

# **ST. LUKE’S INN OF COURT**

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**“A History of the Anglican Church—Part XXVII:  
An Essay on the Role of Christian Lawyers and Judges within the  
Secular State”©**

**By**

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The ideas expressed in this Apostolate Paper are wholly those of the author, and subject to modification as a result of on-going research into this subject matter. This paper is currently being revised and edited, but this version is submitted for the purpose of sharing Christian scholarship with clergy, the legal profession, and the general public.

### **PREFACE**

The organized Christian church of the Twenty-First Century is in crisis and at a crossroad. Christianity as a whole is in flux. And I believe that Christian lawyers and judges are on the frontlines of the conflict and changes which are today challenging both the Christian church and the Christian religion. Christian lawyers and judges have the power to influence and shape the social, economic, political, and legal landscape in a way that will allow Christianity and other faith-based institutions to evangelize the world for the betterment of all human beings. I write this essay, and a series of future essays, in an effort to persuade the American legal profession to rethink and reconsider one of its most critical and important jurisprudential foundations: the Christian religion. To this end, I hereby present the forty-third essay in this series: “A History of the Anglican Church—Part XXVII.”

### **INTRODUCTION<sup>1</sup>**

In the African American communities of rural, northern Florida and southern Georgia, during the late 1970s and early 1980s, homosexuality was considered to be a mental illness and homosexual conduct was called both a crime against nature and a sin against God. During this period, I distinctly remember that there were at least two African American men who were well-known throughout Suwannee County, Florida to be “gay”; and two of my high school teachers (a white man and

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<sup>1</sup> This paper is written in honor of local fair employment practices agencies (FEPAs) throughout the South and in states where there are no state or federal laws that protect the LGTB community against discrimination. Most FEPAs existed only in larger cities. In Florida, for instance, FEPAs existed in larger cities such as Orlando, Miami, Tampa, St. Petersburg, etc. In Tampa, I relied upon the City of Tampa’s Office of Human Rights and its ordinances to protect the civil and human rights of the LGTB community, because there were no other laws (state or federal) that afforded protection of the rights of homosexuals to be free from workplace harassment and discrimination. For over twenty years, I have represented vulnerable members of the LGTB community.

a white woman) were also well-known to be “gay.” As I can recall, homosexual persons tended to be treated as outcasts within the African American farming communities of northern Florida, during the late 1970s and early 1980s; and those communities did not apologize for, or regret orchestrating, this ostracism. Homosexuality was presented to be something that a person *elected to become*, due to some sort of ingrained moral weakness and failure, such as giving in to a bad habit like smoking marijuana or snorting cocaine—a bad habit that the homosexual person had initially caused and chosen. The idea that a person was genetically “gay” or born as a homosexual was quite foreign to the African American idea of homosexuality. Indeed, the African American communities in rural, northern Florida and rural, southern Georgia, where I grew up, never accepted homosexuality as natural or as normal behavior.

In Sunday school and in my private bible study with my dear mother, the story of “Sodom and Gomorrah” was stenciled into my Christian conscience, and I developed an image of most gay persons as being weird persons whom God himself had detested. The effeminate boys in my high school seemed naturally weak, feeble, and troubled; and I sometimes wondered if they had become that way through their own natural genetic make-up, or from some sort of sexual trauma or domestic disturbance from within the home. But the lasting impression that I had with openly-gay, known homosexuals were mixed: there were homosexuals who seemed as though they were mentally-ill, who often made uninvited sexual advances upon heterosexual boys. Sometimes, those heterosexual boys retaliated against the homosexual boys with threats and physical aggression; and there were homosexual boys who acted like they were one of the other heterosexual boys. I could myself never imagine what a homosexual boy could find attractive about another boy! I found homosexuality to be repulsive to my tastes and personal preferences; but I gave little thought about the unlawfulness of homosexual conduct when I was growing up. I certainly agreed with, and conformed to, the prevailing attitude in my community, which was decisively against homosexuality and homosexual conduct.

During the decade of the 1990s, while I was in college, law school, and serving my first tour of active duty in the United States Army, I saw first-hand and simultaneously the changing national mores and attitudes toward both women and homosexuals. Sex and sexuality were certainly predominant issues in American law and jurisprudence. As a Judge Advocate lawyer in the Office of the Staff Judge Advocate, I was called upon frequently to teach the installation’s “Don’t Ask, Don’t Tell,” policy. I taught soldiers and commanders the parameters of the military’s new policy on homosexual conduct, which could be summarized in the

acronym, “S.A.M.” “S” stood for “statement”: any statement or admission by a service-member that they were a homosexual would get them discharged from the military. The “A” stood for “act”: any homosexual “act” by a service member could get them discharged from the military. The “M” stood for same-sex marriage, which could result in a dishonorable discharge from the military. This was the state of affairs when I was honorably discharged as a Judge Advocate attorney from the United States Army in the year 2000. During my active military service during the 1990s, homosexuals were allowed to serve in the U.S. Military, but only if they exhibited no evidence of their homosexual tendencies, desires, or preferences. Our understanding of homosexuality during the 90s was that it was abnormal, immoral, or inappropriate. But the fault line was clearly shifting during the 90s; and those of us who believed in natural law and in the Christian foundations of the United States Constitution and American jurisprudence rightly understood that this shift could have a profound impact upon Church-State relations in the United States. I was thirty years old then, and by then my values and ideas were fully formed: homosexuality was unchristian, un-American, and illegal (if not altogether unconstitutional).

In 2001, I commenced practicing law in the areas of civil rights within the field of labor and employment law. For it was then when I again encountered homosexual persons as clients, representing them in their fight against both racial and sexual-orientation discrimination. I saw first-hand the harassment and the bullying: black males, black females, white males, white females, Hispanic, Asian, Indian males and females—all homosexuals were victims of the same suppression and oppression. During the first decade of the twenty-first century, discrimination against homosexuals was appalling, and particularly in terms of sexual-orientation discrimination and harassment within the American workplace. Even as a conservative Christian who believed that the Bible’s teachings on homosexuality were correct, at no time did I ever hesitate in taking up the cause of the LGTB community in its fight for civil rights, human rights, and for equal rights within the American workplace. I reasoned that for so long as a person is qualified to perform work, and was performing the work required to fulfill their employment obligations, then they should not be discriminated against, cheated, harassed, or excluded from employment opportunities. I saw no reason why “sex,” which is a protected category under Title VII of the 1964 Civil Rights Act, should not also include “sexual-orientation,” because the whole idea of “sex” revolves around “sexuality as a factor in job performance.” I saw the matter of LGTB rights as a matter of international human rights, where, as stated in the United Nations Charter, no human being should be denied their fundamental rights to exist, to work, to self-determination, to conscience, and the like. I treated “homosexuality”

as I treated Jews, Muslims, atheists, and the like— i.e., I did not agree with their belief systems on certain narrow religious, social, or even political grounds, but I remained committed to protecting their civil and human rights. I have no doubt that I had been significantly influenced in my thinking by the Puritan-Baptist theologian Roger Williams, who invented the doctrine of the separation of church and state.

I would be remiss, however, if I did not state that my willingness to engage, represent, and fight for the rights of the LGTB community did not come easy. The book of Genesis 19:1-13, for instance, described homosexual men as unruly, irrational and weird—an evil and a cancer which had to be rooted out. For instance, in that same chapter in Genesis, a group of homosexual men are described as assaulting two men—angels of the LORD—who went into Lot’s house; they stood outside and knocked on the door, demanding that these two angels come outside, in order that they might have sexual relations with them. And this story eventually ends with the reigning down of fire and brimstone upon the city of Sodom and Gomorrah. This bible story, which was taught to me as a child, left an indelible mark upon my moral development and attitude towards homosexuality—as, I surmise, it was specifically intended to do—for I greatly feared, in my own time, that God himself hated homosexual acts. During the early 1980s, I heard of a famous man named Rock Hudson, who was gay and who had recently died of AIDS, a disease of which I had first learned about, and which many would go on to call a “gay” disease! During this period, I distinctly remember hearing evangelists say that God had sent the disease of AIDS to punish homosexuals and homosexuality! All of this only cemented in my mind the Christian doctrine that homosexuality is a grave sin.

When I was still a youth, I had known gay people who were normal in every other respect—intelligent, productive citizens, such as the two high-school teachers whom I previously referenced. But I had also met at least a half dozen other gay men who were “flamboyant” homosexuals, transsexuals, and drag-queen types,—men who appeared to be mentally ill, and quite troubled! These sorts of homosexual men would approach heterosexual men and offer services such as oral sex! These sorts of homosexual men, in my mind, fit the stereotypes of what some folks called “queers.” They were often falsely stereotyped as having mysteriously molested an unknown number of boys, and subjected to similar rumors within the African American communities where I grew up. I had had no major difficulty in concluding—and perhaps wrongly-- that such men as these were worthy of the punishment of Sodom and Gomorrah. “Then the LORD rained upon Sodom and upon Gomorrah brimstone and fire from the LORD out of heaven,” because of

their wickedness, including homosexuality. The story of Sodom and Gomorrah was thus included in the Bible to clearly set forth God's definition of sin and wickedness. Furthermore, the Law of Moses said explicitly that homosexuality was an abomination. (e.g., Leviticus 18:6-30, including "Thou shalt not lie with mankind, as with womankind: it is abomination"; and Leviticus 20:10-21, including "If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death; their blood shall be upon them"). And in Matthew 10:14-15, Jesus of Nazareth had said, "Verily I say unto you, It shall be more tolerable for the land of Sodom and Gomorrah in the day of judgment, than for that city," so as to explicitly condone God's divine law (Old Testament) and attitude toward homosexuality. Lastly, St. Paul in the Book of Romans and First Corinthians had unequivocally stated that homosexuality was a sin.

Therefore, during the last decade of the twentieth century, my Christian attitude toward homosexuality was that it was a grave sin. However, I believed that "homosexuality" was a sin that was punishable by God alone, and that the State should not punish consensual homosexual acts between consenting adults, in the privacy of their own homes. Venereal diseases such as gonorrhea, syphilis, HIV and AIDS were very real! And I saw no need for human beings to add more to this punishment of the natural law,-- unless, of course, it could be proven that these venereal diseases (especially HIV and AIDS) could be transmitted to innocent victims—such as the Ebola virus--- who had no role whatsoever in participating in immoral sexual acts, such as homosexual conduct. Drawing the line on homosexuals and homosexual conduct has thus always been a difficult and delicate challenge for me personally.

I did not then think that the Church needed to conform to worldly ideas about homosexuality. I did not then believe that the Church had an obligation to accommodate homosexuals' affirmations and beliefs that same-sex relations are normal, natural, and right. I reasoned that the Church was designed to teach Christian conscience, the substance of Christian conscience, and true meaning of biblical "sin" and the kingdom of Christ. And I believed that secular government had no legitimate need or basis for regulating Christian conscience and belief, so long as violent actions were not being taken against homosexuals. But it was hard to draw the line: if God himself hated the sin of homosexuality, then why should Christians not hate the sin of homosexuality? I felt that homosexuals were not bad people; that they had fallen prey to the sin of homosexuality; and that while their homosexuality ought rightly to be corrected or condemned, the homosexual people were themselves to be respected and loved. Therefore, **without condoning**



**homosexuality and homosexual conduct, I loved homosexuals, and I loved members of the LGTB community. My attitude toward homosexuals and the LGTB community was the same as the current attitude of the Roman Catholic Church, the United Methodist Church, and the Church of England: admit homosexual persons to church membership, love them, but admonish their homosexual behavior, and encourage them to refrain from homosexual conduct, thoughts, and acts.**

I also believed that the secular civil government had more much more leeway than the institutional Church and, indeed, that it had a constitutional obligation to protect the civil and human rights of the LGTB community. As a member of the bar and as an officer of the court, I believed that I had a duty to protect the civil and human rights of the LGTB community. As a matter of First-Amendment conscience, I reasoned that “homosexuality” was no different than Islam, Judaism, Christianity, “being disabled,” and the like. I thus reasoned that a major question that the official legislature has to ask revolves largely around health and safety. Does its regulation of a particular group promote the health and safety of the body politic? Is the regulation narrowly tailored to promote a compelling governmental or societal interest?<sup>2</sup>

A question that I grappled with, throughout my legal career, was this: “How could protecting the rights of the LGTB community be done effectively, without also offending the Church and the Gospel?” That question was answered through the same reason and logic which Roger Williams, the seventeenth-century theologian and founder of the Rhode Island colony, must have relied upon: *a persons’ interior conscience and beliefs are within God’s sole jurisdiction—not the jurisdiction of secular human government*. I believed in individual liberty, for so long as those liberties did not trample upon the liberties of others. I fully supported the LGTB community in its efforts to be free from insult and ridicule, in their efforts to gain access to equal employment opportunity and the like. And I honestly detested the brutal and deadly attacks upon members of the LGTB community. But as a plaintiff’s lawyer who tried to help members of the LGTB community, I also had to deal with my own internal revulsions whenever, for instance, a gay male client appeared to overreach, or to inquire as to whether or not I was gay, and the

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<sup>2</sup> In the Supreme Court case of *Obergefell, et. al v. Hodges, et. al*, No. 14-556 (June 26, 2015), the Court’s majority opinion evaded its obligation to fairly answer this question: whether the States have a compelling justification for limiting marriage to couples of opposite sex. See, e.g., Richard Baxter, *A Christian Directory or, A Sum of Practical Theology and Cases of Conscience: Part I: Christian Ethics, or Private Duties* (Re-printed as print-on-demand publication on April 18, 2018 in Columbia, S.C.), pp. 423-433.

like; and such uncomfortable, disturbing moments often caused me to reevaluate whether I should continue to represent gay males with vindicating their civil and human rights in court—but I never encountered these challenges or experienced the same discomfort when representing gay females!<sup>3</sup>

I remained in full support of the plight of the LGTB community up through about 2010 or 2012, when the shift toward “marriage equality” and the legalization of same-sex marriage began to gain momentum. I was willing to give an inch, through fighting for the civil and human rights of the LGTB community in every other respect, but I had not yet been willing to grant it the “mile” of marriage equality—at least not until I was able to know much more about homosexuality and homosexual conduct than I knew. In 2008, Presidential candidate Barak Obama stated that he would not be in favor of legalizing same-sex marriage, but in 2012 his position shifted, and following the Supreme Court decision in *Obergefell, et. al v. Hodges, et. al*, No. 14-556 (June 26, 2015), where same-sex marriage was upheld as constitutional, President Obama lit up the White House with rainbow colors in celebration of that decision! While I remained fully sympathetic with the plight of the LGTB community, I disagreed with the holding in *Obergefell*. I truly felt that the Supreme Court in *Obergefell* let the entire nation down—not because it concluded that same-sex marriage should be constitutional, but because of the historically-inaccurate, fallacious, and unscholarly reasoning that it relied upon in reaching that decision. I was concerned that the LGTB community and the United States were moving too fast and with too much haste. The U.S Supreme Court seemed to forget that the “fundamental law of marriage” developed under the auspices of the Christian Roman Catholic and Anglican churches and pre-dates the Declaration of Independence and the United States Constitution by several centuries, and for over 240 years all of the states in the American republic acquiesced in and adopted that “fundamental law of marriage,” as developed by the Christian churches, with every fiber of the First and (or) the Fourteenth Amendment intact! None of the distinguished jurists or theologians—including the jurists listed in Justice Scalia’s dissenting opinion and leading civil rights lawyers of the early twentieth century, such as Oswald Garrison Villard, Moorfield Storey, Charles Hamilton Houston, William H. Hastie, Thurgood Marshall, Constance Baker Motley, and Spotswood Robinson,—once conceived that

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<sup>3</sup> Another major concern stemmed from the fact that I also observed that some gay persons lost respect for the personal boundaries of heterosexuals, such as transsexual men posing as women and deceiving some heterosexual men, who, in turn, upon learning that they had been deceived, violently retaliate against such transsexual men. As a plaintiff’s lawyer, I have had to remind my gay male clients that “I am not gay,” but this only begged the question: can the homosexual impulse be reasonably contained, so that heterosexual persons do not feel sexually threatened or offended? I have heard several heterosexual men conclude that it could not be so contained, that if you give the LGTB community an inch, they will push to take a mile.



restricting marriage to opposite-sex couples violated the First, Thirteenth, or Fourteenth Amendments, U.S. Constitution.

The U.S. Supreme Court in *Obergefell* seemed to be very evasive and dismissive of all concerns or arguments Christian! What about natural law? What about the laws of Nature? Had the Church of God been completely wrong about homosexuality for over two thousand years? Had other faith-based, non-Christian institutions reached similar wrong conclusions about homosexuality as well? What is “sin”? Why must the United States Supreme Court ignore Christian theology in its analysis of the question of “same-sex marriage?”<sup>4</sup> And why must that same Court say nothing of biological science? Why not thoroughly contend with the Roman Catholic and Orthodox conception of natural law in its legal analysis?

The U.S. Supreme Court’s flagrant disregard of biological and sociological facts regarding homosexuality, not to mention its disregard of well-established Anglo-American constitutional history, together with the Judea-Christian foundations of western jurisprudence, are troubling, problematic, and dangerous—since we all know that when the American people go the polls and vote, these issues play a huge role in the political and legislative process! Most troubling, comparisons of the LGTB community to the African American community did not help matters in my mind. I disagreed with comparing and equating the plight of the LGTB community to the plight of the African American community. Why is the LGTB community not compared to the Jewish community? Or compared to the Muslim-American and Hispanic communities? And I wondered whether the LGTB community could have gained so much so quickly if it had not been backed by “white privilege and wealth.” I had known how big-city bosses had used political machinery to “buy” black politicians and black votes, and the sudden shift of President Obama, the National Association for the Advancement of Colored People, and the black news media, in favor of same-sex marriage, and without the general consensus of the African American masses, the black church, black pastors, black community leaders, and, indeed, the entire Pan-African world (with nearly every African nation on the continent holding to the traditional Catholic,

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<sup>4</sup> Why could the Supreme Court not simply acknowledge that for centuries Christian clergymen and bishops legislated, adjudicated, and administered the law of marriage in English civil and ecclesiastical courts. The constitutional doctrine of separation of Church and State did not change this development. And there was nothing preventing the justices on the U.S. Supreme Court from analyzing Christian theology, natural law, and the biological sciences of gender relations, in order to determine whether state legislatures acted with strict scrutiny or through a compelling governmental interest, by restricting “marriage” to the traditional “heterosexual” institution that it has become. The African American community could have convinced the United States Supreme Court that the plight of its community depended greatly upon the plight to the traditional family unit—not the same-sex marriage—thus further lending credence that the Civil War Amendments could not be believed to have been designed to provide constitutional protection for same-sex marriage, without an amendment to the U.S. Constitution.

Anglican and Orthodox (including orthodox Islamic) view of marriage) *was quite suspicious indeed!* To my mind, the rank-and-file African American had had no opportunity to weigh in on the subject matter of same-sex marriage, or to fairly assess what impact it would have upon the African American community and the plight of the traditional African American family.<sup>5</sup>

For this reason, I agreed with the conservative dissenters in the *Obergefell* case: Chief Justice John Roberts, Justice Antonin Scalia, Justice Clarence Thomas, and Justice Samuel Alito. To my mind, the majority opinion clearly evaded Anglo-American constitutional jurisprudence and historical precedent. *Justice Scalia was right: the Founding Fathers certainly knew about “homosexuality,” and so did all of the great American jurists who sat on the court since the founding of the American republic, and yet not a single jurist or justice ever reached the conclusion that restricting marriage to the biblical version of heterosexual marriage was unconstitutional. Moreover, the American left (i.e., the Liberals) produced no new scientific discoveries which could dispel the traditional view of marriage or natural law.* Therefore, the majority in *Obergefell* certainly did impede the democratic process, which ought to have been allowed to fairly correct the problem, if any, of disallowing “same-sex” marriage. All of the dissenting justices concluded that the “majority” opinion in *Obergefell* had high-jacked the democratic process, since those justices who supported the “majority” opinion had interposed their own ideas about what the First and Fourteenth Amendment should say and mean. I therefore agreed with the dissenting opinions in the *Obergefell* case.

And most ominously, I saw that the African American Church— e.g., the African Methodist Episcopal Church, the Church of God in Christ, the National Baptist Convention, and the like—lacked an authoritative, conscientious influence upon the United States Supreme Court, or the political astuteness to lodge a well-written constitutional objection to the Supreme Court’s usage of the Fourteenth Amendment to support same-sex marriage in the *Obergefell* opinion. I was also concerned that Justice Alito’s concerns within his dissenting opinion might come to fruition: with the legalization of “same-sex” marriage, the traditional teachings of the Christian Church would come under attack. I intuitively felt this, even before the decision in the case of *Obergefell* was published; for earlier in 2015, I had republished my novel, *Bishop Edwards: A Gospel for African American Workers During the Age of Obama*, as a direct response on behalf of the Black Church to

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<sup>5</sup> In 2015, even before the *Obergefell* decision was issued, I had published my novel *Bishop Edwards: A Gospel For African American Workers in the Age of Obama*, in direct response to these concerns over the impact of same-sex marriage and homosexuality upon the African American church and community.

the growing secularization of mainline Protestant American churches, including the ordinations of gay clergymen and the renditions of same-sex marriages.<sup>6</sup> I held the precise same beliefs of the seventeenth-century Puritans, that is to say: that homosexuality and homosexual conduct should be proscribed, because they caused very *bad things to happen to the family unit and to society as a whole*.<sup>7</sup> And, in this instance, as I argued in my novel *Bishop Edwards* (2015), I was concerned that the legalization of same-sex marriage would have a very devastating effect upon the African American community as a whole.

I followed developments within the United Methodist Church and worldwide Anglican Church Communion with greater interest from between 2015 up through the Methodist's General Conference of 2019, in which it voted to uphold the Methodists' traditional view of marriage and to prohibit the ordination of gay clergymen. As of May 2019, the question of homosexuality has spread into many other areas, such as transgender and transsexual sports, restrooms, and birth certificates. The traditional Christian allies of the LGTB community, such as myself, appear now to have been totally disarmed and we are now pushed aside by the Liberals,-- and now left to defend the Christian faith and the traditional view of marriage *within the Christian church*, while simultaneously being labeled as bigots and placed within the same category as Nazis, members of the Ku Klux Klan, and irrational backers of the Trump political machine. All of this I regretted deeply.

But my personal view, as early as 2015, was to remove the secular government from issuing "marriage" certificates, and to only allow the state governments to authorize "civil unions" to all couples (whether heterosexual or homosexual) who wish to create a "joint estate." I reasoned that the word

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<sup>6</sup> Thus taking the Puritan worldview of sin and sex into account, I too believed that one of the primary problems facing the African American community since the early 1970s is the plight of the African American family, which is the foundation of the African American community. I wrote *Bishop Edwards* (2015 edition) from this conservative perspective: the African American community had a moral obligation, in sheer self-defense, to oppose same-sex marriage, to the extent that if it could demonstrate that homosexuality and homosexual values were further devastating the plight to of the traditional family unit. Prior to the *Obergefell* case, I had hoped that African American grass-roots and community leaders, theologians and pastors, elected officials and university professors, would have had an opportunity to carefully engage in a democratic debate and discussion on homosexuality and same-sex marriage, from the perspective of the African American experience. But the United States Supreme Court prematurely ended discussion. We are back to the "Laws of Nature and of Nature's God," who must have the final say as to whether the *Obergefell* decision was rightly or wrongly decided, and as to whether any nation can long last with a law which legally embraces same-sex marriage and permits homosexual conduct to thrive with tacit approval and celebration.

<sup>7</sup> See, e.g., Richard Baxter, *A Christian Directory or, A Sum of Practical Theology and Cases of Conscience: Part I: Christian Ethics, or Private Duties* (Re-printed as print-on-demand publication on April 18, 2018 in Columbia, S.C.), pp. 423-433.

“marriage” was a religious institution which the secular government should not attempt to define or regulate. I reasoned that the word “marriage” and the “institution of marriage” had been created by the Christian church and accepted intact by the secular governments of Europe and the United States.

The regulation of the institution of marriage had always been a joint operation between the Church and the State; the Church was in the superior position and determined the substance of domestic relations law; while the State had always been in subordinate position to the Church, and that the State was simply assigned a subordinate task of enforcing this ecclesiastical-domestic relations law, through the chancery courts or family-law tribunals. **It was my understanding that “the institution of marriage” was clearly created by the Church over the course of two millennia, and that the secular governments of Europe and the United States functioned simply to enforce the terms and parameters of this institution, which the Church created.** This was that Church-State balance which we Americans inherited from the mother country, England. Through defining “marriage” or the “institution of marriage,” in *Obergefell*, the U.S. Supreme Court thus encroached upon the province of the Establishment Clause and functioned like an ecclesiastical high court—something which the Founding Fathers clearly did not intend.

Hence, the U.S. Supreme Court in *Obergefell* simply had no authority-- not even in the U.S. Constitution-- to change the contractual definition and meaning of “marriage,” no more than it has the authority to modify my contractual relationship with my plumber or auto repair mechanic. I reasoned that the institution of “marriage” had to be construed within the context of Anglo-American history and domestic-relations law, as having incorporated the traditional view of marriage as taken from the book of Genesis—this has always been the case, notwithstanding our constitutional doctrine of the separation of the Church from the State. Therefore, I concluded that only a “church” should be allowed to define “marriage,” and so I did not believe that the U.S. Supreme Court had the authority to decide the *Obergefell* case, without also engaging in a theological discussion on the Catholic foundations of western jurisprudence and the development of family law in the Anglo-American chancery courts—this the Supreme Court declined to do in *Obergefell*, because it would have had to engage in determining theological doctrine and to explicitly acknowledge the Bible and Christianity as the foundation of Anglo-American domestic relations law in the United States. Therefore, I honestly felt in 2015 that the *Obergefell* decision had been incorrectly decided.

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We now return to St. Augustine’s theme in *The City of God*, to wit, that the proverbial Church (i.e., the City of God), as prefigured by Abel, is today intermixed with earthly nations and kingdoms, and empires (i.e., the City of Man). This intermixture thus imposes upon the Christian faithful a prima facie obligation to live peaceably with their worldly or non-Christian neighbors, while adhering to the Law of Christ. But that obligation does not come, as St. Augustine teaches us, without the obligation of apologetics and defense of authentic universal Christian faith—the enemies of Christ are to found even amongst presbyters and the senior clergy! At the same time, amongst non-Christians, are to be found such righteous men and women who are as Justin Martyr described, “Christians without knowing it,” and who are amongst the elect and future sons and daughters of the true catholic Christian church. I have argued since law school that the one measure that binds together the true Christians who already profess the faith, and those non-Christians who are “Christians without knowing it,” is the natural law, and the commitment to natural law and natural justice—that is to say, “the law of reason,” “the law of faith,” and the “law of Love,” as is manifest in the Law of Christ. In *The City of God*, St. Augustine reminds us that the Church is also a pilgrim community of saints, and in the history of the seventeenth-century Puritans of England and colonial New England we find a hint of that celestial city here on earth.

The Puritans of the seventeenth century remind us that God’s Providence wholly disregards human politics and artificial boundaries such as the doctrine of the separation of Church and State. The Puritans were the English wing of the Calvinist branch of Reformed Protestants. They divided up the responsibilities of the Church and the State, but there was only one fundamental law; and the secular law was founded upon the bible. They believed in the laws of nature and in natural law, which were reflected in the Ten Commandments.

**Table 1. Calvin’s “Two Tables Theory of the Ten Commandments”**

| <b>TEN COMMANDMENTS:<br/>First Table (The Church)</b>        | <b>TEN COMMANDMENTS (Natural Law):<br/>Second Table (The Civil Magistrate)</b> |
|--|--|
| I am the Lord thy God! Thou shalt have no other Gods but me! | Thou shalt not kill!   |
| Thou shalt not take the Name of the Lord thy God in vain!    | Thou shalt not commit adultery!  |
|  | Thou shalt not steal!  |



|                                       |  |
|---------------------------------------|--|
| Thou shalt keep the Sabbath Day holy! | Thou shalt not bear false witness against thy neighbor!  |
| Thou shalt honor father and mother!   | Do not let thyself lust after thy neighbor's wife!   |
|                                       | Thou shalt not covet thy neighbor's house, nor his farm, nor his cattle, nor anything that is his! |

In fact, even the Puritan Roger Williams, who invented the doctrine of the Separation of Church and State, had no conception of the “State” as falling outside of God’s Providence. Rev. Williams believed that the First Table should not be enforced by the State, because the subject matter of the First Table involved the individual’s conscience, which should be left alone inviolate and free to reach its own conclusions without interference from anyone else. Rev. Williams believed that the Second Table, which contains the moral or natural law, was the responsibility of the secular State.

In addition, the Puritans also believed that God’s holy ordinances could be readily demonstrated in nature. They believed that homosexuality and sexual immorality were sinful, because they ultimately destroyed the human body (as evidenced by venereal diseases), the family (as evidenced by divorce, illegitimate childbirth, and absentee fathers), and, ultimately, the community and commonwealth. The Puritans believed, too, that sexual discipline was necessary to preserve the family unit, and that the family unit and family governments were the foundation of the Christian commonwealth. They believed that sexual looseness and sexual immorality contributed to a further deterioration of personal integrity, morality, and growth, such that persons who easily disregard sexual modesty could not be trusted with public office or leadership positions—such persons were believed to be easily enticed, and prone to conjure up rationales and reasons for disobeying moral laws. Hence, for the Puritan, there was indeed a “cause-and-effects” justification for regulating homosexuality. To the Puritan, homosexuality and homosexual conduct led to very bad consequences, which proved the validity of the biblical prohibitions. They did not simply proscribe homosexual because the bible said it was evil, but they proscribed homosexuality *because they reasoned*

*that homosexuality caused very bad things to happen to the family unit and to society as a whole.*<sup>8</sup>

## **Part XXVII. Anglican Church: “Puritanism and the Status of Homosexuality in Colonial New England (1600-1750)”**

### **A. The Puritan Attitude towards Rumors of King James I’s Homosexual Conduct (1603-1625)**

It has been suggested by several historians that King James I of England was a bi-sexual and (or) a homosexual. In his book, *Roger Williams and the Creation of the American Soul*, John Barry suggests that King James I’s “personal life created undercurrents of discontent. Those who knew details about it, especially Puritans... could not reconcile their knowledge of his life with his position as head of the Church of England.”<sup>9</sup> At issue was whether King James I’s alleged homosexual conduct and affair with one Duke of Buckingham (Sir George Villiers (1592-1628) rendered him unfit to be king, and called into question other practices within the Church of England. As Professor Barry writes:

There was one thing. As a youth in Scotland, his relationship with an older man—whom he made a duke and who left his embalmed heart to him—had all but sparked a mutiny among Scottish nobles. This quieted when he married Anne, with whom he had eight children. It then became easy to look away while he indulged his appetites with at least one other woman and a string of young men—until he encountered a youth called ‘the handsomest-bodied man of England.’ His wife warned the archbishop of Canterbury, ‘This young man will become more intolerable than any that were before him.’

George Villiers was his name. James called him ‘my sweet child and wife,’ and referred to himself as ‘your dear dad and husband.’ By age twenty-four Villiers had ‘all the honours and all the offices of the three kingdoms’—England, Scotland, and Wales—‘without a rival,’

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<sup>8</sup> See, e.g., Richard Baxter, *A Christian Directory or, A Sum of Practical Theology and Cases of Conscience: Part 1: Christian Ethics, or Private Duties* (Re-printed as print-on-demand publication on April 18, 2018 in Columbia, S.C.), pp. 423-433.

<sup>9</sup> John M. Barry, *Roger Williams and The Creation of the American Soul: Church, State, and the Birth of Liberty* (New York, N.Y.: Viking Press, 2012), p. 17.

and James ultimately made him Duke of Buckingham. One contemporary satirist wrote, ‘Apollo with his songs/ debauched young Hyacinthus.../ And it is well known that the king of England/ fucks the Duke of Buckingham.’ Their relationship endured: years later Buckingham would remind James of ‘the time... where the bed’s head could not be found between the master and the dog.’

Many rulers indulged their lusts with no harm to their nation or themselves. But Buckingham wanted involvement in the affairs of state and James welcomed him to those affairs, following his advice on questions ranging from war and peace to taxes. Nearly all the advice proved bad. Over time, Buckingham’s role drove a wedge between James and his subjects. The king’s subjects did not pour their bile onto him, but they did not withhold it from Buckingham. Indeed, it seemed they deflected their angers over all grievances onto him. He became the most hated man in England.<sup>10</sup>

That King James I, of course, is credited with authorizing the “King James Version (KJV)” of the English Bible of 1611, but this was done largely as a result of Puritan pressure and influence. After King James I died in 1625, and was succeeded by his son King Charles I, the Duke of Buckingham (i.e., George Villiers) became one of Charles I’s most trusted and influential advisors—almost like his trusted older brother or uncle. The Duke of Buckingham, who was a known homosexual, repulsed the Puritans; for he had become the symbol of all royal corruption—the corruption of Charles I, Archbishop William Laud, and the Church of England—during the period 1603 to 1642. Although Villiers was assassinated in 1628, his assassination sealed England’s fate and led directly to the English Civil War (1642-1651). After Villiers’ death, King Charles I, who considered Villiers’ murder to be a personal affront and attack upon his divine right to kingly rule, was uncompromising and vigilant in his efforts to suppress the Puritans. Charles I disregarded Parliament and collected illegal taxes at will; and he suspended Magna Carta and other fundamental laws, such as habeas corpus. The Archbishop of Canterbury, William Laud, also began to ruthlessly suppress the Puritans and all non-conformity. The Puritans suddenly looked to America with a greater sense of

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<sup>10</sup> Ibid., p. 18.

urgency! The Virginia colony was an Anglican strong-hold; the Massachusetts Bay colony offered them promise and opportunity to build their “City upon a Hill.” And so, it was colonial New England where the Puritans would implement their Calvinist ideas and ideals of government and law. Included within those ideas were the Mosaic law’s prohibition of homosexuality.

## **B. The Puritan Attitude toward Homosexuality in England (1600-1700)**

England’s most influential and prolific Puritan theologian was Rev. Baxter (1615-1691), whose work *A Christian Directory or, A Sum of Practical Theology and Cases of Conscience: Part 1: Christian Ethics, or Private Duties*, was written down in the form of practical and wisdom and advice, since he had been, along with other English Puritans, suppressed by the second wave of Anglican suppression of non-conformists, after King Charles II had been restored to the throne of England in 1660. Rev. Baxter’s voluminous and impressive theological work was meant to be a substitute for the sermons which he had not been allowed to preach from the pulpit, and it was designed to provide practical advice as to how to apply biblical teachings to the lives of individuals. In Volume One, Rev. Baxter addresses a number of issues, including sexual morality and holiness, and much of his writings on this topic were copied verbatim from the teachings of St. Paul, lest Baxter himself—as he put it-- appear to be redundant and tedious.<sup>11</sup>

Rev. Baxter taught that all sexual relations outside of the institution of heterosexual marriage and that all homosexual conduct were grievous sins which could do great damage not simply to the soul, but also to the nation-state and to society as a whole.<sup>12</sup> In fact, Rev. Baxter taught that God does not issue a decree without providing ample proofs within the law of nature (i.e., the law of reason) to support it.<sup>13</sup> For instance, Baxter argued that without the institution of marriage, and the suppression and control of the sexual appetite, men would certainly rape and impregnate women whom they had no desire to form long, binding, and fruitful relationships with: which would contribute to the deterioration of the bond

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<sup>11</sup> Richard Baxter, *A Christian Directory or, A Sum of Practical Theology and Cases of Conscience: Part 1: Christian Ethics, or Private Duties* (Re-printed as print-on-demand publication on April 18, 2018 in Columbia, S.C.), pp. 423-433.

<sup>12</sup> *Ibid.*

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

between men and women.<sup>14</sup> Women, in turn, would lose their protection, and thus be reduced to slaves.<sup>15</sup> Women would tend to form only short-term relations with men.<sup>16</sup> Men would easily grow tired of having sex with just one woman.<sup>17</sup> Women would often have children from multiple men, and sometimes not knowing the real father of the child.<sup>18</sup> The children born out of wedlock would lose fathers and fatherly love, wisdom, education and support.<sup>19</sup> In addition, men (i.e., fathers) would have no way of knowing whether those born to women, with whom they had had sexual affairs, were really and truly their own biological children.<sup>20</sup> Thus, the civilizing effects of family and sex-control would be lost, thus preventing the development of a community, nation, or other commonwealth.<sup>21</sup>

Secondly, Rev. Baxter argued that venereal diseases were manifestations of Divine Providence and ample evidence that God enforces his laws regarding marriage and sexual morality.<sup>22</sup> Rev. Baxter pointed out varying examples of men and women who engage in loose, unregulated sexual behavior, and who contract incurable venereal diseases. Such men and women, according to Rev. Baxter, had received the Lord's divine sentence for their sexual immorality.<sup>23</sup>

Thirdly, Rev. Baxter pointed out that Christian men and women who easily disregard God's prohibitions against loose sexual behavior will not likely be able to attain Christian holiness.<sup>24</sup> The reason is that they become slaves to sex, sexual desires, and lusts; they eventually lose their ability to withstand sexual enticements, and thus they lose their ability to govern their bodies with reason, discipline, and modesty.<sup>25</sup> What eventually happens is that these same Christians lose the ability to adhere to any of God's strict standards. Rev. Baxter opined that such men and women, who disregard God's laws on marriage and sexuality, could really not be trusted with interpreting or administering any of God's laws (or,

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<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.



perhaps, the civil or secular laws, either).<sup>26</sup> Rev. Baxter forewarned his Puritan congregations that men and women who will readily disregard God’s strict laws on sexual morality would not be trusted to uphold any divine standard within the Church, because they can be readily and easily enticed by other lusts—money, power, prestige, position, and the like.<sup>27</sup>

Finally, Rev. Baxter relied upon none other authority than the actual text of the Sacred Scriptures in defending his position.<sup>28</sup> Rev. Baxter relied upon scriptures such as Leviticus 18:6-30, including “Thou shalt not lie with mankind, as with womankind: it is abomination”; Leviticus 20:10-21, including “If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination: they shall surely be put to death; their blood shall be upon them”; 1 Corinthians 6:9-10, “Know ye not that the unrighteous shall not inherit the kingdom of God? Be not deceived: neither fornicators, nor idolaters, **nor adulterers, nor effeminate, nor abusers of themselves with mankind,** Nor thieves, nor covetous, nor drunkards, nor revilers, nor extortioners, shall inherit the kingdom of God”<sup>29</sup>; and Romans 1:24-32, stating:

Wherefore God also gave them up to uncleanness through the lusts of their own hearts, to dishonour their own bodies between themselves: Who changed the truth of God into a lie, and worshipped and served the creature more than the Creator, who is blessed forever. Amen. For this cause God gave them up unto vile affections: for even their women did change the natural use into that which is against nature: And likewise also the men, leaving the natural use of the woman, burned in their lust one toward another; men with men working that which is unseemly, and receiving in themselves that recompence of their error which was meet. And even as they did not like to retain God in their knowledge, God gave them over to a reprobate mind, to do those things which are not convenient; Being filled with all unrighteousness, fornication, wickedness, covetousness, maliciousness; full of envy, murder, debate, deceit, malignity;

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<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

whisperers, Backbiters, haters of God, spiteful, proud, boasters, inventors of evil things, disobedient to parents, Without understanding, covenantbreakers, without natural affection, implacable, unmerciful: Who knowing the judgment of God, that they which commit such things are worthy of death, not only do the same, but have pleasure in them that do them.

To that end, Rev. Baxter, who was and is recognized as the leading Calvinist or Puritan theologian of the seventeenth century, felt no need to expound much upon the writings the Old Testament law or the letters of St. Paul on the subject matter of sexual morality and homosexuality.<sup>30</sup> The reasons for these prohibitions were clearly stated in the Sacred Scriptures and self-evident in human nature.<sup>31</sup>

### **C. Puritan Attitude toward Homosexuality in Colonial New England (1630-1750)**

In his well-written article, “Homosexuality in Puritan New England,” Professor Brad Crandell has opined that the Puritans may have been somewhat hypocritical in their strict attitude, policies and religious programmes which prohibited homosexuality and homosexual behavior. He carefully points out that the Puritan laws copied the Old Testament’s capital punishment of death for those persons who committed homosexual acts, but actual court records of Puritan New England revealed that homosexuals were given far lesser criminal sentences.<sup>32</sup> Professor Crandell, who does not appear to write as devout, born-again Evangelical or as an orthodox catholic, seems to exemplify humanist skepticism and disbelief in Calvinist holiness doctrine, and thus concludes:

I believe, *as Ben Franklin did*, that the purpose of the Puritan church was not to make a better world or even a better group of people, but instead Puritanism existed merely to perpetuate itself. I think that the

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<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Brad Crandell, “Homosexuality in Puritan New England,” *Amaranthus*, Vol. 1997, Issue 1, Article 16 (Jan. 30, 1023), p. 22. (“One plausible explanation is that fewer were executed because homosexual encounters were more common and possibly were common knowledge. People would find it difficult to put someone else to death for an offense which someone they knew or possibly they themselves had previously committed. It is likely, for instance, that on the frontier a great many men participated in homosexual activity (Thompson 30). Frontiersmen were voluntarily isolated for long periods of time away from women in all-male communities. Homosexuality may have been situational for some, a result of a lack of heterosexual activity. Others may have chosen to be in such situations. For them, homosexuality may have been a preference as it was with pirates in the West Indies later in the century (Oaks 269).”)

reason there were so few executions and formal trials for homosexuality was that the ministers and magistrates did not really care about homosexuality as much as we believe they did. The laws against homosexuality were utilized only when it was convenient and when the church was starting to lose control of its members. I speculate that after a trial for homosexuality, the rest of the community members would rally around their own righteousness and heterosexuality (whether real or imagined) and would repress any of their own homosexuality. This would pull them closer together, and they would feel closer to God and therefore to the church. This was perfect for a government that was controlled by the church. The church used the anti-homosexual campaign merely as a propagandizing device. So although we often believe that the Puritans held strong convictions against homosexuality, I believe that is not necessarily true. Puritan purity is merely a myth which is carried down to the present.

As a fellow Christian who grew up in a conservative, rural, and Christian community in rural northern Florida, I must respectfully disagree with Professor Crandell's assessment of the Christian mindset as well as that of Puritan devotion and commitment to holiness. First off, the voluminous writings of Puritan divines, pastors and theologians contain some the most profound theological writings of the highest quality. Second, the Puritan willingness to risk life and limb in England, to brave the brutal winters and turbulent waters of the Atlantic Ocean, and to stake out an uncertain life in the New World—many of them did not survive their first winter experiences—defies history and reason. I must respectfully disagree with Professor Crandell, *because devout Christians really do sincerely believe the Bible*. In fact, the following description of the Puritan mindset, by Professor Barry, is most universally held amongst most scholars to be closer to the truth:

One might logically expect those who believed strictly in predestination—that no human could do anything either to earn God's grace or to lose it, that salvation was in effect as random as a lightning bolt—to be fatalists who accepted what came to them and perhaps even indulged sinful desires. Yet belief in predestination had the opposite effect. As Max Weber argued in his classic study *The Protestant Ethic and the Spirit of Capitalism*, this belief drove people to demonstrate, to prove to themselves and others that they were

among the saved. Since only those who had God's grace could live without sin, and since surely God gave those whom He had graced the ability to succeed, proving that one was saved required one to strive to live a virtuous life. And simple virtue was not enough. To prove God's grace required one to strive for perfection.

Puritans generally expected signs of God's grace to show themselves in the lives of the sanctified; the saved person lived a godly life full of good works, and that life was often blessed with worldly success. This was the proof of grace. This allowed others to identify the elect.<sup>33</sup>

Moreover, Professor Crandell *produces no* testimonial or written evidence amongst the seventeenth-century Puritans to suggest that some of them held beliefs that justified his suspicions that many or most Puritans secretly acquiesced in homosexuality and that only the "Lord Puritan Brethren" wish to enforce strict compliance with Mosaic ideology in order to perpetuate the Puritan church—suspicions which, I surmise, are born out of the spirit of our present age, in the twenty-first century, which are to vindicate homosexuality as normative behavior.

Otherwise, I find Professor Crandell's article, "Homosexuality in Puritan New England," to be a fairly accurate reflection of the Christian attitude toward homosexuality, easily from the days of the first apostles during the first century, up to our present day, in the twenty-first century. The facts (that it is to say, the historical evidence regarding the Puritan attitude toward homosexuality) speaks unequivocally and clearly for themselves. Indeed, that Puritan attitude against homosexuality is correctly summarized by Professor Crandel himself, in "Homosexuality in Puritan New England," as follows:

In the early Puritan colonies, the mere concept of homosexuality struck horror into the hearts of good, God-fearing men. Many thought that homosexuality was an impurity that could spread and eventually call down the fire and brimstone that was showered on Sodom and Gomorrah. In order to preserve the sanctity of the Puritan culture, to assure that their New Jerusalem did not turn into a New Sodom, the Puritans prescribed the death penalty for all homosexual offenses.

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<sup>33</sup> John M. Barry, *Roger Williams and the Creation of the American Soul* (New York, N.Y.: Viking Press, 2012), p. 244.

This penalty was also applied to other sex crimes such as rape and adultery. But homosexuality was considered "farre more abominable than adultery..., the most abominable unnaturelle sinne" (Hibler 61)....

The attitude throughout the seventeenth century was never acceptance of homosexuality. Nowhere can we find a Puritan sermon proclaiming that a congregation should accept and support the homosexuals in the community. Rather, many written works focused on purging the community and the self of these abominations. Thomas Cobbert's *Fruitful Discourse*, Samuel Danforth's *Cry of Sodom*, and Michael Wigglesworth's *Day of Doom* all focused on ridding the world of homosexual activity. The Mathers also wrote quite a few works on the subject. Cotton Mather's *Addresses to Old Men, Young Men, and Children*, *The Pure Nazarite*, *Pillars of Salt*, *The Sailour's Companion*, and Increase Mather's *Solemn Advice to Young Men* were all at least in part intended to cure New England of the pollution caused by homosexuality (Thompson 32). These works drew on a few lines in the Old Testament to back up this fear of homosexuality.

Since church and state were synonymous in Puritan New England, the laws shared the same source and portrayed much of the same fear. These laws were derived from the Old Testament chapters of Leviticus, Deuteronomy, and Judges. Leviticus 18:22 and 20:13 call for the deaths of men who engage in homosexual activity. Most of the Puritan laws adhered strictly to the Bible's wording insofar as only homosexual men were subject to severe punishment. Female homosexuality was excluded in most cases. Of course there is always at least one exception. John Cotton demanded that female homosexuality be included as a capital crime. He proposed it in a legal code in Massachusetts in 1636, but the code was not accepted. His code was adopted in the colony of New Haven in 1655 but was dropped again in 1665 when Connecticut annexed New Haven (Oaks 269). Aside from this exception, all of the legal codes that punished same-sex relationships with death applied to men only. The Massachusetts legal code of 1648 excluded homosexual boys under



the age of fourteen from capital punishment. It made a note, however, that the boys were to be severely punished instead (Farrand 35). Although the laws demanded capital punishment as the penalty for adult homosexuality, many magistrates opted to hand down lighter sentences in most cases. In fact, there was only one recorded execution of a criminal of this sort.<sup>34</sup>

In sum, the Puritans of colonial New England and England held the same beliefs and attitudes towards homosexuality. They found James I's alleged homosexual affair with the Duke of Buckingham to be repulsive. For the Puritans of colonial New England, there was indeed a "cause-and-effects" justification for proscribing homosexuality. They believed that homosexuality and homosexual conduct led to very bad consequences. And these consequences proved the validity of the Mosaic prohibitions against homosexuality. Hence, the Puritans of colonial New England did not simply proscribe homosexuality because the Bible said it was evil, but they proscribed homosexuality *because they reasoned that it caused very bad things to happen to the family unit and to society as a whole*.<sup>35</sup>

## CONCLUSION

The seventeenth century Church of England considered the Old and New Testament to be the authoritative sources for understanding the Laws of Nature and natural law. The Puritans considered themselves to be members of the Church of England and they embraced the same understanding of St. Augustine, as stated in his *Confessions*, that homosexuality was an immutable and eternal violation of God's moral or natural law:

Can it ever, at any time or place, be unrighteous for a man to love god with all his heart, with all his soul, and with all his mind; and his neighbor as himself? Similarly, **offenses against nature are everywhere and at all times to be held in detestation and should be punished. Such offenses, for example, were those of the Sodomites; and, even if all nations should commit them, they**

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<sup>34</sup> Brad Crandell, "Homosexuality in Puritan New England," *Amaranthus*, Vol. 1997, Issue 1, Article 16 (Jan. 30, 1023), pp. 20-21.

<sup>35</sup> See, e.g., Richard Baxter, *A Christian Directory or, A Sum of Practical Theology and Cases of Conscience: Part 1: Christian Ethics, or Private Duties* (Re-printed as print-on-demand publication on April 18, 2018 in Columbia, S.C.), pp. 423-433.

would all be judged guilty of the same crime by which the divine law, which has not made men so that they should ever abuse one another in that way. For the fellowship that should be between god and us is violated whenever that nature of which he is the author is polluted by perverted lust.

But these offenses against customary morality are to be avoided according to the variety of such customs. Thus, what is agreed upon by convention, and confirmed by custom or the law of any city or nation, may not be violated at the lawless pleasure of any, whether citizen or stranger. For any part that is not consistent with its whole is unseemly. Nevertheless, **when god commands anything contrary to the customs or compacts of any nation, even though it were never done by them before, it is to be done; and if it has been interrupted, it is to be restored; and if it has never been established, it is to be established.**

For it is lawful for a king, in the state over which he reigns, to command that which neither he himself nor anyone before him had commanded. And if it cannot be held to be inimical to the public interest to obey him—and, in truth, it would be inimical if he were not obeyed, since obedience to princes is a general compact of human society—how much more, then, ought we unhesitatingly to obey god, the governor of all his creatures! **For just as among the authorities in human society, the greater authority is obeyed before the lesser, so also must god be above all.**<sup>36</sup>

Puritans such as Richard Baxter admonished Puritan Congregations to adopt this viewpoint. In colonial New England, the Massachusetts Bay colonies readily enacted this Mosaic or Puritan theology into their criminal laws, making homosexuality or homosexual conduct a capital crime.

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<sup>36</sup> St. Augustine, *Confessions* (New York, N.Y.: Barnes & Nobles Classics, 2007), p. 36. NOTE: Dr. **Martin Luther King, Jr.**'s Christian and moral philosophy was thoroughly rooted in this same Anglican-Catholic theology. (See, e.g., *Letter From the Birmingham City Jail*: "I would agree with **St. Augustine** that 'an unjust law is no law at all.' ...How does one determine whether a law is just or unjust? A just law is a man made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of **St. Thomas Aquinas**: An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust.")

For Puritan theologians and pastors such as Rev. Richard Baxter, biblical laws which regulated sexual misconduct were not simply expressions of opinion, preference, philosophy, or even theology; but instead they believed that this biblical laws were readily provable laws of nature. For instance, the Puritans believed that the laws of nature clearly proved that human civilization required sexual modesty, sexual restraint, and the institution of marriage, in order for human civilization to thrive and grow. They believed not only that Mosaic and Pauline laws against sexual immorality and homosexuality were readily proven from the plain language of the Sacred Scriptures, but that these laws were readily observable in nature, including the biological and sexual relations between men and women, the formation of families, the need for paternal and maternal bonding with children and the like.

The Puritans thus proscribed homosexuality (i.e., codified the Law of Moses within their civil codes) as a matter of natural law, which they believed could be readily demonstrated through biological, medical, and psychological evidence. For the Puritans, the hand of God enforces divine laws through the laws of nature and divine Providence. And they believed that the institution of the family was one upon which the entire moral order and human civilization were built. Thus, to the Puritans of colonial New England, holiness, spiritual devotion to church, sexual morality, family, child-rearing, marriage, and human civilization were thus interconnected and tied together through a divine network that was carefully orchestrated by Divine Providence.

**THE END**

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## APPENDIX A

### The Status of Homosexuality in the Twenty-First Century Church in Europe and North America

#### Summary of denominational positions in North America and Europe

The following table summarizes various denominational practices concerning members who are currently in a homosexual relationship. See also: Blessing of same-sex unions in Christian churches.

| Denomination                                    | Allows<br>homosexuals as<br>members | Ordains practicing<br>homosexuals   | Blesses unions  | Marries   |
|---|-------------------------------------|---|---|---|
| <b>Adventist</b>                                | No                                  | No  | No  | No  |
| <b>Anglican<br/>Church in North<br/>America</b> | No                                  | No  | No  | No  |
| <b>American<br/>Baptist</b>                     | Varies                              | No  | No (official<br>denominational<br>position; local<br>congregational<br>practices may<br>differ) | No (official<br>denominational<br>position; local<br>congregational<br>practices may<br>differ) |
| <b>Assemblies of<br/>God</b>                    | No                                  | No  | No  | No  |
| <b>National Baptist<br/>Convention</b>          | Varies                              | No  | Varies  | Varies  |
| <b>Southern Baptist<br/>Convention</b>          | No                                  | No  | No  | No  |
| <b>Catholic Church</b>                          | Yes                                 | No (Those with<br>transitory<br>homosexual<br>tendencies must<br>have such<br>tendencies clearly<br>overcome three<br>years prior to being<br>ordained to the<br>Deaconate) | No  | No  |
| <b>Christian</b>                                | Yes (General                        | Yes (General  | Varies  | Varies (General   |

| <b>Denomination</b>                               | <b>Allows homosexuals as members</b>   | <b>Ordains practicing homosexuals</b>   | <b>Blesses unions</b> | <b>Marries</b>  |
|---|--|---|-----------------------|---|
| <b>Church (Disciples of Christ)</b>               | Assembly has affirmed all orientations; local regions and congregations can make their own choice) | Assembly has affirmed all orientations; local regions and congregations can make their own choice)  |                       | Assembly does not have a stated a position on same-sex marriage; local regions and congregations may perform) |
| <b>Christian Reformed Church in North America</b> | No   | No  | No                    | No  |
| <b>Reformed Church in America</b>                 | Yes  | Varies  | Varies                | Varies (decided within classes)   |
| <b>Church of God (Anderson, Indiana)</b>          | Yes  | No  | No                    | No  |
| <b>Church of the Nazarene</b>                     | No   | No  | No                    | No  |
| <b>Church of England</b>                          | Yes  | No  | Varies                | No  |
| <b>Church of Scotland</b>                         | Yes  | Yes   | Varies                | No  |
| <b>Eastern Orthodox</b>                           | Varies   | No  | No                    | No  |
| <b>Episcopal</b>                                  | Yes  | Yes (All dioceses ordain candidates regardless of orientation. A minority of bishops require celibacy; others have shown an expectation that homosexual clergy should take advantage of what legal and ecclesiastical recognition is available for their unions). | Varies                | Varies  |

| <b>Denomination</b>   | <b>Allows homosexuals as members</b>                 | <b>Ordains practicing homosexuals</b>  | <b>Blesses unions</b>  | <b>Marries</b>  |
|---|--|--|--|---|
| <b>The Church of Jesus Christ of Latter-day Saints (Mormons)</b>            | Yes  | No   | No   | No  |
| <b>Community of Christ</b>  | Yes  | Varies. In nations where it is illegal, even punishable by death, homosexuals will not be ordained into the priesthood | Varies (In nations where it is illegal, even punishable by death, same-sex unions of any kind will not be blessed) | Varies (In nations where it is illegal, even punishable by death, same-sex marriages will not be performed) |
| <b>Evangelical Covenant Church</b>  | Undefined (homosexual behavior is considered sinful) | No   | No   | No  |
| <b>Evangelical Free Church of America</b>                                   | No   | No   | No   | No  |
| <b>Evangelical Lutheran Church in America</b>                               | Yes  | Yes  | Varies (by discernment of congregation and pastor)   | Varies (in civil jurisdictions where allowable and by discernment of congregation and pastor)               |
| <b>Lutheran Church—Missouri Synod</b>                                       | No   | No   | No   | No  |
| <b>Evangelical Lutheran Church in Canada</b>                                | Yes  | Yes  | Yes  | Yes   |
| <b>German Lutheran and United Churches in Evangelical Church in Germany</b> | Yes  | Yes  | Varies   | Varies  |
| <b>Mennonite United</b>   | Varies   | Varies   | Varies   | Varies  |
|   | Yes  | No   | No   | No  |

| <b>Denomination</b>                                  | <b>Allows homosexuals as members</b> | <b>Ordains practicing homosexuals</b> | <b>Blesses unions</b> | <b>Marries</b> |
|--|--------------------------------------|---------------------------------------|-----------------------|----------------|
| <b>Methodist Church</b>                              |                                      |                                       |                       |                |
| <b>Metropolitan Community Church<sup>[89]</sup></b>  | Yes                                  | Yes                                   | Yes                   | Yes            |
| <b>United Pentecostal Church International</b>       | No                                   | No                                    | No                    | No             |
| <b>Evangelical Presbyterian Church</b>               | No                                   | No                                    | No                    | No             |
| <b>Orthodox Presbyterian Church</b>                  | No                                   | No                                    | No                    | No             |
| <b>Presbyterian Church (USA)</b>                     | Yes                                  | Yes                                   | Varies                | Yes            |
| <b>Presbyterian Church in America</b>                | No                                   | No                                    | No                    | No             |
| <b>Religious Society of Friends (Quaker)</b>         | Yes                                  | Varies                                | Varies                | Varies         |
| <b>Union of Scranton (Old Catholic)</b>              | No                                   | No                                    | No                    | No             |
| <b>Union of Utrecht of the Old Catholic Churches</b> | Yes                                  | Yes                                   | Yes                   | No             |
| <b>Swedenborgian Church of Sweden</b>                | Yes                                  | Yes                                   | Yes                   | Yes            |
| <b>Church of Denmark</b>                             | Yes                                  | Yes                                   | Yes                   | Yes            |
| <b>Church of Iceland</b>                             | Yes                                  | Yes                                   | Yes                   | Yes            |
| <b>Church of Norway</b>                              | Yes                                  | Yes                                   | Yes                   | Yes            |

| <b>Denomination</b>                                 | <b>Allows homosexuals as members</b>   | <b>Ordains practicing homosexuals</b>   | <b>Blesses unions</b> | <b>Marries</b>   |
|---|--|---|-----------------------|--|
| <b>Evangelical Lutheran Church of Finland</b>       | Yes  | Yes   | Yes                   | No   |
| <b>Unification Church</b>                           | No   | No  | No                    | No   |
| <b>Unitarian and Free Christian Churches (UK)</b>   | Yes  | Yes   | Yes                   | Yes  |
| <b>United Church of Canada</b>                      | Yes  | Yes   | Not applicable        | Varies   |
| <b>United Church of Christ</b>                      | Yes  | Yes   | Yes                   | Yes  |
| <b>Vineyard USA</b>                                 | No   | No  | No                    | No   |
| <b>The Wesleyan Church</b>                          | No   | No  | No                    | No   |
| <b>Rosicrucian Fellowship (Esoteric Christians)</b> | Undefined (homosexual activity is considered sinful; members are expected to eventually abstain from any sexual practice other than for procreation, performed as a sacramental act) | No (the Fellowship does not ordain; however, access to Discipleship requires Generative Purity) | No                    | No (marriage is seen as a sacrament binding man and woman; the marriage service requires the presence of an ordained Minister of a Christian church) |