14); who walks among the lampstands (Rev. 2:1); who conquers the whole earth through the sword that proceeds out of His

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<sup>75</sup> Greg L. Bahnsen, *Van Til’s Apologetic: Readings and Analysis* (Phillipsburg, NJ: Presbyterian and Reformed, 1998), 197-198.

mouth (Rev. 19:15) and rules over the nations with a rod of iron (Ps. 2:9; 89:32; 110:2; Rev. 2:27) is our ever present ally and companion. His enemies will be progressively subdued under His feet throughout history until He achieves a complete victory (Ps. 110:1ff; 1 Cor. 15:25-27). The stone that struck the image will become a great mountain that fills the earth (Dan. 2:35). It shall break in pieces and consume all these world empires, and it will stand forever (Dan. 2:44). “Believers are adequately empowered for the task of world evangelism and the Christian culture transforming labor that follows evangelism’s trail. The Christian has the abiding presence of the resurrected Lord of glory through the spiritual operation of the indwelling Holy Spirit, whom Christ says grants ‘power from on high’ (Luke 24:49). The Christian should not read the newspaper and fear the encroachments of the various branches of secular humanism in history, for secular humanism in all its manifestations is but an idol for destruction.”<sup>76</sup>

If dispensational theology were true, the Savior’s glorious promise at the end of the Great Commission would be radically different. It would sound something like this: “Do not be encouraged or get your hopes up, for the church is merely a parenthesis in God’s plan that is doomed to completely fail in history. Its destiny is one of complete apostasy and wickedness. But you can have some hope, for after the church miserably fails and the whole earth is leavened with evil, I will come back physically and set up an earthly kingdom for the Jews and will finally rule over the nations. Even though My all-powerful spirit that I sent unto the church to disciple the nations will fail to get the job done, My physical presence will achieve the desired result. Keep your chin up, My disciples, for after the church, empowered by the Spirit, completely fails and the earth becomes a rotten hellhole, I will secretly rapture the church off the planet before the antichrist and the devil’s forces completely defeat you.” Dispensationalism is a gross perversion of the Word of God, and is so unscriptural that, in the last 50 years, it has been in the process of suffering death by a thousand qualifications.

Third, House and Ice mischaracterize Christian Reconstructionists and contradict themselves. They assert that when the church remains pure in doctrine, lives faithfully for Christ, stresses sound doctrine, separates and protects itself from false teaching “a strong Christianity emerges to the benefit of society.” I do not know of any theologians who would disagree with such a statement. To be faithful to the statement, however, churches would need to eliminate dispensationalism and Arminianism from their congregations root and branch (both House and Geisler have written atrocious heretical books against Calvinism [which is a nickname for the gospel] in favor of Arminianism [a damnable heresy]). But, then, House and Ice contradict themselves by saying it is wrong to establish a long-term change of institutions before Christ returns because it will only result in the leaven of humanism permeating orthodox Christianity. This scenario raises an obvious question. If maintaining a vibrant, faithful Christianity with sound doctrine can benefit society, why can it not benefit institutions? Why would establishing a long-term Christian institution inevitably lead to a corruption of Christianity by humanism? Are House and Ice saying we should not even try to change pagan institutions because failure in history is the automatic result? Are they asserting that we would be more faithful to Scripture by deliberately leaving all earthly institutions (e.g., schools, universities, the military, the courts, Congress, businesses, charitable foundations, etc.) in the hands of the heathen? Moreover, if believers in such institutions are faithful, maintain sound doctrine and are members of solid, Bible-believing Reformed churches, why would the leaven of humanism permeate orthodox Christianity? Their assertion is not based on biblical exegesis or logical deduction, but flows

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<sup>76</sup> Kenneth L. Gentry, Jr., *The Greatness of the Great Commission: The Christian Enterprise in a Fallen World* (Tyler, TX: Institute for Christian Economics, 1990, 93), 96.

from their pessimistic eschatology. As noted, they presuppose that changing institutions automatically involves syncretism that leads to apostasy.

## Does the Book of Galatians Refute Theonomy?

Another common argument against the judicial law is based on the book of Galatians. The authors of the Free Church of Scotland report against theonomy write, “Paul’s letter to the Galatians is one of the most complete refutations of Theonomy in the Bible. Of course, this is denied by Theonomist writers who understand Paul to be speaking only of the ceremonial law and the fact that we are justified by faith not by keeping the ceremonial law. However, the context makes it clear that it is the whole law, the whole legal covenant made at Sinai, that is being considered... The fact that circumcision is now no longer necessary shows that there is no obligation to keep the Sinaitic covenant. Christ has redeemed us from the curse of the law by becoming a curse for us (Galatians 3:13). Interestingly, the expression ‘the Book of the Law’ (Galatians 3:10) is used in Deuteronomy of the whole book of Deuteronomy itself which, of course, includes civil regulations as well as ceremonial. This is ‘the whole law’ which the circumcised are obliged to keep, but from which the Christian is free.”<sup>77</sup>

The authors of the Free Church of Scotland report, in their zeal to refute theonomy, have unwittingly adopted a dispensational interpretation of Galatians. In the book of Galatians, Paul is refuting the notion that a Gentile must become a Jew and keep the law of Moses in order to be saved. Paul teaches that Jesus Christ gives believers a righteousness that cannot be obtained through the law (cf. Gal. 2:21); that men are “justified by faith not the works of the law” (Gal. 2:16); that Christ “redeemed us from the curse of the law” (Gal. 4:5). Thus Christians are free from the *whole law as a means of justification*. If (as the Free Church seemingly asserts) Christians are free from the *whole law as a means of sanctification*, then Paul abrogated not only the judicial law but also the moral law, including the Ten Commandments. When Paul condemns the Judaizers’ influence on church practice, he is condemning the use of the ceremonial law in the New Covenant assembly. The Judaizers wanted Gentiles to become Jews and keep all the ceremonial laws in order to join the church. Paul teaches that justification has eliminated the typological-ceremonial aspect of the Mosaic law for both Jews and Gentiles. “I said to Peter before them all, ‘If you, being a Jew, live in the manner of Gentiles and not as the Jews, why do you compel Gentiles to live as Jews?’” (Gal. 2:14)? When the Jews were present, Peter had changed his eating practices. This refers to ceremonial dietary laws. Paul condemns the use of circumcision (Gal. 5:1-3). He says that circumcision is worthless; what people need is regeneration (Gal. 6:15). While it is true that no aspect of the law can contribute to a person’s justification before God, Paul never condemns the Ten Commandments and moral case laws as a guide for personal or social ethics. However, he repeatedly condemns the use of the ceremonial laws (cf. Gal. 2:3, 4, 11-15, 4:9-10; 5:2-3, 6, 11, 6:12-13, 15). If one is going to use the book of

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<sup>77</sup> When the Free Church says that Christians are free from the whole law (“the whole book of Deuteronomy itself”) they never make it clear whether they are discussing justification or sanctification. If they mean justification, then their whole argument against theonomy from Galatians is worthless, for the Ten Commandments do not contribute to a person’s justification one iota. If they mean sanctification, then they have adopted dispensationalism, for the book of Deuteronomy contains the Ten Commandments (cf. Deut. 5:6-21). There is simply no way that a person can use Galatians against theonomy without becoming an implicit dispensationalist. Every variation of the Galatians argument against theonomy this author has seen falls into the same antinomian quagmire. If one, however, wants to accuse theonomists who have adopted the Federal Vision of being legalists, then one has made a legitimate criticism. Such men are implicit Romanists.

Galatians as a refutation of theonomy, then one must logically argue that Christians are free from the *whole* Old Testament law (including the Ten Commandments) as a rule for sanctification and are only obligated to obey the moral precepts that are repeated in the New Testament. That view is dispensational to the core. If Paul is condemning the use of the moral laws in the Mosaic code *as a rule for sanctification*, then why does he began his discussion of Christian sanctification in Galatians 5:14 by quoting Leviticus 19:18? Why does he then proceed to list a group of sins of the flesh that are condemned in the Mosaic law?

The Free Church report follows the error of dispensationalism, in that it does not carefully distinguish between the application and replacement of the Mosaic administration of the covenant of grace with the ethical imperatives of that covenantal administration that are a reflection of God's nature and character and, thus, go back to creation and cannot be abrogated as a moral duty. Dispensationalists historically have viewed the different covenantal administrations as watertight categories where God tries plan A which fails and consequently He then implements a completely new plan B. Historic or classical dispensationalism has also viewed the Mosaic covenant, not as a part of the organic development of the covenant of grace, but as a new covenant of works. These errors, taken together with their teaching that the requirement of repentance is a doctrine only for Jews and not for the church, have resulted in the absurd interpretation that Paul is not only condemning attempts to be justified by the law but that Christians must not look to the Old Testament moral laws as a guide for Christian sanctification. Such thinking is not only irrational but contradicts the teaching of the New Testament epistles.

Paul not only praised the Old Testament moral law (Rom. 7:12; 1 Tim. 1:8), but also quoted from the Ten Commandments (e.g., Rom. 2:22; 13:9; as does James 2:11) and the moral case laws when discussing Christian sanctification (Ac. 23:3; Rom. 13:9; 1 Cor. 5:10; 6:10; 9:9; Gal. 5:14; 1 Tim. 5:18; etc.). Jesus, Paul, James and John repeatedly emphasized that Christian love fulfills God's moral law (Jn. 14:15; 15:10; Rom. 13:9-10; Gal. 5:6, 13, 14, 22; Jas. 2:8; 1 Jn. 2:3, 4; 3:22, 24; 5:2, 3; etc.). Therefore, while Christians *are not under the law* as a covenant of works and are *dead to the law* as a means of justification or a means of attempting to earn eternal life, they are still under the moral laws found in the Old Testament *as a standard of sanctification*. We are to obey these laws, not as a way to earn or merit salvation, but as a fruit of our regeneration and justification. We have been redeemed solely by Christ, solely through faith in order to obey Christ and do good works. Although not one believer is saved by repentance or sanctification, justification is always accompanied by all the other saving graces. The only theonomists who hold to a legalistic understanding of Scripture are those who have embraced the Federal Vision heresy. Faithful Presbyterian theonomists repudiate such men as heretics and false prophets. They are servants of Satan who function as Romanizing bacteria in the body of Christ. We must love such errant antichrists by praying for their repentance, refuting their false doctrines and refusing to extend the right hand of fellowship unto them.

The dispensational idea that the content of the moral law changes from one covenantal era to the next is an implicit form of moral relativism. A moral law, by nature, is an absolute law. Because it is absolute, it cannot change from era to era. It must apply universally, to every people, nation and place, whether Jew or Gentile. Bestiality, for example, was wrong before Sinai and it is still wrong after the resurrection. It was wrong for the Jews and it remains wrong for Americans and even the French. God destroyed the seven Canaanite nations for violating the sexual ethics of the Mosaic law (Lev. 18:26-29). God repeatedly condemned Gentile nations for their practice of idolatry (e.g., Ex. 20:3; Deut. 5:7; 18:9-12; Isa. 10:5, 10, 11; 19:1; 46:1; Jer. 46:25; 48:35; 5:1, 2, 38; 51:17, 18, 47, 52). Paul notes, "that whatever the law says, it says to

those who are under the law, that every mouth may be stopped, and all the world may become guilty before God” (Rom. 3:19). The law (which in this context refers to the revealed will of God in the Scriptures) convicts the whole world, both Jews and Gentiles, of sin. The apostle’s whole argument assumes that the law binds all men. God, through Jeremiah, tells us that the New Covenant does not bring a new and different moral standard but rather a greater ability to obey the same law; for the moral law revealed to Moses will be written on the hearts of believers (Jer. 31:31-34). Both covenantal administrations have the same moral standard. The difference lies in the New Covenant people of God possessing a greater work of the Holy Spirit, due to the *finished* work of Christ which is perfect and efficacious. The Mediator sends His Spirit, who writes His law on our innermost being and empowers us to obey it. Because of the finished work of the Savior and His *session* at the right hand of God, we should expect a more faithful, consistent and deeper obedience of the moral law than Old Testament believers. As Bahnsen notes,

If living by the Spirit indicates that salvation must bring sanctification, then it means that salvation produces a life of glad obedience to God’s law. Salvation frees one from sin’s bondage so that he can walk lawfully (James 1:25; Gal. 5:13-14), which is to say lovingly (cf. 1 John 5:1-3), for the leading evidence of the Spirit’s work in one’s life is love (Gal. 5:22). Those who have been saved by faith must be diligent to exercise the good works of love (Titus 3:5-8; James 2:26; Gal. 5:6), and the standard of good behavior and loving conduct is found in God’s revealed law (Ps. 119:68; Rom. 7:12, 16; 1 Tim. 1:8; John 14:15; 2 John 6).<sup>78</sup>

## The Persecution of Unbelievers Argument

A common objection is that the full adoption of a biblical law-order will lead to the persecution of unbelievers. This objection is used to bring to mind a type of Christian dictatorship where atheists, Buddhists, Hindus, and Moslems are rounded up in the middle of the night and shot by a “Christian” gestapo or KGB. This image is totally false for a number of reasons. First, keep in mind that a Christian civil government does not come into being through a revolution or physical violence. A nation will not become Christian until the majority of the people are converted to Christ. This may be centuries in the future. Becoming a Christian nation is a bottom-up not a top-down affair. Rushdoony writes, “The key is regeneration, propagation of the gospel, and the conversion of men and nations to God’s law-word. Meanwhile, the existing law-order must be respected, and neighboring law-orders must be respected as far as is possible without offense to one’s own faith.”<sup>79</sup> Second, in a Christian state (as noted earlier), it is not illegal to be an unbeliever. One can be an atheist, animist, Hindu or anything one pleases. Personal belief and private practice are not civil crimes. It is the propagation and public practice of heathenism that is a civil crime according to biblical law (cf. Dt. 13:1-18, 17:2-7). Third, some type of state persecution or intolerance toward religious practices is unavoidable and inevitable

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<sup>78</sup> Greg L. Bahnsen, *By This Standard: The Authority of God’s Law Today* (Tyler, TX: Institute for Christian Economics, 1985), 65.

<sup>79</sup> R. J. Rushdoony, *Institutes*, 113-114. “Politics is the ‘quick fix’ approach to cultural transformation. ‘The presidential election will turn the tide. A change in the Supreme Court will bring our nation back to righteousness. If we could only get more conservatives in office.’ None of this will do it. Only a long-term effort to change all facets of society will bring about significant and lasting transformation. This means changing the hearts and minds of millions of people” (Gary DeMar and Peter Leithart, *The Reduction of Christianity: A Biblical Response to Dave Hunt*, [Ft. Worth, TX: Dominion Press, 1988], 297).

in every nation, even in secular pluralistic states. The United States does not presently permit human sacrifice or torture in religious rites. It does not permit the use of illegal drugs in “native American” religious rituals. Religious prostitution and child molestation also are not permitted. The point is that civil law must forbid certain religious practices. How are civil magistrates to determine what is and is not permitted in their country? The only infallible, objective, absolutely moral guide for civil magistrates to decide these matters is the Bible. All civil laws are based on concepts of morality derived from religious or philosophical presuppositions. The only reason that America’s present laws are as good as they are is because of our Christian roots. Will Christians still be in favor of religious pluralism when the state legalizes homosexual marriage, bestiality, drug use in sorcery and witchcraft, ritual sex orgies, etc.? Fourth, on what basis can modern pluralists condemn Christian civil magistrates for doing exactly what the Bible tells them they should do? Since the Bible cannot contradict itself, pluralists and natural law theorists can only condemn obedient Christian civil magistrates on the basis of a non-biblical philosophy or worldview. We have seen that that is precisely what anti-theonomists have done with Christian Reconstructionist writings. A Christian scholar in favor of “principled pluralism” wrote, “We cannot move directly from the text of the Bible to political theory.... The case for principled pluralism is based neither on a pietist hermeneutic nor on a proof-texting approach to Scripture.... The case for principled pluralism rests on the conviction that the order of society points responsively to an ultimate normative order beyond itself as the source and criterion of its meaning.”<sup>80</sup> There is no other “ultimate normative order beyond itself” except the Bible.

The basic idea among non-theonomists that following biblical law is bad for freedom and liberty is radically unscriptural and absurd for other reasons. First, it implicitly denies that men are fallen creatures who are in rebellion against God. The enlightenment pluralism of the Western nations was friendly toward Christians and biblical law for a long time because this pluralism functioned in societies that by and large held to a Christian world and life view. Almost everyone, whether Christian or not, believed that adultery was wrong; that homosexuality was a wicked abomination; that the nuclear family with heterosexual marriage was a God-ordained institution; that private property and a free market capitalism (under law) were the only proper course for humanity. But what happens in a pluralistic nation that has drifted away from the biblical worldview toward macro-evolution, the sexual revolution and positivistic relativistic concepts of law? The great freedoms that Christians took for granted and the liberties that made America a mighty nation are falling by the wayside. The idea of the heterosexual nuclear family is mocked today. Homosexuality is not only legal but is now treated as a civil right in most of Western nations. In some formerly Christian countries, preaching that homosexuality is a sin can result in jail time and a stiff fine. Men have the right to sodomy while unborn babies do not have the right to life. The basic point is that freedom and liberty not founded on Scripture and biblical law, explicitly and self-consciously, is illusory, temporary at best and fleeting. The freedom and liberty that Christian pluralists accuse theonomists of wanting to take away is already gone in many areas because secular humanists have used pluralism to capture the robes of society. As public opinion moves in their direction, they will become bolder

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<sup>80</sup> Gordon J. Spykman, “The Principled Pluralist Position” in *God and Politics*, 78, 82, 83. “Ironically, Spykman rejects natural law, yet he also denies that Old Testament laws provide the required content of these definition-less ‘creature ordinances.’ This leaves everything conveniently open-ended. That is the heart and soul of neo-evangelicalism: intellectually and morally open-ended. T. M. Moore is correct: ‘Ultimately, Spykman exalts God’s revelation in nature above the Bible. He insists that the meaning of Scripture can only be unlocked by first understanding the meaning of God’s Word inherent in the creational norms around us.’ ‘The Christian Response to Principled Pluralism,’ *Ibid*, 110” (Gary North, *Political Polytheism: The Myth of Pluralism*, 16, footnote 46.)

in their rejection of biblical authority and their desire to persecute genuine Christians. Modern Christians need to understand that there is no neutrality. Leftists and homosexuals are at war with Christians and the Bible and, currently, our nation is progressively moving in a satanic direction.

Second, if we adopt the pluralistic approach, how are we to argue for our position? Are we to appeal to pragmatic arguments? Are we supposed to make our case by appealing to autonomous human reason or our great empirical abilities? A Christian law-order can only be defended by standing on the whole Bible and the comprehensive world and life view that it presents. To attempt to defend a kind of general moral order without discussing the fall and its effects, special revelation and redemption in Christ is to wage warfare with your hands tied behind your back. One must defend ethical absolutes with the authority and the specifics of a “thus saith the Lord” from Scripture. We must preach the law in order to drive people to Christ and we must preach Christ in order for people to believe in and obey the law. The truth of Scripture is like a seamless robe. One cannot defend it by attempting to be neutral and getting unbelievers to accept some Greek, Roman or syncretistic concept of natural law. We must demonstrate from Scripture that unbelievers cannot explain or account for any aspect of reality based on their materialistic (matter plus time plus chance) worldview. We must use God’s law to show them their sin, guilt and liability to punishment; and, then, tell them about the cross and resurrection so they will bow before the glorified mediatorial King. When Christians battle by discussing a “moral majority” or good old-fashioned family values or natural law because they have faith in American pluralism and have adopted a position of neutrality, they dishonor the Redeemer and His infallible word. The Word of God is our sword (Eph. 6:17; Heb. 4:12; Rev. 1:16; 2:12, 16). If we go into battle without it, we will be cut to pieces.

## What about Liberty of Conscience?

Wouldn’t an explicitly Christian state that upheld both tables of the law violate people’s right to liberty of conscience? The concept of liberty of conscience has often been used to argue for the religious toleration of all faiths (e.g., Buddhist, Hindu, Islamic, etc.). The problem with this very broad definition of liberty of conscience is that it is contrary to Scripture. When we speak of liberty of conscience and ecclesiastical authority, we mean that the church does not have the right to impose on its members doctrines, commandments or ordinances which are contrary to, or cannot be proved from, Scripture. Likewise, God has not given the state the authority to impose on its citizens anything which would cause them to disobey the Word of God. God “has set the human conscience free from all obligation to believe or obey any such doctrines or commandments of men as are either contrary to or aside from the teachings of that Word.”<sup>81</sup>

Biblical liberty of conscience does not mean that people are free to publicly blaspheme God and worship idols. If the Bible taught such a liberty of conscience it would contradict itself. In a Christian nation, people are free to believe anything they please. But, the moment they

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<sup>81</sup> A. A. Hodge, *The Confession of Faith* (Carlisle, PA: The Banner of Truth Trust, 1958 [1869]), 265. “Although civil and ecclesiastical society do not take cognizance of religion in the same manner, to the same extent, and for the same purposes, yet the general principle respecting the liberty and right of consciences affects both, and would vindicate a general toleration and license in the church as well as the state” (M’Crie, *Statement of the Difference etc.*, 166).

publicly subvert the laws of Christ by openly preaching or practicing idolatry, they have committed acts which the Bible defines as crimes punishable by the state. M’Crie writes, “To assert the right of men to think and act as they please, without respect to the moral law, and without being responsible to God, would be atheistical. And to suppose that men, who are subjected to divine law, natural or revealed, are exempted from blame in every thing which they do agreeably to the judgment and conscience,—would be to deny a fixed rule of good and evil superior to man; would make conscience the ultimate standard of their actions and render errors and crimes, in such cases, innocent.”<sup>82</sup> Most Christians today are shocked and upset when murderers and rapists are set free by our courts to walk the streets. But, when people insult God and mock the Lord Jesus Christ, it is considered a wonderful expression of religious liberty.

When the state, by its laws, gives men the liberty to commit acts which are evil, which are defined as serious crimes by the infallible Word of God and which the Bible says must not go unpunished by the civil magistrate, then that state has rejected the authority of Jesus Christ. That state has set its own standard above God’s righteous law. That nation has, by implication, proclaimed a liberty to publicly offend God. That nation which permits its citizens to publicly teach that Christ was not God; or that He did not rise from the dead; or that He is no different than Buddha or Krishna; or that His death on the cross is a myth; has not kissed the Son. It has not acknowledged and honored Christ as King. The nation that does not submit to Jesus Christ will receive blows of judgment from the Lord of glory (Ps. 2:9-12).

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<sup>82</sup> Thomas M’Crie, *Statement of the Difference etc.*, 160.