

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

By Chris Coldwell and Matthew Winzer

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

PART ONE: CHRONOLOGY

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

Any writings for this period by members of the Assembly relative to the subject under review are of interest to this study. Additionally, of particular interest are the writings by those divines that were more directly

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

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

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

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

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

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

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

the wording of 23.3; and even in that case the Assembly adopted a rare if not singular memorandum that the change was “not intended to determine the controversy about the subordination of the civill magistrat to Christ as mediatur” (see below at April 12, 1646/47).

Rather, the goal is to illustrate how confessional terms and phrases are used from writings of individual or groups of Westminster divines during the period any of them may have discussed the judicial law. The analysis of this chronological compilation will be covered in the second part of this article by Matthew Winzer.

THE WORK OF THE ASSEMBLY

The work of the Westminster Assembly was largely carried out in the three standing committees, as well as in select ad hoc committees. The work of revising the Thirty-nine Articles was divided between the standing committees, and the second committee was assigned Article 7. After the work on the Articles was aborted, the initial work on a new confession of faith was done by two ad hoc committees set up respectively on August 20 and September 4, 1644, which eventually met as

3. The names in bold are authors cited in this survey, and such emphasis is added in quotations throughout, unless otherwise noted.

4. Philip Schaff, *The Creeds of Christendom* (New York and London: Harper and Brothers, sixth edition [1931?]) 1.756.

5. Chad B. Van Dixhoorn, “Reforming the Reformation: Theological Debate at the Westminster Assembly 1643–1652. A thesis submitted to the Faculty of History of the University of Cambridge in Candidacy for the degree Doctor of Philosophy,” September 2004. Seven Volumes. Unpublished Thesis. Hereafter Van Dixhoorn. See Sess: 269. Aug: 20th 1644: Tuesday Morning, 5.237; Sess: 278. Sept 4: Wednesday morning, Van Dixhoorn, 5.262.

6. A. F. Mitchell, *The Westminster Assembly: Its History and Standards* (London: James Nisbet & Co., 1897) 357.

7. Only ‘replacement’ divines which figure in this survey are noted parenthetically; otherwise the lists are as originally constituted and as given by Chad Van Dixhoorn (Van Dixhoorn, 1.149–150). While they were not members of the standing committees, or had right to vote on the floor, the Scottish commissioners had enormous influence and seem to have had the freedom to attend any of the committees. For the standing committees at least, the English divines also had some freedom to attend the committees of which they were not members. Baillie describes it thus: “Ordinarie there will be present above threescore of their divines. These are divided in three Committees; in one whereof every man is a member. No man is excluded who pleases to come to any of the three. Every Committee, as the Parliament gives order in wryte to take any purpose to consideration, takes a portion, and in their afternoon meeting prepares matters for the Assemblie, setts doune their minde in distinct propositions, backs their propositions with texts of Scripture.” Robert Baillie, *The Letters and Journals of Robert Baillie, A.M.* (Edinburgh: Alex. Lawrie & Co., for the Bannatyne Club, [1841]) 2.108. Dr. Van Dixhoorn notes this freedom of attendance applied at least to one of the later ad hoc committees (Van Dixhoorn, 1.152).

one committee. This group included the Scottish Commissioners, **George Gillespie**, **Robert Baillie**, **Samuel Rutherford** and **Alexander Henderson**;³ the English members were (from August 20) **Gouge** (chairman⁴), Temple, Hoyle, Gataker, Arrowsmith, **Burroughs**, **Anthony Burgess**, Vines and Goodwin, and (from Sept. 9) Smith, **Palmer**, Newcomen, Herle, Reynolds, Wilson, Tuckney, Young, **Ley**, and **Sedgwick**.⁵ Mitchell suggests, “the subjects of some of the chapters, or part of the matter which was ultimately embodied in the Confession, was selected or prepared by these committees.”⁶

Nearly a year after the August 20/September 4 committees were set up, to speed the progress of the Confession, the work was divided and assigned to the three standing committees. Chapters 20 and 23 were handled by the first Committee, and Chapter 19 by the third committee. The review of the scripture proofs for the three chapters was handled by the second committee. The clerical membership of these committees is detailed as follows by Chad Van Dixhoorn:⁷

THE THREE STANDING COMMITTEES

First Committee. **Herbert Palmer**, Oliver Bowles, Henry Wilkinson, Sr., Thomas Valentine, William Twisse, D.D., **William Raynor**, Hanniball Gammon, Jasper Hicks, Joshua Hoyle, D.D., William Bridge, Thomas Wincop, Thomas Goodwin, **Thomas Case**, John Pyne, Francis Whidden, Richard Love, D.D., **William Gouge**, D.D., Ralph Brownerigg, D.D., Samuel Ward, D.D., John White, Edward Peale, **Stephen Marshall**, **Obadiah Sedgwick** [Sedgwick], John Carter, Peter Clark, William New, Richard Cappell, Theophilus Bathurst, Phillip Nye, Brocket (Peter) Smith, D.D., **Cornelius Burges**, D.D., John Green, Stanley Gower, Francis Taylor, Thomas Wilson, Anthony Tuckney, Thomas Coleman, Charles Herle, Richard Herrick.

Second Committee. Richard Clayton, George Gibbs, Calibute Downing, D.D., **Jeremiah Burroughs** (repl. by Samuel Bolton), **Edmund Calamy**, **George Walker**, Joseph Carroll [i.e. Caryl], Lazarus Seaman, John Harris, D.D. (repl. by **Daniel Cawdrey**), George Morley, Edward Reynolds, Thomas Hill, Robert Sanderson, D.D., John Foxcraft, John Jackson, William Carter, Thomas Thoroughgood, John Arrowsmith, Robert Harris, Robert Cross, **James Ussher**, D.D. (repl. by John Bond), Matthias Styles, D.D., Samuel Gibson, Jeremiah Whitaker, Edmund Stanton, D.D., **Daniel Featley**, D.D. (repl. by **Richard Byfield**), Francis Coke, John Lightfoot, Edward Corbet, Samuel Hildersham, John Langley, Christopher Tisdale, Thomas Young, John Phillips, Humphrey

Chambers, John Conant, Henry Hall, Henry Hutton, Henry Scudder, Thomas Baylie, Benjamin Pickering, Henry Nye.

Third Committee. Arthur Sallaway, Sidrach Simpson, **Anthony Burgess, Richard Vines**, William Breenhill [sic Greenhill], William Moreton, Richard Buckley, Thomas Temple, D.D., Josias Shute, William Nicholson, Thomas Gataker, James Weldy, Christopher Pashley, D.D., Henry Tozer, William Spurstow, **Francis Channell**, Edward Ellis, John Hacket, D.D., Samuel de la Place, John de la March, Matthew Newcomen, William Lyford, Thomas Carter, William Lance, Thomas Hodges, Andrea Perne, Thomas Westfield, D.D., Henry Hammond, D.D., Nicholas Prophet, Peter Sterry, John Erle, John Gibbon, Henry Painter (repl. by **John Ward**), Thomas Micklethwaite, John Wincop, D.D., William Price, Henry Wilkinson, Richard Holdsworth, D.D., William Dunning.

AD HOC COMMITTEES

To assist this work on the confession, there was an ad hoc committee for perfecting the wording. This seems to have first been constituted on July 8, 1645, with Reynolds, Herle, and Newcomen as members, with the stipulation they consult with the Scottish Commissioners before they report any changes to the Assembly. This committee was revised or a new one constituted on December 8, 1645, with Reynolds and Newcomen, Tuckney, and Whitaker as the members; later were added Arrowsmith (June 17, 1646) and Cawdrey (September 1, 1646).

Due to the controversy over the subject matter, another select committee was appointed to deal with the topic of Christian Liberty (WCF 20). On February 16, 1645/46 a committee was ordered made up of: Mr Seaman, Mr Newcomen, Dr Temple, Mr Dury, **Mr Calamy, Mr Byfield, Mr Ward, Mr Cawdry, Mr Channell, Mr Delmy, Mr Rayner, Mr Sedgwick, Mr Conant, Mr Wilkenson** (Van Dixhoorn, 6.254).

THE LITERATURE COMPILED FOR THIS SURVEY

This survey uniquely presents a chronological ordering of the work of the Westminster Assembly on the Thirty-Nine Articles, Article 7, the Confession of Faith chapter 19 (Of the Law of God), chapter 20 (Of Christian Liberty or Liberty of Conscience), and Chapter 23 (Of the Civil Magistrate), with extracts from the works of various Westminster divines (or in a few instances, other arguably influential authors), interleaved by date. As noted, the period covered is from the seating of the

Assembly on July 1, 1643 until the publication of a new Confession of Faith with scripture proofs at the end of April, 1647. As a fitting review or final word an extract is given from Francis Cheynell's heretofore overlooked words on the magistrate relative to the judicial law dating to about the end of the Assembly's significant labors. The writings cited in this survey have been assigned a specific date for their first appearance, using for the most part the Thomason dating (see the table on pages 4–5).⁸ If Thomason recorded no copy or no exact date, other sources have been consulted to narrow down a date or date range. Public sermons delivered on a specific date and then published, have been listed under the date the sermon was delivered. Works have been chosen as they either employ terms relative to general or natural equity of the judicial law or cover topics relative to the role of the magistrate as outlined in the work of the Assembly.

WESTMINSTER ASSEMBLY & THE JUDICIAL LAW: I. CHRONOLOGY

JULY 1, 1643

The Westminster Assembly of Divines began meeting on this date.

JULY–OCTOBER, 1643—THE REVISION OF THE THIRTY-NINE ARTICLES

The Divines discussed the judicial law early in the first month of their meeting when they began work on revising the Thirty-nine articles. As the surviving Minutes of the Assembly only date from September 4, 1643, the only record of these early days are John Lightfoot's first journal. This journal was published in the nineteenth century edition of Lightfoot's works; but it is incomplete. At the time the works were prepared for publication the MS of the first journal had been misplaced and a transcript was

8. Between 1640 and 1661 George Thomason collected pamphlets, books and newspapers as they came off the press, usually recording in hand on the title page, the month and day he acquired them. It is the most important collection of material from the time of the English Civil War, and often contains the only surviving copy of a work. The Thomason Tracts are catalogued by date in *Catalogue of the Pamphlets, Books, Newspapers, and Manuscripts Relating to the Civil War, the Commonwealth, and Restoration collected by George Thomason, 1640–1661* (London: British Museum, 1908). They are available in *The Thomason Tracts, 1640–1661, Microfilm Edition of the Thomason Collection of the British Library* (Ann Arbor: University Microfilms International, 1977–1981), and are also available as part of Proquest's Early English Books Online (www.proquest.com).

used instead. Apparently it was not realized how much redaction had been made in that transcription. Among the things missing are the few notices of discussion of Article 7 pertaining to the judicial law.

The full transcript of Lightfoot's first journal is given in the second volume of Chad Van Dixhoorn's dissertation. Still, the record is frustratingly obscure. The interesting change made to Article 7 must have been made by the second committee to which it was assigned, but the only record by Lightfoot is about debate over some of the Scripture proofs and there is no indication of any debate over the change in the text. Lightfoot also was absent for half a day during the time the article was discussed by the Assembly as a whole. He was on the second standing committee assigned the work on Article 7, but gives no notice regarding the wording change.

The two wordings of the ninth proposition of the seventh article of the Thirty-Nine Articles read:⁹

Original: Although the law given from God by Moses, as touching ceremonies and rites, do not bind Christian men; nor the civil precepts thereof ought of necessity to be received in any commonwealth....

Westminster Assembly's Revision. Although the law given from God by Moses, as touching ceremonies and rites, do not bind Christians; nor the civil precepts given by Moses, such as were peculiarly fitted to the commonwealth of the Jews, are of necessity to be received in any commonwealth (Acts 25:9, 10, 25 with Deut. 17:8–13. Rom. 13:1, 5. Tit. 3:1. 1 Pet. 2:13, 14)....

The discussion of the seventh article occurred in the context of the Assembly's concern about the spread of Antinomianism. On July 19, 1643 the Assembly or at

least a portion of the Divines drafted a petition and presented it to the Parliament. The document, *A Copy of the Petition of the Divines of the Assembly, Delivered to Both Houses of Parliament, July 19, 1643* (London, 1643), noted ten reforms requiring urgent redress. The third states, "That the bold venting of corrupt Doctrines, directly contrary to the sacred Law of God, and religious humiliation for sin, which open a wide door to all Libertinism and disobedience to God and man, may be speedily suppressed everywhere, and that in such manner as may give hope that the Church may be no more infected with them." Lightfoot notes on Monday, August 7, 1643, that the "Petition of some of the Divines of the Assembly made to both houses[,]¹⁰ July 19th, was this day come forth in Print, & a copy thereof delivered to every one of us." (Van Dixhoorn, Lightfoot, 2.24). Thomason dates his copy as obtained on the fourth of August, the Friday before.

August 2, 1643

John Sedgwick,¹¹ *Antinomianism Anatomized, or a Glass for the Lawless, Who deny the ruling use of the Moral Law unto Christians under the Gospel* (London, 1643). Wing S2359. Reprinted in *An Anthology of Presbyterian & Reformed Literature*, vol. 4 (Dallas, Tex.: Naphtali Press, 1992).

John Sedgwick was the younger brother of Obadiah Sedgwick. He died in October 1643, and Thomas Case, who served on the first committee of the Westminster Assembly along with Obadiah, preached the funeral sermon. The author adduced article seven of the Thirty-Nine Articles in his preface to the reader, upon which the second committee made report and laid a new petition before the Assembly against Antinomianism on August 9. Again, there was a great concern for the Antinomianism that had reappeared shortly after the start of the period of the civil war, and Sedgwick's is noted as the first work to appear against the error, within a month of the beginning of the Assembly and a couple of weeks after the July 19 petition.¹²

Beloved, When I looked upon the old odious heresy of the Antinomians (condemned by the doctrine of our church, Art. 7.) taking the advantage of the time's distractions newly to revive itself, and to appear with its wonted face, that cannot blush; I thought at first, following St. Augustine (*Cont. Petil.*, lib. 2.), to have said, *Non in venio quomo te refellerem, nisi ut aut jocantem irriderem, aut insanientem dolorem:*

9. Cf. Daniel Neal, *The History of the Puritans* (London: Thomas Tegg and Son, 1837; repr. Klock and Klock, 1979) 3:521.

10. Square brackets noting insertions are original in quotations from Van Dixhoorn; braces {} denote insertions by this author in such quotations. The inconsistent punctuation is original. Full titles and publication dates as well as notices on the individuals are given in Van Dixhoorn, Lightfoot, 2.27–28.

11. The license for the work is dated July 27, 1643 and the entry in the Stationers' book is dated August 1, 1643. *A Transcript of the Registers of the Worshipful Company of Stationers; From 1640–1708 A.D.* ed. G.E. Briscoe Eyre, 3 vols. (London: Priv. Print, 1913) 1.66.

12. "In 1642 the first Antinomian pamphlet of the revolutionary period was published by John Eaton entitled, *The Honey-combe of Free Justification by Christ Alone*.... In 1643, the Westminster Assembly sent a petition with the names of the Antinomian leaders to the House of Commons, and the first anti-Antinomian work was

And so to have passed them over in silence ... (To the Reader).

If the production of the tract had not been encouraged by any of the Divines, it surely did not escape the notice of at least some members of the Assembly, not only because of the familial relationship with one of their members, but because several of their number were among the divinity licensers drafted to approve divinity books by a new law of June 14, 1643, which the Parliament passed to try to prevent scandalous publications. Among the divinity licensers were the Westminster Divines, Thomas Gataker, Callicut [Calibute] Downing, Thomas Temple, Joseph Caryl, **Edmund Calamy**, John Carter of Yorkshire, Charles Herle, and **Obadiah Sedgwick** (Neal, 2.205). Downing, Caryl and Calamy were on the second committee. For this work Calamy was the licenser and following the preface, above the Errata, the following from the licensers appears: “Perlegi Tractatum hunc cui Titulus, *The Anatomie of the Antinomian*, quem quia singulari usui futurum Ecclesiis judico, praelo mandandum censeo. Julii 27, 1643. *Ja. Cranford*. This Book intituled, *The Anatomie of the Antinomian*, I judge very fit to be Printed, and very necessary for these times. *Edm. Calamy*.”

Given these connections to some of the men of the Assembly at a time when they were highly agitated by the Antinomian error, it appears worthwhile to note John Sedgwick’s comment on the judicial law.

A Threefold Law.

You must know that there were three sorts of Laws delivered by God to Moses. ... 2. Judiciall, which were peculiar Ordinances given by God to Moses, for the well ordering of the Common-wealth of Israel.

This Law concerned the Jews not simply, as men, but as Jews; the Nationall, personall, or particular binding right of this Law rested so in them, that it died with the decay of their Common-wealth: onely the common equity or right hereof remaineth (i)¹² as far as it was grounded on the Law of Nature, served directly to confirm any of the Ten Commandments, or to uphold the good of Family, Church, or Common-wealth, it is still in force, and of good use ... (*Antinomianism Anatomized*, 7).

August 9–15, 1643

Westminster Assembly. Lightfoot’s Journal. Lightfoot’s record of the discussion of the ninth proposi-

tion of Article 7 is as follows (Van Dixhoorn, Lightfoot, 2.24–32):

Wednesday. Aug. 9th.

... The chaireman of the second committee reported upon the 7th Article[,]¹³ and concluded with a petition in the name of the Committee to the whole Assembly, that they would joyne in an humble Petition to the Parliament that they would call the Antinomian Preachers before the Assembly to give an account of their damnable Doctrin. Our committee removed to Mr Calamies in London.¹⁴

Thursday. Aug. 10th.

... Then was the report of the second committee taken into examination [*fo. 14r*] & these texts passed the votes to proove the severall proposition {sic} concluded in it.

1. The old Testament is not contrary to the New: by Old and N.T. we understand the bookes of both and doctrine contained in them. Act. 26:22–23; 2 Pet. 3:2; Luk. 24:44; Rom. 3:31, 23–24.

2. Both in the old Test. and the New[,] everlasting life is offered to mankind by Christ. Gen. 3:15 and 22:18 compared with Gal. 3:8, 14; 1 Cor. 10:2–4; Luk. 1:69–70; Act. 3:24; Es. 53 *per totum* [i.e. Isaiah 53].

Now was the Petition against the Antinomians finished and read and sent away to be presented to the house of Commons[,] & it was this[:]

To the Honourable the House of Commons assembled In Parliament[:] The Humble Petition of the Assembly Of Divines & others.

Sheweth: That the Honourable Houses of Parliament having directed the Assembly of Divines and others now sitting to vindicate & cleere the 10 first Articles of Religion[,] In Pursuit wherof the Petitioners doe find so

published by John Sedgwick entitled, *Antinomianisme Anatomized*.” Barry H. Howson, *Erroneous and Schismatical Opinions: The Questions of Orthodoxy Regarding the Theology of Hanserd Knollys (c. 1599–1691)*. Studies in the history of Christian thought, v. 99 (Leiden: Brill, 2001) 100.

13. Several of these “(i)” notations occur in this work, including this on page 7, one each on 18, 23, 25 and 39. The last occurs at a citation out of Chrysostom, which indicates side notes were intended for these five places. Apparently the printer never set or the author failed to provide references to the printer in time to set them in the margin.

14. Lightfoot is referring to the second committee upon which he and Calamy served.

many false opinions of dangerous consequence against the 7th Article especially, which by Preaching, Printing & by other waies are daily Published & dispersed abroad in very many places of the kingd[ome][,] but chiefly in and about the city of London[,] that unlesse some speedy Course be taken therein by your wisdom and authority, they will soone draw millions of soules to cast off the whole morall law of God, and pervert the most fundamentall [*fo. 14v*] Doctrines of free grace, justification by faith in Christ & of sanctification[,] & to turne all into confusion[,] they having gained many well affected but ignorant people to imbrace their pernicious doctrines[,] whereupon we hold it our duty to give this timely notice therof[,] affixing hereunto the name of some of the principall Authors & fautors of these opinions & bookes, which expressly undermine[,] though in different degrees[,] the morall law of God in all parts thereof, & discourage good Christians from humiliation for sin in these sad times wherin God calls us to that duty above all other.

You would vouchsafe that all such bookes & persons may be speedily examined & dealt withal, as each of them shall deserve[,] in such manner as to your wisdom & justice shall seeme meet, & as appertaineth to the weight of such a cause wherein the glory of God, the good of his church, the soules of the people & the welfare of the kingdome are so much concerned.

And your petitioners shall ever pray... {ellipse original}

The names of some bookes complained of[:]

The HonyCombe.

Christ alone exalted.

The dangerous dead faith.

A sermon upon Rev. 3:18.

The names of the persons complained of[:]

Mr Randall.

Mr Batte.

Mr Lancaster.

Mr Symson of Algate.

Mr Haydon

Mr Emerson

Mr Erbury

Mr Towne.

Mr Den.

15. This is essentially though not exactly the original wording of the ninth proposition, which may indicate the proposition came from the committee to the Assembly on this date in the original form, and was changed in the Assembly at this time or some time afterward.

This being finished and sent away we fell to the seventh Artic[le] againe.

[*fo. 15r*] 3. Christ is Mediator between God & man. Dan. 9:17; Rom. 8:34; Heb. 7:25; 1 Joh. 2:1.

4. Christ is the onely mediator. 1 Tim. 2:5; Joh. 14:6.

5. Christ is both God & man[:] this is proved in the second Article & therefore omitted here.

6. Christ is mediator as God & man[,] Gal. 4:4-5; Act. 20:28; Philip. 2:7-8.

7. The old fathers did not looke onely for transitory promises. Act. 26:6-7; Rom. 4:11; Gal. 3:9; Heb. 11:10, 16, 35.

8. The Ceremoniall law of Moses doth not bind Christians[,] Gal. 4:9-10; Colos. 2:14, 16-17; Heb. 9:9-10.

Here we adjourned till afternoone for it grew farr in the day.

In the afternoone I was forced to be absent, being to preach at the funeral of Mr Du Boies, one of Mr Lamotts servants & partners, who got his death blow in Kent at the composing of the insurrection there[,] so that <what> particulars passed in the Assembly I was not witness of: But this was their afternoons worke.

The 9th proposition of the Article was read: The Civill precepts of Moses ought not of necessity to be received in any Christian Common wealth.¹⁵ For the prooffe of this were produced Mat. 5:31-32 & 19:7-8. compared with Deut. 24:1. And Mat. 5:38-39 where Christ as it were repealeth the two civill laws of Divorce and Retaliation. And the debating of these two things held them all the afternoone[,] and in conclusion they were waived as improper {i.e. not germane to prove the proposition}.

[*fo. 15v*] Friday. Aug. 11.

... Then fell we upon the 9th proposition of the 7th Article againe and Act. 25:9-10 compared with Deut. 17:8 to 13 concerning Pauls appealing to a forraine judicature[:] after very long debate was allowed as a prooffe[,] & so had we spend all the forenoone. In the afternoone our second committee adjourned[,] but our new Committee for Antinomians sate in the checker chamber.

Munday. Aug. 14.

We fell upon the 9th proposition of the 7th Article againe [and] these scriptures[,] Rom. 13:1; Tit. 3:1; 1 Pet. 2:13–14[,] were voted for the confirmation of it.

10. Prop: No Christian man whatsoever is free from the obedience of the Commandments which are called morall. Mat. 5:17 to the end; Mat. 7:12; Rom. 13:8–10; Eph. 6:1–2; Jam. 2:8–12; Rom. 7:25....

Tuesday. Aug. 15.

The first thing agitated this day was, whether there should be any thing more added for explaining this terme[,] “the morall law[,]” than this[:] “by the morall law we understand the 10 Commandments.” Mr Palmer made the quare, & gave very sound reason for an addition which at last we agreed upon to be this, “by the morall law we understand the 10 commandments in their full extent.”

Then fell we upon the 10th Article concerning free will....”

August 10, 1643

Jeremiah Burroughs, *An Exposition of the Prophetie of Hosea, Begun in Divers Lectures, Upon the First Three Chapters, at Michaels, Cornhill, London* (London: Printed by W.E. and J.C. for R. Dawlman, 1643) 561. Thomason Tracts, 17:E.98[1]. Thomason records only the month, but the printed license date is “August 10, 1643, Imprimatur, Joseph Caryl.”¹⁶

Speaking of the abolishing of things abused to idolatry in the Old Testament, Burroughs writes:

But for the opening of this there will be something required by way of answer to an objection. You will say, are not those prohibitions there particular, concerning the Jews and not so fully concerning us? they sometimes are forbidden to take off the gold and silver off the Idols, do such prohibitions concern us in every thing that hath been abused to Idolatry?

For answer, I confess I think we are not bound in every particular circumstance according to those commandments that God required of them: neither do I think that they had been bound if they had not had some express commandment in some things that they did, if they had made use of the silver, or gold of an image, for some civil use, before the express prohibition came

to them, it had been no sin unto them, those things being required of them by some positive Law, and not required in the second commandment further than there is a moral equity in them.

September 30, 1643

Thomas Case, “The Quarrel of the Covenant, with the Pacification of the Quarrel, delivered in three Sermons, on Lev. xxvi.25 and Jer. 1.5” (1643); rpt. in *A Collection of Several Remarkable and Valuable Sermons, Speeches and Exhortations, at Renewing and Subscribing the National Covenant ... and ... the Solemn League and Covenant* (Glasgow: George Paton, 1741) 275; 276.

Surely there were in this Multitude, not an inconsiderable Number that were not acquainted with all the Moral Precepts, Judicial Laws, and Ceremonial Statutes, which God commanded the People by the Hand of Moses.

To these Objections I rejoin: *First*, That that Description of the Covenanters in *Nehemiah*, that *they were of Understanding, and Knowledge*, supposeth not a distinct actual Cognizance of every particular Ordinance, Judgment, Statute, and Provision, in all the three Laws, Moral, Judicial, Ceremonial, in every one that took the Covenant....

THE CONFESSION OF FAITH

With the signing of the Solemn League and Covenant and the seating of all the Scottish Commissioners, the revision work on the Thirty-Nine Articles was scrapped in October of 1643, and they looked to work on a new confession of faith and other standards as required by the covenant.

December 27, 1643

Alexander Henderson, *A Sermon Preached To the Honorable House of Commons At Their Late Solemn Fast, Wednesday, December 27, 1643* (London: Boſtock, 1643/44). Thomason Tracts, 242:E.81, no. 24.¹⁷

16. Overly distracting archaic spellings and/or usage in some cases have been modernized in quotations from 17th Century works (judicial for judicial, than for then, God’s for Gods, etc).

17. The text is cited from *Fast Sermons Preached Before the English Parliament by the Scottish Commissioners to the Westminster Assembly 1643–1645* (Dallas, Tex.: Naphtali Press, forthcoming) 26–27.

The other reason is from common equity amongst men, which was the ground of that decree (Esther 1:22), *That every man should bear rule in his own house*. The Temple of Jerusalem was the house of God, and now under the gospel the church of Christ is the house of the living God, where he has promised his presence, his face is seen, and he is found of them that seek him, which therefore may be called, *Surely God is in there* (Isa. 45:14), and Jehovah Shammah, *The Lord is there* (Ezek. 48:35). And therefore the Lord should bear rule in his church, and his commandment ought to be obeyed. According to this ground has the Lord given precepts of his holy, just, and good law. For if he be our God, what is more equitable than that we have him and no other for our God, that he direct his own service and worship, that his name be reverently used by us, that we observe the times wherein he will have us to appear before him, and that we do duty to everyone with whom we live under him.

USE ONE. This consideration may be very useful, for it may first serve to be a cure of two great ills in this land. (1) One is of such as conceive that the law of God belongs not to Christians.¹⁸ They may as well say that common and natural equity belongs not to Christians. Is it not written in the heart of man by nature? Is it not confirmed by Jesus Christ? Is it not recommended to Christians by the apostles? Is it not established by faith? Is not the observing of it a testimony of our communion with God? Is not the end of it, love from a pure heart, a good conscience, and faith unfeigned? Is it thankfulness to God, because we are delivered from the condemnation, coercion, and rigor of the law, not to acknowledge the obligation of the Law? Shall not the domestics of the house of God observe the commandments of God, or shall they not be grieved when they transgress and observe them not? It is too common an error to turn the grace of God into wantonness.

(2) The other evil is on the other hand when men give themselves to will worship. The one sort neglects the commandments of God, the other adds the commandments of men to the commandments of God....

May 3, 1644

Samuel Rutherford, *Due Right of Presbyteries* (London:

18. John Sedgwick noted Bellarmine's unjust and false charge against Protestants that they placed "Christian liberty in this, that they are altogether freed from obedience and subjection of the Law, so that Moses and his commandments do no way belong to them" (*Antinomianism Anatomized*, 25).

E. Griffin for Richard Whittaker and Andrew Crook, 1644) 70. Wing R2378.

Thomason does not note an exact date when he acquired Rutherford's *Due Right*. However, in a letter dated January 1, 1644, Baillie notes that Rutherford had another large work against the Independents in the press (*Letters and Journals*, 123). The progress was slow. Rutherford seems to have had other pressing duties and could not attend the printers. Later insertions caused odd paginations. This is noted in the Errata: "The Author could not attend the Presse, therefore pardon errors of the Printing; Observe, that the Author was necessitated to make some occasionall addition to the mids of this Treatise which occasioned variation of the Figures of the Pages..." In a later letter sent with one to Robert Blair dated March 26, Baillie writes that he feared none of them could be spared for General Assembly and among the reasons "Mr. Samuel [Rutherford]'s great book against the Independents will be then coming out." And later still, in a letter to William Spang dated April 12, 1644, he notes he thought he had sent both Gillespie's and Rutherford's books against Independency to him but could not remember by whom (165). Gillespie's book would have been *Assertion of the Government* from 1641, and whether Baillie meant Rutherford's *Peaceable Plea* of 1642 or the aforementioned *Due Right* that was on the press, is not clear. *Due Right* surely came off the press after March 15, as Rutherford twice references Mather's and Tompson's reply to Herle (*Due Right*, 315, 410), and this piece was picked up by Thomason on March 15, 1644 (*A Modest and Brotherly Answer to Mr. Charles Herle* [London: H. Overton, 1644] Wing M1274). It seems likely then that Baillie's reference on April 12 was to Rutherford's smaller work of 1642. If the work really came out about the time of the next Scottish General Assembly, that puts the publication date before May 29, 1644. However, another letter seems to confirm a date just before May 3, 1644. Writing to Spang on that date, Baillie writes, "Mr. Samuel has sent yow one of his sermons, and one of his great books which came out the other day..." (175).

It is true, God hath not prescribed judicials to the Christian State, as he did to the Jewish State, because shadows are now gone, when the *body Christ is come*; but God's determination of what is morally lawful in civil Laws, is as particular to us as to them; and the Jewish judicials did no more make the Jewish State the Jewish Church, then it made Aaron to be Moses....

August 13, 1644

Herbert Palmer, *The Glasse of God's Providence* (London: Printed for M. Bell, 1644) 50–52. Wing P235, Thomason copy.

7. And give me leave, I humbly pray, to proceed a little further in a particular or two more specified in our Covenant for Reformation. One is that we may ever remember that Clause in the first Article, *To endeavour the Reformation of Religion in the Kingdoms of England and Ireland in Doctrine, Worship, Discipline and Government, according to the Word of God.* You heard somewhat of this in the morning, but I crave your patience that I may add a little to it. Doubtless the Word of GOD *is the only Rule* unto which we are all tied. *He only is the Sovereign Law-giver* to appoint how He will have His Church governed. And so He hath left a *sufficient Rule* in His Word for all *Matters of Substance* and of *Necessity*, (though all men do not see it, and though *Circumstantials* are left to be varied by a Human, *though not carnal*, Prudence) sufficient, I say, to *preserve Truth*, and *Piety*, and *Peace* in His Church, and to *expel the contrary*, by His Blessing. And no Authority of man may presume to reject or over-rule in those things. *Where GOD's Word gives out His Will, Man's business is only to acknowledge*, and *submit*, and *call others to do so too*. All man's Authority is to be employed only to promote GOD's according to His Word. And therefore, I beseech you, Let me branch my Exhortation from this into three particulars. 1. Do not in any wise hearken to the suggestions of any that would say, *That there is no Discipline or Government of the Church to be found in the Word.* If any did think so, and yet have Covenanted, as is before expressed, I doubt they will hardly excuse themselves from *having taken GOD's Name in vain* in it. And I conceive not how, if they urge others to covenant in that manner, they do less than *cause them to sin*, by urging to *take GOD's Name in vain*. But however, surely *there was a time when the Church of GOD*, the Church of the *N. T.* had a Government; and that within itself, an *Ecclesiastical* Government, and not merely *Civil*, from the Civil Magistrate, for there was none such that professed Christianity, till 300 years after Christ. *To say, that there was no Government in the Church* (after the Apostles were gone to Heaven, and the Power of Miracles was also ceased) *for so long a time, is to suppose them to be left to an horrible Confusion*, which is exceedingly dishonourable to Christ the LORD and King of His Church, so much as to imagine. And if there were a *Government appointed by Christ*, then certainly *the Apostles* and Evangelists recorded it in the Word in the *N. T.* For to imagine it left

only to *Tradition* is as contradictory to Christ's Care of His People, as the supposal of a mere *Anarchy*. (And the very Papiſts themselves offer to pretend *Scripture* for the Pope's claim, and dare not stick wholly to *Tradition*.) And if it were *once* in the Word, then it is there *still* doubtless, for we have *the self same Word* that the first Christians had, and then doubtless *it binds us still*, as well as it bound *the Christians* in those first times. Unless any can show, that it was to continue but so long, but till there should be Christian Magistrates, and then to give place, and be no longer in force. And this general Rule give me leave to assert and commend to your most serious considerations and consciences. [side head: N.B. General Rule About Laws in the Word] *That whatsoever Law of GOD*, or Command of His, *we find recorded in the Lawbook*, in either of the Volumes of GOD's Statute, the *N. T.* or the Old, *Remains obligatory to us, unless we can prove it to be expired, or repealed.* So it is with the Statute-Law of this Nation, or of any Nation; What I can prove to be *once enacted*, I may urge as *still in force*, unless any one can answer me with a just proof that it is *now out of date*, or *Repealed by a latter Law*. And so men (*I forewarn them*) shall find one day urged upon them, for all those Laws that stand upon Record in GOD's sacred Volumes, however now many take Liberty to reject what they please, without any just ground, that GOD hath discharged them: And the *Denial* or Neglect of this (*in matter of Church-Government*) is *the Rock* that we have *dashed upon* formerly; and therefore we had need to take the more heed of it for time to come.

August 14, 1644

Westminster Assembly. Sess. 265. Confession of Faith.

On this date, "Sir Archibald Johnston, Lord Warriston, arrived from Scotland with a letter from the General Assembly emphasizing 'the general desire of all the nation of Scotland for the hastening of the work in hand.' John Lightfoot added, 'Mr. Henderson also spoke to the same purpose of forwarding and hastening our work. Where upon it was ordered, that the grand committee should meet tomorrow.'¹⁹ This was the impetus which put in motion the preparation of the Confession of Faith which the Scots desired, and which was called for in the Solemn League and Covenant. The Grand Committee gave their report on the 20th of August.

19. Richard Bacon, "A Westminster Bibliography Part 8: The Confession of Faith," *The Blue Banner* v. 5. #9–12 September-December (1996) 5.

August 20, 1644

Westminster Assembly, Session 269. Committee for the Confession of Faith.

R[esolved]: A committee to joyne with the commissioners of the church of Scotland to prepare matter for a joint confession of faith.... Dr Gouge, Mr Gataker, Mr Arrowsmith, Dr Temple, Mr Burroughs, Mr Burgis, Mr Vines, Mr Goodwin, Dr Hoyle or any 5 of them (Van Dixhoorn, 5.238).

August 28, 1644

William Reyner, *Babylon's ruining-earthquake and the restauration of Zion. Delivered in a sermon before the Honourable House of Commons at Margarets Westminster, at their publique fast, August 28. 1644* (London: Printed by T. B. for Samuel Enderby..., 1644) 44–47. Wing R1233A.

Reyner spoke on the topic of preventing idolatry.

Execute judgement for God, every one as far as his power will stretch. First, do judgement upon thine own self for thy sins in all ways of godly revenge, as by Fasting &c. Sing *mercy and judgement to thy family*, as *David Psa. 101*. Do thy best that judgement that hath been turned to wormwood and hemlock, may run down like a mighty stream, in publique; and where thy hand cannot reach a blow, or cast a stone at an idolater, blasphemers, persecutor, &c. let thy heart at least do it. For if a man's consenting to, or approving of an act of injustice may inguilt him, as I may say, in it as it was with the Jews, whose state was ruined for killing Christ and the Prophets, though most part of them had never seen any of them *Mat. 23.37* why may not a man's executing judgement, with his heart, when he can proceed no further, be accepted, in respect of him, for an act of justice, by him that is pleased both in good and evil actions, to accept the will for the deed?

This duty is principally incumbent upon the Magistrate, who is to execute judgement of the Lord, not arbitrarily as himself pleaseth; but according to the rule of the Word, both for matter and manner.

1. For the matter man hath no warrant either to leave gross and horrid sins unpunished in the committers of them; such as are the ring leaders in idolatry and persecution; nor yet to commute or change the nature of

the punishment. As (by the way) I question, whether a pecuniary mulct [i.e. fine], especially if it be alone, be a proper punishment for a swearer, or blasphemer; but it rather ought to be personal. And here I cannot choose but with grief take notice of a miserable failing in our first Reformation that the Mass priests were suffered still to continue in the places; for he that had said or sung Mass the last Lord's day (and if he were a Preacher had Preached for Popery) if he would but take the new Oath of Supremacy and read the Service-Book this Lord's day, was accounted a sufficient reformist, and admitted to the Ministry. So that of twenty thousand Prelates and Priests at least in *England* and *Ireland*, very few were cast out of their places and scarce any of them (unless it were [Bishop Edmund] *Boner*) for any thing they had done. Oh woeful! (I confess I think the State did then want due information on that point[.]). But this hath been one thing that hath undone the Church, viz. those that have all along and do still infest the Church[.] I mean the wicked and superstitious Clergy being their natural, genuine and proper posterity. Let not such a sin therefore lie any longer upon the State; out (therefore worthy Senators) with all the generation of erroneous Teachers, Altar-worshippers &c. and prophane ones, that have made so many abhor the Offerings of the Lord. If any Object, that the Church will then be destitute of Pastors. I answer: I know no warrant at all that there is to put or keep such Wolves among God's flock. Secondly, that a thousand or two of godly and able men well distributed, if the other were out, might by God's blessing doe more good by far, then now do all the Ministers in *England*.

Nay, I take it to be an absolute duty of them that have power to eject them, (besides, what may be said otherwise) even by the equity and analogy of that Text, *Ezek. 44.10,12,13. The Levites that are gone away far from me, which went astray from me after their idols, they shall even bear their iniquity; because they ministered unto them before their idols, and caused the house of Israel to fall into iniquity, therefore have I lifted up my hand against them, saith the Lord God* (i.e. I have sworn against them as most high transgressors, and so will not reverse it) *and they shall bear their iniquity. And they shall not come near unto me, to do the office of a Priest unto me, nor to come near to any of my holy things in the most holy place: but they shall bear their shame, and their abominations which they have committed.*

Besides punishments should be aggravated according to the aggravation of the sin or sins. The most capital

offender can but be put to death; but when the guilt is transcendently heinous, it ought to be with such circumstances and expressions, as may make it appear that the Judge or Magistrate hath a due sense of that heinousness, and would reach it in the punishment, if it were possible. *All Israel were to stone Achan, and to raise over him a great heap of stones, Jos. 7. 25. 26.* Now if this be so, I wonder what punishment will be found out suitable to the crimes of some malefactors now in question, who have wickedly endeavoured to seduce many whole Kingdoms quite to suppress and extinguish true Religion in them (if not throughout the world) who have proudly trampled upon all laws and estates, being undoubtedly, if all things were laid together, of the greatest if not absolutely the greatest transgressors that ever were since men were upon the earth.

For the Manner, the Word requires that judgement be executed with the spirit of justice or judgement; of which the Text speaks *Isa. 28. 6. In hatred of sin, love of God, Zeal for his glory*, as *Phenehas* did; otherwise, if you punish a Malefactor with death, who hath deserved it instead of taking away an old murder, you add a new and shall be punished accordingly, judgement ought to return to justice, *Psal. 94. 15.*

We have two remarkable examples in the Scriptures worthy to be taken notice of by all that are in authority, of two Kings that were both rewarded and punished for the very same thing.

Baasha destroyed *Nadab* and the house of *Jeroboam*, *Jehu* destroyed *Jehoram*, *Jezebel* and the whole house of *Ahab*; both of them had the Kingdom of Israel for their pains; and yet for these very acts, both their Families and Posterities were destroyed. *Baasha* because he killed him, viz. *Nadab*, *1 Kin. 16. 7.* and so *I will avenge the blood of Jezreel upon the house of Jehu, saith the Lord, Hos. 1. 4.* And so it came to pass, as may be seen in both their Histories; What was the cause, was there equity in this? Yes: the thing done was just, to punish these idolatrous Families; but the manner of doing it utterly displeased God, because it was not done in the love of justice, &c. and so in respect of God; but out of spleen and ambition to get the Kingdom: That it was not done by either of them as an act of justice appeared, in that they both continued in the sins of *Jeroboam*, which they seemed to punish, *1 Kin. 15. 34. 2 Kin. 10. 29.* For that Magistrate or man that lives openly in the sin he punisheth in another, cannot do it as an act of justice, and so doth not please God; not to speak of this, that he that punisheth [sic punisheth]

one sin, as suppose theft, because God would have it punished, and so doth it as an act of justice, will also for the very same reason punish another sin as much or more odious to God, as blasphemy, swearing, idolatry, if his arm be strong enough and long enough to reach the Offenders, which very thing may put (I fear) some suspicion sometimes upon our publique justice, in matter of theft, &c. and makes it questionable, whether it be done out of right principles, as because it is sin against God, and punishable by his Word, or only because man is trespassed or no; which if it be so, the very laws herein ought to be reformed.

September 4, 1644

Westminster Assembly. Session 278. “Report from the committee for the confession of faith.”

They desire an addition of these persons to the said committee.

Ordered: Mr **Palmer**, Mr Newcomen, Mr Herle, Mr Reynolds, Mr Wilson, Mr Tuckney, Dr Smith, Mr Young, Mr Ley, <Mr **Sedgwick**> be added to the committee for the Confession of Faith (Van Dixhoorn, 5.262).

September 5, 1644

Anthony Burgess, *Judgements removed, where judgement is executed. Or A sermon preached to the Court Marshall in Lawrence Jury, London, the 5th of Septemb. 1644. Being the day of their solemn seeking of the Lord for his blessing upon their proceedings. By Anthony Burges, sometimes fellow of Emmanuell Colledge in Cambridge; now pastor of Sutton-Coldfeild in Warwickshire; a member of the Assembly* (London: Printed by M. Simmons for Thomas Underhill, at the Bible in Woodstreet, 1644) 10–12. Wing B5649.

Now that all these things may be done, take some Theological Rules; which will serve for your Information.

First, Whatsoever punishment comes upon a man by your false judgement, the guilt will return upon your own heads, their blood, their death, their loss will be your sin. And on the other side, the sinful acquitting of any, and the sad effects thereof, will also be reckon'd upon your score; therefore take heed what you do, lest you bring a curse upon yourselves, and upon your posterity also.

Secondly, You are to know, that punishments are of two kinds: First, There are such as are immediately commanded by the Law of God, or are evidenced by the Law of Nature. And here though it be seriously disputed among Divines, Whether a Magistrate may remit that punishment, which by God's Law is prescribed; yet that opinion seems safest, which doth wholly deny it: and the reason is cogent, Because that if the Magistrate should release the punishment which God hath commanded, he should then *remittere de alieno*, release another's right, which is God's; and that is altogether unlawful. Hence it is that our Divines do justly condemn those Sanctuaries and Refuges in holy places, (as they call them) for wilful murder, because here God's Law doth strictly bind them up; As also they condemn the practise of letting Malefactors loose at the time of Easter, which was a custom of the Christian Emperours: So that custom of the *Jews* loosing a Malefactor, though he were a murderer, is judged unlawful by them. But then in the second place, There are punishments, that are by a mere positive Law; and in these much moderation may be used without any guilt upon the Kingdom; For seeing human Laws are imperfect, and men could not possibly foresee all causes and circumstances, there is a greater latitude left to them; therefore the Rule is, *Summem jus est summa injuria*: So that the punishments which are by positive Laws, must be interpreted according unto the affection and sense of the Law-giver, or of other Laws, or the safety and benefit of the Common-wealth.

Thirdly, In all acts of Judgement, especially those of death, it is safer to incline to Clemency, than to Severity; only this Caution must be taken along; That wherein there is an express command of God, or evident profit of the Common-wealth, there must be Severity. *Saul's* pity in sparing *Agag*, was cruelty to his own self; and that can never be Clemency, which is opposite to true Justice: But yet where neither of those two is, then we ought to incline to Moderation, and Clemency. Howsoever that man is much commended, whose Tribunal was called *Scopulus reorum*, the Rock where all guilty persons were splitted; yet *Nero's* speech hath greater praise, who when he was to subscribe to the death of a man condemned, would say, *Utinam nescirem literas*, I wish I did not know how to write. For there are these things, that may move to Clemency:

First, The Consideration of man's frail nature, how all sin is contained in him; and therefore *Rom. 3.* those words; *Their Feet are swift to shed blood*; which are spoken by

the Psalmist of those enemies of the Church, are applied by the Apostle to every particular man by nature.

Secondly, The Corrigibility and relenting of the Offender, may much procure Clemency: It is true indeed that herein Spiritual Punishments differ from Civil; In spiritual, if the party repent, they ought not to inflict them; but in Civil, the Magistrate he doth it howsoever, because he looks at the good of the Common-wealth; yet where men are not straightend by the command of God, if they do see Corrigibility in persons offending, they have the greater liberty for their Clemency. And upon this ground it was, that *Austin* did intercede to the Civil Magistrates for offenders; *Intercedimus, etsi non pro sceleratis scelerati, tamen pro peccatoribus peccatores* [Cf. Augustine, Epistle 153 in Migne, PL 33.659].

Thirdly, There is a great difference between Principals, and those that are Accessories; between those that were the cause of the Stream, and those that are carried away by it.

Lastly, Man's Law useth to make a great difference between those that actually have wrought mischief to the Common-wealth, and those that have been in the preparations and endeavours of it only.

The fourth and last Rule is;

That in a judicial process, though the Law may condemn a man, yet a Judge ought not to go against his own Conscience, if he have just grounds for the acquitting of the man condemned. It is true, all the Popish Casuists almost, determine, That he must proceed to Condemnation, otherwise (say they) a door will be left open to all Judges, to pretend Conscience, as they please, and so no justice will be done; therefore the Rule is, *Illud tantum Judex novit quod novit judicialiter*, That only the Judge knows, which he knows as a Judge: But this cannot stand with Scripture, which requires, that *whatsoever we do, should be done out of Faith*, that is, a Conscience and persuasion of the thing to be lawful. And there are other remedies for a Judge in this case; As, to appeal to the Supreme, or to delay and respite, or to lay down his Commission, if he cannot help the innocent otherwise.

September 5, 1644

Thomas Case, *Jehoshaphat's caveat to his judges. Delivered in a sermon before the Honourable the commissioners for the court martiall, by vertue of an ordinance*

of Parliament dated the 17th of August 1644 (London: Felix Kingston for Luke Fawn, 1644) 14–21. Wing C832.

The ordinance was for instituting martial law in London. It appears the martial court called for a fast and for preaching before them for September 5, and Case and Anthony Burgess both preached on the occasion. The order to print and an official thanks from the court to Case is dated September 10, 1644. It would seem that Burgess is alluded to in the passage below as addressing the general rules whereof Case does not go over the same ground again.

But thirdly, Eye your *Rule*. In this I might be large, but that I was happily prevented by my learned and Reverend Brother that began the work. What therefore I shall offer unto you by way of direction shall be that only which lies before you in the text. Where first you have one *General rule* implied; and then three *particular rules* or directions expressed.

The General is lodged in these words, *For with the Lord our God there is no, &c.* Implying that Judges ought to have their *eyes fix't upon God*, and to make *him* their *pattern* in the managing of their judicature; to do, and judge, and behave themselves in the execution of their office, as they see God himself doth. And let this be your directory in your dispensations Right Honourable and beloved, Set up that Supreme Judge of heaven and earth for your pattern.

Whether you execute judgement, or

Whether you *show mercy*, do both according to the Pattern in the Mount.

Be *severe*, as your *heavenly Father* is severe; and

Be merciful as your heavenly Father is merciful.

First imitate God in your severity and execution of judgement. And amongst the rest I find *three Cases* wherein God shows no mercy: only let me Caution this by the way; that when I say, *Wherein God shows no mercy*, I do not look upon God as sitting upon his own *immediate Throne* of divine Judicature as the Supreme Judge of quick and dead, judging to, or saving from, eternal death and damnation as he pleaseth: But I look upon God as sitting upon these inferior thrones of Judicature amongst his Delegates and Deputie-Gods (as he is described, *Psal. 82.1. God standeth in the congregation*

of the mighty, he judgeth among the Gods,) there directing and commanding what sentence they shall give, whither of life or death; when they shall spare, and when they shall strike: for such is the care and wise providence of God for the *good security and peace of his Church*; Yea even of human *societies and Associations*; that even where sometimes he useth his *Prerogative Royal* for pardon of the *sin against himself*, and remitting the everlasting punishment, he yet commandeth his *Deputies and Vicegerents* not to forgive the *trepass*, whether it be against a *private person* or a *publique State*; but to execute the proportionable penalties; as *substance for substance, life for life, and blood for blood* without showing any mercy at all. As in the case of murder.... [Num. 35: 31, 33; Deut. 31:23 cited].

And secondly, *in terrorem* for the preventing of like wickedness and mischief, that others may hear and fear and from henceforth commit no more any such evil among you.

This Caution premised I say among others I find these three Cases wherein God commands Judges not to spare the guilty person.

The first is the Case of *wilful murder*.... [Deut. 19:11–13; Exo. 21.14 cited; Case goes on to include attempted murder in this category].

The Second Case wherein God would have Judges show no Mercy, is where the ground of the quarrel is laid in irreconcilable principles of enmity against the true Religion, and the Government of Jesus Christ. *Those mine enemies that would not have me reign over them, bring them hither and slay them before me* [Luke 19:27]; Those men that rise up in cursed practices to change Religion, to bring Idolatry and false worship; to depose Christ from his Throne, and set up Antichrist in his place: And rather than fail of their project, stick not to subvert Laws, disturb peace, set whole Kingdoms into a combustion, imbrue their hands in, and make their swords drunk with, innocent blood, &c. Such a generation Christ hath doomed to execution: *Those mine enemies that would not have me reign over them: Bring them hither and slay them before me.*

And this is nothing but *Law* turned into *Gospel-language*: for so it was provided under the Law by God himself, *Deut. 13.6.7.8.9.10 verses*....

A third Case wherein God would have his Deputies

show no Mercy is, That the *Principal be not spared when the Accessory suffers*. This though the very light of Nature doth dictate, (& *Vox natura vox Dei*; Natures voice is the voice of God, God being the God of Nature) yet God hath taken distinct and special order for it, See *Numbers 25.4.5* where God commanding Execution of all the people that were joined to *Baal-Peor*, gives special charge first for the cutting off of the prime Delinquents.... And let not *Seducers* escape, where the *Seduced* shall happily feel the keen edge of the sword of Justice: for let me say thus much to you; if God have enjoined this severity to his Deputies when they have but judged between person and person; what severity will God expect from you in these Cases, who are called this day to Judge for God, between the sons of Belial, bloody Rebels, and an Whole Church and State now *resisting unto blood* for Reformation and so dangerously languishing under those wounds which these unnatural Parricides have made upon her....

And secondly imitate God in your mercy.

Be merciful as your heavenly Father is merciful.

And herein I do not find the Cases so many, as the provision famous, when God would have mercy used. The great known Case wherein God would have mercy shown to the guilty, was in *point of ignorance* and *im-maliciousness*. He that said, *Hee that sheds mans blood, by man shall his blood be shed*, Comanded notwithstanding the children of Israel to build themselves *Cities of Refuge*; that the Man-slayer who *killed his neighbour ignorantly, whom he hated not in times past* might flee thither, and be *rescued from the fury and vengeance of the Avenger of blood*. [Gen. 9.6; Deut. 19.1–4ff].

September 28, 1644

Anthony Burgess, *The Magistrate's Commission from Heaven. A sermon at the Election of the Lord Mayor* (London: Printed by G. Miller for T. Underhill, 1644) 8. Wing B5650.

Now in the next place, I come to show you the extent of their [Magistrates'] power.

First it extendeth, unto the reforming, and to the redressing, of all the corruptions that creep into the Church of God, and into the Worship of God: this the Magistrate's power reaches unto, in *Deut. 23*. And so we

read of *Josias, Moses, Hezekiah*, all these worthy Governors, their power did reach to the redressing of the abuses that were in the Church of God, when Idolatry and superstition came in: Why the Magistrates had power then; and should not have power now, there can no solid reason be given. Indeed the manner of the punishment, belonging to God's Judicial Law, that may be altered, but their duty to preserve the Worship of God, which floweth from the Moral Law, cannot cease:....

October 30, 1644

[Anonymous] George Gillespie, *A Late Dialogue betwixt a Civilian and a Divine concerning the present condition of the Church of England* (London: Printed for Robert Bostock..., 1644) 18; Wing G753. New edition in *The Anonymous Writings of George Gillespie*, (Naphtali Press, 2008) 122–123.

Though the Jewish Church and Common wealth were for the most part not different materially, the same men being members of both, even as in all Christian Republics, yet they were formally different one from another, in regard of distinct Acts, Laws, Courts, Officers, Censures, and Administrations. For, 1. The Ceremonial law given was given to them as a Church, the Judicial law given to them as a State.

A little later in this tract Gillespie discussed liberty of conscience and the coercive power of the civil magistrate (*Anonymous Writings*, 132–134).

Civilian.

But tell me now your opinion of another matter, and that is concerning liberty of conscience, and toleration of heretics and sectaries, for which there are so many books written of late, and so few against it. I do not know what you will pronounce of it, from the principles of your profession, but I believe that, as in Germany, France, Holland, Poland, yea under the Turkish tyranny, contrary religions, and opposite professions and practices, have been, and are, tolerated upon State principles; so it shall be England's unhappiness, though not to choose, yet to be necessitated to grant such toleration, for avoiding a rupture in the kingdom, and for preserving a union against the common enemy.

Divine.

This question about the toleration of those whose way is different from the common rule, which shall

be established, must be both stated and resolved, *cum erano* [sic *grano*] *salis*. We must remember to distinguish persons from corporations or churches, and both these from errors. Again, to distinguish persons, whether godly and gracious, or loose and libertine, whether moderate and peaceable, or factious and turbulent; whether such as have deserved well of the public, or such as have done either no service or disservice. To distinguish corporation, whether the question be of such only as have a present existence, or of all who shall join to such a way afterward. To distinguish errors, whether practical or doctrinal only, whether fundamental, or circumstantial, or neither of the two. To distinguish toleration, whether absolute, or hypothetical and conditional, whether anywhere, or in some few certain places only, whether indefinite and general, or limited and bounded, how far and how much; whether such toleration as may stand with the Solemn League and Covenant, or such as is inconsistent therewith; whether such as is profitable for the public peace, or such as is apparently destructive thereto.

These and the like particulars I do not intend to fall upon at this instant. Only this I say, that to open a wide door, and to grant an unbounded liberty unto all sorts of heretics and sectaries (which is the thing that *The Good Samaritan*, and *John the Baptist*, *The Bloody Tenet*, and others of that kind do plead for), it is inconsistent with the Solemn League and Covenant of the three kingdoms, by which we are obliged to endeavor the extirpation of Popery, Prelacy, superstition, heresy, and schism; lest we partake in other men's sins, and thereby be in danger to receive of their plagues; so it is, in the own nature of it, an error so pernicious, so abominable, so monstrous, that it makes all learned men to stand amazed, and taken with horror, in so much that they cannot at first gather their thoughts to put pen to paper against it. I know this liberty and toleration was maintained by the Donatists of old, and by the Socinians, Arminians, and Anabaptists of late; but it has been constantly opposed by all that were sound and orthodox, both ancient and modern, who have asserted the lawful use of a coercive power against those things, whereby (though under pretence of conscience) God is openly dishonored, souls ensnared and destroyed, faith and piety subverted and overthrown; and further, the compelling of the outward man, though not to the practice of things indifferent (which compulsion I do not allow), yet to the practice of necessary duties, and to the external use of means and ordinances, by which through the blessing of God, men's hearts and consciences may

be savingly affected and wrought upon. And I beseech you what else means Asa's covenant: *That whosoever would not seek the Lord God of Israel should be put to death, whether small or great, whether man or woman*. And what else means Josiah's covenant, whereof it is said, *He caused all that were present in Jerusalem and Benjamin to stand to it*. And what else is that in Ezra, that whosoever would not come to Jerusalem to make a covenant, and to put away strange wives, all his substance should be forfeited, and himself separated from the congregation of those that had been carried away, that is, excommunicated. And what else is that other act of Josiah in putting down the priests of the high places. And what say you to the law of stoning those who did entice the people to turn out of the way wherein the Lord commanded them to walk, saying, Let us go after other Gods to serve them?

Civilian.

I would rather hear some arguments from the New Testament, for I doubt [*fear*] these from the Old Testament shall be more subject to exception.

Divine.

To me it is plain that these things do as much concern us now, as the Jews of old, which whosoever denies, must show that, either we may take no rules nor patterns from the Old Testament; or that the foresaid laws and practices were not intended by the Holy Ghost to bind us (as other things in the Old Testament do); but were ceremonial and typical, intended to bind the Jews only. Mr. Williams in his *Bloody Tenet* (though I do not remember that any where he answers to those particular passages which I have cited, yet), perceiving that such arguments from the Old Testament cannot be taken off without this answer, that all these were typical and figurative; he therefore goes much upon that ground, and so devises more types and figures in the Old Testament than ever anybody did before him, and pleases himself with such fancies and conjectures therein as, I dare say, will satisfy no indifferent reader; and in effect making void by his principles all arguments from the Old Testament, so that we may not from the examples of the godly kings of Judah, teach Christian magistrates what their duty is; nor argue thus, God commanded that the kings of Judah should have a copy of the book of the law by them, and read therein, that they should not multiply wives, etc. (Deut. 17:17, 18:19); therefore Christian princes should search the scriptures, should not multiply wives, etc. or thus. The priests and Levites had sufficient maintenance; therefore so should the ministers of

the goſpel thus. The Jews were commanded to reſt from all ſervile labor on the ſabbath day; therefore ſo ſhould Chriſtians on the Lord's day. Or thus: Wars were lawful in the Old Teſtament; therefore they are lawful ſtill. Or the like. All theſe ſhall be caſt aſide, upon this ground: they were typical, therefore no pattern to us.

But becauſe you deſire an argument from the New Teſtament, I will convince your judgment from thence alſo....

December 25, 1644

Edmund Calamy, *An Indictment againſt England becauſe of her ſelfe-murdering diviſions: together with an exhortation to an England-preserving unity and concord. Preſented in a ſermon preached before the Right Honourable Houſe of Lords in the Abby church at Weſtmiſter; at the late ſolemne faſt, December 25. 1644* (London: Printed by I. L. for Chriſtopher Meredith, 1645) 37–38. Wing C256.

Laſtly, It is your *duty* (Right Honourable) whom God hath beſtowed with great power, to ſuppreſs theſe diviſions and differences in Religion by your *Civil Authority*, as far as you are able, leſt you be *accessory* to them. For God hath made you *Cuſtodes utriuſque tabulae*, Keepers not of the ſecond Table only, (as ſome fondly imagine) but of the firſt Table alſo, and not only Keepers, but *Vindices utriuſq; Tabulae*, Punishers alſo of thoſe that tranſgreſs againſt either of them. For you are the *Ministers of God for good*, and *Revengeurs to execute wrath upon him that doth evil*. Rom. 13. 4. And God hath deputed you for the *puniſhment of evil doers, and for the praiſe of them that do well*. 1 Pet. 2. 19.... There are ſome that would *blot out half your Commiſſion*, and reſtrain this *Good* and *evil* to civil good and to evils only againſt men. But this is againſt that General Rule, *Non eſt diſtinguendum ubi lex non diſtinguit*. Where the Law doth not diſtinguiſh, there muſt not we diſtinguiſh. Tell me I beſeech you, *Shall it be lawful for Magiſtrates to puniſh thoſe that deſtroy men's bodies, but not thoſe that deſtroy men's ſouls*? Shall they be blamed for *suffering* men to draw people away from *obediſce* to the Laws of the Land and to themſelves, and not alſo for *suffering men*

to draw away people from the truth of the Goſpel, and from the ways of God, ſuch as *Hymenaeus* and *Philetus*, who *overthrow the faith of ſome, and their words eat as a Canker*? Shall Chriſtian Magiſtrates take up the *Maxime of Tiberius*, *Decorum iniurias Diis curae eſſe*? Let God himſelf take care to vindicate himſelf from injuries committed againſt God? As for me, I will (juſt like *Gallio*) take care of none of theſe things. Can Chriſtian ears endure ſuch language? Doth not God prophecy, *Iſaiah 49. 23*. That in the New Teſtament *Kings ſhall be our nursing Fathers, and Queens our nursing Mothers*? And how can a Chriſtian Magiſtrate diſcharge that duty aright if he hath not power from God to puniſh thoſe that would poiſon the ſouls of his *weak children* with heresies, and ſoul-deſtroying opinions? I do not deny, but that there is great wiſdom to be obſerved by Magiſtrates in diſtinguiſhing between *persons and persons*, between *errors and errors*. Some *persons* are pious and peaceable, others turbulent and furious. Some errors are ſuch, as *ſubvert the faith, and deſtroy the power of Godlineſſ*: others are of a leſſer nature, which may conſiſt with the power of Godlineſſ, and with an unity in the faith. But that which I now ſpeak againſt, is that unbounded liberty that is pleaded for in divers books lately written, which hold forth this prodigious Tenent. *That every man is to be ſuffered to have the liberty of his conſcience, be it never ſo Heretical or Idolatrical*. This overthroweth all the power of the Magiſtrate in puniſhing heresy, blaſphemy, Idolatry, and is contrary to many plain Texts of the Old Teſtament, and to thoſe of the New Teſtament above mentioned (2 Chron. 15:13; 2 Chron 34:32; Ezra 10:8; Deut. 13:5–6; 2 Kings 23:1).

Object. Will you allow the Magiſtrate to Tyrannize over men's conſciences.

Answer. By no means. But I believe it is the Duty of Magiſtrates to keep men from infecting their Subjects with ſoul-deſtroying errors. If thou haſt an Heretical opinion, have it to thy ſelf, and the Magiſtrate will not; nay, cannot meddle with thy private conſcience. But if thou laboureſt to infect others with thy grace-deſtroying opinions. I doubt not but the Magiſtrate is bound to keep thee from ſpreading thy infection to the undoing of the ſouls of his Subjects....

January 8, 1644/45

[Anonymous],²⁰ George Gillespie, *Wholesome Severity Reconciled with Chriſtian Liberty* (1645) Wing G765;

20. Some have raised needless doubt over whether Gillespie is the actual author of *Wholesome Severity*. Internal evidences ſupports his authorſhip, and attestation by his couſin confirms that he wrote both it and *Dialogue Betwixt a Civilian and a Divine*. See Chris Coldwell, "Whose Severity? Was George Gillespie the Author of *Wholesome Severity Reconciled with Chriſtian Liberty*?" in *The Anonymous Writings of George Gillespie* (Naphtali Preſs, 2008).

new edition printed in *An Anthology of Presbyterian & Reformed Literature* 4 (Dallas, Tex: Naphtali Press, 1991) 181–183; 193–195. Cited from *The Anonymous Writings of George Gillespie* (Naphtali Press, 2008) 52–58; 76; 78–79. The footnotes (here in 21–30) were translated for the first time for the Naphtali Press edition.

The third opinion [of liberty of conscience] is that the Magistrate may and ought to exercise his coercive power, in suppressing and punishing heretics and sectaries, less or more, according as the nature and degree of the error, schism, obstinacy, and danger of seducing others, requires. This as it was the judgment of the orthodox ancients (*vide Optati opera*, edit. Al. Baspin, p. 204, 215),²¹ so it is followed by our soundest Protestant writers; most largely by Beza against Bellius and Monfortius, in a peculiar treatise, *De Hæreticis à Magistratu Puniendis*.²² And though Gerhard, Brochmand,²³ and other Lutheran writers, make a controversy where they need not, alleging that the Calvinists (so nicknamed) hold as the Papists do, that all heretics without distinction are to be put to death: the truth is, they themselves say as much as either Calvin or Beza, or any other whom they take for adversaries in this question, that is, that heretics are to be punished by mulcts [*finēs*], imprisonments, banishments, and if they be gross idolaters or blasphemers, and seducers of others, then to be put to death. What is it else that Calvin teaches, when he distinguishes three kinds of errors: some to be tolerated with a spirit of meekness, and such as ought not to separate brethren; others not to be tolerated, but to be suppressed with a certain degree of severity; a third sort so abominable and pestiferous, that they are to be cut off by the highest punishment?

And lest it be thought that this is but the opinion of some few, that the magistrate ought thus by a strong hand, and by civil punishments suppress heretics and sectaries: let it be observed what is held forth and professed concerning this business, by the Reformed Churches in their public confessions of faith....

II. The Arguments whereby this third or middle opinion is confirmed (that we may not build upon human authority) are these.

1. First, the law (Deut. 13:6–9), concerning the stoning and killing of him, who shall secretly entice people, saying, “Let us go after other gods.” If it is said, that this law did bind the Jews only, and is not moral or perpetual, I answer, Jacobus Acontius,²⁴ though he is of another

opinion concerning this question than I am, yet he candidly and freely confesses that he sees nothing in that law which does not belong to the New Testament, as

21. [*Sancti Optati Milevitani Opera / cum observationibus et notis reverendissimi D.D. Gabrielis Albaspinæi Aurelianensis Episcopi. Accesserunt eiusdem De veteribus ecclesie ritibus observationum libri duo ac notae in concilium eliberitanum & quosdam alios antiquos canones & aliquot Tertulliani libros* (Paris, 1631).]

22. [*Theodore Beza, De hæreticis a civili Magistratu puniendis Libellus, adversus Martini Bellii farraginem, & nourum Academicorum sectam* (1554).]

23. Brochmand., *de Magistr. Polit.*, [*On the Political Magistrate*,] ch. 2, question 3, disputation 2. *We admit that those who have fallen into idolatry and lead others astray ought to be killed. [Farther on] We easily grant that heretics who have been ordered to leave the territory of the prince, but refuse to comply, can suffer capital punishment. [Farther on] We feel that heretics should be censured and punished just as those who commit forgery are, although not with death, but by imprisonment, exile, and excommunication. See Calvin’s Refutation of the Errors of M. Servetus, p. 694, between sections. We know that there are three levels of errors, and we grant that some should be pardoned, while for others a moderate censure is sufficient, and that only notorious impiety should suffer capital punishment. Paul quite often exhorts believers to bear with one another even if there is disagreement among them, namely if some petty superstition and ignorance of simple matters occupied their minds: that they should be eager to correct it with patience rather than intemperately boil over in their eagerness to defend themselves against it. Even though the second level of error deserves censure, a moderate severity should be employed, only to the effect that the wickedness and arrogance of such as those who want to disturb the unity of the faith are not encouraged in it by indulgence. But in the event that religion is being torn away from its foundations, that abominable blasphemies are being brought forth against God, that souls are being carried off to destruction by unrighteous and destructive dogma, and finally when open rebellion against the only God and against true doctrine is being attempted, it is necessary to descend to that very last of remedies, lest the deadly poison creep farther. This Treatise is approved by Bullinger in an epistle to Calvin. See *Letters to Calvin* p. 197, where he addeth: A little while ago D. Urbanus Regius, together with all the ministers of the Church of Luneburg, and also with the published Germanic book, displayed to heretics the coercion of both divine and human law. Concerning moderation he says after: I know you are not cruel by nature, and you do not approve of any atrocity: who is unaware that this is the way to which we must adhere? But I do not see how Servetus of Lerna, a heretic and a thoroughly stubborn man, could have been spared. When Monfort had stated the question thus: There are certain people who want all heretics killed, that is, those who disagree with them, etc. Beza answers him: Then if he can, let him give the name of one who either is for the killing of all heretics, or is so pleased with himself that he would hold all others who see things differently to be heretics.*

24. [*Jacobus Acontius, Stratagematum Satanæ* (1631, 1st Edition, Basel, 1565; Translation, *Satan’s Stratagems*, 1648).] Book 3, pp. 150–151. [*But there are those who think that the law only flourished up to the time of Christ, etc. And that corporal punishment is a type of eternal damnation, etc. Indeed this conjecture does not seem impertinent to me, so much so that I could not find a reason by which it can be thrown out, unless its reasoning can be thwarted by the law as a given. For it is in the law that all Israel should hear and fear, and after this nothing on the order of that conjecture is admitted. Certainly this reasoning is always flourishing.*]

well as the Old; for, he says, the reason and ground of the law, the use and end of it, is moral and perpetual (v. 11): *All Israel shall hear and fear, and shall do no more any such wickedness, as this is among you.* But yet, says Acontius, this law does not concern heretics, who believe and teach errors concerning the true God or his worship; but only apostates who fall away to other gods. In this I shall not much contend with him;²⁵ only thus far, if apostates are to be stoned and killed according to that law, then surely seducing heretics are also to receive their measure and proportion of punishment. The moral equity of the law requires this much at least, that if we compare heresy and apostasy together, look how much less the evil of sin is in heresy, so much and no more is to be remitted of the evil of punishment, especially the danger of contagion and seduction, being as much or rather more in heresy than in apostasy; yea, that which is called heresy being oftentimes a real following after other gods. But the Law (Deut. 13), for punishing with death, as well whole cities as particular persons, for falling away to other gods, is not the only law for punishing even capitally gross sins against the first table. See Ex. 22:20, *He that sacrificeth unto any god, save unto the Lord only, he shall be utterly destroyed.* Ex. 31:14, *Every one that defileth the sabbath, shall be put to death.* Lev. 24:16, *And he that blasphemeth the name of the Lord, he shall surely be put to death.* Deut. 17:2–5, *If there be found among you within any of thy gates, which the Lord thy God giveth thee, man or woman, that hath wrought wickedness in the sight of the Lord thy God, in transgressing his covenant, and hath gone and served other gods and worshipped them.... Thou shalt bring forth that man or that woman unto thy gates, even that man or that woman, and shall stone them with stones till they die.*

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,²⁶ where he excellently disputes this question, whether the Christian

25. Pelargus on Deuteronomy 13, [Christopher Pelargus, *In Deuteronomium sacram; sive Quintum librum Mosis commentarius Christophori Pelargi...* (Lipsiae, 1608). *Those who are blasphemers, who openly disfigure the church and the state, and who are seditious, incur deserved penalties: the rest are to be corrected and coerced by other means, as in the example of the Emperor Theodosius and Justinian in book 5 of Socrates, chapter 10: Theodosius threw those who believed otherwise out of the city.*]

26. [Johannes Piscator (Fischer), *Commentarii in omnes libros Veteris et Novi Testamenti* (Herbornae, 1638–1646).]

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, 1. Though we have clear and full scriptures in the New Testament for abolishing the ceremonial law, yet we no where 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 to show some Scripture for it.

2. That judicial law for having two or three witnesses in judgment (Deut. 19:15, Heb. 10:28), is transferred even with an obligation to us Christians, and it concerns

all judgment, as well ecclesiastical as civil (Matt. 18:16; 2 Cor. 13:1), and some other particulars might be instanced, in which are pressed and enforced from the judicial law, by some who yet mind not the obligation of it. To conclude therefore this point, though other judicial or forensical laws concerning the punishments of sins against the moral law may, yea, must be allowed of in Christian Republics and Kingdoms; provided always, they are not contrary or contradictory to God's own judicial laws; yet I fear not to hold with Junius, *De Politicæ Mosis*,²⁷ that he who was punishable by death under the judicial law, is punishable by death still; and he who was not punished by death then, is not to be punished by death now. And so much for the first argument from the Law of God....

IV. But now after all this debate upon the question in hand, and after all these arguments for the affirmative and for the negative, some will happily desire and expect some further modification and explanation of the matter in certain positive conclusions or distinguishing assertions. For whose satisfaction I say, First, there are five sorts of toleration proceeding from five different principles. 1. Of *indifferency*. 2. Of *policy*. 3. Of *pretended conscience and equity*. 4. Of *necessity*. 5. Of *charity*....

The fifth and last is that kind of toleration whereby the Magistrate when it is in the power of his hand to punish and extirpate, yet having to do with such of whom there is good hope either of reducing them by convincing their judgments, or of uniting them to the Church by a safe accommodation of differences, he grants them a *supersedeas* [forbearance]; or though there be no such ground of hope concerning them,²⁸ yet while he might crush them with the foot of power, in Christian piety and moderation, he forbears so far as may not be destructive to the peace and right government of the Church, using his coercive power with such a mixture of mercy as creates no mischief to the rest of the Church. I speak not only of bearing with those who are weak in faith (Rom. 15:1), but of sparing

27. [Franciscus Junius (1545–1602), *De Politicæ Mosis Observatione* (Leyden, 1593). Also, *Francisci Ivnii Bitvrigis, Sacrarvm Literarvm in Academia heidelbergensi et LvGdvno-Batava Professoris Ervditissimi, Opera Theologica...* (Genevae, 1607) *De Politicæ Mosis, ilbellus*, cap. vi, 1517–1520.] A translation of the portion of Junius which Gillespie cites is given in *The Anonymous Writings of George Gillespie* (Naphtali Press, 2008) 40–46.

28. Calvin, *Refutation of the Errors of M. Servetus*. [Therefore prudence and moderation are to be held to in this area, lest either for an unknown reason the princes boil over in commotion, or rush to spill blood in monstrous rage.]

even those who have perverted the faith, so far as the word of God and rules of Christian moderation would have severity tempered with mercy: that is (as has been said) so far as is not destructive to the Church's peace, nor shakes the foundations of the established form of church government, and no further; these last two kinds of toleration are allowed; the first three are wholly condemned.

My *second* distinction is concerning the punishments inflicted by the Magistrate upon heretics. They are either *exterminative*, or *medicinal*.²⁹ Such as blaspheme God or Jesus Christ, or who shall fall away themselves and seduce others to idolatry, ought to be utterly cut off according to the law of God. But as for other heretics, they are to be chastened with medicinal punishments as mulcts [*finis; forfeiture*], imprisonments, banishment, by which, through God's blessing, they may be humbled, ashamed, and reduced. Not that I think the proper end of civil and coercive punishments to be the conversion and salvation of the delinquent (which is the end of church censures and of excommunication itself), but that the right method of proceeding does require that the Magistrate inflict the smaller punishments first, that there may be place for the offenders bringing forth of fruits worthy of repentance, and he may be at least reduced to external order and obedience, being persuaded by the terror of civil power,

29. Bullinger, Decad. 2, serm. 8, p. 70. [*Pertaining to those who are in error, and who try to bring others into error along with them and keep hold of them, blasphemers and those who agitate themselves into working for the subversion of the churches can be rightly cut off. Not everyone, however, who is in error should instantly be brought to capital punishment. And what can be cured by threats and rebukes ought not to be disposed of and punished by harsher means. In any case, the moderate is the best. There is also the pecuniary fine. There are jails into which people may be shut, lest they infect others, etc. But the fear of God, equity and prudence of the judge will discern from the circumstances how to penalize distorted teachings and obstinate rebellion, or dull and by no means malicious barbarity.*]

30. Ep. 50. [See Augustine's Letter to Boniface, Epistle CLXXXV (185) in *St. Augustine, the Writings against the Manichæans, and against the Donatists*, A Select Library of Nicene and Post-Nicene Fathers of the Christian Church, 4 (Christian Literature Co, 1887) 636.] [*That one persecuted Sara more by being haughty than Sara did her by correcting her, for she was doing injury to her mistress, but the mistress was applying discipline to haughtiness.*] Beza, *de Haeret. a Magistr. Puniend.*, [*On Magistrates' Punishment of Heresy. I say nothing of what Augustine, instructed by experience itself, gives as evidence against the Donatists and Circumcellions, that many are of such a nature as to be subdued more by official sternness, so much so that they sought to evade, in the beginning, the fear of punishment, and afterward they openly fled the thing itself, and bear witness that that harshness was most beneficial to them.*]

which may and does (when blessed of God) prove a preparation to free obedience, as the needle is to the thread, or the law to the gospel, servile fear to filial fear; and that the Magistrate step not up to the highest justice till other punishments have proved ineffectual: which made Constantine punish the heretics of his time not with death, but with banishment, as is manifest by the Proem of the Council of Nicea. In such cases it may be said to the heretic of the Magistrate, *He is the minister of God to thee for good*, more good I am sure, than if the golden reins of civil justice should be loosed, and he suffered to do what he list [*likes*]. Therefore Augustine likens this coercive punishing of heretics to Sarah's dealing roughly with Hagar, for her good and humiliation.³⁰ I conclude, convenience and indulgence to heretics is a *cruel mercy*: correction is a *merciful severity*, and a *wholesome medicine*, as well to themselves as to the Church.

January 29, 1644/45

George Walker, *A sermon preached before the Honourable House of Commons, at their late solemn monethly fast, Januarie 29th. 1644 wherein these foure necessary considerations are plainly proved and demonstrated out of the holy Scriptures, viz. 1. The bands of the brethren in iniquity, the pernicious brambles, the plague and curse of a land and kingdome. 2. All the brethren in these bands, sharpe pricks of the cursed bramble, sharers in the sinne, and subject to the destruction thereof. 3 The righteous kept by God from the full sense and feeling of the mischief which they are sharpely set, and cruelly bent to bring upon them. 4. The terrible, sudden, and totall destruction of the bramble, and every hurtfull prick thereof, by God's dreadfull storme* (London: T. B. for Nathaniel Webb, 1645) 26–27. Wing W364.

And to the same purpose the Prophet Jeremy speaks, saying, I sat not in the assembly of the mockers, nor rejoiced: why is my pain perpetual, and my wound incurable, which refuseth to be healed? Which words import, that they who are the Band of Scorners, and rejoice in their evil doings, are partakers of their wickedness, and their wages shall be perpetual pain and wounds incurable. All in Corah's conspiracy, even women and children, were found guilty before God of that rebellion and perished in it (Num. 16). And in a City falling away to Idolatry, all in it, yong [sic] & old are guilty, and to be cut off (Deut. 13).

Reas. 1. And indeed there is good Reason grounded on the word of God, to prove this: For if the children are punished for the sins of their fathers unto the third and fourth Generation; because so long they may by sight and hearing know them, and see the prints and monuments of their fraud, violence, oppression, pride, and the like, and wittingly hold and possess their ill-gotten goods, of which they have knowledge, become partakers of their sins, and make themselves guilty by approving, or imitating them, or neglecting to grieve and mourn for them, and to make restitution, and not removing their cursed things out of their families. Then much more they who are Counsellors, abettors, actors, and promoters of ungodly actions, and have an hand in the doing of them are partakers, and guilty of them as being their own sins for which they are justly punished. Now the first is manifest, *Exodus 20. 5.* by the express words of the Law, where the Lord saith, *He will visit the sins of the Fathers upon the children unto the third and fourth generation:* which sins they had no finger in when they were first committed; but only approved them by imitation, or did not sorrow and mourn for them; nor shew open detestation, nor make restitution. Therefore much more they who join in Counsel with the enemies of God's Church, and further and help forward their malicious designs, let them seem never so moderate and zealous for Religion, and the welfare of Church and State: they are all hurtful and dangerous pricks of the cursed Bramble, brethren and companions with the malignant in their mischief, guilty of the same sins, and shall perish in the same destruction, if they do not repent, and separate themselves from the Congregation.

Reas. 2. The common Law of Nations also confirms this, which makes accessories, though not desperately cruel, nor so hardened in malice, as the chief principals guilty of murder, robbery, treason, and the like crimes.

... Let us not be deceived with the faire shows of those instruments of Satan, who are outwardly Saints and Angels of light, professing abundance of new light, every sort and Sect of them, but inwardly are ravening and grievous wolves, not sparing the flock of Christ, his true Church planted in this Land, and like stinging and tearing pricks of the bramble wounding and tearing the high Court of Parliament, and the Assembly of Divines, with the spears and arrows of bitter words.

February 7, 1644/45

Daniel Featley (1582–1645). *Katabaptistai kataptüstoi The dippers dipt, or, The anabaptists duck'd and plung'd over head and eares, at a disputation in Southwark: together with a large and full discourse of their 1. Original. 2. Severall sorts. 3. Peculiar errorrs. 4. High attempts against the state. 5. Capitall punishments, with an application to these times* (London: Printed for Nicholas Bourne ... and Richard Royston ..., 1645) 6–7. Wing F586.

The preface *To the Most Noble Lords ... in Parliament* is dated January 10, 1644/45. Featley was the only Episcopalian to attend the assembly for any length of time. However, suspected of being a spy, he was arrested and imprisoned, September 30, 1643, dying April 17, 1645. While he was not present for the debates on the Confession of Faith, his opinion on the law from this work written during his imprisonment may be of interest. "There is a three-fold law of God delivered by *Moses*. 1. Ceremonial. 2. Judicial. and 3. Moral. The ceremonial and judicial are not now in force; but the moral is,"

March 26, 1645

John Ward, *God Judging among the gods. Opened in a sermon before the Honourable House of Commons assembled in Parliament, upon the solemn day of monethly fast, March 26. 1645* (London: Printed by I.L. for Christopher Meredith, at the Crane in Pauls Church-yard, 1645) 36, 51, 52–53 [sic 53–54]. Wing W773.

Ye know the Law in the case of uncertain murder, Deut. 21.1, 2. If a man be found slain in the land, and it be not known who hath slain him, then thine Elders and thy Judges shall come forth, &c. He saith not the Elders of the next City, as afterwards, ver. 3, but thine Elders, the general States of the Land, some of the high Court at Jerusalem; the equity and moral of it teacheth you: by virtue of your middle station and relation between God and the people, the care of making the expiation and atonement lyeth upon you; and ye are the men whom God seeketh to step into the gap to make intercession....

His Sacraments; it is your Honour as your duty to see that they be kept pure in the celebration and ministracion of them. There is a book-case [precedence] for it, *Num. 9.7.* There were certain men, &c. This is clear from

that Text, and will be granted, that not withstanding the general Law, and common right, yet in some cases, cases of overt pollution, & offence, such persons must abstain, and be suspended from the present use of their liberty; and though it be not expressed, yet it may be inferred upon like moral equity, that as well the bold intruder as the wilful forbearer was to be cut off: & it cannot be denied but the keeping of all that particular Law fell under the common sanction of the whole Law of Ordinances. He that transgresseth *shall be cut off*. And the Jewish interpreters tell us, that if there be witnesses of the fact, the civil Magistrate was to draw the sword: but if this be not full, the presidents 2 *Chro. Chap 15. chap. 30* and *chap. 35.* will rule the case for the civil Magistrate, and make out this, that where the doctrine and discipline of the Church doth not, or cannot prevail, the Magistrate must interpose his Coercive Power for restraint and remedy.—In a Word, God hath many things amongst us that must be protected and maintained; and the matters of God have many adversaries, which must be watched, and suppressed....

Secondly, according to his word. His law is a glass into which is shed the image or species of his righteousness, imitable and practicable, as well by Rulers in their Spheres, as other people in theirs. If ye look into that glass, ye may see how to dress your selves, and how ye ought to be, and do in place and exercise of power, only go not away, and forget straight ways, what manner of persons ye are or should be, but continue in the meditation and practice of it, that ye may be blessed in your deed. *The law of God is your rule; for the Theory of all policy, and for the practise too, even for making of laws, the beam and standard by which all laws must be weighed and tried. There is a Law above laws, said the most learned among Kings, Free and supreme, by which all Municipal laws must be governed, except they have dependence on this law, they are unjust and unlawful.*

31. See the chart of superadded divines affixed to Gillespie's notes in his works. George Gillespie, *Works*, "Notes of Debates and Proceedings of The Assembly of Divines and Other Commissioners at Westminster. February 1644 to January 1645," ed. Edward Meek (Edinburgh: Robert Ogle and Oliver and Boyd, 1846) xi. See also the House of Commons Journal, March 23, 1647, volume 5 page 121. "Resolved, &c. That this House doth concur with the Lords, That Mr. Bolton be added to the Assembly of Divines." "Sess. 818. April 1: 1647: Thursday morning. An order was brought into the Assembly from the lords and commons for the admitting of Mr Bolton into the Assembly as a member thereof; it was Read and is as followeth:" "Mr Boutlon came into the Assembly and tooke the protestation, and Mr Johnson and Mr Bolton tooke the covenant" (Van Dixhoorn, 7.429).

[King James in a speech in the Star-Chamber] It is your guide also for the administration of government; and all the Bible, especially the Historical part, is the exemplification of that law, lining the rule with examples if ye exercise yourselves to the reading of it, as *David the man after God's own heart* did, ye cannot be to seek either for principles, or for presidents; and give me leave to tell you, that you have power to give law to others over whom ye judge, yet ye must take law from God, who *judgeth amongst you*. I confess indeed, because ye share in the *Legislative power*, ye are not so bound up, by, or to the laws of the land already prescribed, as inferior officers in courts of judicature, &c. But as to God's law ye are no more at liberty to go from, or step beside the Moral equity and justice of it, then he that comes forth to sing a Song set to his hand, may vary from the Notes or Dittie in the book, only he may order his voice for the better grace of the music, and that must be his care, and therein lies his skill.

April 21, 1645

Westminster Assembly. Session 421. Confession of Faith.

On this date the Westminster Assembly appointed the Committee for the Confession of Faith to meet on April 23, 1645 (Van Dixhoorn, 6.106).

April 30, 1645

There are two works by Samuel Bolton that would be of interest in general to the subject of this survey, except for the parameters set forth.

Bolton took Jeremiah Burroughs' seat on March 23, 1646/47, after the latter's death in November 1646.³¹ Thus he was not in the Assembly during the debates on the Confession of Faith. These works are, for April 30, Samuel Bolton, *The true bounds of Christian freedom or a treatise wherein the rights of the law are vindicated, the liberties of grace maintained, and the severall late opinions against the law are examined and confuted* (London: Printed by J.L. for Philemon Stephens, at the Golden-Lion in Pauls Church-yard, 1645), and for January 24, 1645/46, *The Arraignment of Error; or a discourse to restrain the wantonnesse of men's spirits in the entertainment of opinions* (London: Printed by G. Miller for Andrew Kempe, 1645). These works are respectively Wing B3532 and Wing B3517.

April 30, 1645

Cornelius Burges, *The second sermon, preached to the Honourable House of Commons, April 30. 1645 Discovering the vanity and mischief of the thoughts of an heart unwashed* (London: printed by J.R. for Philem. Stephens, 1645) 43; 50–51. Wing B5681.

By men's delays, and projecting ways of their own for deliverance, with neglect of those of God's own appointment, the Majesty, Power, and Justice of God, as well as his Mercy, are all slighted at once.... In another place they are taxed with contempt of his Justice; Shall a Trumpet be blown in the City, and the people not be afraid? Amos 3. 6. Now then, when men thus stand it out, and thereby sin against so many Attributes of God at once, is it any wonder that he takes these delays so ill at our hands?

3. Common Equity cries shame and calls for revenge upon this sin....

Stand not upon terms with *Jesus Christ*, as if any Prescriptions or Laws of the Kingdom (although never so fundamental) were sufficient Ground not to receive and obey the Laws of his Kingdom, which seem dissonant and different from yours. This is the high way to lose all, and *Christ* too. There is a time coming, and it is at hand, wherein all the Kingdoms of the Earth shall be the Lord's; not by tempering his Laws to theirs, but by conforming theirs to his; not by blotting out the words of Scripture, but by *breaking them to pieces* that oppose it.... Take heed of those spirits of error, who *with faire, (specious, pargetted, glozing words)* seek to *make merchandize of you, beguiling unstable souls*. Beware of those compliances with and indulgences to all sorts of Sects and Schisms now pleaded for both by word and writing, as if it were a part of *Christ's* Legacy and his peoples Liberty to be of what Religion they will; to be tolerated in any opinions never so erroneous and pernicious (until further light:) that it is the Magistrate's duty to protect them in that Liberty; and that the contrary thereunto is to persecute *Christ*.

May 1, 1645

Daniel Cawdrey and Herbert Palmer, *Sabbatum Redivivum: or, the Christian Sabbath vindicated* (Robert White for Thomas Underhill, 1645) 3–4; 6–7; 17–18; 22–23; 26–27; 37. Wing C1634.

This work was written while the Book of Common prayer was still authorized, before its banning in favour of the *Directory for the Public Worship of God*, March 13, 1644/45.³² In a side note qualifying some statements made about the Book of Common Prayer, the authors state: "This was penned while the book of Common Prayer was in use in the Church ..." (*Sabbatum Redivivum*, 39). In the preface *To the Reader*, the authors write: "... this work was undertaken (as soon as any) many years ago, and well nigh finished, when nothing was written for, but all against the Sabbath" (*ibid*, a3). This would place the writing of most of this work (book one of the eventual four that would be produced) at 1641 and earlier.³³

... the *whole of God's Laws* recorded in Scripture, may well be divided (as it is usual) into three ranks, *ceremonial, judicial, and moral*: of which the two former are commonly called *Judaical, or Mosaical Laws*; though divers of the *ceremonials* were not first given by Moses, nor to the Jews only, but in *ages before them*: for sacrifices were as ancient as Cain and Abel (Gen. 4), and no doubt, from a divine command or inspiration to their father. And 2. The prohibition of eating blood was given to Noah and all his posterity, immediately after the Flood (Gen. 9). Also 3. *Circumcision* was given to Abraham and all his posterity (and their families) which were to grow into divers Nations (Gen. 17). And perhaps some others besides these may be found, which were given as laws before Israel became a People, the People of God. But however, because it is certain, that whatever of this kind was given a law to the posterities, was renewed to Israel by the ministry

32. See *A directory for the publique worship of God, throughout the three kingdoms of England, Scotland, and Ireland. Together with an ordinance of Parliament for the taking away of the Book of common-prayer: and for establishing and observing of this present directory throughout the kingdom of England, and dominion of Wales. Die Jovis, 13. Martii, 1644.* (London: printed for Evan Tyler, Alexander Fifield, Ralph Smith, and John Field; 1644 [1645]).

33. The reissuing of the Book of Sports in 1633 marked the start of a ban on literature in favor of the Puritan view of the Sabbath (*Declaration for Sports on the Lord's Day* [1618; 1633]). After the ban was lifted works began appearing in 1641: Hamon L'Estrange, *God's Sabbath before, under the law and under the Gospel* (Cambridge, 1641); George Hakewill, *A short but cleare discovrse of the institution, dignity, and end of the Lord's-day* (London, 1641); Richard Bernard, *A threefold treatise of the Sabbath* (London, 1641); William Twisse, *The Morality of the Fourth Commandment* (1641); William Gouge, *The sabbaths sanctification* (London, 1641); John Ley, *Sunday a Sabbath* (London, 1641); George Abbot, *Vindiciae sabbathi, or, An answer to two treatises of Master Broads* (London, 1641); John Lawson, *For the Sabbath* (London, 1644).

of Moses, when God took them to be his people peculiarly; therefore these, and all other peculiarly given to them, whether Ceremonial or Judicial (which are not esteemed perpetual), are termed *Judaical*, or *Mosaical* Laws.

The nature of which, that we may briefly dispatch, we are to conceive, that the Nation of the Jews, taken to be God's peculiar people, was both a *Church*, the only Visible Church that God then had upon Earth, as also a *Body Politick*, or Civil Society. And in both those considerations, God himself was pleased to be their Lawgiver; and besides the *Moral Laws*, which concerned them as *men* (together with all the rest of Mankind, both towards God, and one another), He vouchsafed to ordain them other laws as they were a *Church*, but a Church in infancy, and under age, till the Messiah, the promised Seed, should come: and these are usually called *Ceremonials*: And others also, as they were a *Commonwealth*, to whom the Land of Canaan was allotted for an inheritance, and from among whom that promised Messiah was to be born: And these Civil Laws are they that are usually called *judicials*. But for as much as these two considerations, of their being a Church, and a Civil State, had both of them (as we have intimated) special relation unto Christ to come, and so their very Land was a Typical Land, and their Nation a Typical Nation; it is hard to give any such exact description either of *ceremonial* or *judicial* laws, as shall neither be too scanty, so as to leave out none of that kind, nor yet interfere with the other kind: And harder perhaps to find any *judicial* (proper to the Jews) which had not somewhat of *ceremoniality* in it. But we will endeavour to difference them as distinctly as we can; and that we do in the manner following:...

Now for the *judicials*, we conceive they may be thus described to be {Laws given to the people of Israel, in civil matters between man and man, to order them as they were a body politick, to whom the Land of Canaan was allotted for an inheritance, and from among whom the promised Messiah was to be born}. We put in those relations, to the Land of *Canaan*, and to the Messiah, because all the *peculiar civil laws* they had; were founded (as we suppose; and instances may undoubtedly be given of it in very many of them) upon *peculiar respects* unto those *promises*. Which we rather conceive, because some of them were *indulgences*, and some *precepts*, which are not now so much as *lawful* to be practised (much less *perpetual* and *necessary* to us):

As to instance in no other but that of *divorce*, which was an *indulgence* to them, as our Saviour expressly saith, and by Him thenceforth *repealed* (Mat. 5 & 19 & Luk. 16). And that of *marrying the widow of a brother dead without children*; which was not so much an *allowance*, as a *strict precept*; but yet esteemed by divines generally *unlawful* now; as was at large disputed in the famous case of our King *Henry* the eighth having married his brother Arthur's widow: and appears contrary to the law of Leviticus 18:15, Leviticus 20:21. Which law of not marrying the brother's widow, being but *positive* (as we shall anon have our adversaries' confession for) though God made it *moral to all generations*, yet he was pleased then (as he might) to make that forenamed particular *exception* from it, among the Jews, in regard of preserving inheritances in families in that land, which he would have distinct among them for the Messiah's sake, to know clearly of what *tribe* he came, and the like. So then we esteem those properly *judicials*, which between man and man were relatives to the Land of *Canaan*, and expectation of the Messiah. And all other (not *such*, nor *ceremonial*, as before) we esteem *moral*. And of these *moral laws* we are now to speak somewhat more largely:...

First, {Every Law of God (though Positive) recorded in the Scripture, is Moral and Perpetual, unless it be afterward found Repealed by God, or Expired in the nature of it}. We will explain this Rule, and then prove it. 1. This Rule is propounded of *all the Laws of God* generally, as recorded in Scripture. 1. Because the Fundamental proof of it, is equally for both Testaments. 2. Because some Laws, not only recorded in the New Testament, but seeming to be ratified there (as that of *not eating Blood*, &c. of which Law we shall speak somewhat anon) are taken to be afterward repealed. 3. Because some Laws or Precepts of the New Testament are esteemed *expired*, though not repealed; as that, John 13, of washing one another's feet, of anointing the sick with oil, that they might recover, James 5. And perhaps some others are of a like nature.

2. We say, all Laws are perpetual, except first *God hath afterward repealed them*: that we may reserve to him the *sovereignty* of his Authority, particularly over *Positive* Laws; which as they proceeded at first from his authority and pleasure, so may any of them, or all of them, at any time, by his pleasure and authority be taken away, and repealed again. Or, 2. *It be expired*: of which by and by.

3. By God's *repealing* of any Law, we understand, any *sentences of Scripture*, particularly of Christ and his Apostles, *declaring that it is not the will of God, that such Laws should any longer be counted in force*; whether they be named *expressly* (as in some places they are) or comprehended under those *general expressions* concerning the *Jewish Ceremonies*, calling them *shadows*, and *Worldly Rudiments*, Col. 2. *Weak and beggarly Elements*, Gal. 4. *Carnal Ordinances imposed on them until the time of Reformation*, Heb. 9, and, *a yoke which they were not able to bear*, Acts 15 (which latter phrase will fetch in also some of the *Judicials* perhaps, such namely as cannot now be observed by particular Christians without manifest prejudice, much less be held up by any Christian State without real and special inconveniences.) And whatsoever comes certainly under any of these Terms, we esteem and reckon it *repealed*, though not expressly named. But whatsoever is without the limits of those Phrases, and not particularly mentioned as abolished, we account not *repealed*, though possibly it may be *expired* for all that; which therefore we add.

4. By a Law's being *Expired in the Nature of it*, we mean, when it *was manifestly ceased*, and so without any repealing of it, it is of itself at an end in respect of Obligation (though it have no real inconvenience in it now, it may be freely continued still: and if the reason of it should, or could, be revived, so would the Law be in like sort). And thus expired are sundry other of the *Judicial* Laws in the Old Testament, and those fore mentioned in the New Testament....

And so we suppose we may, upon just reason infer, that the *silence of the New Testament concerning a Law, expressly and clearly delivered in the Old Testament, is a confirmation rather than an abrogation of it, or an intimation that it is expired*; judicious Divines giving this for a reason of the silence of the New Testament in diverse points, which are most vehemently urged in the old, as against *incestuous marriages* fore noted (and that others are but slightly, and as it were occasionally mentioned, as the Laws about *Tithes* and *usury*, &c.) because they are so clearly and importantly pressed in the old. And therefore till we see better reasons to the contrary, than any we have yet met within all our disputers' books, we must needs hold, that *all the Laws of the Old Testament are perpetuated to this day, if there be nothing against them in the New Testament by way of repealing them: or at least in reason*, which might plead for an *expiration*. And if anyone think, that by

this assertion, sundry of the Laws which are usually counted *judaical* will prove to be in force still; we answer, that perhaps it may prove so indeed. And, if we may have Liberty to express our apprehension of the Case in general, we must needs confess, that as we believe it lies upon our Consciences in particular, to prove any particular Law, this or that (which we hold to be *Ceremonial* or *Judaical*), to be such; or else we cannot justly (nor safely) please it to be Repealed or Expired, if it be not named among such expressly in the New Testament: So we are afraid, that many *Divines* (not to say some *Churches* and *States* nowadays), have been a little too bold in rejecting sundry Laws as merely *Judaical*, which upon further advisement might perhaps be found *Moral* and *Perpetual*. To which our next Rule will speak somewhat more fully....

And so having dispatched this not unuseful *digression* to our main purpose, we return to the prosecution of that: and so for the yet better and more clear discerning of *Moral Laws*, though but *Positive*, we propound this second Rule: {Every Law of God, though but Positive, which is Substantially-profitable for all men in all Ages to be obliged unto, is *Moral*, that is, *Universal* and *Perpetual*, unless a clear and certain repeal of it can be showed in Scripture}....

We will therefore conclude this discourse (and this Chapter) with this *Epiphonema* from both our Rules. That, as we being Subjects of the great Lawgiver, dare not plead ourselves loose from *any Law of his which we shall find in his Word*; and specially not from any such *substantially-profitable Law*, without we can be sure he hath discharged us of it (according as we have discoursed of *expirations* and *repeal*), So upon this supposition, We shall not need be *overcurious* in distinguishing *Moral-Natural*, from *Moral-Positive*, for both will come to one effect to us.

With this conclusion, Cawdrey and Palmer go on to their third chapter, *Every Law of the Decalogue, is a Moral and Perpetual Law*.

May 9, 1645

Westminster Assembly. Session 432. Expediting the Confession of Faith.

On May 9 it was ordered, "that the Assembly consider on Monday morning [the 12th] the best way to expedite

the Confession of Faith, ... and that the two Committees for the Confession of Faith be put into one.”³⁴

May 12, 1645

Westminster Assembly, Session 434. Confession of Faith, New Committee.

“Report of the confession of faith. Read & debated; the first voted. Debate about the committee for drawing up the confession. The first draught of the confession of faith shall be drawn up by a committee of a few.” This new committee consisted of the **Scottish Commissioners**, Gataker, Reynolds, Hoyle, Herle, Harris, Tuckney and Vines.

On the day appointed, accordingly, after debate, the Assembly appointed a committee of seven, with the assistance of the Scotch Commissioners, to draw the first draft of the Confession. It was not until the 4th of July that the matter again came before them. On that day the sub committee was ordered to report on the following Monday, 7th July, so much of the Confession as they had in their hands concerning God and the Scriptures. As ordered, the report was made so far as concerned the Scriptures, and after debate thereupon it was resolved

34. “It seems that at some point between April 21, when the Committee for the Confession of Faith was ordered to meet two days later and May 9, 1645, when two committees were combined, a second committee must have been formed with no mention of it being made in the *Minutes*. Shaw supposed the August 20 committee to have been subdivided at some point and then reunited on May 9 of the following year [W. A. Shaw, *A History of the English Church during the Civil Wars and under the Commonwealth, 1640–1660* (Longmans, Green, and Co., 1900) 1.358]. However, it seems just as likely that the original August 20th committee consisting of nine members had met separately from the ten *new members* which were added as augmentation on September 4. Thus the scribe could write on April 21 as if there were only one committee (viewing the August 20 – September 4 as a single “augmented unit”) and yet write on May 9 as though the two separate [sub]committees were [re]combined. There is no way of knowing for sure, but the explanation here offered seems as likely as Shaw’s.” Bacon, 6.

35. *A Transcript of the Registers of the Worshipful Company of Stationers, from 1640–1708*, 1.171. This work must have come forth sometime before the May 21, 1645 entry in the Stationers’ registry, as the Archbishop disavowed the work as his own in a letter to John Downham dated May 13, 1645. *The Whole Works of the Most Rev. James Ussher, D.D.*, ed. Charles Richard Elrington, D.D. (Dublin: Hodges and Smith; London: Whittaker and Co., [1848]) 1.248–249.

36. *Minutes of the Sessions of the Westminster Assembly of Divines*, ed. Alex F. Mitchell and John Struthers (Edinburgh and London: William Blackwood and Sons, 1874) xlvii.

that Reynolds, Herle and Newcomen should take care of the wording of the Confession as voted in the Assembly from time to time [sic, this actually occurred in the July 8th session], reporting thereupon as occasion arose after consultation with the Scotch Commissioners. On the 11th of July it was ordered, doubtless for greater dispatch, to divide the body of the Confession among the three committees of the Assembly (Shaw, 1.358–359).

May 21, 1645

James Ussher, *A Body of Divinitie* (London: Printed by M.F. for Tho. Downes and Geo. Badger ..., 1645) 204.

“Entred for their copie under the hands of Master Downham and Maſter Calamy and both the wardens a booke called *A body of divinity, ...*”³⁵

No other single theologian perhaps had as much indirect influence on the compilations of the Westminster Assembly as James Ussher. Next to the Irish Articles, this work was the next in importance. Mitchell notes. “In these [Irish] Articles, as it humbly appears to me, we have the main source of our Confession of Faith, and almost its exact prototype in its statement of all the more important and essential doctrines of Christianity. In the order and titles of many of its chapters, as well as in the language of whole sections or subdivisions of chapters, and in many single phrases and *voces signatae* occurring throughout their Confession, the Westminster divines appear to me to have followed very closely in the footsteps of Ussher and his Irish brethren. The headings of those chapters which cannot be clearly traced to this source may generally be found in a ‘Body of Divinity,’ which was published in his name while the Assembly was sitting, and which, though he declined to sanction it as a statement of his own opinions, he admitted that he had, in early life, compiled from the writings of others.”³⁶

What call you the Judicial law?

That wherein God appointed a form of Politique and Civil government of the Common-wealth of the Jews, which therefore is ceased with the dissolution of that State, for which it was ordained; saving only in the common equity.

Is this law utterly revoked and abolished by Christ?

No; for he came not to overturn any good government

of the Common-wealth, much less that which was appointed by God himself.

May not Christian Magistrates then swerve any thing from those laws of government, which were set down by Moses?

In some circumstances they may, but in the general equity and substance they may not.

What Judicial laws are immutably to be observed now of Christian Magistrates?

Those which have reasons annexed unto them, & especially those wherein God hath appointed death for the punishment of heinous offences.

May 28, 1645

Alexander Henderson, *A Sermon preached before the House of Lords ... the day appointed for solemne and publick humiliation* (London: Printed by F. N. for Robert Bostock, 1645) 11–14. Wing H1443.³⁷

Again, magistracy and civil government in the general is from God, and is ordained of him, but the particular different forms of civil government are from men, and yet all of them lawful; whence it follows, that civil power is not absolute but limited, first, by the will of God whose minister the magistrate is, and next, by such laws and limitations as are agreed upon to be the foundation of that power.

June 25, 1645

Richard Byfield, *Zion's answer to the nations ambassadors, according to instructions given by Isaiah from God's mouth: in part unfolded in a sermon preached before the Honourable House of Commons at their solemne fast, Junii 25. 1645* (London: Printed by John Field) 36–37. Wing B6395.

King Asa with all Judah made a Covenant, and laid the pain of death upon those that would not stand to it, upon all of them small or great, man or woman: I allege not this to persuade you to punish with death all refusers and Violators of the National Covenant: but to show that it may and should be prosecuted with a penalty, and a penalty impartially inflicted according to the

nature of the offence, that so some provision be made to make men fear the presumptuous abuse of such a Sacred Bond: And that it may appear unto all, that it is not the taking, but the keeping of it that you are for....

4. My fourth, and last, because the time is over, and I fear to detain you beyond what is meet, it is this: Let Ministers be appointed and commanded, some that are able and fit for the work to prove and maintain, *The Coercive power of the Magistrate about matters of Religion*. I know something hath been done to this purpose of free accord by some: but I conceive that it needs more thorough and full discussing, and that somewhat of Parliamentary will and Authority be seen in the maintenance of it: that this truth you would now have preached and Printed into the hearts and lives of all the people, that the custody of the first Table of the Law is Committed to the Magistrate: without which what sit you for, for what do you call an Assembly of Ministers, what fight we for, why do you put the Kingdoms to such stirs and expense? ... Why should you not rather go on in the work of Reformation before you set up Magistracy and Ministry, and make proof of the sword which God hath put into your hands, and not in vain: and whosoever will not obey your Law, and the Law of your God, let judgement be executed speedily upon him, whether it be unto death or to banishment, or to confiscation of goods, or to imprisonment, as his fault shall deserve....

July 8, 1645

Westminster Assembly. Session 464. Confession of Faith, Committee for the Wording.

“That Mr Reynolds, <Mr Herle, Mr Newcomen> be desired to take care of the wording of the Confession of faith as it is voted in the Assembly <from time to time and to report to the Assembly when> they thinke fither should be any alteration in the words. They are first to <consult with> the commissioners from the church of Scotland <or one of them> before they report to the Assembly” (Van Dixhoorn, 6.145). This committee was revised or a new one constituted on December 8, 1645, with the members being Tuckney, Reynolds, Newcomen and Whitaker, and later were added Arrowsmith (June 17, 1646) and Cawdrey (September 1, 1646).

37. Cited from *Fast Sermons Preached Before the English Parliament by the Scottish Commissioners to the Westminster Assembly 1643–1645* (Dallas, Tex.: Naphtali Press, forthcoming) 81.

July 11, 1645

Westminster Assembly. Session 467. Confession of Faith divided to the Three Standing Committees.

“Ordered: Munday morning to devid the body of the confession of faith to the 3 committees” (Van Dixhoorn, 6.147).

September 16, 1645

John Ley, “Annotations upon Exodus,” in *Annotations upon all the books of the Old and New Testament* (London: Printed by John Legatt and John Raworth, 1645). Wing D2o62.³⁸

“... he made a covenant with them, at Horeb, where he delivered them Laws, Moral, Judicial, and Ceremonial,

38. Ley is not listed in Van Dixhoorn’s chart (1.149), but he would have served on the first committee with Case, as both were from Cheshire. The commentary on the Pentateuch has been credited to Ley. See James Reid, *Memoirs of the Westminster Divines* (1811; repr. Edinburgh: The Banner of Truth Trust, 1982) 53. It is not paginated; see the Argument at the beginning of the comments on the book of Exodus. While not in Thomason; the Stationer’s entry reads: “16th October 1645. Assigned over unto him by virtue of a note under the hands & seales of Thomas Downes, Nicholas Bourne, Robt Meade, Rich: Whitaker, John Legatt, Edw: Bruſter, Philemon Stephens, Richard Thrale & Chr: Meredith and subscribed by both the wardens, a full tenth pte or share of & into a book called *Annotations upon the books of the old & new testament &c by the joint labour of certaine Divines thereunto apoynted.*” *A Transcript of the Registers ... from 1640–1708*, 198. The worked appeared at least a month prior because a controversy came up in the Westminster Assembly, in which Ley reported the resolution. “Sess. 504. Sept. 16: 1645. Tuesday morning ... The motion about the Anotations of the Bible, some things in them against the covenant & votes of the Assembly” “Sess. 505. Sept. 17: 1645: Wensday morning ... Debate about the Anotations.” “Sess. 506. Sept. 22: 1645. Munday morning ... Mr Palmer made report about the Anotations; the stationers desired that some animadversions may be made suddenly, and they promised to sell noe more till tomorrow.” “Sess. 507. Sept. 25. 1645: Thursday morning.” “Mr Ley gave an account of the Antidote prepared against the particulars complained of in the Annotations of the Bible” (Van Dixhoorn, 6.178–180). Inserted after the preface of the *Annotations* in the only example in Early English Books is: “An Advertisement Touching The Annotation on *Phil.* 1.1. and on 1 *Tim.* 3.1 & 5.17 and the *Argument* of the same Epistle, on the Epistle to the *Hebrews*, Chap. 6.2. Wherein the Author may be thought to assert Episcopacy with some prejudice to the *Truth*, and to the *Reformation of Church-Government* now in hand: With a touch at some other particulars, for prevention of offence to the Religious Reader.” The author of the Annotations on the Pauline Epistles was the late Dr. Featley who had died the previous April, and the notes are “broken and imperfect, the author dying before he had revised them.” Daniel Neal, *The History of the Puritans* (London: 1837) 2.505.

for their Government, both as a Church, and as a Commonweale.” At Genesis 49:10, Ley has some lengthy remarks on the prophecy of the end of the civil polity of Israel. “The summarie sense of this Prophecie made up out of the explications forementioned may be thus: ... and about the time of his [Christ’s] coming ... shall the Jewish Common-weale be dissolved, and their Government broken in pieces, they disþersed, and scattered in several Countries, without any Governour or Law-giver of their own Nation, and wholly in the power of the Princes, or Potentates, or States in whose Land they live.”

October 24, 1645

Jeremiah Burroughs, *Irenicum to the Lovers of Truth and Peace* (London: Printed for Robert Dawlman, 1645) 22–24. Wing B6o88.

Against the principle, “That there is to be an absolute liberty in the things of Religion,” Burroughs writes that it is against the light of nature, and “it is against the light of Scripture,” citing Deuteronomy 13:6 and Zechariah 13:3. He then addresses one of the propositions used to support this principle that “Magistrates have nothing to do with men in matters of Religion”:

I confess were there nothing but merely examples or Laws from the Old Testament to confute this dividing Position, to an examining eye the argument would hardly be cogent or satisfactory, only so far as there is a common reason and equity in them, and so all the judicial bind now as well as they did then.

2. So far as the New Testament approves of for the times of it, what was formerly done in the Old.

The strength of the argument from the power of Magistrates in the Old Testament, lies in these two.

First, there is a common reason and equity, what ever the strength of such kind of arguing be from one Spiritual Ordinances to prove another, yet without all question, it is strong enough from one Civil Ordinance to prove another, though it be conversant about spiritual things.

It is the Dictate of Nature, that Magistrates should have some power in matters of Religion. The generality of all people have ever thought it equal. It hath been ever challenged in all Nations and Common-wealths. The

Heathens would never suffer their gods to be blasphemed, but punished such as were guilty thereof, by the power of the Magistrate. *Socrates* was put to death for blaspheming their multiplicity of gods.

2ly, surely there is a common equity, for there is a necessity of it as truly now as there was then. I cannot argue the being of Spiritual Ordinances from our need of them, not thus there is such an institution, for the Church hath need of it; but rather thus, I find it in the Word to be an institution, and therefore the Church hath need of it. But in natural or civil things this way of arguing is strong enough; there is need of such a help, and therefore we should seek to have it.

Now sure the need we have of such a power, is exceeding great, we were in a most miserable condition if we had no external civil power to restrain from any kinds of blasphemies and seducements. The condition of the Jews, O how happy was it in comparison of ours, if this were denied us! for if any one of theirs did blaspheme God, or seek to seduce any from him, they knew what to do with him, besides persuading him to the contrary; but if any should seek to seduce the wives of our bosoms, children of our bodies, friends as dear to us as our own lives, into those ways that we think in our consciences will undo their souls to all eternity, yet we must only desire them they would not do so, we must only admonish and seek to convince them, or reprove them, but restrain them we cannot: If the deliverance of us from the pedagogy of the Law hath brought us into this condition, our burden is greater in this thing than any that the Law laid upon our fore-fathers. Hath Christ delivered us from one burden to lay a greater upon us? Must we now see those who are dearest to us drawn into the ways of eternal destruction, and stand and look on, but no way left to help them, or our selves, unless we can persuade to the contrary? surely our condition is very sad: Have we not cause to say, Lord let any burthen of the Ceremonial Law be laid upon our necks rather than this? If there were a company of men running up and down the streets with knives and swords in their hands, endeavouring to mischief and kill all they met with, and we must do nothing to restrain them, if we could persuade them to do otherwise, well and good: but that is all we can do for help; what a dangerous thing were this? The case is the same, when those who are mad with damnable Heresies, run from place to place, seeking to draw all they can from the truth; If we have no means of help but arguments, it is ill with us: Surely God hath not put his people into

such a sad condition as this is, he hath provided better for his people than thus.

Burroughs then goes on to appeal to the examples in Scripture of Heathen magistrates. He then concludes the chapter (*Irenicum*, 28):

But we have often heard that of Tertullian urged; If it be therefore said it is lawful because Scripture doth not forbid, it is therefore unlawful because the Scripture doth not command.

Ans. In the matters of God's worship this rule is to be urged, but not in matters civil or natural, though in their way subservient to worship, their Reason may guide very far.

November 17, 1645

Westminster Assembly. Session 537. Law of God Assigned to the Third Committee.

On this date the subject of the Law of God was assigned to the Third Committee, and Christian Liberty to the First Committee.

November 24, 1645

Robert Baillie, *A Dissuasive From the Errours of the Times* (London, 1645, 2nd impression, 1646) 31–32; 127–128. Wing B456, B457.

“I have sent yow seven of my Dissuasives; only one for yourself; the rest, with my service, to Thomas Cunningham, Mr. Strickland, Apollonius, Spanheim, Dr. Stewart, and Voetius. As yow have occasion to send them, send allwayes a Sermon with a Dissuasive. I expect a showre of Independents about my ears; but I am not feared: I have a reserve of more stories, and I think they will have more to doe shortlie...” (November 29, 1645, to William Spang, *Letters & Journals* 2.327).

They lay it upon the Magistrate to punish by death, without any dispensation, every Adulterer, every Blasphemer, every Sabbath-breaker; and above all, every Idolater. ... For all this they will not permit any Magistrate to hang any thief at all....

... Look back upon what I have cited from the chiefe of the *Brownists* writings. I grant the *New English* polishers of *Brownism* do not express their Tenents in tearms so hugely gross; yet see how neare they come to them in substance, when they tell us that no Magistrate may make any laws about the Bodies, Lands, Goods, Liberties of the Subject, which are not according to the Laws and Rules of Scripture, Scripture being given to men for a perfect rule, as well in matters of Civil justice, as of devotion and holiness; and if so, then they must make it as unlawful and contrary to the Scriptures perfection, for any man to make Lawes in matters of Righteousness and of the state, as in matters of Holiness and of the Church.... Eightly, what men besides them have made so bold with Kings and Parliaments, as not only to break in pieces their old Lawes, and to divest them of all power to make new ones; but also under the Pretext of a divine right, to put upon their necks that unsupportable yoke of the Judicial Law of the *Jews*, for peace and for warre, without any power to disþence either in addition or subtraction. I grant this principle of *Barrow* is limited by Mr. *Cotton* to such Judicials as doe contain in them a moral equity; but this moral equity is extended by him to so many particulars, as *Williams* confesses the whole Judicial law to be brought back againe thereby, no less than by the plaine, simple, and unlimited Tenet of the rigidest *Brownists*.

November 26, 1645

Jeremiah Burroughs, *A sermon preached before the Right Honourable the House of Peeres, in the Abbey at Westminster, the 26. of Novemb. 1645. Being the day appointed for solempne and publique humiliation* (London: Printed for R. Dawlman., MDCXLVI.). Thomason Tracts, 51:E.310[2].

Speaking for toleration in lesser things, Burroughs writes (The Epistle Dedicatory, [2]):

For connivance at Blasphemies or damnable Heresies, God forbid any should open his mouth; those who are guilty herein against the light of nature, should be taken off from the face of the earth; and such as are guilty against supernatural light, are to be restrained and kept from the society of men, that they infect not others.

December 8, 1645

Westminster Assembly. Session 549. Committee to Revise the Confession of Faith.

On the 8th of December, 1645, Tuckney, Reynolds, Newcomen and Whitaker were appointed a committee to review the Confession of Faith as the parts were finished by the Assembly. This is referenced in the Minutes as the ‘committee for perfecting the confession.’

After the interruption of these debates, caused by the question of the *jus divinum*, the Assembly returned to its Confession on the 17th June, 1646, when Mr. Arrow-smith was added to the committee for perfecting it.

Further, to this committee was given power, on the 19th of June, 1646, ‘as they see things imperfect’ in the Confession to complete them, and make report to the Assembly.

After, therefore, a year’s interrupted and changing discussion, the committee for perfecting the Confession began the reporting of it piecemeal on the 17th of June, 1646. From that date to the 30th June the Assembly passed the bulk of the articles of the Confession seriatim (Shaw, 1.360).

December 18, 1645

London Ministers, *A letter of the ministers of the city of London, presented the first of Ian. 1645. to the reverend Assembly of Divines sitting at Westminster by authority of Parliament, against toleration* (London: Printed for Samuel Gellibrand, 1645/46).

The ministers of London at Sion College wrote a letter against toleration to the Westminster Assembly dated December 18, 1645, which was presented, already printed apparently, on January 1, 1645/46. Thomason recorded he obtained a copy on January 2, 1645/46. Among the reasons listed for opposing a toleration of sects and heresies the ministers say, “This is opposite to the Reformation of Religion, according to the Word of God, and the example of the best Reformed Churches, Article 1” [of the Solemn League and Covenant].

January 1, 1645/46

Westminster Assembly. Session 564. Report on the Law of God.

On January 1, 1646, “Dr. Wincop made report from the 3rd committee about the law of God” (Van Dixhoorn, 6.233).

January 7, 9, 12, 13, 1645/46

Westminster Assembly. Sessions 568, 570, 571, 572. Law of God Debated.

January 7. “Debate about that of <the law for the substance of it” (Van Dixhoorn, 6.238)

January 9. “Debate of the law of God.”

January 12. “Debate of the law. About the Law ceremonial, and about the meaning of the description of ceremonially & Judicially. A committee to consider of those propositions.”

January 13. “Debate of the law binding in respect of the matter” (Van Dixhoorn, 6.239).

January 22, 1645/46

Robert Baillie, *A Dissuasive From the Errors of the Times* (London, 1646). Second impression. B457.

Thomason noted obtaining a second impression of Baillie’s work on January 22, 1646. He had obtained the first impression on November 24, 1645. Early English Books has four examples. Two are the first impression of 1645. One example owned by Harvard University Library, instead of numbering the last page 252, numbers it 242. This apparently is a stop press variant. The second example has the final page number corrected. However, all examples have the pagination error that skips pages 97–100, i.e. 24, 1–96, 101–252 (242 in the case of the stop press variant). There are also two examples of the second impression, the one marked by Thomason which exhibits the 1645 year as expected for an English title, and the other with 1646 on the title page. In the 1646, either there was a third issuing or the year was changed for a portion of the second impression, perhaps for the Scottish market? In the second impression the catalog record for the Thomason copy owned by the British Library notes that the first quire (first 24 pages) is in the same setting of type as the first impression, but that the second quire is only “mostly in the same setting” as the first impression. This is clearly exhibited by the different catchword on page one, the first impression of 1645 having “ried” and the second impression having “the.” The text cited

previously was not collated for variants, and is cited from this writer’s example of the 1646 edition.³⁹

January 29, 1645/46

Westminster Assembly. Session 581. Report and Debate on Christian Liberty. Ad hoc committee for the Law.

Thursday morning. “Mr Coleman made report of Christian Liberty” [from the First Committee]. “Debate of Christian Liberty. Mr Newcomen, Mr Dury, Mr Delmy, Dr Temple, Dr Gouge added to the committee for report about the law. To report tomorrow morning. [fo. 122v] Fryday morning [no minutes; “there is a gap of four or five lines at this point”] (Van Dixhoorn, 6.246).

February 2, 1645/46

Westminster Assembly. Session 582. Report on the Ceremonial and Judicial Law.

February 2. “Report made of the propositions for ceremonial & judicial laws committed formerly. Debate upon that Report” (Van Dixhoorn, 6.247).

February 9, 1645/46

Westminster Assembly. Session 585. Debate on the abrogation of the Ceremonial and Judicial Law.

“Debate about the ceremonial & judicial laws abrogation.” “Ordered: debate of Christian Liberty” (Van Dixhoorn, 249).

February 10–12, 1645/46

Westminster Assembly. Session 586–588. Debate on Christian Liberty.

“Debate of Christian liberty” (Van Dixhoorn, 250–252).

39. B456. Harvard University Library. 1645. 24. 1–96. 101–242[252]. Catchword page 1 “ried”. B456. Henry E. Huntington Library and Art Gallery. 1645. 24. 1–96, 101–252. Catchword page 1, “ried.” B456/Thomason / E.317[5]. British Library. Noted as the Thomason 2nd impression. 1645/46. 24. 1–96, 101–252. Catchword “the”. B457. Union Theological Seminary. 1646. 24. 1–96, 101–252. Catchword page 1, “the”.

February 16, 1645/46

Westminster Assembly. Session 590. Debate about Christian liberty.

R[esolved]: The former vote for not recommitting, Revoked.

R[esolved]: That this whole head of Christian liberty shall be recommitted.

R[esolved]: This shall be recommitted to a select committee.

Ordered: Mr Seaman, Mr Newcomen, Dr Temple, Mr Dury, Mr Calamy, Mr Byfield, Mr Ward, Mr Cawdry, Mr Channell, Mr Delmy, Mr Rayner, Mr Sedgwick, Mr Conant, Mr Wilkenson, Jun. to meete tomorrow in the afternoone" (Van Dixhoorn, 254)

February 23, 1645/46

Westminster Assembly. Session 593. Christian Liberty, Sabbath, Magistrate, Marriage and Divorce.

"The Committee for Christian Liberty to meete on Thursday."

"Ordered to the first Committee, in chefe heads: Christian Sabbath, the civill magistrate, marriage & divorce" (Van Dixhoorn, 258)

March 3, 1645/46

Samuel Rutherford, *Divine Right of Church Government Vindicated* (London: John Field for Christopher Meredith, 1646) 493–494.

That this Author saith [Erasus, l. 6. c. 2. page 336–337], God commanded those that transgressed his holy Law with an high hand, and presumptuously, to be killed lest they should live and prophane his holy things; I defend not: But surely Erasus erreth, who will have all such to be killed by the Magistrate under the New Testament, because they were killed in the Old: Then are we to stone the men that gathereth sticks on the Lord's day; the childe that is stubborn to his Parents, the Virgins, daughters of Ministers that committeth fornication are to be put to death. Why, but then the whole judicial Law of God shall oblige us Christians as Carlstadtus 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 Erasus) 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 Ordinance and judicial Law, it is abolished. 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 are not abolished; also some punishments were merely Symbolical to teach the detestation of such a vice, as the boring with an *Aule* [awl] the ear of him that loved his Master, and desired 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 pare her nails, and wash her self, and give her a month, or less time to lament the death of her Parents, which was a Judicial, not a Ceremonial Law; that this should be perpetual, because Christ in particular has 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, *à pari*, 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.

We do not teach that men are to be Excommunicated, for whatever scandalous sins deserve death at the hand of the Magistrate, whether they openly repent or not; if any give evident signification of their repentance for murder, they are not to be Excommunicated, for the end of Excommunication, being once obtained, which is the visible and known repentance, and saving of the offender's soul, the mean is not to be used, which is Excommunication. But if any commit murder, whether he repent or repent not, the Lord hath made no exception of regenerate or not regenerate, of men repenting or not repenting, he should die by the sword of the Magistrate, *Gen. 9. 9*. It is true, some are to be Excommunicated for the very atrocity of the sin, it being parricide; but that is, because he giveth no positive signs of

repentance to the Church, which is contumacy added to his parricide.

March 4, 1645/46

Westminster Assembly. Session 598. Christian Liberty Committee to Meet.

“Ordered: The Committee for Liberty meet in the afternoon” (Van Dixhoorn, 6.261).

March 10, 1645/46

Westminster Assembly. Session 602. Report on Christian Liberty.

“Mr Seaman made report of Christian liberty and liberty of conscience” (Van Dixhoorn, 274).

March 26, 1646

Westminster Assembly. Session 610. Report on the Magistrate; Christian Liberty Report, debate and draft.

“Report was made from the Committee about the Magistrate: it was read.”

“Having finished the report of Religious Worship, the Assembly entred upon the Report of Christian liberty, &c., and upon debate it was

Resolved upon the Q[uestion]: This shall be the title: ‘of Christian liberty and liberty of conscience.’

Resolved upon the Q[uestion]: ‘The liberty which Christ hath purchased by his death for beleivers.’

Resolved upon the Q[uestion]: Ther shall be noe addition after the word ‘death.’

Resolved upon the Q[uestion]: Under the Gosbell consists especially in freedome from the Guilt and power of Sin, from Bondage to Sathan, from the condemning wrath of God, from the ceremoniall and judiciall Law, and from the curse of the morrall....” (Van Dixhoorn, 6.279–280).

The debate on the chapter on Christian liberty resumed again in late September and October. Chapter 20 was reworked, probably by the committee for perfecting the confession of faith, and the final wording incorporating the above appears within paragraph one. For this chronology, the point of interest is the removal of the reference to the judicial law. See December 7, 1646 below.

March 26, 1646

Stephen Marshall, *God’s Master-Piece. A Sermon Tending to manifest God’s glorious appearing in the building up of Zion: Preached To the Right Honourable the House of Peers, in the Abbey Church of Westminster, March 26, 1645* (London: Printed by Richard Cotes, for Stephen Bowtell, 1645) 38–41. Wing M756.

Thus in a spiritual and moral way you may help to build the Church; but that’s not all, your authority and power may doe very much in this work: It is very true, that your power (who are Nobles, Magistrates, & Rulers of States) in the Common-wealth, in the building of a Civil State, and the building of the Church, doe extremely differ one from another: In building the Civil State, you doe it *ad modum imperii*, by way of rule and command; therein you have authority; *Meum* and *Tuum*, the things of this life, are by the Lord committed into the hands of a State, and the light of Nature and humane Prudence are sufficient to direct you in them, and in these things you have power and authority, according to your own reason and will, to make Laws about them; you may erect new Laws, and new Offices, and new Officers, and you may impose new burdens, and people may lawfully submit to your discretion, without seeking any further for a particular warrant out of the Word, in the things that concern this present life: but (my Lords) it is not so in the building of *Zion*, matters of Religion are spiritual and heavenly things (Heb. 3:1), which pertain only to God, the souls and consciences of men, and the communion of Saints, their end is God’s glory, men’s conversion, edification, eternal salvation; these are things which cannot be carried along by natural reason, or civil prudence, but onely by the light of that spiritual and heavenly Rule, the Word of God; and therefore in these things you have no Lordly rule; *Unum Dominum habemus qui animas nostras gubernat* [Luther]; all your power in these things must be *ad modum ministerii*, not *imperii*; you must carry your selves, not as the Church’s Masters, but as Christ’s servants, yea and as servants to the Church for Christ’s sake, not as Lords, to dispose of the affaires of it at your own pleasure, but at the direction of his Word only: This then must you set down for a Rule, That you are limited to the Word, and men under your authority must, before they obey your Orders, examine them by the Word, and find them to be both lawful in their nature, and expedient in their use, for edification, peace, order, &c. But (my Lords) though you have not such an *imperium* here, as in

humane things, yet the power and authority that God's Word hath given you for the carrying on of this work, is exceeding great, and it may be reduced to these two heads: First, the Lord would have you his instruments for the purgation and reformation; secondly, for the preservation of the Church, when you have brought it into a state of reformation.

First, for purgation and reformation of it; all the rubbish, all the dross, the Antichristian pelf and garbage that the house of God is defiled with, you are to throw it all out, with *Josiah*, into the brook *Kidron*; to sweep it all out, and to bring back the people, who have been misled into Arminianism, to Popery, to Superstition, to any of these abominable ways, you are to remove all these stumbling-blocks, and to bring them back again unto the knowledge of the Lord their God: this God requires at the hands of Princes; thus did *Jehoshaphat*, thus did *Hezekiah*, thus did *Josiah*, thus did *Ezra* and *Nehemiah*, all the good Kings of old, they all made it their care to command the people, to make them enter into an Oath, and a Curse; and one might live under their privilege and protection, who would not return to the God of their Fathers: I confess, I think it is not in the power of Magistrates to compel a people (unto whom God can lay no claim by Covenant) to alter from a heathenish Religion to be the Lords people, yet they should be careful to send Ministers to preach unto them, and try if by any means they may be brought to receive the truth in love; yea and to punish them severely, if they blaspheme, or seek to draw away God's people to Idolatry, &c. When the Jews, *David*, or *Solomon*, or any of their Kings, conquered the Nations round about them, they never compelled any of them to forsake their false Gods, and to turn Proselytes, because those people never had chosen God to be their God; but a people who once had in Covenant made themselves the Lord's, and so the Lord by virtue of the Covenant could lay claim to them and their posterity, his Princes and servants have ever (according to his will) compelled these to stand to their Covenant, or else they should not enjoy their protection; and therefore *Josiah*, and those good Kings put them all to death who followed *Baal*, and returned not unto the Lord their God. For our selves, our Plantations ought never to endeavour to convert Infidels by violence, Christ's people must be a willing people, we leave such conversions to the *Spaniards*, who worried the *Indians* to death with dogs, and drove them into the river like cattle, and compelled them to be baptized: but for a people who have received Christianity, and have been seduced to

Anti-christianity, to whom still the Lord continues his claim, by the same right that *Jehu* destroyed *Baal*, and other good Kings *Jereboam's* Calves, and the rest of their Idols, and compelled them to stand to the Lord's Covenant and Oath, by the same warrant and rule may you root out Popery and Heresy, and proceed against incorrigible Papiſts, Heretics, Blasphemers, and such as have apostatized from the Lord, and refuse to return: This power the Lord hath given you for the purgation of Religion, to remove and cast out the things that are abominable. You have power also, and it is your duty, to set up all God's Ordinances; Ordinances for *Worship*, Ordinances for *Government*; thus did all the good Kings you shall read of...

March 27, 1646

Westminster Assembly, Session 611. Christian Liberty.

"The assembly proceeded in the debate of liberty of conscience, and upon debate it was

Ordered: none may practice any sin, or cherish any lust, or oppose any lawfull power, or the lawfull exercise of it, whether it be civill or ecclesiasticall upon the presence of Christian Liberty, the liberty which is of Christs procuring and the power which are of Gods ordaining, not being opposite or intended by God to destroy, but mutually to uphold and preserve one another" (Van Dixhoorn, 6.281).

March 30, 1646

Westminster Assembly, Session 612. Christian Liberty.

"The Assembly proceeded in the debate of liberty of conscience" (Van Dixhoorn, 6.282).

March 31, 1646

Westminster Assembly, Session 613. Christian Liberty vote not to Recommit.

"The Assembly proceeded in the debate of Christian liberty and liberty of conscience. Upon debate it was Resolved upon the Q[uestion] not to Recommitt the Rest of the Report" (Van Dixhoorn, 6.283)

April 23, 24, 27, 1646

Westminster Assembly. Sessions 628–630. The Civil Magistrate.

On April 23 it was ordered “to debate the Report of the civill magistrate” (Van Dixhoorn, 6.291).

April 24. “The Assembly debate the Report of the civill magistrate.

Ordered: the title: ‘of the civill magiſtrate.’

Ordered: Magiſtracy is ordained of God for the good, ſafety and tranquility of the people.

Resolved upon the Q[ueſtion]: It is lawfull for a Chriſtian to beare the office of a civill magiſtrate being called ther unto.

Resolved upon the Q[ueſtion]: the word ‘rightly’ ſhall not be added before the word “called.”

Resolved upon the Q[ueſtion]: Ther ſhall be noe addition to the propoſition laſt voted.

Upon debate of the next propoſition, viz. Noe foreign power hath or ought to have ſuperiority and authority over magiſtrates in their own dominions, it was Resolved upon the Q[ueſtion]: this propoſition ſhall be recommitted to the ſame committee” (Van Dixhoorn, 6.292).

June 17, 19, 1646

Westminster Assembly. Sessions 660, 662. Committee for Perfecting the Confession of Faith.

After the interruption of theſe debates, cauſed by the queſtion of the *jus divinum*, the Aſſembly returned to its Confession on the 17th June, 1646, when Mr. Arrowsmith was added to the committee for perfecting it.

Further, to this committee was given power, on the 19th of June, 1646, ‘as they ſee things imperfect’ in the Confession to complete them, and make report to the Aſſembly.

After, therefore, a year’s interrupted and changing diſcuſſion, the committee for perfecting the Confession began the reporting of it piecemeal on the 17th of June, 1646 (Shaw, 1.360).

July 30, 1646

Westminster Assembly. Session 680. Gillespie’s Book.

“Mr Gelespy gave his bookes dedicated unto the

Aſſembly to the Prolocutor and the reſt of the members of the Aſſembly then preſent, for which he had thanks returned by the Prolocutor in the name of the Aſſembly” (Van Dixhoorn, 333).

August 4, 1646

George Gillespie, *Aaron’s Rod Blossoming: Or, the Divine Ordinance of Church Government Vindicated* (London, 1646) 3–4; 60. Wing G743; G744. The Thomason copy is Wing G743, which additionally contains at the end, the table of ſcriptures adduced in the work and the errata page.

Now all this being unqueſtionably true of the Jewish Sanhedrin: if we ſhould ſuppoſe, that they had no ſupreme Sanhedrin but that which had the power of civil Magiſtracy, then I aſk where is that Chriſtian State, which was, or is, or ought to be moulded according to this pattern[?] Muſt Miniſters have vote in Parliament? Muſt they be civil Lawyers? muſt all criminal and capital Judgements be according to the Judicial Law of *Moses*, and none otherwiſe? Muſt there be no civil puniſhment, without previous admonition of the offender? Muſt Parliaments ſit, as it were in the Temple of God, and interpret Scripture, which ſenſe is true, and which falſe, and determine controversies of faith and caſes of conſcience, and judge of all falſe doctrines? yet all this muſt be, if there be a parallel made with the Jewish Sanhedrin. I know ſome divines hold, that the Judicial Law of *Moses*, ſo far as concerneth the puniſhments of ſins againſt the moral Law, Idolatry, blaſphemy, Sabbath-breaking, adultery, theft, &c. ought to be a rule to the Chriſtian Magiſtrate. and [sic] for my part, I wiſh more reſpect were had to it, and that it were more conſulted with. This by the way. I am here only ſhowing, what muſt follow, if the Jewish Government be taken for a precedent, without making a diſtinction of Civil & Church government. Surely, the conſequences will be ſuch, as I am ſure our opposites will never admit of, and ſome of which (namely concerning the civil places or power of Miniſters, and concerning the Magiſtrate’s authority to interpret Scripture) ought not to be admitted....

It is but a poor argument, whereby Biſhop *Bilſon*, of *the Government of the Church*, chap. 4. would prove the cutting off not to be meant of Excommunication, becauſe it is applied even to capital offences, ſuch as the Law elſewhere appointeth men to be put to death for. As if it were any abſurdity to ſay, that one and the

same offence, is to be punished *sub formalitate scandalali* with excommunication, and *sub formalitate criminis* with capital punishment. And who knoweth not that a capital crime is a cause of excommunication, which is also sometimes the sole punishment, the Magistrate neglecting his duty. If a known blasphemous or incestuous person be not cut off by the Magistrate as he ought by the Law of God: shall he therefore not be cut off by excommunication? If he had proved that all the causes of cutting off in the Law were capital crimes, he had said much: but that will never be proved.

August 21 through August 31, 1646

Westminster Assembly. Grand Committee, The Law of God.

The Grand Committee received several propositions about the Law of God during this interruption of the Assembly's regular meetings. "The Assembly after this session [i.e. August 20, Sess. 695] did not sit as assembly for divers dayes till the first of September because they wanted <such> a full number <as are> ordered to be present ... they sat as a grand committee and prepared some thing for the Assembly. On said dayes ... several Reports from Committees Received, as about saving faith, the last judgement, and some additionall propositions concerning the law" (Van Dixhoorn, 6.344).

September 1, 2, 3, 4, 15, 17, 1646

Westminster Assembly. Sessions 696–699, 708, 710. Committee for Perfecting the Confession, Cawdry, Law of God.

On September 1, "Ordered that Mr Cawdry be added to the Committee for the perfecting of the confession of faith." The Assembly debated the Law of God (§5, §6, §7) on these dates (Van Dixhoorn, 6.345).

Sept. 15. "Report was made from the Committee for Perfecting the Confession of faith, "of the law": it was Read and debated, and upon debate <much of it> was assented too, the rest referred to the committee" (Van Dixhoorn, 6.355). Some alterations were made, Sept. 17.

September 23, 1646

Westminster Assembly. Session 716. Report on Christian Liberty.

"Mr Arrowsmith made Report of Christian liberty. Ordered that this Report be taken into debate Thursday in the Afternoone" (Van Dixhoorn, 6.363).

September 24, 1646

Westminster Assembly. Session 718. Debate on Christian Liberty.

"The Assembly entred upon the debate of the report concerning Christian liberty, and upon some debate it was recommitted. Ordered that Dr Burges prepare a title to the confession of faith" (Van Dixhoorn, 6.364).

September 25, 1646

Westminster Assembly. Session 719. Christian Liberty Report; Law of God Passed.

"Report was made from the Committee of that Recommended concerning Christian liberty." The Assembly also approved and passed the chapter on the Law of God.

"Dr. Burges made Report of the 15th, 16th, 17th, 18th, 19th chapters of the confession of faith, and after the Reading of them it was

Resolved upon the Q[uestion]: that the 19 first chapters of the confession of faith shall be sent to the House of Commons, in obedience to their <last> order for sending soe much of the confession of faith as is already perfected" (Van Dixhoorn, 6.364).

September 30, 1646

Herbert Palmer, *The duty & honour of church-restorers: set forth in a sermon preached to the Honourable House of Commons, Septemb. 30. 1646. Being the day of the monethly solemne fast, at Margarets Westminster* (London: Printed by R.W. for Thomas Vnderhill, 1646) 51; 52–53. Wing P230.

The next thing that is to be looked unto toward the building of God's house, is the settling of the Doctrine of God's truth firmly by your authority throughout all the kingdom. The Covenant in which we are all engaged, mentions a *confession of faith* to be framed for all the three Kingdoms, part of it (by your special commands) is already presented unto you, and the rest by God's assistance will speedily follow. Of it

give me leave to speak a word humbly and modestly, yet hopefully; I trust you which [sic will] find it as worthy of your *approbation* as any thing that hath hitherto been presented unto you, as having been *composed with care, and reviewed again and again with care; Plain* to those that understand religion, and *full* against the errors of our age; yet moderate in things controverted between Orthodox and sober men; and which contains *no other doctrines* than such as your selves and former Parliaments since the Reformation have *asserted*, against Papiſts, Arminians, and Antinomians, Libertines and such other erroneous spirits; and so tending to *advance godliness*, as we doubt not when it shall come abroad into the Christian world, the Churches of God will bless him for it not a little, and afford it such a testimony as your selves will rejoice to see and hear....

Certainly the *light of nature* teaches all to punish for *blasphemies against* God, as well as for *treasons against an earthly King*, and the *Scripture* expressly commands to *put such to death*, as also all *Seducers to Idolatry*, & the suitableness of these laws, to the law and light of nature, shows they cannot be *Typical*, or merely *Judicial* laws, considering how necessary they are both for the *honour* of God, and for the *safety of others' souls*, (what ever may become of the offenders themselves) for shall the *murdering of men's bodies*, or the *stealing of their goods*, be capital, and shall not the *stealing away or murdering of souls* be so much rather? Neither is this severity unfitting the times of the new Testament, when Zachary prophesying of the *fountain opened unto the house of David*, which is the *blood of Christ* expressly saith, that even *parents should [put?] to death a false Prophet*, chap. 13. besides other insinuations even in the *new Testament* it self, concerning the the [sic] Magistrate's duty to draw the *sword* against *evil doers*: neither is the plea of conscience any thing in this matter

October 1, 1646

Westminster Assembly. Session 720. Christian Liberty Partially Approved.

“The Assembly debated the Report concerning Christian liberty, and dispatched some of it” (Van Dixhoorn, 6.365).

October 7–9, 1646

Westminster Assembly. Sessions 722, 723, 724. Christian Liberty Debated.

October 7: “The Assembly proceeded in the debate ‘of Christian liberty and liberty of conscience’ and much debate was upon that clause, that ‘for publishing of such opinions and mentaining of such practices as are contrary to the light of nature,’ &c.

Upon debate that clause was Resolved.

Mr Ny, Mr Carter jun., and Mr Simpson enter their dissent, and the next clause, ‘contrary to the knowne principles of Christianity, whether concerning faith, worship or conversation,’ was also debated and resolved.

Mr. Carter Jun. enters his dissent.

Ordered to proceed in the debate.”

October 8. “The Assembly proceeded in the debate ‘of liberty of conscience’ and had some debate concerning the clause, ‘or the peace of the church’ and upon debate it was

Resolved upon the Q[uestion]: to be Recommended.

October 9. “The Assembly proceeded in the debate and finished that clause concerning the peace of the church and concerning the proceedings against them by the censures of the church” (Van Dixhoorn, 6.367–368).

October 12, 1646

Westminster Assembly. Session 725. Christian Liberty Debated; Report on Civil Magistrate.

“The Assembly proceeded in the debate ‘of liberty of conscience’ and upon a motion to adde the word ‘obstinate’ to the words in the last vote it was

Resolved upon the Q[uestion]: The word ‘obstinate’ shall not be added” (Van Dixhoorn, 6.368).

“Mr. Tuckney made report ‘...of the civill magistrate ...’ (Van Dixhoorn, 6.369).⁴⁰

Anthony Burgess, *Vindiciae legis: or, A vindication of the Morall Law and the Covenants from the Errors of Papiſts, Arminians, Socinians, and more especially,*

40. Warfield notes that the chapter on the civil magistrate was possibly debated again on October 12, 13, 14, 15, and 20, “although these debates probably belong to chap. xx”. The October 12 entry looks to be a report on the chapters; but Warfield is correct that the others have to do with chapter 20 and are so noted in this article. Benjamin Breckinridge Warfield, *The Westminster Assembly and Its Work* (New York: Oxford University Press, 1931) 113.

Possible Schedule of Anthony Burgess' Lectures for his book <i>Vindicae Legis</i>	
November 17–23, 1645.	Law of God assigned to Burges' Third Committee.
November 24–30, 1645.	Lecture 1.
December 1–7, 1645.	Lecture 2.
December 8–14, 1645.	Lecture 3.
December 15–21, 1645.	Lecture 4.
December 22–28, 1645.	Lecture 5.
December 29–January 4, 1645/46.	Lecture 6.
January 5–11, 1645/46.	Lecture 7.
January 12–18, 1645/46.	Lecture 8.
January 19–25, 1645/46.	Lecture 9.
January 26–February 1, 1645/46.	Lecture 10.
February 2–8, 1645/46.	Lecture 11.
February 9–15, 1645/46.	Lecture 12.
February 16–22, 1645/46.	Lecture 13.
February 23–March 1, 1645/46.	Lecture 14.
March 2–8, 1645/46.	Lecture 15.
March 9–15, 1645/46.	Lecture 16.
March 16–22, 1645/46.	Lecture 17.
March 23–29, 1645/46.	Lecture 18.
March 30–April 5, 1646.	Lecture 19.
April 6–12, 1646.	Lecture 20.
April 13–19, 1646.	Lecture 21.
April 20–26, 1646.	Lecture 22.
April 27–May 3, 1646.	Lecture 23.
May 4–10, 1646.	Lecture 24.
May 11–17, 1646.	Lecture 25.
May 18–24, 1646.	Lecture 26.
May 25–31, 1646.	Lecture 27.
June 1–7, 1646.	Lecture 28.
June 8–9, 1646.	Lecture 29.
June 11, 1646.	Letter of thanks and request to publish.

Antinomians. In XXIX. Lectures, preached at Laurence-Jury, London (London: James Young, for Thomas Underhill, 1646) 147–148; 155; 168–169; 211–212. Wing B5667; Thomason Tracts, 57:E357[3].

These lectures were given at the request of the ministers of Sion College, which included a significant number of the Westminster divines amongst their number. The importance of these lectures for this study is assured by the fact that this body of ministers approved of them and asked for Burgess to publish them in a preface dated June 11, 1646. If Burgess lectured once a week without interruption, picking a Tuesday for example, counting back twenty-nine weeks from that date would interestingly enough place their start the week after the chapter on the Law of God was assigned to the third committee on Monday, November 17, 1645 (or if the lectures were

given late in the week, counting back places their start the same week of the committee assignment). Burgess was a member of this grand committee of the Assembly. This interesting dating does not prove a formal linkage to the Assembly's work. However, the fact that the impetus to request the lectures *may* lie with Burgess' committee formally taking up that subject, does add strength to a case for their relative importance for shedding light on the subject of the judicial law; a case already made strong by the fact that we can presume a good number of the Westminster divines approved of them.

It is true under this theory, the material of most interest to the wording in WCF 19.4 is delivered by Burgess after the February 9, 1645/46 meeting of the Assembly, where the specific subject of the abrogation of the judicial law is noted as occurring. However, since nothing is noted in the Minutes as far as resolving on any wording, the final form of chapter 19 could have been resolved upon later in the year. Regardless, Burgess' lectures reflect his and presumably many of the divines' view on the matter and the timing is not particularly significant, though it is certainly intriguing that the lectures fit neatly within the twenty-nine weeks between the assignment of the Law of God to the third committee and the letter of thanks requesting they be published.

Burgess' dedication is dated September 21, 1646, and the book came out according to Thomason's date on October 12, 1646 (the same date as the Stationer's record, *A Transcript*, 1.248), only a few weeks after the chapter on the Law of God passed in the Assembly. Given the dating and the interest of the Sion College ministers and Burgess' membership on the third committee, his comments are perhaps some of the most significant in this survey, only second in importance to those in *Jus Divinum Regiminis Ecclesiastici* (see December 2, 1646).

First, you must still remember, that *the word Law may be used in divers senses; and, before this or that be asserted of it, you must clear in what sense you speak of the Law.* Not to trouble you again with the several accceptions of the word, which you must have always in your eye, take notice at the present, of what a large or restrained signification the word *Law* is capable of: for we may either take the word *Law* for the whole dispensation and promulgation of the Commandments, *Moral, Judicial, and Ceremonial*: Or else more strictly, for that part which we call the *Moral Law*; yet with the preface and promises added to it: and in both these respects the Law was given as a Covenant of grace (which is to be proved in due time:) Or else most strictly, for that which is mere mandative and preceptive, without any promise at all: And in this

sense, most of those assertions which the Learned have concerning the difference between the *Law* and the *Gospel*, are to be understood; for, if you take (as for the most part they do) all the precepts and threatenings scattered up & down in the Scripture, to be properly the *Law*; and then all the gracious promises, wheresoever they are, to be the *Gospel*, then it's no marvel if the *Law* have many hard expressions cast upon it. Now this shall be handled on purpose in a distinct question by itself, because I see many excellent men peremptory for this difference: but I much question, whether it will hold, or no.

2. *What Law this delivered in Mount Sinai is, and what kinds of laws there are, and why it's called the Moral Law.* It is plain by *Exod. 20. & cap. 21.* All the laws that the Jews had were then given to *Moses* to deliver unto the people, only that which we call the *Moral Law*, had the great prehemency, being twice written by God himself in tables of stone. Now the whole body of these laws is, according to the matter and object, divided into *Moral*, *Ceremonial*, and *Judicial*. We will not meddle with the Queries that may be made about this division. We may, without any danger, receive it, and that *Law* which we are to treat upon is the *Moral Law*. And here it must be acknowledged, that the different use of the word *Moral*, hath bred many perplexities; yea, in whatsoever controversy it hath been used, it hath caused mistakes. The word *Moral*, or *Morally*, is used in the controversy of the Sabbath, in the question about converting grace; in the doctrine of the Sacraments, about their efficacy and causality; and so in this question, about a *Law*, what makes it moral. Now in this present doubt, howsoever the word *Moral* beareth no such force in the notation of it (it being as much as that which directeth and obligeth about manners, and so applicable even to the *Judicial* and *Ceremonial*: and these are in a sense commanded in the *Moral Law*, though they be not perpetual), as to denote that which is perpetual and always obliging; yet thus it is meant here, when we speak of a thing moral, as opposite to that, which is binding but for a time....

Again, in the next place, take also this general Observation, *That although the Judicial and Ceremonial laws were given at the same time with the Moral Law, yet there is a difference between them.* And this is to be taken notice of, lest any should think, what will this discourse make for the honour of the *Moral Law*, more than the other laws? It's true, these three kinds of laws agree in the common efficient cause, which was God; and in the minister, or mediator, which was *Moses*; in the subject, which was the people of Israel; and all and every one of them; as also

in the common effects, of binding and obliging them to obedience, and to punish the bold offenders against them. But herein the *Moral Law* is preheminent: 1. In that it is a foundation of the other laws, and they are reduceable to it. 2. This was to abide always, not the other. 3. This was immediately written by God, and commanded to be kept in the Ark, which the other were not....

And, in the first place, I bring this Argument, (which much prevaileth with me:) *If so be the Ceremonial Law, as given by Moses, had still obliged Christians, though there could be no obligation from the matter, had it not been revoked and abolished; then the Moral Law given by Moses must still oblige, though it did not bind in respect of the matter, unless we can show where it is repealed.* For the further clearing of this, you may consider, that this was the great Question, which did so much trouble the Church in her infancy, *Whether Gentiles converted were bound to keep up the Ceremonial Law? Whether they were bound to circumcise, and to use all those legal purifications?* Now how are these Questions decided, but thus? That they were but the shadows, and Christ the fullness was come, and therefore they were to cease.

And thus for the *Judicial Laws*, because they were given to them as a politick body, that polity ceasing, which was the principal, the accessory falls with it; so that the *Ceremonial Law*, in the judgement of all, had still bound Christians, were there not special revocations of these commands, and were there not reasons for their expiration from the very nature of them. Now no such thing can be affirmed by the *Moral Law*; for the matter of that is perpetual, and there are no places of Scripture that do abrogate it. And, if you say, that the Apostle in some places, speaking of the *Law*, seemeth to take in *Moral*, as well as *Ceremonial*, I answer it thus: The question which was first started up and troubled the Church, was merely about Ceremonies, as appeareth *Act 15.* and their opinion was, that by the usage of this Ceremonial worship they were justified; either wholly excluding Christ, or joining him together with the Ceremonial Law. Now it's true, the Apostles, in demolishing this error, do *ex abundanti* show, that not only the works of the Ceremonial Law, but neither of the *Moral Law* do justify; but that benefit we have by Christ only: Therefore the Apostles, when they bring in the *Moral Law* in the dispute, they do it in respect of justification, not obligation; for the main Question was, *Whether the Ceremonial Law did still oblige:* and their additional error was, that if it did oblige, we should still be justified by the performance of those acts; so that the Apostles do not join the *Moral* and

Ceremonial Law in the issue of obligation (for, though the Jews would have held, they were not justified by them, yet they might not have practised them) but in regard of justification: and this is the first Argument....

In the first place therefore consider, *That about a Law there are these affections* (if I may call them so;) There is an *Interpretation*, a *dispensation*, or *relaxation*: and these differ from an *abrogation*; for the former do suppose the Law still standing in force, though mitigated; but *Abrogation* is then properly, when a Law is totally taken away. And this *Abrogation* ariseth sometimes from the express constitution at first, which did limit and prescribe the time of the law's continuance: sometimes by an express revoking and repealing of it by that authority which made it: sometimes by adding to that repeal an express law commanding the contrary. Now it may be easily proved, that the Ceremonial, and Judicial laws they are abrogated by express repeal. The Judicial Law 1 Pet. 2. 13. where they are commanded to *be subject to every ordination of man*: and this was long foretold, *Genes. 49. 10. The Law-giver shall be taken from Judah*. The Ceremonial Law that is also expressly repealed *Act. 15.* and in other places: not that these were ill or that they did come from an ill author; but because the fullness and substance of them was now come, of whom the ceremonies were a shadow.

October 13–16, 20, 21, 1646

Westminster Assembly. Sessions 726–729, 730, 731. Christian Liberty; Civil Magistrate.

On October 13 the “Assembly proceeded in debate of the chap. ‘of liberty of conscience’ & the power of the civill magistrate in punishing such as mantaine & publish opinions against the light of Nature, &c.”

October 14. “Mr Marshall brought another order in answer to the messadge sent to the House of Commons about the printing of the confession of faith.”

“Ordered that the scribes doe take care of the exact printing of the confession of faith.

The Assembly proceeded in the debate of the power of the civill magistrate in punishing Herisyse, &c.”

October 15. “The Assembly proceeded in the debate about the power of the magistrate.

The argument was used for the Affirmative, that the magistrate hath such a power, and upon debate it was

Resolved upon the Q[uestion]: This Argument hath not been sufficiently answered.

An argument was also urged for the negative, and upon debate it was

Resolved upon the Q[uestion]: This argument hath been answered.”

October 16. “The Assembly proceeded in the debate of that part of the chapter ‘of liberty of conscience’ concerning the peace of the church in reference to the power of the civill magistrate.”

October 20. “The Assembly debated the putting of the proposition concerning the power of the civil magistrate into the confession of faith.”

October 21. “The Assembly proceeded in the debate of the Report ‘of Christian liberty and liberty of conscience,’ and upon debate of the Arguments against the putting of this proposition into the confession of faith it was

Resolved upon the Q[uestion]: That the Arguments brought against the putting of the proposition last voted into the confession of faith are answered.

Resolved upon the Q[uestion]: That this proposition shall stand in the confession of faith: ‘That for their publishing such opinions or mantaining such practices,’ etc. (as before voted) ‘may be lawfully called to account, and proceeded against by the power of the civill magistrate.

Mr Simpson, Mr Burroughes, Mr Greenhill entred their dissent.

Mr Carter entred his dissent to the truth of it” (Van Dixhoorn, 6.369–371).

October 23, 1646

Westminster Assembly. *The humble advice of the Assembly of Divines, now by authority of Parliament sitting at Westminster, concerning part of a confession of faith ...* (London: Printed for the Company of Stationers, [1646]) 31. W1427.

Chapter 19. Of the Law of God.

4. To them also, as a Body Politique, he gave sundry judicall Laws, which expired together with the State of that People; not obliging any other now, further than the generall equity thereof may require.

October 28, 1646

Stephen Marshall, *A two-edged sword out of the mouth of babes, to execute vengeance upon the enemy and avenger. Presented in a sermon to the Right Honourable*

the House of Lords ... Octob. 28. 1646. ... (London: R. Cotes for Stephen Bowtell, at the Bible in Popes-head-alley, 1646) 21; 26–28.

Possibly I shall not be able to name every particular branch, but there are five things that are most cleare, which all are the fruit of the mouth, and by them in all ages, these babes and sucklings have overcome the enemy and the avenger [Ps. 8:2], First,

1. Preaching.
2. Confessing, or professing the Name, Truth, and Cause of God and his Christ.
3. Praising, singing out praise, and Psalms, and hymns to God.
4. Praying ...
5. Covenanting....

... And now I should think this Lesson were very fit for application, did I not know it necessary to remove one great stumbling block out of the way, which when I have done in a few words, I shall endeavour to set it home in 2 or 3 Uses.

All this which I have said of the Arms of Christians, is by some retorted upon ourselves against our present war, as if we held not ourselves within the bounds of Christianity, for say they, If these be all the weapons and strength whereby the Saints do overcome, why do you use any other means to overcome your enemies? why rest you not contented with this? either these are not all, or you are not Christians, not true to your own Principles; Indeed (say they) the time hath been when such a Sermon as this was owned as Divinity, in the time of the Fathers, when *preces & lachrynia*, prayers and tears, were all the weapons which the Church did use; but now when you have spoke all these things of the power of Preaching, and Praying, and Confessing, and Covenanting, you are glad to betake yourselves to Arms, to see what they will do, to help these out, whence it's apparent you dare not rest in these as sufficient helps; and so they throw this as a stumbling block in our way, but this is easily removed. I answer therefore,

... We acknowledge, that as we are Christians (in that capacity) we use no other weapons than these I have told you of, these only are proper and peculiar to us as

we are *Christians*; but the weapons which we enjoy as we are Christians, do not deprive us of those that we enjoy in the capacity of *Men*; look whatsoever belongs to us in the capacity of *Men*, or in the capacity of *Subjects*, or of *Freemen*, Christianity doth not take them away, but super-adds these unto them. I say therefore, that we have all the same means of defence against unjust violence, that are common to us with other men, as we are *Men*, and we have the same means of defence, as we are *Freemen*, which other *Freemen* have; and we challenge in this no more then we might lawfully use, if we were *Papists* or *Turks*, if we were *Pagans*, *Jews*, or *Indians*: we challenge not this to belong to christianity[sic], as peculiar to it, we have learned that by the law of *Nature* and *Nations*, men may defend themselves against unjust violence....

October 30, 1646

Westminster Assembly. Session 733. Christian Liberty Concluded.

“The Assembly proceeded in the debate of the last clause of the chapter ‘of liberty of conscience,’ and upon debate that clause was layed aside and the whole was concluded and is as followeth:” no text given (Van Dixhoorn, 6.372).

November 9, 1646

Westminster Assembly. Session 736. Civil Magistrate Approved.

Chapter 23 on the Civil Magistrate was passed on this date, with further adjustments made on December 3–4 (Van Dixhoorn, 6.374).

December 2, 1646

Jus Divinum Regiminis Ecclesiastici: or, the Divine Right of Church Government Asserted (London, 1646) 29–30; 233. Wing J1217. The text is taken from the Naphthali Press edition compiled from the first and third editions,⁴¹ ed. David W. Hall (Naphthali Press, 1995) 30–31; 240.

Sparked by the contention between Parliament and the Presbyterian majority of the Westminster Assembly over

41. There are only negligible variations between the text at the places cited in the first and third editions.

the assertion of *Jus Divinum* Presbyterianism, this work is presumed by many historians of the Assembly to be the thoughts of that majority, regardless of whether they wrote the whole work, or whether their answers were taken and incorporated in an expanded form by the “sundry ministers of London.”⁴² These ministers of London met at Sion College informally prior to, and formally under, the Provincial Assembly of London (the Provincial government was “coming into operation in London during the months of July and August 1646, when the organization might be considered complete. The first Provincial Synod met on Monday, 3rd May, 1647”).⁴³ Members included Edmund Calamy, who had a hand in this group’s “valuable productions,” and more than a few of the members of the Westminster Assembly, including John Ley, Herbert Palmer, Daniel Cawdrey, George Walker, William Reyner, Obadiah Sedgwick, Richard Vines, and William Gouge.

Jus Divinum was entered in the Stationers’ register on August 13, 1646 (*A Transcript*, 1.242), which, though the MS may or may not have been complete, places the intent of publication within weeks of Parliament removing the pressure on the Assembly to answer their “captious” queries regarding Presbyterian polity. Baillie notes that *Jus Divinum* appeared the first of December which squares with Thomason’s date (*Letters*, 2.411). Whether or not it was an actual answer by proxy by the Assembly to Parliament, it would seem to exhibit the understanding of 19.4 of at least a significant portion of the divines, and it is therefore the most interesting and, while perhaps shy of it, possibly the closest thing to an authoritative explanation of the divines’ meaning at 19.4 that may be found.

God’s commands are either *Immediate* or *Mediate*.

1. *Immediate divine commands*. As those which God himself propounds and urges; [such] as the Ten Commandments (Ex. 20; Dt. 5) and all other injunctions of his in his word positively laid down. Of such commands the Apostle says, “I command, yet not I, but the Lord” (1 Cor. 7:10). Now these immediate commands of God, in regard of their manner of promulging and propounding, are either *Explicit* or *Implicit*.

42. The contention over the assertion of *Jus Divinum* between the Parliament and the Assembly, the breach of privilege charged upon the Assembly, and the nine queries sent up to them to answer, is covered by John R. de Witt, *Jus Divinum: The Westminster Assembly and the Divine Right of Church Government* (Kampen: J. H. Kok, 1969). The authorship of *Jus Divinum* is covered on pages 229–234.

43. Alexander H. Drysdale, *History of the Presbyterians in England: Their Rise, Decline and Revival* (London: Publication Committee of the Presbyterian Church of England, 1889) 311.

a. *Explicit*, which are expressly and in plain terms laid down, as the letter of the Commandments of the Decalogue (Ex. 20); the commands of Christ, “Feed my lambs, feed my sheep” (Jn. 21); “Go, disciple ye all Nations &c.” (Mt. 28:19); “Do this in remembrance of me” (Mt. 26; 1 Cor. 11:23–24 &c.). Now whatsoever is expressly commanded of God in plain evident terms, that is *jure divino*, without all color of controversy. Only take this caution: the *divine Right* of things enjoyed by God’s express command is to be interpreted according to the nature of the thing commanded, and the end or scope of the Lord in commanding, e.g.: 1. Some things God commands *morally* to be of perpetual use; as, to honor father and mother, &c. These are *jure divino* for ever. 2. Some things he commands but *positively* to be of use for a certain season; as the ceremonial administrations till Christ should come, for the Jewish Church, and the Judicial observances for their Jewish polity. All these positive laws were *jure divino*, till Christ abrogated them....

We answer, the Laws of the Jewish Church, whether *Ceremonial* or *Judicial*, so far forth are in force, even at this day, as they were grounded upon common equity, the principles of reason and nature, and were serving to the maintenance of the Moral Law. It is of eternal right that the party unjustly aggrieved should have redress, that the adverse party should not be sole Judge and party too, that judgement ought not to be rashly or partially passed upon any. The *Jewish Polity* is only abrogated in regard of what was in it of *particular right*, not of *common right*, so far as there was in their Laws either a *typology* proper to their Church, or a *peculiarity* respecting their state in that Land of Promise given unto them. Whatever was in their Laws of *Moral concern*, or *general equity* is still obliging.

William Gouge. The last named above who was a Westminster Divine and a member of the London Provincial Assembly, also served as the first moderator of the latter, and was looked upon as the “father” of the London ministers. Gouge was also very esteemed by his fellow Westminster Divines, and he often took the Prolocutor’s chair in his absence. While there is no work that can be pinpointed to the time limited for this survey, given his stature amongst the divines and connection through the Provincial Assembly to the *Jus Divinum*, it is worthwhile to digress slightly and bring in Dr. Gouge’s summary statement on the judicial law.

For thirty years Gouge had been preaching through the book of Hebrews at the Wednesday lecture at Blackfriars, which he continued until the end of his pastorate. Prior to his death he had labored to prepare the sermons for the press in the form of a commentary. This was published in 1655. He specifically addresses the judicial law in comments on Hebrews 7:12, section 69 (William Gouge, *A Learned and very useful Commentary on the whole epistle to the Hebrews* (London: Printed by A.M., T.W. and S.G. for Joshua Kirton, 1655) 170–171.

§. 68. Of the abrogation of the Ceremonial Law.

The Jews were under a threefold Law, Moral, Ceremonial, and Judicial.

The Ceremonial Law is here intended: for that especially depended upon the Levitical Priest-hood.

The Moral Law concerns all the Sons of *Adam*: but the two other concern the Sons of *Abraham*....

Sec. 69. Of the judicial Law of the Jews.

Besides the ceremonial Law, the Jews had a judicial Law, proper and peculiar to that polity. This Law concerned especially their civil estate. Many branches of that Law appertained to the Jewish Priest-hood: as, The particular Laws about the *Cities of refuge*, whether such, as slew any unawares fled, and there abode till the death of the High Priest, Num. 35. 25. And Laws about Lepers, which the Priest was to judge, Lev. 14. 3. And sundry other cases which the Priest was to judge of, Deut. 17. 9. So also the Laws of * distinguishing tribes [marginal reference: *Num. 36. 7.]; of reserving inheritances to special tribes and families, of selling them to the next of Kin, Ruth 4.4. Of raising seed to a brother that died without issue, Gen. 38. 8. 9, Of all manner of freedoms at the year of Jubilee, Lev. 25. 13. &c.

There were other branches of the judicial Law which rested upon common equity: and were means of keeping the moral Law: as putting to death Idolaters and such as enticed others thereunto: and witches, and wilful murderers, and other notorious malefactors: So likewise Laws against incest, and incestuous marriages: Laws of reverencing and obeying Superiors and Governors: and of dealing justly in borrowing, restoring, buying, selling, and all manner of contracts. [Exod. 22.20. Deut. 13.9. Exod. 22.18. Num. 35. 30. Lev. 20. 11, &c. 19. 32, 35.]

The former sort were abolished together with the Priesthood.

The latter sort remain as good directions to order even Christian polities accordingly.

1. By these kinds of Laws the wisdom of God was manifested in observing what was fit for the particular kind and condition of people: and in giving them answerable Laws, and yet not tying all Nations and States thereunto.

2. That liberty which God affordeth to others to have Laws most agreeable to their own Country, so as they be not contrary to equity and piety, bindeth them more obediently to submit themselves to their own wholesome Laws, and to keep peace, unity, and amity among themselves.

December 3, 1646

Westminster Assembly. Session 751. Slight Alteration to Law of God.

A slight alteration was approved to the chapter on the Law of God. “Ordered: in chapt: 19: paragraph 6, ‘Therof’ to be put instead ‘of them’” (Van Dixhoorn, 6.383).

“The Committee doe consider of that which is propounded concerning the Chapt. of the civill Magistrate” (Van Dixhoorn, 6.384).

December 4, 1646

Westminster Assembly. Session 752. Gillespie’s Alteration to “Of the Civil Magistrate”.

“Upon a motion by Mr Gilesby for an alteration in the chapt[er] about the civill magistrate, and upon debate it was

Resolved upon the Q[uestion]: that in the said chapter, for the word ‘Christ,’ the word ‘God’ shall be put in 3 places.

Dr Burges enters his dissent.

Memorandum: this vote was not intended to determine the controversy about the subordination of the civill magistrate to Christ as mediatour” (Van Dixhoorn, 6.385).

December 7, 1646

Westminster Assembly. *The humble advice of the Assembly of Divines, now by authority of Parliament sitting at Westminster, concerning a confession of faith, presented by them lately to both houses of Parliament. A certain number of copies are ordered to be printed only for the use of the members of both houses and of the Assembly of Divines, to the end that they may advise thereupon* (London: Printed for the Company of Stationers, ordered December 7, 1646) 31, 32, 39. W1427.

Chapter 19. Of the Law of God.

IV. To them also, as a Body Politique, 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.

Chapter 20. Of Christian Liberty and Liberty of Conscience.

[I.] THE Liberty which Christ hath purchased for Beleevers, under the Gosþel, consists, in their freedome from the guilt of sin, the condemning Wrath of God, the Curse of the Moral Law; and, in their being delivered from this present evil World, bondage to Satan, and Dominion of sin; from the evil of afflictions, the sting of death, the victory of the grave, and everlasting damnation; as also, in their free accesse to God, and their yeelding obedience unto him, not out of slavish fear, but a Childe-like love and willing minde. All which, were common also to Beleevers under the Law. But, under the New Testament, the liberty of Christians is further enlarged, in their freedom from the yoke of the Ceremonial Law, to which the Jewish Church was subjected; and in greater boldnesse of accesse to the Throne of Grace, and in fuller communications of the free Spirit of God, than Beleevers, under the Law, did ordinarily partake of....

IV. And because the Powers which God hath ordained, and the liberty which Christ hath purchased, are not intended by God, to destroy, but mutually to uphold and preserve one another; They, who upon pretence of Christian Liberty, shall oppose any lawful Power, or the lawful exercise of it, whether it be Civil or Ecclesiastical, resist the Ordinance of God. And, for their publishing of such Opinions, or maintaining of such Practices, as are contrary to the light of Nature, or to

the known Principles of Christianity, whether concerning Faith, Worship, or Conversation; or, to the Power of Godliness; or, such erroneous Opinions or Practises, as either in their own nature, or in the manner of publishing or maintaining them, are destructive to the external Peace and Order which Christ hath established in the Church, they may lawfully be called to account, and proceeded against by the Censures of the Church, and by the Power of the Civil Magistrate.

The original wording of 20.1 from March 27, 1646 was changed, dropping reference to freedom from the judicial law. While the abrogation of the ceremonial and judicial law was discussed February 9, 1645/46, and would have presumably informed the draft of 20.1, no wording is recorded for 19.1–4 at any point in the Minutes by which to gauge the relationship and development of the two sections. The divines began to approve chapters in June, with a timeout to deal with the jus divinum controversy in July, another week with no meetings, and a period at the end of August where they meet in Grand Committee for lack of a quorum. At that time the Assembly received committee reports including additional propositions on the Law of God which would form 19.5–7, and they began debating draft wording of these paragraphs as soon as they met again in full session on September 1. The whole of chapter 19 was approved on September 24, 1646, and apparently 19.1–4 was not presented to the Assembly until then. With the more nuanced statement of 19.4 approved, it may be the draft text for 20.1 was changed during the debate on Christian Liberty in October of 1646, or possibly earlier, by the committee for perfecting the wording of the confession, which was given liberty to correct imperfections and report them on June 19, 1646.

Chapter 23. Of the Civil Magistrate.

II. It is lawful for Christians to accept and execute the Office of a Magistrate; when called thereunto: in the managing whereof, as they ought especially to maintain Piety, Justice, and Peace, according to the wholsom Laws of each Commonwealth; so, for that end, they may lawfully now, under the New Testament, wage Warre, upon just and necessary occasion.

III. The Civil Magistrate may not assume to himself the administration of the Word and Sacraments, or the power of the Keys of the Kingdom of Heaven: yet, he hath authority, and it is his duty, to take order, that Unity and Peace be preserved in the Church, that the Truth of God

be kept pure, and intire; that all Blasphemies and Heresies be suppressed; all corruptions and abuses in Worship and Discipline prevented, or reformed; and all the Ordinances of God duly settled, administred, and observed. For the better effecting whereof, he hath power to call Synods, to be present at them, and to provide that whatsoever is transacted in them, be according to the minde of God.

January 6, 1646/47

Westminster Assembly. Session 768. Scripture Proofs.

“Ordered that Mr Wilson, Mr Byfield, Mr Gower, be a committee to prepare scriptures for the confession of faith” (Van Dixhoorn, 7:397).

January 27, 1646/47

Obadiah Sedgwick, *The Nature and Danger of Heresies, opened in a Sermon Before the Honourable House of Commons, January 27, 1646 at Margarets Westminster, being the day of their solemn Monthly Fast* (London: Printed by M. F. for Samuel Gellibrand, 1647) 36. Wing S2377.

Pious and learned Amesius *in cas. Consc.* [l.4.c.4.q.6.], speaking to that question, Whether Heretics are to be punished by the Civil Magistrate? Answers thus, *Magistratus locus & officiu postulat ut reprimat improbos turbatores gladio, vel potestate publica & externa si opus fuerit*: It is his place and duty to repress them, and restrain them, if they be noxious and turbulent: yea, and he adds more than every one will be patient to hear: namely, that if also they be manifestly blasphemous and pertinacious, they may be cut off *supplicio capitali*: according to that in Levit. 24. 15, 16. But I will not fall upon the discussion of that at this time....

February 19 and 22, 1646/47

Westminster Assembly. Session 796. Scripture Proofs, Chapter 19.

The Scripture proofs were debated and approved for Chapter 19, Of the Law of God.

February 25, 1646/47

Westminster Assembly. Session 798. Scripture Proofs, Chapter 20.

The proofs for the first three paragraphs of Chapter 20

on Christian Liberty were debated and approved. (Van Dixhoorn, 7:414).

February 26, March 2–5, 1646/47

Westminster Assembly. Sessions 799, 801–804. Scripture Proofs, Chapter 20.

The proofs for the fourth paragraph of Chapter 20 were debated and some approved on these dates.

March 3, 1646/47

Westminster Assembly. Session 802. Scripture Proofs, Chapter 23.

The Scripture proofs for Chapter 23 on the Civil Magistrate were debated on this date.

March 5, 1646/47

Westminster Assembly. Session 804. Review of Scripture Proofs.

“Ordered that Mr Burges, Dr Smith, Mr Calamy, Mr Palmer, Mr Seaman, Mr Strickland, Mr Spurstow, Mr Case, Mr Scudder and Dr. Hoyle or any 3 of them shall be a committee to joyn with the committee for the scriptures to review the scriptures; they are to meete on Thursday next in the afternoone, the care of this committee is referred to Mr Scudder” (Van Dixhoorn, 7:419).

March 10, 1646/47

Richard Vines, *The authours, nature, and danger of haeresie laid open in a sermon preached before the Honorable House of Commons at Margarets Westminster, upon Wednesday the tenth of March, 1646: being set apart as a solemn day of publike humiliation to seeke God’s assistance for the suppressing and preventing of the growth and spreading of errorrs, heresies, and blasphemies* (London: Printed by W. Wilson for Abel Roper, 1647) 64–65. V545.

For the blasphemous and seditious Heretics, both Lutherans⁴⁴ and others of the Reformed churches do agree

44. *Hæreticum seditiosum & blasphemum capitali supplicio dignum nemo ex nostris facile impugnabit. Tota quæstio est de hæretico simplici* Meisnerus *Philos. Sob. sect 2 cap. 4.*

that they may be punished capitally, that is for their blasphemy or sedition; but the *Socinian* stands out here also,⁴⁵ and denies; alleging that the punishment of false Prophets in the old Testament was *speciali jure* by special law granted to the *Israelites*, and therefore you must not look (saith the *Socinian*) into the old Testament for a rule of proceeding against false Prophets and blasphemers: Nor (saith *Calvin* and *Catharinus*)⁴⁶ can you find in the new Testament any precept for the punishment of Thieves, Traitors, Adulterers, Witches, murderers and the like, and yet they may, or at least some of them be capitally punished: for the Gospel destroys not the just laws of civil policy or Common-wealths; but I will not enter upon the debate of this point, neither bringing in the Scriptures or reasons for it, nor answering the arguments brought against it, of which arguments this I suggest (by the way) to your observation, that some of them do even *ship in one bottom the moral duties commanded in the old Testament, and the typical ceremonies or shadows. Some of them do make against Ecclesiastical censures as well as civil,*⁴⁷ and *some of them do carry further than haply they are intended, even to take off civil punishments of sins against the second Table also: neither do I see any just reason, that if the office of a Magistrate have any place in the matters of the first Table, he can punish sedition, which is against his own name or dignity, and stand still and look on with his hands tied, whiles the name and honour of the great God is openly traduced or blasphemed.*

March 11–12, 1646/47

Westminster Assembly. Sessions 805–806. Scripture Proofs, Chapter 20.

The Assembly debated the proofs to Chapter 20 which continued on the 12th, when the debate was concluded and the proofs approved: “The Assembly proceeded in the debate of the scriptures for the proove of the 4th paragraph in the 20th chapter of the confession of faith and the scriptures ware assented to as in the margent of the confession.

Mr Carter enters his dissent to the proofes about the civil magistrate” (Van Dixhoorn, 7.420).

April 5, 1647

Westminster Assembly. Session 820. Confession of Faith Finished.

“The Confession was finished. Upon a motion by Mr Seaman that something be annexed by way of caution to shew how the proofes are to be applied, it was

Resolved upon the Q[uestion]: ther shall be noe further debate about cautions to be added about the proofes of scripture.

Resolved upon the Q[uestion]: that the Review of the confession of faith be considered of by the 3 Committees of the Assembly.

Ordered that the Committees appointed for the review of the confession make report tomorrow morning what they have done about it” (Van Dixhoorn, 7.430–431).

April 6, 1647

Westminster Assembly. Session 821. Scripture Proofs Approved.

“Mr Scudder made report of the Review of the Proofes for the confession of faith, for the 7 first chapters and part of the 8th, and upon debate of it, it was assented too, as the proofes are entred in the Margent of the Confession of faith.

Ordered that the Rest of the 8th chapt: and chapt 9th to the 17th be referred to the first committee to review, and from chapt. 18 to the 25^[th] to the second committee and <from> chapt. 26 to the end of the confession to the 3rd committee” (Van Dixhoorn, 7.432).

Thus the second standing committee had review of the Scripture proofs for chapters 19, 20 and 23.

April 12, 1647

Westminster Assembly. Session 825. Scripture Proofs of Chapter 23 Approved.

“Mr Young made report of the Review of the 22th & 23^[rd] chapt. and they ware debated and assented too” (Van Dixhoorn, 7.434).

April 29, 1647

Westminster Assembly. *The humble Advice of the Assembly of Divines, concerning a Confession of Faith, with*

45. Schlichtingius *pro Socino contra* Meisnerus page 457.

46. Calvin *de Serveto in opusc.* Catharinus in 3 Titus 10.

47. Which Erastus denies not as to Haereticks or such as keep not the faith, *Theis.* 9. & 70.

the quotations and texts of Scripture annexed (London: Printed for the Company of Stationers, 1647) 33, 35–36, 41–42. Wing W1429.

Chapter 19. Of the Law of God.

IV. To them also, as a Body Politique, 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.⁸

g. Exod. 21. chapter. Exod. 22.1. to 29. Gen. 49. 10. with 1 Pet. 2. 13, 14.⁴⁸ Mat. 5.17 with vers. 38, 39. 1 Cor. 9.8, 9, 10 [the letters in the text have been put in superscript for legibility].

Chapter 20. Of Christian Liberty and Liberty of Conscience.

[I.] The Liberty which Christ hath purchased for Beleevers, under the Gospel, consists, in their freedome from the guilt of sin, the condemning Wrath of God, the Curse of the Moral Law;^a and, in their being delivered from this present evil World, bondage to Satan, and Dominion of sin;^b from the evil of afflictions, the sting of death, the victory of the grave, and everlasting damnation;^c as also, in their free accesse to God,^d and their yielding obedience unto him, not out of slavish fear, but a Childe-like love and willing minde.^e All which, were common also to Beleevers under the Law.^f But, under the New Testament, the liberty of Christians is further enlarged, in their freedom from the yoke of the Ceremonial Law, to which the Jewish Church was subjected;^g and in greater boldnesse of accesse to the Throne of Grace,^h and in fuller communications of the free Spirit of God, than Beleevers, under the Law, did ordinarily partake of.ⁱ

a. Tit. 2.14. 1 Thes. 1.10. Gal. 3.13. b. Gal. 1.4. Col. 1.13. Act. 26.18. Rom. 6.14. c. Rom. 8.28. Psal. 119.71. 1 Cor. 15.54, 55, 56, 57. Rom. 8.1. d. Rom. 5.1, 2. e. Rom. 8.14, 15. 1 John 4.18. f. Gal. 3.9, 14. g. Gal. 4.1, 2, 3, 6, 7. Gal. 5.1. Act. 15.10, 11. h. Heb. 4.14, 16. Heb. 10.19, 20, 21, 22. i. 1 John 7.38, 39. 2 Cor. 3.13, 17, 19 [sic 18].⁴⁹

... IV. And because the Powers which God hath ordained, and the Liberty which Christ hath purchased, are not intended by God, to destroy, but mutually to uphold and preserve one another; They, who upon pretence of Christian Liberty, shall oppose any lawfull Power, or the lawfull exercise of it, whether it bee Civil

or Ecclesiastical, resist the Ordinance of God.^P And, for their publishing of such Opinions, or maintaining of such Practises, as are contrary to the light of Nature, or to the known Principles of Christianity, whether concerning Faith, Worship, or Conversation; or, to the Power of Godlinesse; or, such erroneous Opinions or Practises, as either in their own nature, or in the manner of publishing or maintaining them, are destructive to the external Peace and Order which Christ hath established in the Church, they may lawfully be called to account, and proceeded against by the Censures of the Church,^q and by the Power of the Civil Magistrate.^r

p. Mat. 12.25. 1 Pet. 2.13, 14, 16. Rom. 13.1 to 8. Heb. 13.17. q. Rom. 1.32 with 1 Cor. 5.1, 5, 11, 13. 2 John vers. 10, 11, and 2 Thess. 3.14, and 1 Tim. 6.3, 4, 5, and Tit. 1.10, 11, 13, and Tit. 3.10 with Mat. 18.15, 16, 17. 1 Tim. 1.19, 20. Rev. 2.2, 14, 15, 20. Rev. 3.9.

r. Deut. 13.6 to 12. Rom. 13.3, 4 with 2 John v. 10, 11. Ezra 7.23, 25, 26, 27, 28. Rev. 17.12, 16, 17. Neh. 13.15, 17, 21, 22, 25, 30. 2 Kings 23.5, 6, 9, 20, 21. 2 Chron. 34.33. [2] Chron. 15.12, 13, 16. Dan. 3.29. 1 Tim. 2.2. Isa. 49.23. Zech. 13.2, 3.

Chapter 23. Of the Civil Magistrate.

II. It is lawfull for Christians to accept and execute the Office of a Magistrate; when called thereunto:(b)⁵⁰ in the managing whereof, as they ought especially to maintain Piety, Justice, and Peace, according to the wholsom Laws of each Commonwealth;(c) so, for that end, they may lawfully now, under the New Testament, wage War, upon just and necessary occasion.(d)

(b). Pro. 8.15, 16. Rom. 13.1, 2, 4. (c). Psal. 2.10, 11, 12. 1 Tim. 2.2. Psal. 82.3, 4. 2 Sam. 23.3. 1 Pet. 2.13. (d). Luke 3.14. Rom. 13.4. Mat. 8.9, 10. Act. 10.1, 2. Rev. 17.14, 16.

III. The Civil Magistrate may not assume to himself the administration of the Word and Sacraments, or

48. Anthony Burges adduced 1 Peter 2:13 and Gen. 49:10 in his *Vindicae Legis* for the abrogation of the Judicial law; see above, page 44.

49. There is no verse 19. See S. W. Carruthers, *The Westminster Confession of Faith*, 127.

50. The typesetter switched to parenthetical reference letters with Chapter 22 paragraph 7 which falls on the same page as the first two paragraphs of Chapter 23, and this form continues through Chapter 33 (*Humble Advice*, 41–56).

the power of the Keys of the Kingdom of Heaven:(e) yet, he hath Authority, and it is his duty, to take order, that Unity and Peace be preserved in the Church, that the Truth of God be kept pure, and intire; that all Blasphemies and Heresies be suppressed; all corruptions and abuses in Worship and Discipline prevented, or reformed; and all the Ordinances of God duly settled, administred, and observed.(f) For the better effecting whereof, he hath power to call Synods, to be present at them, and to provide that whatsoever is transacted in them, be according to the minde of God.(g)

(e) 2 Chron. 26.18 with Mat. 18.17 and Mat. 16.19. 1 Cor. 12.28, 29. Eph. 4.11, 12. 1 Cor. 4.1, 2. Rom. 10.15. Heb. 5.4. (f) Isa. 49.23. Psal. 122.9. Ezra 7.23, 25, 26, 27, 28. Lev. 24.16. Deut. 13.5, 6, 12. 2 Kings 18.4.⁵¹ 1 Chron. 13.1, to 9. 2 Kings 23. 1, to 26. 2 Chron. 34.33. 2 Chron. 15.12, 13. (g) 2 Chron. 19.8, 9, 10, 11. 2 Chron. 29. 30 *Chapters*. Matt. 2.4, 5.

May 26, 1647

Thomas Case, *Spirituell Whordome Discovered in a Sermon Preach'd Before the Honourable House of Commons Assembled in Parliament, Upon the Solemn Day of Humiliation, May 26. 1647* (London: Printed by J. Maccock, for Luke Favvne, and are to be sold at his shop, at the sign of the Parrot in Pauls-Church-yard, 1647) 32–34. Wing C843.

As Mr. Case's sermon was preached upon the next fast after the printing of the Confession with proof texts, it has been included in the survey.

There is a word of *Exhortation* behind, and I beseech you *suffer it*.

First, to you *Honorable and Noble Patriots*, who are called to be the *Reformers*, and *Healers* of a poor *broken kingdome*, I would humbly move these 2. things.

First, that you would *exert that power and authority which God hath given you, to the punishing and suppressing of the Adulteries and whoredoms of the land, which do stare heaven and earth in the face, and do provoke the jealousy of God, even to give England a bil of divorce and put us away: arise I say oh ye Rulers and Governors of England, gird your sword upon your thigh,*

and *ride on prosperously because of truth and righteousness, and let your right hand teach you terrible things* (Ps. 45:[3–]4). You know what *Phineas* did in the case of *Corporal whoredom*, committed in the face of God and the Congregation. Then *stood up Phineas and executed vengeance or judgment; and you remember how wel the Lord took it at his hands: The plague was stayed, and it was imputed to him for righteousness* (Ps. 106, 30, 31); Oh that the *Spirit of Phineas* may come upon you; that you may *sheath your sword in the bowels* of these monstrous *whoredoms* of all sorts, *Corporal* and *Spiritual*, which are committed in the sight of all *Israel*, yea in the sight of all the *Churches* round about us: that the *blessing of Phineas* may come upon you, and the *plague* may be stayed.

Doth not indeed the *punishing* and *suppressing* of *Spiritual whoredoms* against God, *Idolatry*, *Heresie*, *Blasphemie*, and the rest: doth it not belong unto you, as wel as the punishing of *bodily whoredoms*, *theft*, *murder*, &c.? Doth it indeed belong to you only to look to the *Civil peace*, and to let *Religion*, and *truth*, and the *worship of God*, stand or fall to their own master? fight *God*, fight *Divel*, fight *Christ*, fight *Antichrist*; catch that catch can; you have nothing to do but to stand by, and look on! Say so then; speak out, publish it in your *declarations* to the world, and let the people of *England* know, that it is the *right* and *liberty*, to which the subjects of *England* are born, that every man *hold* what he *please*, and *publish* and *preach* what he holds: that it is the *birth-right* (as some would have it) of the *free-born people of England*, every man to worship God *according* to his own *Conscience*; and to be of what *religion* his own *Conscience* shal dictate: do so, and see (*fathers and brethren*) how long your *Civil peace* wil *secure* you, when *religion* is destroyed; how long it wil be ere your *Civil peace*, be turned into *Civil war!* for no doubt if this once be granted them, but they may in good time come to know also (there be them that are instructing them, even in these principles too) that it is their *birth-right* to be *freed from the power of Parliaments*, and from the power of *Kings*; and to *take up arms* against *both*, when they shal not *vote* and *act* according to their humours: *Liberty of Conscience* (falsly so called) may in good time, improve it self into *liberty of estates*, and *liberty of houses*, and *liberty of wives*, and in a word, *liberty of perdition*, of *soules and bodies*.

Right Honorable, and worthy *Gentlemen*: I cannot stand to dispute, this only would I know of you; are *Idolaters* and *Heretiques*, and *Blasphemers* and *Seducers*, are they

51. Carruthers erroneously has 1 Kings 18:4 instead of 2 Kings 18:4 (Carruthers, 136).

evil doers? if so, then look to your *Charge*. Rom. 13. 3, 4. *Rulers must be a terror to evil doers, unless ye mean to bear the Sword in vain. And if you wil, God wil not; and if God take the Sword into his own hand once (as he seems to be a doing of it) he wil smite to purpose; he wil execute vengeance throughly: both upon the evil doers, and upon you that have not bin a terror to them. Oh therefore up and be doing, that you may deliver the kingdom out of the hand of the Lord; for it is a fearful thing to fall into the hands of the living God. O let not your patience (I hope it is no more all this while) be interpreted a Connivence, and your Connivence be taken for a tolleration, it may be the kingdoms ruin, but it wil be your sin.*

2. As you should *punish* the whoredoms of the land, so I humbly call upon you in the name of the Lord this day, that you would awaken and stir up your selves to prevent the further whorish departures of this our Israel from the Lord....

POSTSCRIPT

March 8, 1647/48

Westminster Assembly. Session 1027. Cheynell and Acontius.

“Mr Chainell made Report from the Committee appointed to consider of Acontius his booke.

Ord[ered]: The Assembly do return thanks to the Committee, particularly to that reverend brother for the pains taken therein, & that if himselfe or any other of the committee shall as from themselves publish any for vindicating of the truth & discovering the danger in that booke, it will be acceptable to the Assembly.” (Van Dixhoorn, Minutes, 7.770).

Francis Cheynell, “The Report made to the Reverend Assembly, March 8, 1647–48,” in *The Divine Trinity of the Father, Son, and Holy Spirit* (London: Printed by T.R. and E.M. for Samuel Gellibrand ..., 1650). Wing C3811; not in Thomason. The Epistle to the Reader is dated March 26, 1650.

The outline of the report mentioned in the Assembly minutes cited above appears in this work by Mr. Cheynell (*Divine Trinity*, 453–456), and presumably many of the arguments he used in the Assembly are given in the pages dealing with Acontius. The report and evaluation

of Acontius are a digression within the final chapter of the book, whose topic is that Christians should deny communion with anti-Trinitarians. Following the outline and a paragraph noting that the Assembly had ask that he publish his reasonings against Acontius at his convenience, Cheynell states, “*Acontius hath invented very pretty diversions instead of Excuses to abate our zeale against the most dangerous errours. . .*” Then, after a summary stating why Socinians are to be rejected as Christians, he ends the book with a discussion of “Whether seducing Hereticks, and blasphemous Apostates may be punished.” This would seem to be a conclusion to the chapter rather than something related to the report and discussion at the Assembly. However, while it falls outside the range originally fixed upon for this survey, it may be apt to end with Mr. Cheynell’s thoughts on the civil magistrate and the judicial law, which seem to reflect well the consensus of various of the Westminster Divines.⁵²

Whether seducing Hereticks, and blasphemous Apostates may be punished.

I am not at leasure to handle the Magistrates duty in this point; nor are many of them at leasure to consider all that is fit to be considered in that weighty point; but for the present satisfaction of such as know not how to study in these busie times, I shall point at some unquestionable truths for the ending of that unhappy and fatal Controversie in the Church of Christ ... (459–460).

What Kind of persons are to be punished.

V. ... Moreover, it is most cleare that God doth make use of the Magistrate as his Minister and Instrument for the overawing of the people by inflicting exemplary punishment on such as do *speake lies in the name of the Lord, blaspheme the name, truth, person of Christ, and seduce (or thruſt) men away from the only true God, Father, Son, and holy Ghost. Deut. 13. 6, 8, 9, 10, 11.*

The moral equity of the command for punishing Seducers: Deut. 13 compared with Zec. 13. and Rom. 13.

The Moral equity of this Command is very evident for the punishing of such as do entice men from the true Religion, because there is a reason given which is of general and perpetual equity. Thou shalt stone him,

52. Cheynell cited works by Burroughs, Palmer and Cawdrey’s *Sabatium Redivivum*, Rutherford’s *Pretended Liberty of Conscience*, and many of the works cited by Gillespie in *Wholesome Severity* (but not *Wholesome Severity* itself).

Because he hath sought to thrust thee away from Jehovah thy God. It is now certainly as great a fault to seduce men from Father, Son, and holy Ghost; nay, a greater fault now, because it is a sin committed against clearer light. And it is of *general and publique concernment* to have such great examples made in a nation to make the generality of men affected with an awful regard of the truth, goodness, Majesty, and Justice of God. For this is God's ordinance to strike the people with such a reverence as shall *at least restrain* them from this sin. *And all Israel shall heare and feare, and shall do no more any such wickedness.* Deut. 13. 11. The Lord is acquainted with the frame of our hearts and spirits, and he doth propound such remedies as are proper & suitable to our distempers; and he who doth ordaine such remedies will make them effectual *by his own Spirit*, who doth often sanctifie legal terrours, and outward afflictions, and makes them *subservient to spiritual purposes*, and therefore these outward weapons are *spiritually used*, and are of a *spiritual efficacy* according to the Counsel of God's will.

When the Magistrate *as a Minister of God* draws the Sword in the cause of God for the honour of God, according to the Ordinance of God expressed in the thirteenth of *Deuteronomy* compared with the thirteenth of *Zachary*, and the thirteenth to the *Romanes*, the Sword that is thus drawn is not the Sword of *Gideon* only, the Sword of man, but the Sword of God.

And it is certainly most proper to restrain them by the Sword, who will not be restrained by any other Ordinance of God; men that have seared consciences have strong passions; and exemplary punishments will work effectually upon the passion of feare in a self condemned man, when no spiritual Physick will work upon him, because all wholesome admonitions are rejected by him.

Carnal men are ready to pursue a new interest without any new Light, or direction from the Word of God, and there is no way to ballance these men who are swayed by worldly hopes, but by affrighting them with legall terrours from all those sins, unto which they are tempted by selfe interest in this tempting age, Men that will not be ruled by Law or Gospel, or conscience rightly informed by both, but do indeed seare their consciences, and harden their hearts both against Law and Gospel, must be restrained by the Sword, because they are unconscionable; Shame and feare will worke upon men that have any manner of ingenuity remaining in them ... (462–465).

The rule of all Christian Magistrates

IX. Christian Magistrates have no other Rule of Civil Righteousness prescribed unto them by God, then that which God gave by *Moses*, and such as have expounded *Moses* in the Scriptures of truth. This one Proposition fully explained and confirmed would put an end to this unhappy controversie between all judicious and ingenuous men. We cannot in equity extend the Law of *Moses* to such as never entred into any Covenant with God, nor to any that are led away in their simplicity before they have been better instructed and admonished once and again; nor to such as do in a Christian and Peaceable way dissent from their brethren in points of lesse consequence; But *we extend the Law of Moses to seducing Apostates, blasphemous Hereticks, and Idolatours, who are obstinate against light and admonition, and poyson others, or endeavour to poyson them with Doctrines* [Deut. 13:10] *which do subvert faith and holiness in heart or life, that they may be punished according to their several demerits....*

XIII. The glory of God, the good of Soules, the happinesse of Christian societies are irresistible Motives to quicken the Magistrate to act (against such dangerous persons as we have described according to the law of judgement, and their different demerits) *in Faith and Love*.

1. In Faith; for the Christian Magistrate doth not act like himself, if he doth not performe acts of Civil-justice in Faith. And it is cleare that if there be no moral equity in any of the judicial Lawes in the Old Testament, and there are none at all extant in the New: the Christian Magistrate cannot performe any act of Civil-justice in Faith. But it is indeed too evident to be denyed, that

[Margin: *What Lawes are of perpetual obligation.*]

All divine lawes which concern the punishment of Morall transgressions, are of perpetual obligation [Vide Piscator in Exodum], and therefore still remaine in force according to their substance and general equity, abstracted from special circumstances, Typical Accessories, and the old formes of *Mosaical Politie*, For

1. These divine Lawes are not expired in their own nature.
2. They are not repealed by God.
3. The authority of the Law-giver is the same under both Administrations, old and new; the consciences of

Christians as well as Jewes, are subject to his soveraigne and perpetual jurisdiction.

4. The matter of the Lawes is Moral, and very agreeable to the Dictates of nature, as doth appeare by the severall Lawes and Decrees of Heathens. *Dan.* 3. 29. *Ezra.* 7. 23. 25, 26, 27. *Ezra.* 10. 3. 5. 8. compared with *Numb.* 15. 30, 31. *Levit.* 24. 15, 16. *Deut.* 13. 8, 9. *Zach.* 13. 3, 6. *Seducing, poysoning, slaying of Soules is by the law of Nature and Nations the worst of injuries.*

5. The reason of these divine Lawes is immutable [See *Master Palmer* and *Mr. Cawdrey of the Sabbath*, Chap. 2.], and that reason is sometimes expressed and declared: *But it is not necessary that there should be any expresse ratification of every Moral Law in the New Testament, which is plainly delivered in the Old.*

6. These divine Lawes are Independent on the will of Man, and therefore indispenable by mans authority ... (473-474).

CONCLUSION

This survey presented a unique chronological ordering of the work of the Westminster Assembly on the judicial law, along with extracts illustrative of terminology from the works of various Westminster divines and other arguably influential authors, interleaved by date. For the most part the rather specific dating was drawn from the notations by George Thomason who collected printed works as they came off the presses in the turbulent times of the mid-seventeenth century.

Outside the Minutes of the Assembly, the various public sermons by the divines afford the most specific snapshot of a divine's thought on the date the sermon was delivered. In the instance of Herbert Palmer, we have in his September 30, 1646 fast sermon, some comments relative to the judicial law, as well as comment on the new Confession of Faith, within five days of the completion of the Assembly's chapter 19 on the Law of God.

For works written and printed over a span of time, the precise release of the book may not be as interesting as other related dating. Of the two most significant works in the survey, dating Anthony Burgess' *Vindiciae Legis* yields perhaps the most intriguing possibility that he may have begun his lectures for that book the week after his committee was assigned the subject of the Law of God. However, under this theory it should be noted that Burgess would not have delivered the material cited in

the survey, until after the debate on February 9 1645/46 about the abrogation of the ceremonial and judicial law. As for the dating of *Jus Divinum Regiminis Ecclesiastici*, it may be of more interest to the controversy between Parliament and the Assembly over the former's nine queries, than for anything it may add to this subject of the judicial law.

As to the contents of the works surveyed, certainly those which are clearest and most detailed in addressing definition of terms regarding the Law of God are the most important. The *Jus Divinum* of the London ministers is not the most detailed of these but its likely standing as representing the views of a larger percentage of the Assembly makes it the most important. Burgess' *Vindiciae Legis* is more detailed but next in importance given reasons covered above. While it will bear a lesser emphasis due to its drafting several years before the Assembly began meeting, Cawdrey and Palmer's *Sabbatum Redivivum* is the most lengthy and detailed in defining terms.

On the question of any obligation to the punishments prescribed by the judicial law, one sees variety in detail and fervor of expression. Marshall in his *God's Master-Piece* seems to grant magistrates the most freedom under the "light of Nature and humane Prudence." Views that would bind more strictly to the OT judicial punishments appear to be those of George Gillespie and Herbert Palmer (and possibly by extension Daniel Cawdrey; though one can see possibly Palmer having the larger hand in the section of *Sabbatum Redivivum* cited when compared to a short passage from his *Glass of God's Providence*). Baillie and Rutherford express the strongest opinions against an unrestricted obligation to the punishments. Anthony Burgess addresses the issue more in his sermons than in *Vindiciae Legis*. For instance, in his *Magistrate's Commission* he says simply that these may be altered. However, in his sermon a few weeks earlier before the Court Martial of Lawrence Jury, he qualifies when the punishments may be alterable, and when the degree prescribed by God should not.

As to the general three fold division of the law, Burgess writes, "We will not meddle with the Queries that may be made about this division. We may, without any danger, receive it..."

For a full assessment and analysis of the data presented in this survey, as well as other materials, and their bearing on various interpretations of Westminster Confession of Faith 19.4, we leave the reader to Part Two of *The Westminster Assembly and the Judicial Law*, by Matthew Winzer.

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