Theonomy Debate Analysis

The Reformed Libertarian: Theonomy Debate Analysis
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Intro and Overview

Yesterday, one of the most important theonomists of our time, Gary North, posted at his Tea Party Economist blog, the links to two "theonomy debates" (and one video of retrospect thoughts from the first debate). The first one took place way back in 1988. At this debate, North and fellow theonomist Gary DeMar took on two Dispensationalists: Dave Hunt and Thomas Ice. For many in the Reformed world, this debate was simply not worth much consideration. After all, theonomy was at that time completely under the radar for most Reformed Christians. And of course, for the Confessionally Reformed, Dispensationalism is not even close to being capable of addressing the Covenantal issues that need to be addressed in responding to the claims of the Theonomists. It almost seemed like theonomy had so little traction, that only dispensationalists could be found to debate against it (dear dispensationalist reader, that was said in good humor:)).

Fast forward two and half decades. Gary North's second linked debate was one in which his son-in-law, Joel McDurmon (who works at American Vision under Gary DeMar), faced a more Reformed and confessional opponent: Jordon (JD) Hall of Pulpit and Pen. Theonomy, 27 years later, is not only still around, but it has boomed in popularity, especially in the online world and throughout the Reformed pages on Facebook. Suffice it to say, theonomy is not to be ignored by the Reformed Pastor, student, or scholar. It is not something that is going away and will thus be debated on as the years pass.

For those that have heard of theonomy, you may be well-familiar with its stunning claims and emphatically proclaimed dichotomies. One such dichotomy is: "God's Law or man's law: choose!" Or again: "Divine Law or human autonomy." The Theonomist's implication throughout all of these, and the reader will find many more, is that by saying "God's Law" one must admit a certain hermeneutical understanding of the nature of that law. In other words, there is a *definition* of "God's Law" that is being hidden from the dichotomy. Make no mistake, the theonomic position is to be addressed on its own claims, and we make zero accusation of sneakiness or deceitfulness. However, we want to make it plain to the reader that the debate among Reformed circles should not be between God's Law and man's; rather, it is between one understanding of God's Law and another. In our disagreement with the theonomists, we make it crystal clear that many Reformed dissenters from theonomy (as it will be defined below) are also on the side of "God's Law. In fact, we want to make this so clear that this assumption of non-theonomist Reformed Christians should never again surface in a debate or argument. The assumption going forward, if we may be so bold so as to speak for other Reformed non-theonomists, is that God's Law is to be preferred above all other sources of law. RC Sproul Jr. was especially articulate when he noted on this issue:

> When the question is “God standard or man’s?” I am with them [the theonomists] all the way. When the question is “what is God’s standard?” we part company.

The debate was over the following resolution: *"Mosaic Civil Laws are obligatory for Civil Governments today."* Joel McDurmon affirmed and JD Hall denied. Therefore, given the two positions, we agree with Hall's conclusion and reject the idea that the Mosaic Civil Laws are obligatory today. It is important to note

that the question of *who won the debate?* is not going to be addressed by us in this analysis. Winning the debate can either mean one debater outperformed the other or it can mean that one debater held the correct position while the other did not. Whether one of the two was the better skilled debater is more (though not completely) subjective and ultimately not relevant to the central issue. Similarly, the question as to who presented their argument more convincingly is not the real issue and in fact, the better debater can possibly hold to the wrong position. This isn't very controversial; holding the right conclusion does not indicate that this person is the better debater. This is not intended as a comment on the performance on either side. Therefore, these aspects of the debate will be left aside.

Rather, we would like to analyze the topics mentioned and give our own understanding of the debated issues.

A debate like the one between Hall and McDurmon is difficult to analyze succinctly. There are a whole number of underlying assumptions and starting points and definitions that feed into all of this. Nevertheless, there are several key aspects of the debate that we think need to be drawn out to a further extent than time had allowed during the event. Among the most important issues that sit at the heart of any discussion of the perpetuity of the Mosaic Law today include: The "threefold division of the law," the nature of the relationship between the old and the new covenants, and the use of typology in God's revelation for Israel. What one believes about these things is going to drive his conclusion about the claims of the theonomists.

The strength of the theonomist position is that it is presuppositional. It affirms the fact that, on the philosophical issues of epistemology and ethics, the only justifiable starting point of all inquiry is the Word of God. We live in the world God created and therefore God defines truth and right and wrong. By His grace, he has revealed these things in the Scripture. There is no other standard. In the non-theonomist camp, it has unfortunately been true that some have denied this role to Scripture. However, in our view, it is wrong to reject the Bible as the standard by which man's thoughts are to be compared. There is no dual ethic, there is no dual source of truth. And yet, it is by our interpretation of the Bible, our epistemological starting point, that we reject theonomy. Sometimes we get the question: "if not theonomy, then by what standard should we determine laws and ethics?" Our answer: "there is no other standard and the standard by which we reject theonomy is the Word of God." It is interpretation of the Scripture that is to be debated, not the applicability of the Bible itself.

Theonomy is the view that the Mosaic Civil Laws are obligatory for Civil Governments today. The word *obligatory* is vital here. There is a distinction between this "obligatory theonomy" and a more "practical theonomy" in which the civil laws are not *obligatory*, or to use a Confessional word "binding," for civil governments today. In fact, as will be discussed below in an interaction with the position of Samuel Rutherford, this helpful distinction between these two "theonomies" is necessary and vital to understanding the position of vast number of figures in Reformed history. Sinclair Ferguson brought this distinction to light when he made the division between hermeneutical and practical theonomy. The modern theonomy movement, especially in the Reconstructionist tradition of RJ Rushdoony, Greg Bahnsen, and Gary North (and therefore Joel McDurmon), falls into the obligatory category, while other historical figures like Samuel Rutherford fall into the practical category. The practical category can be summarized as the position that the Mosaic Civil Laws are not "binding" but it is wise to use them, or at least to apply most of them. Both groups tend to be labeled theonomists because there are overlaps in their beliefs regarding the way the duties of the Magistrate play out practically. But they arrive at their conclusions via two different routes.

If theonomy is defined as it was in the first sentence of previous paragraph, and if we are correct in seeing many Reformed figures as falling in the "practical" category, it follows that these historical figures are not

theonomists at all; but rather, their conclusions about the role of the civil magistrate, only has overlaps with theonomy's conclusions in practice. In a sense, they make more of a practical case for civil governments applying the Mosaic Laws today, even though these laws are not binding or obligatory as the Reconstructionist theonomists hold.

Theonomy, then, needs to be defined whenever it is discussed or debated. We think that the affirmation of the debate resolution is the best definition of the claims of the modern theonomists. If all that is meant by theonomy is its etymological meaning ("God's Law"), then theonomy suddenly becomes a broad camp in which many people who disagree with the debate resolution belong. But creating such a wide tent is unhelpful because the true debate is what is meant by the phrase "God's Law," as Sproul Jr. mentioned in the quote above.

Theonomy, for the purposes of this essay, and we believe this is the most useful definition in future conversations, is the belief that Mosaic Laws are obligatory, not just, as for example John Gill held, that they are a great and useful set of civil laws that the civil magistrate would be wise in applying. To be clear, while the position of this site rejects the "practical theonomy" view just as much as it rejects "hermeneutical theonomy," we recognize that "practical theonomy" was the default Reformed position in the 16th and 17th centuries. Whenever Joel McDurmon quotes a Reformed Baptist or Westminster Divine so as to defend theonomy, it is important that you consider whether the quote indicates that the theologian is a practical or hermeneutical theonomist. For if he is the former, then there is a sharp distinction between that theologian's view and the modern Reconstructionist theonomists.

In this way, we are greatly helped in deciphering the historical claims of the modern theonomists. Because no modern theonomist, we are convinced, would allow a fellow theonomist to deny that the civil laws of Moses are *obligatory*.

The Classic Threefold Division

"When we look at the theonomy debate, words make a difference. Definitions do matter."

JD Hall @1:05:55

The heart of the debate was the threefold division of the law. This has been the central issue with theonomy since its founder, RJ Rushdoony, called the Confession's threefold division "nonsense." James Jordan called it "erroneous." ((James B. Jordan, "Calvinism and 'The Judicial Law of Moses': An Historical Survey," Journal of Christian Reconstruction 5(1978-79):19: *"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 code, but rather is a set of explanations of the moral law."*)) Bahnsen, in a sense, tried to do "damage control" to maintain his ordination in the OPC by affirming *a* threefold division, yet he referred to *the classic* threefold division as "latent antinomianism" and "theologically mistaken." McDurmon, not tied to any WCF ordination vows, seemed to continue the Rushdoony perspective and called *the classic* threefold division pagan (Aristotelian) and unbiblical. **This point is not to be missed. Theonomy is clear in its rejection of the classic threefold division of the law.** Claiming to still hold to a threefold division while constantly rejecting the historical threefold division can perhaps be described as a red herring. Thus, we are glad that McDurmon was straightforward on this point, as it clarifies the actual division between both camps on the issue. As Hall said, definitions matter.

Hall correctly summarized the distinction that the moral law has as an unchanging reflection of God's character, as opposed to law that changes circumstantially. This is the difference between moral or natural law and positive law. Hall correctly noted that we see a very clear distinction in the text between the law written in stone by the finger of God (Ex 24:12; 32:16; 34:1, 28) and spoken by God (Ex 20:1), and the rest of the laws written by (Ex 24:4; 34:27) and spoken by (Ex 21:1; 24:3) Moses. Only the 10 Commandments/tablets of stone were placed in the ark of the covenant (Ex 25:16; 40:20; Deut 10:1-6; 1 Kings 8:9; Heb 9:4). McDurmon's reply that the laws written by Moses were placed next to the ark, "So if the location determines our standard, we're not far apart" (58:30) seems to indicate that he missed the point. The meaning of the decalogue being placed in the ark represents its status as distinct and categorically other, compared to the Ceremonial and Civil laws of Moses.

Hall quoted a portion of Calvin explaining the threefold division. We will quote more extensively because it is important. Note, Calvin is responding to theonomy and his response is that theonomy ignores the classic, ancient threefold division of the law.

> 14... As I have undertaken to describe the laws by which Christian polity is to be governed, there is no reason to expect from me a long discussion on the best kind of laws. The subject is of vast extent, and belongs not to this place. I will only briefly observe, in passing, what the laws are which may be piously used with reference to God, and duly administered among men. This I would rather have passed in silence, were I not aware that many dangerous errors are here committed. For there are some who deny that any commonwealth is rightly framed which neglects the law of Moses, and is ruled by the common law of nations. How perilous and seditious these views are, let others see: **for me it is enough to demonstrate that they are stupid and false. We must attend to the well known division which distributes the whole law of God, as promulgated by Moses, into the moral, the ceremonial, and the judicial law**, and we must attend to each of these parts, in order to understand how far they do, or do not, pertain to us. Meanwhile, let no one be moved by the thought that the judicial and ceremonial laws relate to morals. For the ancients who adopted this division, though they were not unaware that the two latter classes had to do with morals, did not give them the name of moral, **because they might be changed and abrogated without affecting morals**. They give this name specially to the first class, without which, true holiness of life and an immutable rule of conduct cannot exist.
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> 15. The moral law, then (to begin with it), being contained under two heads, the one of which simply enjoins us to worship God with pure faith and piety, the other to embrace men with sincere affection, is the true and eternal rule of righteousness prescribed to the men of all nations and of all times, who would frame their life agreeably to the will of God. For his eternal and immutable will is, that we are all to worship him and mutually love one another. The ceremonial law of the Jews was a tutelage by which the Lord was pleased to exercise, as it were, the childhood of that people, until the fulness of the time should come when he was fully to manifest his wisdom to the world, and exhibit the reality of those things which were then adumbrated by figures (Gal. 3:24; 4:4). The judicial law, given them as a kind of polity, delivered certain forms of equity and justice, by which they might live together innocently and quietly. And as that exercise in ceremonies properly pertained to the doctrine of piety, inasmuch as it kept the Jewish Church in the worship and religion of God, yet was still distinguishable from piety itself, so **the judicial form, though it looked only to the best method of preserving that charity which is enjoined by the eternal law of God, was still something distinct from the precept of love itself**. Therefore, as ceremonies might

be abrogated without at all interfering with piety, so, also, **when these judicial arrangements are removed, the duties and precepts of charity can still remain perpetual.** But if it is true that each nation has been left at liberty to enact the laws which it judges to be beneficial, still these are always to be tested by the rule of charity, so that while they vary in form, they must proceed on the same principle. Those barbarous and savage laws, for instance, which conferred honour on thieves, allowed the promiscuous intercourse of the sexes, and other things even fouler and more absurd, I do not think entitled to be considered as laws, since they are not only altogether abhorrent to justice, but to humanity and civilised life.

16. What I have said will become plain if we attend, as we ought, to two things connected with all laws—viz. the enactment of the law, and **the equity on which the enactment is founded and rests.** Equity, as it is natural, cannot be the same in all, and therefore ought to be proposed by all laws, according to the nature of the thing enacted. As constitutions have some circumstances on which they partly depend, there is nothing to prevent their diversity, provided they all alike aim at equity as their end. Now, as it is evident that **the law of God which we call moral, is nothing else than the testimony of natural law, and of that conscience which God has engraven on the minds of men, the whole of this equity of which we now speak is prescribed in it**. Hence it alone ought to be the aim, the rule, and the end of all laws. Wherever laws are formed after this rule, directed to this aim, and restricted to this end, there is no reason why they should be disapproved by us, however much they may differ from the Jewish law, or from each other (August. de Civit. Dei, Lib. 19 c. 17). The law of God forbids to steal. The punishment appointed for theft in the civil polity of the Jews may be seen in Exodus 22. Very ancient laws of other nations punished theft by exacting the double of what was stolen, while subsequent laws made a distinction between theft manifest and not manifest. Other laws went the length of punishing with exile, or with branding, while others made the punishment capital. Among the Jews, the punishment of the false witness was to "do unto him as he had thought to have done with his brother" (Deut. 19:19). In some countries, the punishment is infamy, in others hanging, in others crucifixion. All laws alike avenge murder with blood, but the kinds of death are different. In some countries, adultery was punished more severely, in others more leniently. Yet we see that amidst this diversity they all tend to the same end. For they all with one mouth declare against those crimes which are condemned by the eternal law of God—viz. murder, theft, adultery, and false witness; though they agree not as to the mode of punishment. This is not necessary, nor even expedient. There may be a country which, if murder were not visited with fearful punishments, would instantly become a prey to robbery and slaughter. There may be an age requiring that the severity of punishments should be increased. If the state is in troubled condition, those things from which disturbances usually arise must be corrected by new edicts. In time of war, civilisation would disappear amid the noise of arms, were not men overawed by an unwonted severity of punishment. In sterility, in pestilence, were not stricter discipline employed, all things would grow worse. One nation might be more prone to a particular vice, were it not most severely repressed. How malignant were it, and invidious of the public good, to be offended at this diversity, which is admirably adapted to retain the observance of the divine law. The allegation, that insult is offered to the law of God enacted by Moses, where it is abrogated, and other new laws are preferred to it, is most absurd. Others are not preferred when they are more approved, not absolutely, but from regard to time and place, and the condition of the people, **or when those things are abrogated which were never enacted for us. The Lord did not deliver it by the hand of Moses to be promulgated**

> **in all countries, and to be everywhere enforced**; but having taken the Jewish nation under his special care, patronage, and guardianship, he was pleased to be specially its legislator, and as became a wise legislator, he had special regard to it in enacting laws.
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> Institutes IV.xx

Note Calvin's reference to Augustine in his discussion of equity.

> This heavenly city, then, while it sojourns on earth, calls citizens out of all nations, and gathers together a society of pilgrims of all languages, not scrupling about diversities in the manners, laws, and institutions whereby earthly peace is secured and maintained, but recognizing that, however various these are, they all tend to one and the same end of earthly peace.
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> August. de Civit. Dei, Lib. 19 c. 17

To summarize Calvin:

1. Moral law (decalogue/natural law) is unchanging.
2. Ceremonial and judicial laws can be changed or abrogated without affecting moral law.
3. The particular enactment of a law is different from and founded upon an underlying equity.
4. The equity of judicial laws is the moral/natural law.
5. Mosaic judicial laws were abrogated and "never enacted for us."

McDurmon's response to Calvin's argument against theonomy is direct and clear:

> JD criticizes theonomy for making an artificial distinction for the purpose of allowing ourselves room in the discussion to appear orthodox. Well if you're not following Scriptural standard and you're following historical standards and confessional standards how do you know that the same thing is not what those guys did to begin with? How do you know they didn't create that distinction in order so that they didn't have to follow those laws? So that when certain people piped up and said "Hey this is what the Bible says is God's standard of judgment" but that standard imposes severe financial penalties on the nobles, and the clergy of the time were all at the employ of the nobles. That looks like a recipe to make a distinction to get out of a law to me. So how can Jordan prove that that's not the case. By the same standard, he can't. And in fact, by the same standard, I can prove the otherwise much more easily. If you want to go by **the classical distinction**, fine, that's up to you. But you're not following Calvin, you're following Aquinas. And Aquinas got half of his distinctions and discussions from Aristotelean thought. So once again we're back to the same question. By what standard? Is it God's standard of justice in the bible or is it some form of man's standard? (~55:00)

In McDurmon's estimation, then, the *classic (ancient) threefold distinction* is not biblical. McDurmon claims Bahnsen held to a threefold division, but he certainly doesn't think Bahnsen followed Calvin's unbiblical, perhaps politically expedient, adoption of *the classic* threefold division. Bahnsen's threefold division was not Calvin's. Writes Bahnsen:

> The most fundamental distinction to be drawn between Old Testament laws is between moral laws and ceremonial laws. (Two subdivisions within each category will be mentioned subsequently.) This is not an arbitrary or ad hoc division, for it manifests an underlying rationale or principle. Moral laws reflect the absolute righteousness and judgment of God,

> guiding man's life into the paths of righteousness; such laws define holiness and sin, restrain evil through punishment of infractions, and drive the sinner to Christ for salvation. On the other hand, ceremonial laws--or redemptive provisions--reflect the mercy of God in saving those who have violated His moral standards; such laws define the way of redemption, typify Christ's saving economy, and maintain the holiness (or "separation") of the redeemed community...
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> The moral law of God can likewise be seen in two subdivisions, the divisions having simply a literary difference: (1) general or summary precepts of morality - for instance, the unspecified requirements of sexual purity and honesty, "thou shalt not commit adultery" and "thou shalt not steal," and (2) commands that specify the general precepts by way of illustrative application - for instance, prohibiting incest, homosexuality, defrauding one's workers, or muzzling the ox as he treads. ((By This Standard, 97))

Commenting on this, Sherman Isbell notes

> Some theonomists indeed speak of a distinction between the moral and judicial laws, but it is not the same distinction made [by Calvin]. The distinction made by some theonomists has to do with the literary forms in which the two are cast, the moral law giving a summary form such as the ten commandments, and judicial law providing a detailed illustration of the contents of the moral law.
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> The theonomists' denial of the more substantial distinction made by [Calvin] is evident in that they do not appeal to the moral law as the standard by which to separate what remains obligatory in the judicial law from what does not. In the [Calvin's] hermeneutic, the moral law is the measure for identifying the moral element in the ceremonial and judicial laws. Accordingly, whatever in the Mosaic judicial laws was a sufferance of the hardness of men's hearts, and thus came short of the righteousness in the moral law, has no enduring relevance. Moreover, in the large extent to which Israel was placed under added restriction with a view to preserving them until the coming of Christ, civil requirements which go beyond the general ethical teaching found elsewhere in Scripture have no enduring obligation.
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> **Theonomists deny this discriminating function to the moral law.** They will not accept that the judicial laws should be subjected to a superior standard as to what constitutes righteousness, because theonomists seek the standard of righteousness in the judicial laws themselves.
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> The Divine Law of Political Israel Expired

Take special note of his description of the moral law as serving a "discriminating function" used to analyze the content of judicial laws. This is extremely important to grasp. Isbell means that the moral/natural law was used as a filter when evaluating judicial laws. Think of it like a water filter.

Tap water is poured in the top, impurities are filtered out, and what remains is pure water. Similarly, judicial laws were poured through the filter of moral/natural law. The impurities (Israel's particular enactment) are filtered out and what remains is the general equity, which obliges all because it is moral/natural law. That means it is not individual laws that are selected as abiding or not abiding. All judicial laws have expired, are abrogated, pass through the filter, and if anything remains, that is what is obligatory. Sometimes the entire law will be filtered out, leaving nothing behind. Other times the entire law may be free of impurities and thus the entire law remains in the end. Often some particularities are filtered out while some generalities remain. But every judicial law must be filtered because, as a whole, as a "body politic," to use the Confession's language, they have expired.

If judicial laws are merely a subset of moral law, then moral law cannot serve this discriminating role. Moral law cannot filter judicial laws because they are one. Thus, theonomy rejects this concept of general equity. Instead, theonomy teaches that general equity means any judicial law that *can* be applied today, *must* be applied today. For more on our understanding of general equity, which we are convinced is the more historic understanding, please see this article.

The question that must be asked, then, is if the Westminster Divines agreed with Calvin and adopted *the classic* threefold distinction in the Westminster Confession or if they consciously rejected Calvin and the long tradition he stood on in favor of a more "theonomic" distinction. McDurmon implied this in the debate by grilling Hall with a long list of names of Westminster Divines (and some Particular Baptists). However, McDurmon never came out and explicitly said these men rejected Calvin. He merely implied it. McDurmon quoted from William Perkins to argue the WCF held to theonomy's definition of general equity, rather than Calvin's.

Rutherford, the WCF, and Practical vs. Hermeneutical Theonomy

Let us turn to a representative Westminster Divine, Samuel Rutherford. Did he follow the classical understanding of the threefold division and general equity, or did he follow a theonomic understanding? In other words, in his defense of various actions by the Magistrate, does he argue based on the assumption that the Civil laws are obligatory for all governments, or does he argue his point based on a hermeneutic that is distinct from the "Hermeneutical Theonomists?"

> But sure Erastus erreth, who will have all such to be killed by the magistrate under the New Testament, because they were killed by him in the Old: Why, but then the whole judicial law of God shall oblige us Christians as Carolostadius and others teach? I humbly conceive that the putting of some to death in the Old Testament, as it was a punishment to them, so was it a mysterious teaching of us, how God hated such and such sins, and mysteries of that kind are gone with other shadows. “But we read not” (saith Erastus) “where Christ hath changed those laws in the New Testament.” It is true, Christ hath not said in particular, I abolish the debarring of the leper seven days, and he that is thus and thus unclean shall be separated till the evening; nor hath he said particularly of every carnal ordinance and judicial law, it is abolished.
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> But we conceive, the whole bulk of the judicial law, as judicial, and as it concerned the Republic of the Jews only, is abolished, though the moral equity of all those be not abolished; also some punishments were merely symbolical, to teach the detestation of such a vice, as the boring with an aul the ear of him that loved his master, and desired still to serve him, and the making of him his perpetual servant. I should think the punishing with death the man that gathered sticks on the Sabbath was such; and in all these, the punishing of a sin against the Moral Law by the magistrate, is moral and perpetual; but the punishing of every sin against the Moral Law, tali modo, so and so, with death, with spitting on the face: I much doubt if these punishments in particular, and in their positive determination to the people of the Jews, be moral and perpetual: As he that would marry a captive woman of another religion, is to cause her first to pare her nails, and wash herself, and give her a month, or less time to mourn the death of her parents, which was a judicial, not a ceremonial law; that this should be perpetual because Christ in particular hath not abolished it, to me seems most unjust; for as Paul saith, He that is circumcised becomes debtor to the whole law, sure to all the ceremonies of Moses his law: So I argue, a peri, from the like: He that will keep one judicial law, **because judicial and given by Moses**, becometh debtor to keep the whole judicial law under pain of God’s eternal wrath.
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> Divine Right of Church Government (1646), pages 493-494.

Note Rutherford’s response to theonomy’s hermeneutic: it is “unjust” and it makes one a debtor to the whole law of Moses. "The whole bulk of the judicial law... is abolished." If he were participating in the debate, Rutherford would be in the position of Hall arguing the negative. Rutherford is very clearly in agreement both with Calvin’s threefold division and with Calvin’s definition of general equity. Timothy Cunningham notes:

> Rutherford’s argument makes it clear that he followed Calvin, who clearly believed that every nation could amend Mosaic civil stipulations without authorization and set its own equitable punishments rather than being obliged to institute all divinely unamended Mosaic judicial laws and punishments...
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> The Westminster Divines, then, understood ‘general equity may require’ to mean righteously applying the eternal moral law provision or provisions underlying a specific Mosaic civil law to a situation for which that civil law was not directly intended. That the Divines used the term general equity to label the continuing element in the civil laws confirms that they believed that the Mosaic laws were not directly or automatically applicable to the English situation. And by making contemporary application of the Mosaic judicials turn on the question of whether or not “general equity may require,” the Divines required those advocating such an institution to prove the contemporary applicability of the stipulation in question...

> The question between Calvinist and Theonomist is whether or not general equity requires Christians to work towards enshrining all Mosaic civil laws together with their punishments (with the usual exception on which both sides agree - when specifically changed by the lawgiver) into law codes of modern states. As Ferguson points out, to Theonomists, the words general equity mean something rather different than the term's technical meaning in English law. Instead, he asserts, Theonomists believe that general equity means that "where the Mosaic judicial law can be applied, it must be applied just as it was in the Old Testament..."
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> How Firm a Foundation

Consider how Rutherford addresses the question of just war:

> For our Divines strongly argue from the moral equity, and the Law of nature warranting Joshua to make war with the Canaanites in the Old Testament, to prove the lawfulness of wars under the New Testament upon the moral equity, as Josh. 11. 19, 20. Those that refused to make peace with Israel, and came against Israel in battle, against those Israel might raise war, by the Law of nature in their own defence. But such were all the Canaanites except those of Gibeon, Josh. 11. v. 19, 20. And this argument holds strongly in the New Testament, if any, as some Anabaptists do infer, this is no good argument, because if the major proposition were true, then should we also kill the women and sucking children, as the Lord commanded Saul, touching the Amalekites, 1 Sam. 15. and then should we destroy the cattle and burn the spoil with fire, for Joshua and Israel made such a war with Jericho, etc... and the rest of those Cities, yea Israel destroyed them utterly, and shewed them no favor, Josh. 11. 20. We with good ground deny the consequence, because the war with these seven Nations was warranted by the Law of nature, but the war, tali modo, to destroy utterly young and old, cattle, and all they had, was from a ceremonial and temporal law peculiar to the Jews,
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> A Free Disputation Against Pretended Liberty of Conscience

Rutherford runs this instance through the filter of moral/natural law. He filters out what was particular to Israel (to destroy utterly) and retains the general equity principle of defensive war as just. And he states this is the hermeneutic used by "our Divines". Thus, the Divines were in agreement with Rutherford and Calvin.

Rutherford is commonly claimed as a theonomist because he strongly argued that idolators must be put to death. But they ignore Rutherford's explanation for *why* idolators should be put to death. Theonomists believe they must be put to death *because* the Mosaic law demands it and the Mosaic law has not been abrogated. Rutherford believes they must be put to death *because* moral/natural law, not Mosaic law, requires it. Rutherford, while reaching the same practical conclusions as the Hermeneutical Theonomists, does not base his argument on the assumption that the Mosaic Civil Laws are obligatory today, which was the resolution of the debate.

> C H A P. XXV.
> Whether the rulers by their Office, in order to peace, are to stand to the Laws of Moses, for punishing seducing teachers.
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> Judicial Laws may be judicial and Mosaic, and so not obligatory to us, according to the degree and quality of punishment, such as is Deut. 13. the destroying the City, and devoting all therein to a curse; we may not do the like in the like degree of punishment, to all that receive and

defend Idolaters and blasphemers in their City: and yet that some punishment by the sword, be inflicted upon such a City, is of perpetual obligation; because the Magistrate bears the sword to take vengeance on ill doers, and so on these that are partakers of his ill deeds, who brings another Gospel, 2 John v. 10.

2. Though Saul's destroying of the Amalekites in that cause was moral, in regard they lay in wait for Israel, when they came out of Egypt, and so of perpetual obligation, yet the destroying of them, 1 Sam. 15. is temporary, and obligeth not us; 1. because that generation were their Sons, not those same persons that oppressed Israel, when they came out of Egypt, and we may not punish the Sons for the sins of their fathers with death; therefore God's positive command to Saul, and the reason, I remember what Amalek did (in Moses his time) therefore kill them, does not oblige us, except we had the like command. 2. Because the slaying of man, woman, infant, and suckling, ox and sheep, was temporary, and cannot have a perpetually obligatory ground in the Law of nature or natural justice obliging us.

3. Where there is an injury done to God, against the Law of nature, and against our brethren, in drawing them from serving the true God, and a punishment commanded by God to be inflicted once; that punishment, or the like in substance and nature, must ever be such as obligeth us in the like cases, The learned Professors in Leydon say, They can see no reason but they must oblige under the New Testament. I confess when the fault is ceremonial, though the punishment be real, as the cutting off of an infant not circumcised, and some punishments inflicted on the Leper, it is not reason the Law should oblige us in the New Testament, either as touching the punishment or the degree. Because these punishments for typical faults are ordained to teach, rather than to be punishments, and the Magistrate by no light of nature could make Laws against unbaptized Infants.

4. 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 to oblige all Nations, but some other bodily punishment, as whipping, may be used against Thieves. Mr. Jo. Weemes, vo. 3. ca. 38. of the judicial Law, The determination (saith he) in Moses Law judicial, was divini juris, and they had greater force to bind the Sons, than any Minicipal Laws have to bind subjects now, in regard they were given by God himself; yet these judicial Laws (saith he) commanded the outward man, whereas the moral Law called <Hebrew> ignea lex, Deu. 33. This fiery law pierceth the heart.

Gamacheus saith, Judicials and ceremonials are immediately deduced out of the principles of the Law of nature, by way of a more remote and obscure conclusion. Aquinas saith, by way of divine determination. But the truth is, the proposition might have some ground in the Law of nature, but why 39 stripes, not, 40 not 38 only should be inflicted on such an evil doer, and the assumption in many judicial laws, seem to be an act of the mere positive will of God, therefore Aquinas saith, Ceremonials primo andper se, first and chiefly were ordained to signify things, but Judicials secundario did signify things to come. And Swarez saith, That Judicials accessarily, and by accident, did signify things. It is true, Corinthus, as Epephanius and Jerome saith, and the ebionites, as Ireneus saith, and the Nazarer, as Augustine tells us, hold that Ceremonials and Judicials do yet oblige. Shoolemen deny their obligation as Soto, Aquinas, Medina, Valentia, Gamacheus, because the Priesthood is changed...

> 2. Argument, That which is perpetually moral, and one act of Justice at all times and places, must oblige us Christians, and the Christian Magistrate, as well as the Jewish Rulers: but to punish the seducing Prophet is perpetually moral, and an act of justice at all times, and inall places, as the rewarding of such as teach truth, is a commendable act of justice, Ergo,
>
> The proposition is clear, in regard the Moral Law doth therefore oblige us Christians, because it is morally perpetual, and perpetually moral; and that in all times and places as to serve God, honor our parents, not to murder etc... is perpetually moral now, as among Jews, with us, as among the Indians and Tartarians: but to punish the seducing Prophet is such... If therefore the Minister of God, the Magistrate, inflict this, it must be nothing else but an act of natural Justice, which the natural conscience doth apprehend. But what acts of Justice the conscience naturally fears, must be acts of Justice perpetually moral, not respecting one man or Nation more than another... And it is clear, that Jeremiah argues not from any judicial law, when he saith, The Prophets that speak lies in the name of the Lord, shall die by the sword, c. 14. v. 14. 15. It was by the sword of the Chaldeans, (who had nothing but the Law of nature) that they perished; for no Judicial Law of God taught them, that he ought to die by the sword of the Magistrate, who speaks lies in the name of the Lord. To which I answer, That the Argument is not drawn simply from the practice of Heathen magistrates, but from the light of nature, that teacheth all Magistrates, Heathen and Christian, to punish public impostors, false Prophets and liars, as most pernicious enemies to the peace of all human Societies. And if the law of nature and Nations dictate to all Societies, that deceivers, and such as raise false reports and lies upon earthly Judges, should be punished; far more is it a principle of the Law of nature, that public liars, and such as speak lies in the name of the Lord, and deceive and seduce the souls of father and mother, King and Ruler, and of all ranks of men in the Society, should not be tolerated in the society. And what though Emperors and Kings have abused the power that God gave them for the truth, to persecute the servants of Christ for the truth, it follows not, but they had just power, as the Ministers of God, to punish seducing Prophets, as well as other ill-doers, by the law of nature and Nations. And this I take is held forth by Job 31. 26, 27, 28. who being under no Judicial Law, obliging the Jews,but a Gentile, and so in this led by the Law of nature and Nations, maketh Idolatry and worshipping of the Sun and Moon, to be an iniquity to be punished by the Judge.
>
> A Free Disputation Against Pretended Liberty of Conscience

Sinclair Ferguson has explained that “practical theonomy” like Rutherford (i.e. putting idolators to death) is completely different from Bahnsen’s methodological or hermeneutical theonomy. WCF 19.4 is a hermeneutical statement, not a conclusion about which particular laws abide. As such, it allows for a very wide variety of interpretation. When the American Presbyterians revised the WCF in 1788 to remove statements requiring the civil magistrate to enforce and promote the true religion, they saw no need to change 19.4 because they still used the same hermeneutic. They just arrived at different conclusions.

As Ferguson said, this hermeneutic is different from theonomy’s hermeneutic. He notes the two can reach the same *practical* conclusion: “It should be noted that in many instances the practical implications of theonomy may not necessarily be a denial of the teaching of the Westminster Confession.” But their *practical conclusions* are reached via different hermeneutics: "theoretical theonomy as such is not the teaching of the Westminster Confession of Faith...It is essential to notice that there may be similarities in the practical outworking of these two principles... But whatever similarities may arise because of the Confession’s qualifying clause, it would be absurd to suggest that the principles themselves are identical."Again, the conclusions

regarding the civil magistrate were not monolithic, but the hermeneutic was. And this hermeneutic was Calvin's hermeneutic. As Isbell explains:

> In examining several points of variance between theonomy and the doctrine of the Westminster Confession of Faith, we may begin by citing the passage in the Confession which is most relevant, namely, Chapter XIX, "Of the Law of God," and noting the Assembly's proof texts:
>
> "I. God gave to Adam a law, as a covenant of works, by which He bound him and all his posterity to personal, entire, exact, and perpetual obedience(5) . . . . . II. This law, after his fall, continued to be a perfect rule of righteousness, and, as such, was delivered by God upon Mount Sinai, in ten commandments(6) . . . . . III. Beside this law, commonly called moral, God was pleased to give to the people of Israel, as a church under age, ceremonial laws, . . . partly of worship,(7) . . . and partly holding forth divers instructions of moral duties.(8) All which ceremonial laws are now abrogated, under the new testament.(9) IV. To them also, as a body politic, 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.(10) V. The moral law doth for ever bind all, as well justified persons as others, to the obedience thereof;(11) and that, not only in regard of the matter contained in it, but also in respect of the authority of God the Creator, who gave it:(12) neither doth Christ, in the Gospel, any way dissolve, but much strengthen this obligation."(13)
>
> The Confession affirms that the law given by God to Adam at creation is the moral law,(14) and that this is the law which was delivered in the ten commandments, and which forever binds all men and is not dissolved under the Gospel. Beside this law, the ceremonial and judicial laws were given by God to a particular group, namely the people of Israel, considered as a church under age and as a body politic. With the close of the preparatory period in redemptive history, the ceremonial laws were abrogated and the judicial laws expired. At four points in the passage, the Confession identifies the moral law as the mandate which permanently binds and obliges. The presence of moral elements in the ceremonial and judicial laws is acknowledged, though much in the ceremonial and judicial laws is other than moral; part of what the ceremonial laws held forth was instruction of moral duties, and there is an element of general equity in the judicial laws which continues to oblige. Immediately after the two paragraphs in which consideration is given to the temporary role of the ceremonial and judicial laws in redemptive history, there is a paragraph which contrasts the undissolved obligation of the moral law, and which cites Matt. 5:17-19 as proof of that proposition, indicating that the Westminster Assembly regarded Matt. 5:17-19 as referring to the moral law as distinct from the ceremonial and judicial laws.
>
> In sum, the Confession 1) makes a threefold distinction of moral, ceremonial and judicial law, 2) characterizes the ceremonial and judicial laws as appointments for a given period in redemptive history, and 3) asserts that elements of the ceremonial and judicial laws remain obligatory only insofar as they embody the contents of the moral law which was given already at creation, republished in the ten commandments, and whose authority was strengthened under the Gospel.
>
> Theonomy makes a number of claims which are difficult to reconcile with the teaching of the Confession.(15) 1) Theonomy denies the threefold distinction of moral, ceremonial and judicial

> laws, replacing it with a twofold distinction of moral law and "restorative" (or ceremonial) law. (16) Judicial law then is subsumed under the moral law and is held to carry the permanent obligation that belongs to all of the moral law.(17) 2) Instead of the confessional hermeneutic that regards the judicial law as such as having expired, theonomy claims that each judicial ordinance is binding today if it has not been explicitly retracted in the New Testament.(18) 3) Theonomy regards the ten commandments as ambiguous, and urges that the extensive and detailed provisions of the judicial law are necessary for discovering the meaning of the decalogue. The exposition of the moral law is left dependent upon the judicial laws, which become a primary standard for defining moral obligation.(19) By contrast, the confessional hermeneutic brings the judicial laws under examination by the moral law, esteeming the general moral law teaching in Scripture of sufficient clarity to function as the arbiter of perpetual equity in the judicial laws. Elements of the judicial law which go beyond the requirements of the moral law are not to be held as still obligatory. 4) Theonomy rejects the concept that a natural law given at creation embodies an obligation that is narrower and more permanent than that of the judicial laws given later to Israel.(20) 5) Theonomy regards the judicial laws as largely of universal application, rather than having respect to a particular nation and period in redemptive history for which they were given,(21) despite the Confession's affirmation that the judicial laws as such expired together with the state of that particular people. 6) Theonomy teaches that the Mosaic ceremonial and judicial laws continue to be obligatory, and that we are to regard only the manner of observing them as different from the Old Testament.(22)
>
> The Divine Law of Political Israel Expired

General Equity vs Particular Equity

In an attempt to get around the confession's clear statement in 19.4 ("To them also, as a body politic, 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.") theonomists have offered a very convoluted reading of "sundry" (as well as "general equity"). According to them, "sundry" means "some." *(("Referring again to the OED, "sundry" is defined as "various," "a number of" and "several." None of these meanings imply that the entire judicial law is intended. Whether or not the whole judicial law is in view cannot be determined from the use of the word "sundry" alone. It has to be inferred from the context."* Understanding the Westminster Confession of Faith, Section 19.4, on the Judicial Law and General Equity, p.16*))* So, according to the theonomists, 19.4 is teaching that "some" of the judicial laws have expired. These were "particular equity laws." (("The idea of expiry fits precisely with the first category laws, laws of particular equity, which were specific to the Jewish nation and people. All obligation to such laws has now ceased, except for the essential qualification given in the final clause. However, we also know that the second category laws which were of common, general or moral equity were understood to be perpetual, and thus not subject to expiry. The expression "sundry judicial laws" refers only to laws which expired and therefore, it could not possibly refer to laws which the divines deemed to be perpetual and universal." ibid)) However, there were other judicial laws that did not expire. These are "general equity laws" and are not in view in 19.4.

Theonomists lean on Francis Nigel Lee's Are the Mosaic Laws for Today? for their interpretation of "sundry." Lee argues

> Now the Confession teaches that God "gave sundry judicial laws which expired together with the State [or Politeia] of that people" of Israel in 70 A.D.239 This word "sundry" apparently

> means “sundered” or “some.” In its one and only usage in the 1611 King James Bible (as requoted in the 1647 Westminster Confession), the word “sundry” alias polumeroos – like its accompanying word “divers” or polutropoos – apparently means “many” or “quite a few” (but not “all”)…
>
> Consequently, it would then follow that the “sundry judicial laws” which “expired” in A.D. 70 according to the Confession, were only some of the judicial laws (but by no means all of them). And this would then mean that apart from the “sundry judicial laws” which expired, the rest of the judicial laws did not so expire but are even today still to continue in the World. (44)

Although Lee makes a [weak] case for this unique interpretation of “sundry” ((Theonomists admit "Whether or not the whole judicial law is in view cannot be determined from the use of the word “sundry” alone. It has to be inferred from the context."Understanding the Westminster Confession of Faith, Section 19.4, on the Judicial Law and General Equity, p.16)) he still does not agree with McDurmon on the threefold division, nor on the question of general equity. Note Lee:

> However, even as regards the “sundry judicial laws,” [“particular equity laws”] it should be noted that although those sundry laws have themselves “expired” – their “general equity” still continues to “require” its implementation and observance by all mankind, also today…
>
> Now this general equity is apparently the Ten Commandments. (44)
>
> Even Calvin (a good century before the Westminster Confession) seems to have drawn the same conclusions. For in his Institutes, he stated that the “judicial laws…delivered certain forms of equity and justice,” and that the “Law of God which we call Moral” constituted “this equity” in the judicials. Moreover, in commenting on the judicial laws concerning exorbitant rates of interest (while dealing with the Eighth Commandment of the Decalogue), the Genius of Geneva declared: that as to whether it “be lawful to receive usury upon loans, the law of equity will better prescribe than any lengthened discussions.” Indeed, the Calvin-istic Westminster Larger Catechism in the next century condemned in-iquit-ous “extortion” and “usury” (or exorbitant interest) as transgressions of the Eighth Commandment of God's Moral Law of nature (45)
>
> Now Calvin, the Calvinian Swiss Confession, and the Calvinistic Westminster Standards all clearly distinguish the universal Moral Law of nature for all men everywhere – from the ceremonial and the judicial laws of Israel. Following historic Christianity, the Calvinistic Calvin did so more than one hundred years before the Calvinistic Westminster Confession. For the Genius of Geneva wrote that “we must attend to the well-known division which distributes the whole law of God as promulgated by Moses into the moral, the ceremonial, and the judicial law – and we must attend to each of these parts.”…
>
> Similarly, both the 1566 Swiss Confession and the later Westminster Confession also did the same.
>
> Accordingly, the Moral Law for all humanity is clearly distinct from the ceremonial and the judicial laws of Israel… In distinguishing between the ceremonial and the judicial and the moral laws, the Westminster Standards are not alone. So too did the Early Church. So too did many of the classic Protestant Confessions. Indeed, so too do many of the later Symbols. (9, 41)

Now the Westminster Confession not only distinguishes but it also defines the Moral Law of nature on the one hand – and the ceremonial and judicial laws of Israel on the other. By Moral Law, the Confession means the Law written on Adam's heart – which bound him and all his descendants to personal, entire, exact and perpetual obedience.

This Moral Law was summarily restated on Mount Sinai in Ten Commandments – and elaborated in what the Decalogue itself determines to be the "moral duties" in and the "general equity" of various other laws. Indeed, this Moral Law "doth for ever bind all, as well justified persons as others, to the obedience thereof (10)

Consequently, according to both Scripture and the Confession, the entire Moral Law consists of the Ten Commandments plus the "moral duties" of the ceremonial laws plus the "general equity" or abiding morality of the judicial laws. And all of these are summarized by the Decalogue – which is itself "briefly comprehended" in Christ's "Great Commandment" (itself deriving from the Mosaic law of Leviticus 19:18). (14)

It was John Calvin who paved the way for the detailed discussion of the Moral Law in the Calvinistic Westminster Larger Catechism. (17)

This again shows that the "general equity" of Deuteronomy 25:4 is indeed the equity of the Commandments of the Decalogue itself. (50)

There can thus be very little doubt at all, then, that the abiding "general equity" contained in the "sundry judicial laws" which expired, is the ongoing general equity of the "Moral Law of nature" – as found in some or other perverted form among all people, and as most clearly expressed in the Ten Commandments of the infallible Decalogue itself. (55)

The ceremonial laws can be demarcated from the judicial laws. Indeed, both can clearly be distinguished from the Moral Law of nature. Yet all of them overlap one another – both in the Old Testament economy (Ex. 20:1 to 25:1ff & Deut. 5 to 28) as well as in the New Testament economy (Rom. 7:2-25 & Heb. 8 to 10, & especially 9:4)…

what the Confession calls the "moral duties" of the ceremonial laws and the "general equity" of the sundry judicial laws – that is to say, the "light of nature" or the laws of nature or the moral Decalogue at the root of all of the Old Testament legislation – still applies in the New Testament economy even today. And the Moral Law applies not just in Church but also in State – and, indeed, throughout all Society. (81)

William Perkins and General Equity

Recall again what McDurmon said. "If you want to go by the classical distinction, fine, that's up to you. But you're not following Calvin, you're following Aquinas."

This leads us back to William Perkins. McDurmon claimed in a post that Perkins determines the winner of the debate. He appeals to Perkins' distinction between particular equity laws and general equity laws, concluding "There you have it: some judicials are particular to Israel, others are common and binding to all nations. Thus the truth about what the Divines taught is clear, and thus the truth of what their language in WCF 19.4 originally meant as well. And therefore, theonomy is vindicated in relation to it, for this is what theonomists

have generally taught all along, and exactly what I argued in the debate."

First, Perkins' book "A Discourse on Conscience" was written in 1596, 50 years before the confession and the assembly. But second, was he saying anything different than Calvin? I'll quote the same section as McDurmon did, plus some more.

> Therefore the judicial laws of Moses according to the substance and scope thereof must be distinguished. . . . Some of them are laws of particular equity, some of common equity. Laws of particular equity, are such as prescribe justice according to the particular estate and condition of the Jews' Commonwealth and to the circumstances thereof: times, place, persons, things, actions. Of this kind was the law, that the brother should raise up seed to his brother, and many such like: and none of them bind us, because they were framed and tempered to a particular people. Judicials of common equity, are such as are made according to the law or instinct of nature common to all men: and these in respect of their substance, bind the consciences not only of the Jews, but also of the Gentiles: for they were not given to the Jews as they were Jews, that is, a people received into the Covenant above all other nations, brought from Egypt to the land of Canaan, of whom the Messiah according to the flesh was to come but they were given to them as they were mortal men subject to the order and laws of nature as all other nations are. Again judicial laws, so far forth as they have in them the general or common equity of the law of nature are moral: and therefore binding in conscience, as the moral law.
>
> A judicial law may be known to be a law of common equity, if either of these two things be found in it. First, if wise men not only among the Jews, but also in other nations have by natural reason and conscience judged the same to be equal, just, and necessary: and with all have testified this their judgment by enacting laws for their commonwealths, the same in substance with sundry of the judicial laws given to the Jews: and the Romans and Emperors among the rest have done this most excellently, as will appear by conferring their laws with the laws of God. Secondly, a judicial hath common equity, if it serve directly to explain and confirm any of the ten precepts of the decalogue: or, if is served directly to maintain and uphold any of the three estates of the family, the commonwealth, the Church. And whether this be so or no, it will appear, if we consider the matter of the law and the reasons or considerations upon which the Lord was moved to give the same unto the Jews. Now to make the point in hand more plain, take an example or two. It is a judicial law of God that murderers must be put to death: now the question is whether this law for substance be the common equity of nature binding consciences of Christians or no? and the answer is, that without further doubting it is so. (16-19)

Perkins is approaching the question exactly how Calvin and Rutherford did. He distinguishes the judicial laws from natural law (the decalogue written on the conscience of all men). He then filters all judicial laws through natural law and retains their general equity. Note his insistence that the equity be the same "in substance" rather than exactly the same - again following Calvin. No theonomist would allow Perkins' filtering process, which looks to what pagans have "by natural reason and conscience judged." In fact, this is precisely what Rushdoony called heretical nonsense:

((The law is therefore the law for the Christian man and Christian society. Nothing is more deadly or more derelict than the notion that the Christian is at liberty with respect to the kind of law he can have. Calvin, whose classical humanism gained ascendancy at this point, said of the laws of states, of civil governments:

> "I will briefly remark, however, by the way, what laws it (the state may piously use before God, and be rightly governed by among men. And even this I would have preferred passing over in silence, if I did not know that it is a point on which many person run into dangerous errors. For some deny that a state is well constituted, which neglects the polity of Moses, and is governed by the common laws of nation. The dangerous and seditious nature of this opinion I leave to the examination of others; it will be sufficient for me to have evinced it to be false and foolish." [End Rusdoony quoting Calvin --editor]

Such ideas, common in Calvinist and Lutheran circles, and in virtually all churches, are still heretical nonsense. Calvin favored "the common law of nations." But the common law of nations in his day was Biblical law, although extensively denatured by Roman law. And this "the common law of nations" was increasingly evidencing a new religion, humanism. Calvin wanted the establishment of the Christian religion; he could not have it, nor could it last long in Geneva, without Biblical law.

R. J. Rushdoony, The Institutes of Biblical Law (Nutley, NJ: Craig Press, 1973), pp. 9, 10.))

McDurmon concluded "And from that, it should be clear who won. It was William Perkins—and thus, since we both relied on his explanation of the distinction, it was the one who understands the judicial distinction in the way Perkins did." We agree. Theonomy was off-track from Rushdoony's foundational declaration "We have previously seen how impossible it is to separate any law of Scripture as the Westminster divines suggested . . . At this point, the Confession is guilty of nonsense." ((R.J. Rushdoony, The Institutes of Biblical Law (Nutley, NJ: Craig Press, 1973), pp. 550, 551.)) It has attempted to backpedal since those statements, trying to read theonomy into the confession and reformed theologians, but it cannot be done. In fact, this is why McDurmon was so clear in his urging that we not to rely on historical or confessional standards in this area. He is merely following in Rushdoony's footsteps, which he must, for Rushdoony's candid admission on the threefold division is essential to theonomy, as McDurmon mentioned. As Ligon Duncan has noted

> Whatever positive or negative response one has to Bahnsen's principle, it can be granted him, and his case for the binding authority of the case law still remains inconclusive-- if his argument for the twofold division of the law is not conceded to be compelling. In other words, if one grants Bahnsen his argument on Jesus' "confirmation" of the law, and his hermeneutic of continuing validity, and yet continues to hold to a threefold rather than a twofold division of the law, then all Bahnsen's argument proves is the continuing validity of the moral law. His argument cannot be sustained apart from the rectitude of his twofold division.
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> Moses' Law for Modern Government

Thus Hall was right to note that Bahnsen's "entire theology denies a threefold distinction of the law."

Old Covenant Abolished

In his opening statement, McDurmon also followed Bahnsen's argument in regards to the abrogation of Mosaic laws. Bahnsen said:

> We should presume that the Old Testament standing laws continue to be morally binding in the New Testament unless they are rescinded or modified by further revelation.

McDurmon modified this slightly to say (paraphrase) "If any law is just and not explicitly, or by good and

necessary consequence abolished, then it is obligatory."

Though not presented in the debate, 1689 Federalism, the covenant theology undergirding the 1689 Confession, adds an additional level of clarity to this whole issue. Contrary to Bahnsen's view that the Old Covenant is just the *older* form of the *newer* covenant, 1689 Federalism correctly identifies the covenant of grace with the New Covenant alone, recognizing that the Old Covenant is a separate covenant that has been abolished, with all of its laws. John Owen comments on Hebrews 8:6 and 7:18-19

> Having shown in what sense the covenant of grace is called "the new covenant," in this distinction and opposition to the old covenant, so I shall propose several things which relate to the nature of the first covenant, which manifest it to have been a distinct covenant, and not a mere administration of the covenant of grace...
>
> It is not, therefore, the peculiar command for the institution of the legal priesthood that is intended, but the whole system of Mosaical institutions. For the apostle having already proved that the priesthood was to be abolished, he proceeds on that ground and from thence to prove that the whole law was also to be in like manner abolished and removed. And indeed it was of such a nature and constitution, that pull one pin out of the fabric, and the whole must fall unto the ground; for the sanction of it being, that "he was cursed who continued not in all things written in the law to do them," the change of any one thing must needs overthrow the whole law...
>
> And the whole of this system of laws is called a "command," because it consisted in "arbitrary commands" and precepts, regulated by that maxim, "The man that doeth these things shall live by them," Romans 10:5. And therefore the law, as a command, is opposed unto the gospel, as a promise of righteousness by Jesus Christ, Galatians 3:11, 12. Nor is it the whole ceremonial law only that is intended by "the command" in this place, but the moral law also, so far as it was compacted with the other into one body of precepts for the same end; for with respect unto the efficacy of the whole law of Moses, as unto our drawing nigh unto God, it is here considered...
>
> It is therefore plainly declared, that the law is "abrogated," "abolished, ... disannulled."

Thus Old Covenant law has been rescinded by further revelation. For more, particularly how this relates to the transcendent moral law, see Owen on the Old and New Covenants and the Functions of the Decalogue in Redemptive History in Historical and Contemporary Perspective and CHAPTER 10 The Difference Between the Two Covenants (and an outline).

Are They Just?

McDurmon's main argument was that the Mosaic civil laws were just for Israel and they continue to be just for all nations today. Therefore, if a nation is to be just, they must enforce Mosaic civil laws today. McDurmon cited the example of Thomas Granger's hanging for buggery in the Massachusetts Bay Colony in 1642 and asked "Was his hanging just?" He later asks again, "That is God's standard and you have to show why that standard is now unjust and I haven't heard an answer to that question." We would like to answer as clearly and directly as possible: Thomas Granger's hanging was unjust. As were the hangings of Quakers and adulterers and witches in that colony.

JD Hall answered this question by affirming that yes, the man's death was just because the moment you sin

against God you deserve death. We completely agree. It was just for God to kill that man and it is just for God to strike any one of us dead today. But the question is not if God is just in striking anyone dead, but if man is just in striking another man dead. The Massachusetts Bay magistrates were unjust in striking Thomas Granger dead, despite how despicable his sin was. In other words, all of God's actions toward his creation are, by definition, just and right, but not all actions of his creation are just, even though God has ordained the actions to take place. This is the Reformed doctrine of the two wills (sometimes distinguished as preceptive vs. sovereign will) of God.

But, what is relevant, is whether the Mosaic magistrates were just in striking men dead for buggery in Israel? Yes, they were. Why the discrepancy? Consider McDurmon's answer to Hall's example of Annanias and Saphira. Hall argued that God is free to act contrary to the civil laws of Israel by putting liars to death. McDurmon correctly notes that "God can reserve judgment in ways that man can't. God's ability to judge people in history is entirely different from the question of civil law." 1:59:30. We completely agree. The truth is, that is precisely what happened under the Mosaic Covenant. God exercised his ability to judge people in history by departing from the universal civil law (Gen 9:6) of all nations. God's punishment of Annanias and Saphira was just, but it was not the standard of all nations. God's punishments in Israel were just, but they were not the standard of all nations. His judgments with Israel are "entirely different from the question of civil law." *Israel was not like every other nation - not then, not now. Israel was a type of the church. It's land was a type of the new earth. Israel was a holy nation, unique from all others.* They were not a model for other nations to follow. They were a shadow of the eschatological Kingdom of Christ (they were not themselves the Kingdom of Christ). Their nation represented an "intrusion ethic" from the eschaton. Sin was not allowed in this holy land because God's presence dwelt there externally.

They were to "purge the evil from their midst" because the land itself was holy, set apart by God. No land today is holy land. The new earth will be holy, and as such, no sin can remain. Thus all sin will receive its just wages. Israel's civil laws were a foretaste, a shadow of this final judgment. The most extreme outward sins were punished with death. The purpose of this was not to set a standard for all nations to follow. The purpose, just as Israel's purpose as a whole, was a ministry of condemnation. It was to teach us how much God hates sin. Consider Rutherford

> But sure Erastus erreth, who will have all such to be killed by the magistrate under the New Testament, because they were killed by him in the Old... I humbly conceive that the putting of some to death in the Old Testament, as it was a punishment to them, so was it a mysterious teaching of us, how God hated such and such sins, and mysteries of that kind are gone with other shadows...
>
> Rutherford, Divine Right of Church Government (1646), pages 493-494.

Hall was correct to note that civil penalties for sin are not part of the moral law. They are not written on the hearts of all men. They are positive law added to moral law. Civil punishment, the sword, was not instituted until after the fall. Positive law is changeable. The civil penalties attached to certain sins in the Old Covenant were positive laws and they were given only for Israel for their ministry of condemnation. Because the penalties are positive law, when the judicial laws are passed through the filter of moral/natural law, the penalties are filtered out. What remains, as Rutherford noted, is the truth that these sins are sin and God hates them. The general equity of the judicial laws is therefore of broadly moral use. Contra theonomy, they are not confined to civil applications. That is precisely why Paul can quote a judicial law in Deuteronomy 22:21 and say it applies to excommunication in the church. Make no mistake, Paul was directly applying a Mosaic judicial law. For more on this, see 1 Cor 5:13 is the general equity of Deut 22:21.

We can see how this applies if we return to the question of Thomas Granger. Massachusetts is not holy land. The Puritans who established the colony thought it was and therefore believed it was their duty to rid the land of sin.

> This at last is the spot of earth, which the God of heaven spied out for the seat of such evangelical, and ecclesiastical, and very remarkable transactions, as require to be made an history; here 'twas that our blessed Jesus intended a resting place, must I say? or only an hiding place for those reformed Churches, which have given him a little accomplishment of his eternal Father's promise unto him; to be, we hope, yet further accomplished, of having the utmost parts of the earth for his possession?... However, I am going to give unto the Christian reader an history of some feeble attempts made in the American hemisphere to anticipate the state of the New-Jerusalem, as far as the unavoidable vanity of human affairs and influence of Satan upon them would allow of it; and of many worthy persons whose posterity, if they make a squadron in the fleets of Gog and Magog, will be apostates deserving a room, and a doom with the legions of the grand apostate, that will deceive the nations to that mysterious enterprize. (44)
>
> The passengers went over afterwards in another vessel; and quickly after that another vessel of passengers also arrived in the country: namely, in the year 1623. Among these passengers were divers worthy and useful men, who were come to seek the welfare of this little Israel; though at their coming they were as diversly affected as the rebuilders of the Temple at Jerusalem... (58)
>
> But whilst he thus did, as our New-English Nehemiah, the part of a ruler in managing the public affairs of our American Jerusalem, when there were Tobijahs and Sanballats enough to vex him, and give him the experiment of Luther's observation, Omnis qui regit est tanquam signum, in quod omnia jacula, Satan et Mundus dirigunt ;* he made himself still an exacter parallel unto that governour of Israel, by doing the part of a neighbour among the distressed people of the new plantation. (123)
>
> Magnalia Christi Americana, Cotton Mather

Historian Worthington Chauncey Ford also notes that there was disagreement between Winthrop and Cotton in regards to the severity of the laws, with Winthrop accused of being too lenient. He apparently thought some of Cotton's laws, proposed in "How far Moses' Judicials bind Mass." were unjust. Chauncey notes "we find Winthrop running his pen through some of the death penalties proposed by Cotton in his abstract of the Laws of New England." Cotton's abstract never became the law of the land.

But Boston's preeminent Puritan Increase Mather, son-in-law of John Cotton, after living 70 years under this theocracy, repented.

> New-England being a country planted by a people whose design was to maintain the faith and order of the gospel in evangelical churches, and to transmit them down to posterity; and their commonwealth being looked on as authorized of God to preserve their churches; and the civil rulers esteemed, not only members, but protectors of the churches, there were laws enacted which inflicted punishment on the broachers of pernicious errors, and on them who made invasions on the ecclesiastical constitution, which was esteemed the highest glory, and chief interest of the country. The Jews did not ever value themselves more for the temple at Jerusalem than the people of that province for their primitive model of ecclesiastical polity...

> It is a pity any of those laws should stand on record, some of which were never executed, and all of them long since repealed... The punishing of idolaters with death, among the Israelites, ought not to be urged in defense of persecution. The land of Canaan was held by deed of gift from God immediately; and the condition by which they held their title to it, was their observation of the law of Moses, in which idolatry was expressly forbid, and the committing of it was high-treason; they being under a theocracy, did thereby renounce their allegiance to God their sovereign... The Christian faith brings us into no earthly Canaan, and has no weapons but what are spiritual: and it must be allowed, as most agreeable to Christian Religion that the only punishment inflicted on the erroneous should be instruction; which if they will not regard, their eternal perdition is owing to themselves.

Thus we agree with Hall when he notes that "to miss the typology inherent in Israel and its laws is latent Dispensationalism refusing to see the church as the fulfillment of Israel. The United States is not spiritual Israel; their American Vision is not a biblical one."

So if America is not Israel, what would be considered just? Look back at Genesis 9:6, note that the Noahic Covenant was made with all mankind, while the Old Covenant was not, and then consider Samuel Rutherford's views on the magistrate as defensive.

Particular Baptist Theonomists?

McDurmon grilled Hall with a list of 17th century particular baptists, implying that these men were theonomists. Given that we believe McDurmon was wrong about the Westminster divines and the confession, we believe he is even more wrong on the Baptists.

First, he claims there is a difference in meaning between the original LBCF 19.4 and a later revision that changed "moral use" to "modern use." He claims this change "opens the door to theonomy." But of course neither wording opens the door to theonomy in any way. For an excellent historical comment on the change, please see Moral vs. Modern Use of the Judicial Law in the Confession of Faith.

As for the individual baptists - McDurmon criticized Hall for "quote-mining." We are very curious if McDurmon has read the works of the baptists he mentioned or if he was "name-mining." Most of their writings are not available.

McDurmon mentioned Benjamin Keach. He was absolutely not a theonomist. He followed Roger Williams' interpretation of the wheat and the tares as demanding liberty of conscience.

> the good and bad should abide together in the world, and not that the tares should be rooted out by persecution, or be cut off by sanguinary laws, but that both should abide together in the field of the world, to the end thereof... Some think our Lord refers to [servants] Christian magistrates, who have been, and may again be pious persons, and may be ready to cut off by death such offenders, whom our Lord would have lived in the world until the end thereof comes ; not but that murders and traitors ought by the sword of justice to be cut off, or pulled up ; but not such who are only guilty of divers sorts of errors in matters of faith, or such who many ways are immoral in their lives.
>
> *"But he said, nay, lest while ye gather up the tares, ye root up also t!ie wheat with them,"* ver. 29.

> This shows that persecution upon the account of religion, is utterly unlawful, though men may hold grand errors, yet no magistrates have any power to persecute them, much less in the highest degree, so as to put them to death.
>
> The Parable of the Wheat and Tares Opened (Keach)

McDurmon also mentioned Christopher Blackwood. Blackwood also appealed the parable of the wheat and the tares in defense of liberty of conscience in his *"The Storming of Antichrist in his two last and strongest Garrisons, of Compulsion of Conscience and Infants Baptisme."* In the work he specifically rejects the claim that Christian magistrates should enforce religion because the kings of Judah did, noting that they were in a national covenant to worship God. ((see Jennifer R. Stoddard's "Seventeenth Century Particular Baptist Views on Religious Liberty" WSC Thesis, 2011)) He did believe that idolators, adulterers, homosexuals, etc ought to be punished, but because they were "committed against the light of nature and reason."

McDurmon has, since the debate, commented that he has plenty of material about this debate to be published in the future. If McDurmon provides specific references for the other men, we would be happy to interact.

Finally, here is Gill:

> The word law is variously used... sometimes it signifies the whole body of laws given from God by Moses to the children of Israel, as distinct from the gospel of the grace of God (John 1:17) and which may be distinguished into the laws ceremonial, judicial, and moral.
>
> 1. The ceremonial law...
>
> 2. The judicial law... It may be inquired, whether the judicial laws, or the laws respecting the Jewish polity, are now in force or not, and to be observed or not; which may be resolved by distinguishing between them; there were some that were peculiar to the state of the Jews, their continuance in the land of Canaan... And there were others that were peculiarly suited to the natural temper and disposition of that people... But then there were other judicial laws, which **were founded on the light of nature, on reason, and on justice and equity**, and these remain in full force; and they must be wise as well as righteous laws, which were made by God himself, their King and Legislator, as they are said to be (Deut. 4:6,8). And they are, certainly, the best constituted and regulated governments that come nearest to the commonwealth of Israel, and the civil laws of it, which are of the kind last described.
>
> 3. The moral law, which lies chiefly in the Decalogue, or Ten Commandments (Ex 20:3-17)... this law, to love God and our neighbour, is binding on every man, and is eternal, and remains invariable and unalterable; and concerning which I shall treat more largely.

Gill is clearly following Calvin, Rutherford, Perkins, and the Confessional hermeneutic, not theonomy's hermeneutic.

Conclusion

In conclusion, we strongly agree with Hall when he said, "By what other standard? By God's standard alone. That statement alone does not make you a theonomist. It just makes you a Christian with a biblical worldview." As was made clear in the beginning, this is not a debate about the source of our standard as

Christians. Rather, this is a debate about the interpretation of this standard. As Reformed Christians, we confess that the Scripture is the only standard for ethics. But the difficulty, indeed that task that God has given his people, is the lifelong effort to properly understand the standard that He has given to us. While theonomists will for the foreseeable future continue to proclaim the dichotomies (God vs. human), this seems about as helpful as pressing the Reformed Christian to choose between monergism and synergism over and over again. Our position that God's revelation is the standard should be more than obvious.

Now then, at one point McDurmon provided a quote of Hall saying that Christians should make political arguments that appeal to people of all faiths, without pointing to Scripture. We are unsure of the context of this quote, and whether or not it was recent enough to judge whether Hall still believed it. However, in our own understanding of things, there is simply no other epistemologically justifiable standard toward which we ought to point in presenting truth to the nations. We do believe that God reigns supreme over two kingdoms, and more on this can be read here, but simultaneously, we deny the "Van Drunen" approach to Two Kingdom theology in which there is a dual ethic: a standard for Christians and a separate one for non-Christians. This puts us in a unique position in these debates; which are *usually* characterized by what we see as a false choice between the theonomists and the NL2K (Natural Law Two Kingdoms) view of Van Drunen and other theologians associated with Westminster Escondido. In this light, we have issued a comment previously on the fact that we think a great "third option" is what we have labeled "PR2K" (Propositional Revelation Two Kingdoms). Christians are to develop a robust biblical worldview that is informed by Scripture, correctly interpreted, at every point. And in fact, if one does so, they will not be a theonomist.

In all the above, there was no comment on whether McDurmon or Hall outperformed the other. We express no official statement about whether they could have done better or been better prepared or whether one was "ready" to meet his opponents arguments. That is up for the viewer to decide. What we wanted to do was detail our own understanding of the debated issues and demonstrate where we think the theonomist position is weak. There is so much about theonomy in general that we did not have the space to address. It is often noted that theonomists are mischaracterized and misrepresented. It is even claimed that theonomists are best understood as advocates of "Christian sharia" or perhaps that they believe justification comes via obedience to the law. We vehemently distance ourselves from such claims and agree with our theonomist brothers --and they are our brothers-- that God's Law, even the Civil Body Politic that was abrogated with the nation of Israel, is holy and good. God was gracious to Israel to give her a Law that they might follow, yet in their sin, they rejected God's Law and turned their backs on this patient and merciful God. But this was not in vain. Indeed, is was through their rejection of God that salvation has come to Gentiles! (Romans 11:11) Nevertheless, for many reasons, some of which were outlined in the essay, we disagree with the theonomists that the Mosaic Civil Laws are obligatory for civil governments today. Rather, we agree with John Calvin, when he wrote:

> The form of their [Israel's] judicial [civil] laws, although it had no other intent than how best to preserve that very love which is enjoined by God’s eternal law, had something distinct from that precept of love. Therefore, as ceremonial laws could be abrogated while piety remained safe and unharmed, so too, when these judicial laws were taken away, the perpetual duties and precepts of love could still remain.
>
> But if this is true, surely every nation is left free to make such laws as it foresees to be profitable for itself. Yet these must be in conformity to that perpetual rule of love, so that they indeed vary in form but have the same purpose...

And with Augustine when he wrote:

> This heavenly city, then, while it sojourns on earth, calls citizens out of all nations, and gathers together a society of pilgrims of all languages, not scrupling about diversities in the manners, laws, and institutions whereby earthly peace is secured and maintained, but recognizing that, however various these are, they all tend to one and the same end of earthly peace.
> August. de Civit. Dei, Lib. 19 c. 17

While it is true that theonomists have been unjustly misrepresented by various critics, we also hold that non-theonomists have also been misrepresented and mischaracterized. Specifically, the claim that non-theonomists reject the law of God fails to appreciate the fact that non-theonomists don't reject God's law, but rather define the perpetual law of God in a different way than the theonomists. Thus, it is our prayer that both sides of this debate would take the time to understand the nuances in the opposing camp, and look for opportunities to better comprehend the precise nature of their critic's position, rather than rely on inaccuracies and misleading statements that have been previously written in earlier decades.

The question that often comes after it is stated that we reject the theonomic understanding of the mosaic civil law is: "if not theonomy, then what?" What other civil law ought we to have. This is a great question and we encourage you to read our upcoming publication entitled "The Reformed Libertarian Manifesto," in which we, in detail, demonstrate our own positive theory on the questions of law and politics based on, of course, the starting point of God's revealed Scripture. Following this publication, we anticipate that there will be a book sized release, on Amazon.com of our rejection of theonomy. The title of this book is "By God's Standard: A Confessional Baptist Rejection of Theonomy." You can sign up to receive updates on both of these books here. Thank you for reading, and please email us any questions you may have at reformedlibertarian@gmail.com.

--C.Jay Engel and Brandon Adams--